



City of Stone Mountain  
875 Main Street  
Stone Mountain, GA 30083

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## **STAFF ANALYSIS AND REPORT**

**To:** City of Stone Mountain Mayor & City Council

**From:** Richard Edwards, AICP

**Subject:** Proposed Text Amendments to Article 3, 5, 16, and 17 of Appendix A – Zoning to further define and regulate short-term lodging in the City of Stone Mountain.

**Date:** September 3, 2024

**Purpose:**

The purpose of this staff report and analysis is to present the proposed text amendments to Article 3, 5, 16, and 17 of Appendix A to further define and regulate short-term lodging in the City of Stone Mountain.

**Background:**

Short-term lodging has become more accessible to property owners and visitors, the desire to have short-term lodging options has become very popular in metropolitan Atlanta and throughout the country.

The city has seen an increase in the number of special use permits and variances for short-term lodging over the past two years. Staff has researched ordinances and best practices from jurisdictions throughout the State of Georgia to determine how short-term lodging policies are being administered.

The State of Georgia increased the allowable excise tax for lodging to 8% and the current ordinance still has the city only charging 5%. Staff is recommending increasing the excise tax on all applicable lodging uses to the maximum 8%.

The following definitions are being proposed:

**Hotel/Motel:** An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

**Short-term Lodging – Homestay:** a residential type establishment, with commercial enterprise, offering an individual bedroom within a residential establishment that serves as a host's principal residence, including any single-family or accessory apartment, that provides lodging for pay, for a maximum continuous period not to exceed twenty-nine (29) consecutive days, that does not include serving food.

**Short-term lodging – Vacation Home Facility:** A residential type establishment, with commercial enterprise, offering whole house rental with no more than four lodging rooms for temporary occupancy for a fee and that does not offer food to guests.

SUP = Special Use permit

P = Permitted

	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>VCM</b>	<b>MR-1</b>	<b>GC</b>
<b>Homestay</b>	P*	P*	P*	P*	P*	P*	-
<b>Vacation Home Facility</b>	SUP*	SUP*	SUP*	SUP*	P*	SUP*	-
<b>Hotel/Motel</b>	-	-	-	-	P		SUP

\*Supplemental Use regulations apply

These text amendments also include a new short-term lodging license that each applicant will have to apply for annually, along with their home occupational tax certificate (business license). This process requires the following information from the applicant:

- Property owner information
- Property manager information
- Floors plans of the home with the approximate square footage of each bedroom
- Site plan of the overall property identifying parking
- If applicable, HOA certification of the short-term lodging unit
- Proof of homeowners insurance
- Signed acknowledgement from the owner agreeing to abide by all regulations
- \$75 application fee

Further, this text amendment provides for stricter enforcement of violators that will include:

- 1<sup>st</sup> violation is a fine not to exceed \$250.00
- 2<sup>nd</sup> violation within a year is a fine not to exceed \$500.00
- 3<sup>rd</sup> violation within a year is a fine not to exceed \$1,000.00 and the property owner will be ineligible for a short-term lodging license for a period of 3 years.

On July 15, 2024, the Planning Commission voted to recommend approval of the text amendments, as proposed here. The following are recommendations from the Planning Commission that staff has included in the proposed text amendments:

1. Limit the number of Short-term Lodging – Vacation Home Facility permits to 60 per year.
2. Allow for Special Use Permits for Short-term Lodging – Vacation Home Facilities in all residential zoning districts.

Attachments:

1. Ordinance
2. Redlines of Article III and V of Appendix A – Zoning.
3. Redlines of Article XVI and XVII of Appendix A – Zoning.

**AN ORDINANCE TO AMEND ARTICLES III, V, XVI, AND XVII  
OF APPENDIX A (ZONING) AND ARTICLE II OF CHAPTER 12  
(LICENSES AND BUSINESS REGULATIONS) OF THE CODE OF THE  
CITY OF STONE MOUNTAIN, GEORGIA; TO FURTHER DEFINE AND  
REGULATE SHORT-TERM LODGING.**

**WHEREAS**, pursuant to its Charter and other laws of the State of Georgia, the City of Stone Mountain, Georgia (the “City”), has the power to adopt reasonable ordinances, resolutions and regulations for the protection and preservation of the public health, safety and welfare of its citizens; and

**WHEREAS**, the City Council desires to update and amend Articles III, V, XVI, and XVII Stone Mountain Zoning Ordinance, codified at Appendix A (Zoning) and Article II of Chapter 12 (Licenses and Business Regulations) of The Code of the City of Stone Mountain, Georgia (the “Zone Code”) to further define and regulate short-term lodging; and

**WHEREAS**, pursuant to Section 2-1.3 of the Zone Code, the Mayor and City Council may initiate zoning text amendments whenever the public necessity, public convenience, general welfare or good zoning practice justify such action; and

**WHEREAS**, in accordance with state law and pursuant to Section 2-1.4 of the Zoning Code, the Mayor and City Council conducted an appropriately noticed public hearing regarding this zoning decision.

**NOW THEREFORE**, it is hereby ordained by the governing authority of the City of Stone Mountain as follows:

**SECTION 1.** Articles III, V, XVI, and XVII of Appendix A (Zoning) and Article II of Chapter 12 (Licenses and Business Regulations) of The Code of the City of Stone Mountain, Georgia, is hereby amended as set out in Exhibits A, B, and C attached hereto and incorporated herein by this reference.

**SECTION 2.** All ordinances, parts of ordinances, or regulations in conflict herewith are hereby repealed.

**SECTION 3.** This Ordinance shall become effective upon its adoption.

**SECTION 4.** This Ordinance was proposed by Council Member \_\_\_\_\_ with a motion to adopt. Thereafter, the motion was seconded by Council Member \_\_\_\_\_. \_\_\_\_\_ Council Members voted in favor of the motion and \_\_\_\_\_ Council Members voted against the motion.

**SO ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Beverly Jones, Mayor

Approved as to form: \_\_\_\_\_  
City Attorney

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**ARTICLE III: DEFINITION OF TERMS USED IN THE ORDINANCE**

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word "shall" is always mandatory.

The word "person" includes a firm, association, organization, partnership, trust company or corporation as well as an individual.

The word "lot" includes the words "plot" or "parcel".

The word "building" includes the word "structure".

The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged or designated to be used or occupied".

The word "map" or "zoning map" means the "Zoning Map of the City of Stone Mountain, Georgia."

*Accessory use:* A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

*Aggrieved person:* An applicant or owner of property within 300 feet of the property in question or city-sanctioned groups including the historic preservation committee, planning commission, downtown development authority or citizen groups such as the Women's Club, Veterans of Foreign Wars or Rotary Club.

*Alteration; building and structural:* Any change in the supporting members of a building (such as any type of supporting structural member) except such change as may be required for its safety; any addition to a building; any change in use from that of one district classification to another or of a building from one location to another.

*Alley:* A private or public thoroughfare which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

*Buffer strip:* A strip of land planted with evergreen shrubbery so as to form a solid barrier to vision from the ground to a height of six feet.

*Building:* Any structure permanently attached to the ground and intended for shelter, housing or enclosure of persons, animals or chattels.

*Building, accessory:* A subordinate building, the use of which is incidental to that of a principal building on the same lot.

*Building, height of:* The vertical distance from the mean finished ground level at the front of the building to the highest point of a roof.

*Building line:* A line establishing the minimum allowable distance between the nearest portion of any building (excluding the outermost three feet of any uncovered porches, steps, gutters and similar fixtures) and the centerline of the street.

*Building, principal:* A building in which is conducted the main or principal use of the lot on which said building is situated.

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*Commercial vehicle:* Any vehicle designed, used or maintained for the transportation of persons, goods, or things used in trade, services, or commerce in general. For the purposes of this ordinance, buses, vans and other vehicles seating more than nine persons used for transportation of people shall be considered a commercial vehicle.

*Cultural exhibit:* An exhibition of cultural or historical property where collected objects are put on display to the public.

*Dwelling unit:* A dwelling or portion thereof providing facilities for one or more persons living as a nonprofit single housekeeping unit.

*Dwelling, multi-family:* A dwelling unit contained within a building or set of buildings on a common lot containing separate living units for four or more families, having separate or joint entrances, and including apartments and condominiums. These are specifically distinguished from units defined as single-family attached dwellings.

*Dwelling, single-family, attached (townhouse):* A residential structure designed to house a single-family dwelling from the lowest level to the roof, with a private outside entrance, but not necessarily occupying an individual lot, and sharing a common wall with adjoining dwelling units.

*Dwelling, single-family, detached:* A residential structure designed to house a single-family dwelling unit located on an individual lot, which is not attached to any other dwelling unit by any means.

*Family day care home* is operated in a private residential home to provide child care for children less than 18 years of age for less than 24 hours per day. Family day care home providers care for three, but no more than six children for a fee.

*Group Day Care Home* is operated by a person, corporation, or institution, to provide child care for children less than 18 years of age for less than 24 hours per day. Group Day Care Homes are licensed for 7-18 children.

*Hotel/Motel:* An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.##

*Lot:* A portion of land devoted to a common use or occupied by a building or group of buildings devoted to a common use by a legal subdivision process based on an approved plat of record, together with the customary accessories and open spaces belonging to the same.

*Lot width:* The shortest distance between the side lot lines, measured at the midpoint of the building line.

*Manufactured home* means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Nonconforming use:* Any building or land lawfully occupied by a use at the time of passage of the ordinance or amendment thereto which does not conform after the passage of this ordinance or amendment thereto with the use regulations of the district in which it is situated. Existing improvements which do not meet required parking and loading regulations, height regulations, area regulations, and residential floor area regulations for the district in which they are located are not nonconforming uses as defined above.

*Short-term Lodging – Homestay:* a residential type establishment, with commercial enterprise, offering an individual bedroom within a residential establishment that serves as a host's principal residence, including any

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single-family or accessory apartment, that provides lodging for pay, for a maximum continuous period not to exceed twenty-nine (29) consecutive days, that does not include serving food.

Short-term lodging – Vacation Home Facility: A residential type establishment, with commercial enterprise, offering whole house rental with no more than four lodging rooms for temporary occupancy for a fee and that does not offer food to guests.

*Sign:* Shall mean a device, structure or representation for visual communication which is used for the purpose of bringing the subject thereof to the attention of others. For purposes of this ordinance, the term "sign" shall include the structure upon which a sign face is located. Any device, structure or representation for visual communications which is used for the purpose of bringing the subject thereof to the attention of others that is wholly located within a completely enclosed building and is located a minimum of three feet away from any opening or exterior window or and seasonal holiday decorations shall not be included within the definition of "sign" and regulated as such.

*Sign, area of:* Shall mean the total area upon which a message is displayed on any sign consisting of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire sign, inclusive of any border and trim, but excluding the base, apron, supports, and other structural members.

*Sign, free-standing:* Any sign which is not supported by a wall or roof of a building, or which extends more than three feet horizontally from the wall of a building.

*Street:* A public or private thoroughfare, not less than 40 feet wide, which is open to the general public and which affords the principal means of access to abutting property.

*Yard:* An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

*Yard (front):* A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches. On multi-frontage lots all yards fronting on a public street shall be considered front yards.

*Yard (side):* A yard between the main building and the side line of the lot; extending from the front lot line to the rear yard; being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

*Yard (rear):* A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof, other than the projections of uncovered steps, unenclosed balconies or unenclosed porches, provided that said projections be at least 20 feet from the rear lot lines. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

## **ARTICLE V: DISTRICT REGULATIONS**

### **Section 5-1. Single-family residential (R-1) district.**

*5-1.1 Intent and where permitted.* This district (hereafter referred to as R-1) is created to establish a plan implementation zone that:

- Recognizes the existence of previously established low density residential districts in communities;



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- Encourages clustering of development and provision of location, environmental and development amenities;
  - Provides for low density residential development in cul-de-sac neighborhoods, community areas and the urban area; and
  - Enhances the community's character through the promotion of high quality design.

Uses are limited to single-family dwellings served by public sewers, some residentially related institutions, to certain incidental uses intended primarily to provide service to a dwelling or a residential neighborhood.

*5-1.2. Permitted uses by right.*

A. The following uses shall be permitted subject to requirements and limitations of this ordinance:

1. Detached single-family dwellings, excluding manufactured homes.
2. Community parks and recreation (publicly owned).
3. Conservation and passive recreation areas.
4. Conservation/open space development of permitted residential uses, provided that conditions outlined in Article VII (Conservation/open space development) are met.
5. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.
6. Guest house or pool house on a lot containing a single-family residence limited to one on each lot and shall not include cooking facilities and shall not exceed the square footage of the principal structure.
7. Swimming pool for a single-family residential dwelling, that is completely enclosed by an opaque fence or wall at least four (4) feet in height, but not over eight (8) feet in height. Swimming pools shall meet all the requirements of the International Building Code and applicable local health department rules and regulations.
8. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed a total of 400 square feet of gross floor area.
9. Temporary construction uses.
10. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations.
11. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.
12. Public utility facilities, if essential to service this zoning district, are permitted provided:
  - a. All structures, except for driveways, are placed 50 feet from any property line.
  - b. All structures, except for driveways, are enclosed by a wall or woven wire fence at least but not greater than eight feet in height.
  - c. A ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.

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- d. The lot is suitably landscaped.
  - e. No vehicles or equipment are stored on the premises.
- 13. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  - 14. Schools offering traditional core educational courses similar to the public elementary, middle and high schools, provided:
    - a. Any school be on a lot at least of 400 feet wide and containing six acres of lot area;
    - b. All buildings be at least 60 feet from every property line.
  - 15. Existing cemeteries.
  - 16. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.

*5-1.3 Permitted by special use.*

- A. The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:
  - 1. Cultural exhibits and libraries.
  - 2. Religious institutions, provided:
    - a. The lot abuts upon an arterial or collector street or state highway.
    - b. The lot is at least three acres in size.
    - c. All buildings are located at least 50 feet from all property lines.
    - d. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;
    - e. Adequate off-street parking, provided:
      - i. Parking area is located to the side or rear of the principal building.
    - f. A circular drive for off-street loading is provided.
  - 3. Family day care center, provided
    - a. It is an owner-occupied establishment;
    - b. Must obtaining signatures from neighboring lots
    - c. No more than six individuals are kept.
  - 4. Group day care facilities including private kindergartens and playschools, provided:
    - a. The lot abuts upon a major or collector street or a state highway.
    - b. A circular drive for off-street loading and unloading of children is provided.
    - c. At least 35 square feet of indoor play area for each child at maximum enrollment is provided.
    - d. At least 100 square feet of outdoor play area for each child at maximum enrollment is provided.
    - e. The outdoor play area is enclosed by a fence at least four feet in height but not over eight feet in height.

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- f. A circular drive for off-street loading is provided.
      - g. If a special use permit is approved, comply with all state day care requirements and health regulations.
    4. Parks, private, provided:
      - a. All buildings are located at least 100 feet from any property line.
    5. Neighborhood recreation centers, provided:
      - a. All buildings are located at least 100 feet from any property line.
    6. Bed and breakfast.
    7. Short-term lodging – vacation home facility pursuant to Article XVI.

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## **Section 5-2. Traditional residential (R-2) district.**

*5-2.1 Intent and where permitted.* This district (hereafter referred to as (R-2) is created to establish a plan implementation zone that:

- Promotes the preservation of historic and architectural integrity of Stone Mountain's residential neighborhoods;
- Restricts properties and structures to predominantly low density single-family residential uses;
- Requires low densities that are similar to the established neighborhoods within the R-2 district;
- Protects the established neighborhoods from encroachment of uses not performing a function necessary to the single-family residential environment.

Uses are limited to single-family detached dwellings, two-family dwellings upon condition, some residentially related institutions, to certain incidental uses intended primarily to provide service to a dwelling or a residential neighborhood.

### *5-2.2 Permitted Uses by Right.*

- A. The following uses shall be permitted subject to requirements and limitations of this ordinance:
  1. Detached single-family dwellings, excluding manufactured homes provided the development is compatible to the scale and architectural style of the surrounding neighborhood.
  2. Swimming pool for a single-family residential dwelling, that is completely enclosed by an opaque fence or wall at least four feet in height, but not over eight feet in height. Swimming pools shall meet all the requirements of the International Building Code and applicable local health department rules and regulations.
  3. Community parks and recreation (publicly owned).
  4. Conservation and passive recreation areas.
  5. Conservation/open space development of permitted residential uses, provided that conditions outlined in article VII (conservation/open space development) are met.
  6. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.

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7. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations.
  8. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.
  9. Public utility facilities, if essential to service this zoning district, are permitted provided:
    - a. All structures, except for driveways, are placed 50 feet from any property line.
    - b. All structures, except for driveways, are enclosed by a wall or opaque fence at least but not greater than eight feet in height.
    - c. Ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.
    - d. The lot is suitably landscaped.
    - e. No vehicles or equipment are stored on the premises.
  10. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  11. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 400 square feet of gross floor area.
  12. Existing cemeteries.
  13. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.
  - ~~14~~3. Temporary construction uses.

*5-2.3 Permitted by special use.*

- A. The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:
  1. Single- and two- family attached dwellings, provided the dwelling is owner-occupied.
  2. Cultural exhibits and libraries.
  3. Religious institutions, provided:
    - a. The lot abuts upon an arterial or collector street or state highway.
    - b. The lot is at least three acres in size.
    - c. All buildings are located at least 50 feet from all property lines.
    - d. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;
    - e. Adequate off-street parking, provided:
      - i. Parking area is located to the side or rear of the principal building.
    - f. A circular drive for off-street loading is provided.

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4. Bed and breakfast.
  5. Guest house or pool house on a lot containing a single-family residence limited to one on each lot and shall not include cooking facilities and shall not exceed the square footage of the principal structure.
  6. Accessory dwelling units and garage apartments provided that:
    - a. The minimum lot area required for any lot containing an accessory dwelling unit or garage apartment shall be the minimum lot size required by R-2 district regulations, and the guest house shall not exceed the square footage of the principal structure.
    - b. The primary building/residence is not rented.
    - c. The accessory dwelling unit shall contain 400 or less square feet, with the maximum lot coverage with the principal and accessory structures combined not to exceed the maximum lot coverage as specified in the R-2 District Regulations.
    - d. The accessory dwelling unit shall meet the requirements as provided in Article VI Supplemental, Section 6-8 Accessory Uses.
  7. Family day care center, provided
    - a. It is an owner-occupied establishment;
    - b. Must receive approval by:
      - i. Obtaining signatures from neighboring lots; and
      - ii. Receive approval through a public hearing.
    - c. No more than six individuals are kept.
  8. Group day care facilities including private kindergartens and playschools, provided:
    - a. The lot abuts upon a major or collector street or a state highway.
    - b. A circular drive for off-street loading and unloading of children is provided.
    - c. If a special use permit is approved, comply with all state day care requirements and health regulations.
    - d. At least 35 square feet of indoor play area for each child at maximum enrollment is provided.
    - e. At least 100 square feet of outdoor play area for each child at maximum enrollment is provided.
    - f. The outdoor play area is enclosed by a fence at least four feet in height but not over eight feet in height.
    - g. A circular drive for off-street loading is provided.

9. Short-term lodging – vacation home facility pursuant to Article XVI.

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### **Section 5-3. In-town neighborhood (R-3) district.**

*5-3.1 Intent and where permitted.* This district (hereafter referred to as (R-3) is created to establish a plan implementation zone that:

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- Promotes the preservation of historic and architectural integrity of Stone Mountain's residential neighborhoods;
  - Encourages and allows for cluster development;
  - Encourage the preservation of functional open space in and around the R-3 district;
  - Encourages infill development;
  - Provides for compact single-family and two-family residential development;
  - Promotes more efficient use of land and utilities;
  - Accommodates moderate- density residential development adjacent to small-scale commercial uses;
  - Encourage pedestrian-oriented development within walking distance of transit opportunities;
  - Enhance the community's character through the promotion of high quality urban design.

Uses are limited to single-family dwellings, two-family dwellings, some residentially related institutions, to certain incidental uses intended primarily to provide service to a dwelling or a residential neighborhood.

*5-3.2 Permitted uses by right.*

- A. The following uses shall be permitted subject to requirements and limitations of this ordinance:
1. Single- and two- family attached dwellings, provided the dwelling is owner occupied.
  2. Detached single-family dwellings, excluding manufactured homes.
  3. Conservation/open space development of permitted residential uses, provided that conditions outlined in article VII (conservation/open space development) are met.
  4. Community parks and recreation (publicly owned).
  5. Conservation and passive recreation areas.
  6. Fire and police protection services.
  7. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.
  8. Temporary construction uses.
  9. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations.
  10. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.
  11. Public utility facilities, if essential to service this zoning district, are permitted provided:
    - a. All structures, except for driveways, are placed 50 feet from any property line.
    - b. All structures, except for driveways, are enclosed by a wall or woven wire fence at least but not greater than eight feet in height.
    - c. A ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.
    - d. The lot is suitably landscaped.

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- e. No vehicles or equipment are stored on the premises.
  - 12. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  - 13. Schools offering traditional core educational courses similar to the public elementary, middle and high schools, provided:
    - a. Any school be on a lot at least of 400 feet wide and containing six acres of lot area;
    - b. All buildings be at least 60 feet from every property line.
  - 14. Existing cemeteries.

15. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.

*5-3.3 Permitted by special uses.* The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:

- 1. Cultural exhibits and libraries.
- 2. Lodges and buildings of fraternal and civic assembly, provided that:
  - a. The lot abuts upon an arterial or collector street or state highway.
  - b. The lot is at least three acres in size.
  - c. All buildings are located at least 50 feet from all property lines.
  - d. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;
  - e. Adequate off-street parking, provided:
    - i. Parking area is located to the side or rear of the principal building.
  - f. A circular drive for off-street loading is provided.
- 2. Bed and breakfast provided that it is owner-occupied and that conditions outlined in article XV (bed and breakfast facilities) are met.
- 3. Accessory dwelling units or guest houses on a lot containing a single-family residence limited to one on each lot and provided further that the minimum lot area shall be the minimum lot size required by R-3 district regulations.
  - a. The accessory dwelling unit shall contain not less than 400 or less square feet, with the maximum lot coverage with the principal and accessory structures combined not to exceed the maximum lot coverage as specified in the R-3 district regulations.
  - b. The accessory dwelling unit shall meet the requirements as provided in article VI supplemental, section 6-8 accessory uses.
- 4. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 400 square feet of gross floor area.
- 5. Rental of permitted accessory dwelling units and guest cottages, provided that:
  - a. Yard, area, and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out;
  - b. The primary building/residence is not rented.

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6. Eating and drinking establishments.
  7. Food and beverage retail sales.
  8. Retail sales and services, provided:
    - a. A use does not exceed 2,500 square feet of gross floor area per parcel.
    - b. The lot must abut a major street as defined by the official zoning map.
  9. Planned community including single-family residential units, multi-family residential units with or without individual cooking facilities and complimentary uses primarily to provide services to the planned community, provided:
    - a. The minimum parcel size for the development is five acres.
    - b. A master plan for the entire development is approved.
    - c. Commercial or other non-residential uses shall be incidental to the primary use.

10. Short-term lodging – vacation home facility pursuant to Article XVI.

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## **Section 5-4. Shermantown residential (R-4) district.**

*5-4.1 Intent and where permitted.* This district (hereafter referred to as (R-4) is created to establish a plan implementation zone that:

- Recognizes the existence of a previously established medium density residential district in communities and the urban area;
- Retains and protects the historic Shermantown neighborhood;
- Encourages infill development;
- Provides for compact single-family residential development;
- Promotes more efficient use of land and utilities;
- Accommodates moderate- density residential development above small-scale ground-floor commercial uses;
- Encourage pedestrian-oriented development within walking distance of transit opportunities;
- Enhance the community's character through the promotion of high quality urban design.

Uses are limited to single-family dwellings, two-family dwellings, some residentially related institutions, mixed-use developments to certain enumerated complimentary uses intended primarily to provide service to a dwelling or a residential neighborhood.

*5-4.2 Permitted uses by right.*

- A. The following uses shall be permitted subject to requirements and limitations of this ordinance:
  1. Detached single-family dwellings, excluding manufactured homes.
  2. Attached single- and multi-family dwellings, provided:
    - a. Residential units are not on the ground floor;
    - b. Are a part of a residential/commercial mixed-use building.



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3. Conservation/open space development of permitted residential uses, provided that conditions outlined in article VII (conservation/open space development) are met.
  4. Rental of permitted residential uses or guest cottages, provided that either the principal residence or guest cottage is owner occupied; that yard, area, and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
  5. Community parks and recreation (publicly owned).
  6. Conservation and passive recreation areas.
  7. Fire and police protection services.
  8. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.
  9. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; except that not more than two automobiles in operating condition belonging to residents of a dwelling shall be parked between a dwelling and the street or streets it adjoins. All cars in excess of two and all cars not in operating condition any truck, boat or unoccupied travel trailer shall be parked in the rear yard or in a garage or carport. All automobile parts shall be stored within a garage or storage building. Any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 800 square feet of gross floor area.
  10. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations.
  11. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.
  12. Public utility facilities, if essential to service this zoning district, are permitted provided:
    - a. All structures, except for driveways, are placed 50 feet from any property line.
    - b. All structures, except for driveways, are enclosed by a wall or opaque fence at least but not greater than eight feet in height.
    - c. A ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.
    - d. The lot is suitably landscaped.
    - e. No vehicles or equipment are stored on the premises.
  13. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  14. Schools offering traditional core educational courses similar to the public elementary, middle and high schools, provided:
    - a. Any school be on a lot at least of 400 feet wide and containing six acres of lot area;
    - b. All buildings be at least 60 feet from every property line.
  15. Existing cemeteries.
  16. Retail sales and services, provided:

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- a. A use is a part of a residential/commercial mixed-use building;
  - b. A use does not exceed 1,000 square feet of gross floor area per parcel;
  - c. A use does not provide for, or serve alcohol.
17. Religious institutions, provided:
- a. The lot abuts upon an arterial or collector street or state highway.
  - b. The lot is at least three acres in size.
  - c. All buildings are located at least 50 feet from all property lines.
  - d. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;
  - e. Adequate off-street parking, provided:
    - i. Parking area is located to the side or rear of the principal building.
  - f. A circular drive for off-street loading is provided.

18. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.

*5-4.3 Permitted by special use.*

- A. The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:
- 1. Cultural exhibits and libraries.
  - 2. Lodges and buildings of fraternal and civic assembly, provided that:
    - a. Such use is currently underserved by existing use.
    - b. The lot abuts upon an arterial or collector street or state highway.
    - c. The lot is at least three acres in size.
    - d. All buildings are located at least 50 feet from all property lines.
    - e. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;
    - f. Adequate off-street parking, provided:
      - i. Parking area is located to the side or rear of the principal building.
    - g. A circular drive for off-street loading is provided.
  - 3. Bed and breakfast facilities.
  - 4. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 400 square feet of gross floor area.
    - a. Accessory dwelling units shall contain 400 or less square feet, with the maximum lot coverage with the principal and accessory structures combined not to exceed the maximum lot coverage as specified in the R-4 district regulations.

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- b. The accessory dwelling unit shall meet the requirements as provided in article VI supplemental, section 6-8 accessory uses.
  5. Eating and drinking establishments (with alcohol).
  6. Food and beverage retail sales (with alcohol).
  7. Short-term lodging – vacation home facility pursuant to Article XVI.

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## **Section 5-5. Village center mixed-use (VCM) district.**

*5-5.1 Intent and where permitted.* This district (hereafter referred to as (VCM) is created to establish a plan implementation zone that:

- Accommodates moderate- to high-density residential development and ground-floor commercial uses with residential units above. This district also accommodates low-intensity office development compatible with the residential character of the VCM district.
- Allows for a diverse variety of uses, structures, densities and open spaces when not in conflict with existed and permitted land uses on abutting properties;
- Promotes a more efficient use of land and a smaller network of utilities and natural resources than conventional land development;
- Encourages the preservation of functional open space in and around the village center;
- Provides the opportunity for the application of innovative site planning concepts through the creation of aesthetically pleasing environments for living, shopping and working on properties of adequate shape, size and location that conventional land development may not allow for;
- Encourages high pedestrian use and accessibility and transportation alternatives.

Uses are limited to multi-family dwellings, two-family dwellings, mixed-use residential and commercial developments to commercial and professional complimentary uses intended primarily to provide service to the entire city.

### *5-5.2 Permitted uses by right.*

- A. The following uses shall be permitted subject to requirements and limitations of this ordinance:
  1. Attached multi-family dwellings, provided:
    - a. Is a part of a residential/commercial mixed-use building.
  2. Conservation/open space development of permitted residential uses, provided that conditions outlined in article VII (conservation/open space development) are met.
  3. Rental of permitted residential uses, provided that yard, area, and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
  4. Community parks and recreation (publicly owned).
  5. Conservation and passive recreation areas.
  6. Fire and police protection services.
  7. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.

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8. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 400 square feet of gross floor area.
  9. Temporary construction uses.
  10. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations provided:
  11. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.
  12. Public utility facilities, if essential to service this zoning district, are permitted provided:
    - a. All structures, except for driveways, are placed 50 feet from any property line.
    - b. All structures, except for driveways, are enclosed by a wall or woven wire fence at least but not greater than eight feet in height.
    - c. A ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.
    - d. The lot is suitably landscaped.
    - e. No vehicles or equipment are stored on the premises.
  13. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  14. Consumer services (non-automotive).
  15. Recreation sales and services.
  16. Automatic teller machines that are not an accessory use to a financial center.
  17. Professional medical clinic services.
  18. Financial services.
  19. Eating and drinking establishments.
  20. Food and beverage retail sales,
  21. Professional offices.
  22. Retail sales (general excluding automotive).
  23. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.
  24. Short-term lodging – vacation home facility pursuant to the supplemental use requirements in Article XVI.
  25. Hotel/Motel.

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## **Section 5-6. Multi-family residential (MR-1) district.**

*5-6.1 Intent and where permitted.* This district (hereafter referred to as (MR-1) is created to establish a plan implementation zone that:

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- Accommodate moderate- to high-density residential development above or adjacent to ground-floor commercial uses. This district also accommodates office development compatible with the residential character of the MR-1 district.
  - Support mixed-use (residential/nonresidential) projects with active ground-floor uses;
  - Allow for a diverse variety of uses, structures, densities and open spaces when not in conflict with existed and permitted land uses on abutting properties;
  - Promote a more efficient use of land and a smaller network of utilities and natural resources than conventional land development;
  - Provide the opportunity for the application of innovative site planning concepts through the creation of aesthetically pleasing environments for living, shopping and working on properties of adequate shape, size and location that conventional land development may not allow for;
  - Encourage high pedestrian use and accessibility and transportation alternatives.

Uses are limited to multi-family dwellings, mixed-use residential and commercial developments to commercial and professional complimentary uses; certain enumerated complimentary uses intended primarily to provide services to this district.

#### *5-6.2 Permitted uses by right.*

- A. The following uses shall be permitted subject to requirements and limitations of this ordinance:
1. Two-family attached dwellings.
  2. Multi-family attached dwellings.
  3. Mixed-use dwellings.
  4. Conservation/open space development of permitted residential uses, provided that conditions outlined in article VII (conservation/open space development) are met.
  5. Rental of permitted residential uses, provided that yard, area, and other requirements of this ordinance shall be met for each such use whether or not such use is on an individual lay-out.
  6. Community parks and recreation (publicly owned).
  7. Conservation and passive recreation areas.
  8. Fire and police protection services.
  9. Electric, gas, oil and communication facilities, excluding tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility.
  10. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard; any accessory building exceeding 200 square feet shall have an exterior finish consistent with the primary residence. Accessory buildings shall not exceed 400 square feet of gross floor area.
  11. Temporary construction uses.
  12. Building or lands used for governmental purposes by a branch of a local, state or federal government such as schools, parks, post offices or fire stations provided:
  13. Public utilities including distribution lines, transformer stations, transmission towers, telephone exchanges and other similar uses or structures except warehouse, repair, storage, vehicle maintenance, truck or road equipment storage and radio and television studios.

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14. Public utility facilities, if essential to service this zoning district, are permitted provided:
    - a. All structures, except for driveways, are placed 50 feet from any property line.
    - a. All structures, except for driveways, are enclosed by a wall or opaque fence at least but not greater than eight feet in height.
    - b. A ten-foot buffer is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet in height and provide an effective visual screen.
    - c. The lot is suitably landscaped.
    - d. No vehicles or equipment are stored on the premises.
  15. Stormwater management facilities shown on an approved final site plan or subdivision plat.
  16. Consumer services (non-automotive).
  17. Professional medical clinic services.
  18. Financial services offices.
  19. Eating and drinking establishments (without alcohol).
  20. Food and beverage retail sales (without alcohol).
  21. Professional offices.
  22. Retail sales (general excluding automotive), provided:
    - a. A use does not exceed 45,000 square feet of gross floor area.
  23. Neighborhood recreation centers, provided:
    - a. All buildings are located at least 100 feet from any property line.
  24. Temporary construction uses.
  25. Schools offering traditional core educational courses similar to the public elementary, middle and high schools, provided:
    - i. Any school be on a lot at least of 400 feet wide and containing six acres of lot area;
    - ii. All buildings be at least 60 feet from every property line.

26. Short-term lodging -- homestay pursuant to the supplemental use requirements in Article XVII.

*5-6.3 Permitted by special use.*

- A. The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:
  1. Religious institutions, provided:
    - a. The lot abuts upon an arterial or collector street or state highway.
    - b. The lot is at least three acres in size.
    - c. All buildings are located at least 50 feet from all property lines.
    - d. A buffer at least ten feet wide is provided along the side and rear property lines, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen;

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- e. Adequate off-street parking, provided:
    - i. Parking area is located to the side or rear of the principal building.
  - f. A circular drive for off-street loading is provided.
  2. Cultural exhibits and libraries.
  3. Family day care center, provided
    - a. It is an owner-occupied establishment;
    - b. Must receive approval by:
      - i. Obtaining signatures from neighboring lots; and
      - ii. No more than six individuals are kept.
  4. Group day care facilities including private kindergartens and playschools provided:
    - a. The lot abuts upon a major or collector street or a state highway.
    - b. A circular drive for off-street loading and unloading of children is provided.
    - c. If a special use permit is approved, comply with all state day care requirements and health regulations.
    - d. At least 35 square feet of indoor play area for each child at maximum enrollment is provided.
    - e. At least 100 square feet of outdoor play area for each child at maximum enrollment is provided.
    - f. The outdoor play area is enclosed by a fence at least four feet in height but not over eight feet in height.
    - g. A circular drive for off-street loading is provided.
  5. Animal sales and services (household pets, no outside runs or kennels).
  6. Consumer repair services provided:
    - h. Services are non-automotive;
    - i. No outside storage.
  7. Eating and drinking establishments (with walk-through service).
  8. Laundry services (drycleaners).
  9. Recreational equipment rental provided there is no outside storage.
  10. Automatic teller machines that is a part of a mixed use development.
  11. Bed and breakfast, provided that conditions outlined in article XV (bed and breakfast facilities) are met.

12. Short-term lodging – vacation home facility pursuant to Article XVI.

## **Section 5-7. General commercial (GC) district.**

*5-7.1 Intent and where permitted.* This district (hereafter referred to as (GC) is created to establish a plan implementation zone that:

- Encourages the organized concentration of a wide variety of retail goods and services for the community;

- Promotes high-quality design and aesthetic features including lighting, landscaping and pedestrian-oriented amenities;
- Encourage inter-parcel accessibility and promotes the use of transportation alternatives;
- Creates and enhances commercial areas where complete retail sales and services are available and desirable for public service and convenience; and
- Require a location accessible to large numbers of people and that serve substantial portions of the community.

This district is intended primarily for developments that contain commercial, financial, governmental or professional complementary uses intended primarily to provide service to the entire community. Typically this district would be applied where central area commercial facilities are desired or along major roadways.

*5-7.3 Permitted by special use.*

- A. The following uses may be permitted provided the applicant for such a development is granted a special use permit by the mayor and council after receiving recommendations from the planning commission and after a public hearing:
1. Cultural exhibits and libraries.
  2. Hotel/~~motel and lodging services.~~
  3. Laundry services (drycleaners)
  4. Consumer repair services provided:
    - a. Services are non-automotive;
    - b. No outside storage.
  5. Eating and drinking establishments (with drive-thru service).
  6. Retail sales and services (with drive-thru service).
  7. Recreational equipment rental provided there is no outside storage.
  8. Day nurseries and kindergartens.
    - a. The following provisions apply to day nurseries and kindergartens:
      - i. There shall be not less than thirty-five (35) square feet of indoor play area for each child at maximum licensed enrollment and not less than one hundred (100) square feet per child of outdoor play area at maximum licensed enrollment.
      - ii. The outdoor play area shall be enclosed by a fence not less than four (4) feet in height but not over eight (8) feet in height.
      - iii. A circular drive shall be provided for off-street loading and unloading.
  10. Microbrewery, provided that:
    - a. Shall adhere to a maximum floor area of eight thousand (8,000) square feet.
    - b. No outdoor speaker systems shall be permitted.
    - c. Productions shall be in wholly enclosed buildings.
    - d. Outdoor equipment shall be permitted, with adequate screening from public view.
    - e. No outdoor storage is permitted.



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11. Microdistillery (craft distillery), provided that:
    - a. Shall adhere to a maximum floor area of eight thousand (8,000) square feet.
    - b. No outdoor speaker systems shall be permitted.
    - c. Productions shall be in wholly enclosed buildings.
    - d. Outdoor equipment shall be permitted, with adequate screening from public view.
    - e. No outdoor storage is permitted.

### **Section 6-8. Accessory uses.**

- A. Accessory uses or buildings (including accessory dwelling units) shall be permitted only in side or rear yards, except as otherwise provided in this ordinance.
- B. No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory.
- C. Only two accessory buildings (not including accessory dwelling units) shall be permitted on a lot.
- D. Accessory uses or structures (not including accessory dwelling units) shall be permitted if they meet the following:
  1. Accessory buildings shall be set back not less than ten feet from any lot line.
  2. An accessory building shall not be any larger than 24' x 24' and must comply with district development regulations.
  3. Accessory buildings located on property in excess of one acre will not be restricted to size, as long as the structure meets building codes and other requirements of this ordinance.
  4. Accessory buildings in residential districts shall not be used for any type of commercial operation whether permanent, part-time or as part of a home occupation except as otherwise provided for in this ordinance. A home occupation can be conducted in an accessory building if approved as a special use.
  5. No accessory structure shall exceed a height of 15 feet.
  6. Detached accessory buildings shall be located at least ten feet from the principal structure on a lot.
  7. Satellite dish antennas shall be permitted as accessory structures only in rear yards unless it can be documented that reception is impaired by such a location. In this case an antenna would be permitted in a side yard.
    - a. Satellite dish antennas which exceed two feet in diameter shall not be located on the roof of a single-family structure.
  8. Basketball goals, which are attached to the principal residence structure or erected adjacent to and abutting the driveway of the principal residence structure or the driveway area shall be allowed in the front, side or rear yard but not in the right-of-way of a public street.
  9. No fabricated structure shall be erected on a lot for accessory purposes in any residential zoning district except when constructed in the rear yard.
    - a. No tent or tarpaulin structures shall be erected on a lot for accessory purposes in any zoning district. Tent or tarpaulin structures shall be permitted in residential districts for temporary recreational use or in the exercise of religious observances or similar events.

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E. Accessory dwelling units shall be permitted if they meet the following:

1. The accessory dwelling unit shall contain 400 or less square feet.
2. There shall be one off-street parking space provided for the accessory dwelling unit, which is in addition to any off-street parking spaces required for the primary residence.
3. No accessory dwelling unit shall exceed a height of 15 feet and shall be set back not less than 10 feet from any lot line.
4. Accessory dwellings, whether attached or detached, shall have exterior finishes or architectural treatments (e.g. brick, wood, etc.) or an appearance substantially similar to those on the principal residence.
5. The accessory building unit shall meet all building code standards including building, electrical, fire, and plumbing code requirements, and occupancy restrictions as provided in the city's ordinances.
6. The accessory dwelling shall not contain a home occupation and shall not be used for any commercial occupation. Any property owner seeking to establish an accessory dwelling unit shall apply to register the unit with the administration department (zoning administrator). The property owner shall file a complete registration application form, before building permit issuance, affirming that at least one owner will occupy the primary residence for the full length of time that accessory dwelling use is established in accordance with all applicable zoning regulations. The property owner shall annually affirm the same by registration renewal within thirty (30) days after January 1, of each year.
7. After receipt of a completed application for registration and prior to issuance of a certificate of occupancy or approval of use, the city (building official) shall inspect the property to confirm adherence to the size, height, design, and parking requirements of this code are met.
8. The registration form or other forms as required by the zoning administrator shall be filed as a deed restriction with the DeKalb County Tax Assessor to provide notice of the presence of the accessory dwelling unit, the requirement of owner occupancy, and other standards for maintaining the unit as described, with verification of recording of the filing being provided to the city zoning administrator within 90 days of issuance of certificate of occupancy.
9. The zoning administrator (or his/her designee) shall report annually on accessory dwelling unit registration, number of units and distribution throughout the city, and average size of units.
10. Cancellation of registration of the accessory dwelling unit may be accomplished by the property owner filing a certificate with the zoning administrator (or his/her designee) for recording with the DeKalb County Tax Assessor or may occur as result of an enforcement action.
11. Only one accessory dwelling unit shall be permitted on a lot.

12. Accessory dwelling units and guest houses shall be differentiated from short-term lodging units regulated in Articles XVI and XVII.

(Ord. No. 2016-14, Pt. I, 10-4-16; Ord. No. 2018-02, Pt. I, 3-6-18)

**ARTICLE XVI: SHORT-TERM LODGING - VACATION HOME FACILITIES**

**Section 16-1. Purpose, applicability, definitions, ~~licenses~~.**

*16-1.1 Purpose.*

- A. The purpose of this article is to establish the establishment of land use regulations within the scope of the zoning powers of the municipal authority to govern vacation home facilities in the city. The intent of this article is to promote economic development in the vacation rental industry while minimally impacting existing residential uses. ~~without harming existing residential properties.~~
- B. This article is not intended to regulate hotels, motels, inns, or non-vacation type rental arrangements including, but not limited to, boardinghouses, lodging houses, or rooming houses.

*16-1.2 Applicability.*

- A. It shall be unlawful for any owner of any property within the City of Stone Mountain to rent or operate a vacation home facility contrary to the procedures and regulations established in this article, other provisions of this Code, or any applicable state law.
- B. The restrictions and obligations contained in this article shall apply to vacation home facilities at all times during which the vacation home facility is marketed and used as such.
- C. The allowance of a vacation home facility pursuant to this article shall not prevent enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements. The City of Stone Mountain shall not be responsible for enforcement of such covenants, agreements, or arrangements.
- D. A property that has been advertised or listed via the internet or other media sources (e.g. www.vrbo.com, www.airbnb.com, etc.) for short-term lodging shall be prima facie evidence the property is being used as a short-term lodging.

*16-1.23 Definitions.*

- A. A lodging room is defined as a room that is used for temporary occupancy for a fee.
- B. An owner is defined as an individual, partner, or officer of a corporation who is an officer registered with the Corporations Division of the Georgia Secretary of State with title to real property.
- C. A vacation home facility is defined as a residential type establishment, with commercial enterprise, offering whole house rental with no more than four lodging rooms for temporary occupancy for a fee and that does not offer food to guests.
- D. A property manager is a person designated by the owner who has access and authority to assume management of the vacation home facility and take remedial measure while the vacation home facility is occupied.
- E. Temporary occupancy is defined as the short-term use of a unit for a limited duration not exceeding 30 consecutive days and intended for transient guests who do not establish permanent residence.

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~~16-1.3 Licenses.~~

~~A. A vacation home facility shall obtain a home occupational tax certificate from the city.~~

~~B. Fees for lodging in a vacation home facility are subject to local and state taxation ordinances.~~

~~(Ord. No. 2017-07, pt. I, 8-1-17)~~

## **Section 16-2. Occupancy and parking restrictions.**

### *16-2.1 Occupancy restrictions.*

A. A vacation home facility must meet the following occupancy restrictions:

1. Provide no more than four lodging (guest) rooms with a minimum of 70 square feet per room.
2. Occupancy of a lodging room shall require at least 40 square feet per individual.
3. Occupancy by guest(s) shall not exceed 14 consecutive days during any 90 day period.
4. The owner of a vacation home facility shall live within the corporate boundaries of DeKalb County, Georgia or have a designated property manager, as defined and regulated in this Article.
5. Vacation home facilities shall be available for occupancy on a continuous basis except for repairs, renovations, or the absence of the owner.
6. Vacation home facilities shall be required to have a smoke alarm in each lodging room (guest room) and a fire extinguisher visible and accessible to guests. The facilities are subject to at least one annual inspection at the time of initial licensing and during renewal of the same.

### *16-2.2 Parking restrictions.*

- A. Except where permitted by law, no parking shall be allowed on the street or in any unpaved portion of the front yard of any lot occupied by a short-term lodging use. a vacation home facility.
- B. Parking regulations relative to the zoning district in which the vacation home facility is located shall apply.

(Ord. No. 2017-07, pt. I, 8-1-17)

## **Section 16-3. Signage.**

### *16-3.1 Signage.*

A. No business and advertising signs shall be permitted.

(Ord. No. 2017-07, pt. I, 8-1-17)

## **Section 16-4. Licenses, transferability, enforcement.**

### *16-4.1 Licenses.*

A. The City shall not issue more than 60 permits annually. Once the City has issued 60 permits, no additional permits shall be issued for that year. Applications to renew will be prioritized over new applications. New applications will be issued in the order in which they were received. All permits shall expire on December 31. Permits shall be effective from January 1 through December 31, unless otherwise revoked. No permit will be automatically renewed.

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- B. Vacation home facilities shall be limited to those properties zoned Village Center Mixed-Use (VCM) and properties with an approved Special Use Permit from City Council.
  - C. A vacation home facility shall obtain a home occupational tax certificate from the city and renew on an annual basis.
  - D. Fees for lodging in a vacation home facility are subject to local and state taxation ordinances.
  - E. The owner of a vacation home facility shall obtain a short-term lodging license from the city and renew on an annual basis. The application shall be furnished on a form specified by the city, accompanied by a non-refundable license fee as established by the official Fee Schedule of the City of Stone Mountain. Such application shall include:
    - 1. Name, address, phone number, and email address of the property owner(s) of record for which a permit is sought.
    - 2. The property manager contact form including but not limited to their name, address, phone number, and email address. #
    - 3. A floor plan showing all bedrooms and bathrooms with the approximate square footage of each bedroom.
    - 4. A site plan of the overall property identifying parking spaces for lodgers.
    - 5. A short-term lodging property located within a subdivision where a functioning homeowners association exists shall provide a notarized statement from the applicant that short-term lodging is not prohibited under the covenants of the HOA/subdivision.
    - 6. Proof of homeowners insurance.
    - 7. Signed acknowledgement that the owner(s) has read all regulations pertaining to the operation of a vacation home facility and their agreement to abide by all applicable regulations.
  - F. Active licenses shall not expire, provided that a property owner shall renew the license on an annual basis. If a property owner fails to renew a license, it shall be considered terminated by the licensee.

#### 16-4.2 Property Manager Required.

- A. A property manager shall be designated for each vacation home facility.
- B. The property manager shall be required to respond to the location of the vacation home facility 24 hours a day, 7 days a week, and within one (1) hour after being notified by the City.
- C. An owner of a vacation home facility may designate themselves as the property manager.

#### 16-4.3 Transferability.

- A. Short-term lodging licensure issued under this ordinance shall not be transferred, assigned, or used by any person other than the owner to whom it is issued, or at any location other than for which it is issued.
- B. Short-term lodging licensure terminates upon transfer of the property to another owner.

#### 16-4.4 Enforcement.

- A. Licenses issued under this ordinance may be suspended or revoked for any of the following reasons:
  - 1. An applicant furnished fraudulent or untruthful information in the application for a license, or omitted information required in the application for a license, or failed to pay all fees, taxes, or other charges imposed under the provisions of the City Code, in which case the city may immediately suspend or revoke the short-term lodging license.

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2. Any short-term lodging for which there are three (3) final determinations of violations of the City Code by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling 365-day period, shall constitute a violation of the terms of licensure and shall terminate the license. For any license that is terminated due to code violations, a property owner shall be ineligible for a license for a period of three (3) years.
  3. Any licensee having his or her license suspended or revoked under this section may appeal to the city council in accordance with Section 2-1.10 Procedures for appeal of administrative decision.
  4. Failure to renew a short-term lodging license or home occupation tax certificate.
- B. Any violations of this this code, including any violation of the noise control ordinance, shall subject the licensed individual to the following progressive actions:
1. The first violation within any rolling 365 day period shall result in a fine not to exceed \$250.00 and a written warning notice of violation.
  2. The second violation within any rolling 365 day period shall result in a fine not to exceed \$500.00 and a short-term lodging license suspension for a period of 30 days.
  3. The third violation within any rolling 365 day period shall result in a fine not to exceed \$1,000.00 and the revocation of the short-term lodging license and neither the owner nor local contact person shall be eligible to reapply for a license for a period of three (3) years.
- C. Each day the short-term lodging is marketed or rented for overnight accommodation without the necessary short-term lodging license required under this article shall constitute a separate violation.
- D. Failure of the owner or property manager to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term lodging in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this article. It is not intended that an owner or local contact person act as a peace officer or place himself or herself in an at-risk situation.

## **ARTICLE XVII: SHORT-TERM LODGING -- HOMESTAY**

### **Section 17-1. Purpose, applicability, definitions.**

#### **17-1.1 Purpose.**

- A. The purpose of this article is to establish land use regulations within the scope of the zoning powers of the municipal authority to govern vacation home facilities in the city. The intent of this article is to promote economic development in the vacation rental industry while minimally impacting existing residential uses.
- B. This article is not intended to regulate hotels, motels, inns, or non-vacation type rental arrangements including, but not limited to, boarding houses, lodging houses, or rooming houses.

#### **17-1.2 Applicability.**

- E. It shall be unlawful for any owner of any property within the City of Stone Mountain to rent or operate a homestay contrary to the procedures and regulations established in this article, other provisions of this Code, or any applicable state law.
- F. The restrictions and obligations contained in this article shall apply to homestays at all times during which the homestay is marketed and used as such.

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G. The allowance of a homestay pursuant to this article shall not prevent enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements. The City of Stone Mountain shall not be responsible for enforcement of such covenants, agreements, or arrangements.

H. A property that has been advertised or listed via the internet or other media sources (e.g. www.vrbo.com, www.airbnb.com, etc.) for short-term lodging shall be prima facie evidence the property is being used as a short-term lodging.

17-1.3 Definitions.

A. A lodging room is defined as a room that is used for temporary occupancy for a fee.

B. An owner is defined as an individual, partner, or officer of a corporation who is an officer registered with the Corporations Division of the Georgia Secretary of State with title to real property.

C. Homestay lodging is defined as a residential type establishment, with commercial enterprise, offering an individual bedroom within a residential establishment that serves as a host's principal residence, including any single-family or accessory apartment, that provides lodging for pay, for a maximum continuous period not to exceed twenty-nine (29) consecutive days, that does not include serving food.

D. Temporary occupancy is defined as the short-term use of a unit for a limited duration not exceeding 30 consecutive days and intended for transient guests who do not establish permanent residence.

**Section 17-2. Occupancy and parking restrictions.**

17-2.1 Occupancy restrictions.

A. A short-term lodging room must meet the following occupancy restrictions:

1. Provide no more than one lodging (guest) rooms with a minimum of 70 square feet per room.

2. Occupancy of a lodging room shall require at least 40 square feet per individual.

3. Occupancy by guest(s) shall not exceed 14 consecutive days during any 90 day period.

4. The owner of a short-term lodging room shall be present at the residential home during the entire occupancy of the short-term lodging room.

5. Short-term lodging room shall be available for occupancy on a continuous basis except for repairs, renovations, or the absence of the owner.

6. Short-term lodging rooms shall be required to have a smoke alarm in the lodging room (guest room) and a fire extinguisher visible and accessible to guests. The facilities are subject to at least one annual inspection at the time of initial licensing and during renewal of the same.

17-2.2 Parking restrictions.

A. Except where permitted by law, no parking shall be allowed on the street or in the any unpaved portion of the front yard of any lot occupied by a short-term lodging use.

B. Parking regulations relative to the zoning district shall apply.

**Section 17-3. Signage.**

16-3.1 Signage.

A. No additional signage shall be permitted.

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## **Section 17-4. Licenses, transferability, enforcement.**

### **17-4.1 Licenses.**

- A. Applicants shall be limited to owner-occupied single-family residential lots receiving a current homestead exemption through DeKalb County.**
- B. A homestay shall obtain a home occupational tax certificate from the city and renew on an annual basis.**
- C. Fees for lodging in a homestay are subject to local and state taxation ordinances.**
- D. The owner of a homestay shall obtain a short-term lodging license from the city and renew on an annual basis. The application shall be furnished on a form specified by the City, accompanied by a non-refundable license fee as established by the official Fee Schedule of the City of Stone Mountain. Such application shall include:**
  - 1. Name, address, phone number, and email of the property owner(s) of record for which a permit is sought.**
  - 2. A floor plan showing all bedrooms and bathrooms with the approximate square footage of each bedroom.**
  - 3. A site plan of the overall property identifying parking spaces for lodgers.**
  - 4. A short-term lodging property located within a subdivision where a functioning homeowners association exists must provide a notarized statement from the applicant that short-term lodging is not prohibited under the covenants of the HOA/subdivision.**
  - 5. Proof of homeowners insurance.**
  - 6. Signed acknowledgement that the owner(s) has read all regulations pertaining to the operation of a homestay and their agreement to abide by all applicable regulations.**
- E. Active licenses shall not expire, provided that a property owner shall renew the license on an annual basis. If a property owner fails to renew a license, it shall be considered terminated by the licensee.**

### **17-4.2 Transferability.**

- A. Short-term lodging licensure issued under this ordinance shall not be transferred, assigned, or used by any person other than the owner to whom it is issued, or at any location other than for which it is issued.**
- B. Short-term lodging licensure terminates upon transfer of the property to another owner.**

### **17-4.3 Enforcement.**

- A. Licenses issued under this ordinance may be suspended or revoked for any of the following reasons:**
  - 1. An applicant furnished fraudulent or untruthful information in the application for a license, or omitted information required in the application for a license, or failed to pay all fees, taxes, or other charges imposed under the provisions of the City Code, in which case the city may immediately suspend or revoke the short-term lodging license.**
  - 2. Any short-term lodging for which there are three (3) final determinations of violations of the City Code by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling 365 day period, shall constitute a violation of the terms of licensure and shall terminate the license. For any license that is terminated due to code violations, a property owner shall be ineligible for a license for a period of three (3) years.**



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3. Any licensee having his or her license suspended or revoked under this section may appeal to the city council in accordance with Section 2-1.10 Procedures for appeal of administrative decision.
- B. Any violations of this this code, including any violation of the noise control ordinance, shall subject the licensed individual to the following progressive actions:
1. The first violation within any rolling 365 day period shall result in a fine not to exceed \$250.00 and a written warning notice of violation.
  2. The second violation within any rolling 365 day period shall result in a fine not to exceed \$500.00 and a short-term lodging license suspension for a period of 30 days.
  3. The third violation within any rolling 365 day period shall result in a fine not to exceed \$1,000.00 and the revocation of the short-term lodging license and neither the owner nor local contact person shall be eligible to reapply for a license for a period of three (3) years.
- C. Each day the short-term lodging is marketed or rented for overnight accommodation without the necessary short-term lodging license required under this article shall constitute a separate violation.
- D. Failure of the owner or local contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term lodging in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this article. It is not intended that an owner or local contact person act as a peace officer or place himself or herself in an at-risk situation.