



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Robert G. Vidoni, Esquire, City Clerk

CC: The Honorable Robert J. Donchez, Mayor; W. Alexander Karras, Chief of Staff

From: Edmund J. Healy, Esquire, First Assistant City Solicitor

Re: Proposed Zoning amendments pertaining to short term lodging and hotels
Proposed Zoning amendment pertaining to bed and breakfast home uses
Proposed Pending Ordinance Resolution

Date: January 16, 2020

As a follow-up to Director Karner's November 15, 2019 Interoffice Memorandum to President Waldron and City Council, the Administration requests that the attached zoning amendment pertaining to short-term lodging and hotels be considered by Council. As a result of a more recent discussion, the Administration also requests that Council consider enacting the separate attachment modifying the zoning requirements for bed and breakfast home uses.

The Administration specifically requests City Council to immediately enact the attached resolution to declare both proposed zoning amendments as "pending ordinances" of the City under the judge-created "pending ordinance doctrine". This would allow the Administration to deny permit applications to conduct short term lodging, hotels, and bed and breakfast home uses in ways inconsistent with these proposed ordinances. To obtain the benefit of this doctrine, City Council must resolve to (i) *consider* a particular scheme of rezoning, i.e. each of the attached draft bills, and (ii) advertise its intention to the public to hold public hearings on such zoning changes. The resolution also ratifies and otherwise directs the Administration and City Clerk to obtain comments from the Planning Commission, Lehigh Valley Planning Commission, and advertise any required public hearings for these draft ordinances.

Actual enactment of the proposed amendments is not required or expected at this time.¹

The Planning and Zoning Bureau shall transmit to Council copies of all comments and recommendations of the City Planning Commission and Lehigh Valley Planning Commission prior to the public hearings.

Please place this Interoffice Memorandum, the proposed Resolution, and the attached bills on City Council's agenda as needed for review and appropriate action.

Respectfully,

Edmund J. Healy, Esq.
Edmund J. Healy, Esq.
First Assistant City Solicitor

¹ The Administration expects to present its revised version of Article 1741 (short term lodging licensing ordinance) to Council for consideration and enactment by Council simultaneously with the readings of both of the above-referenced zoning ordinances.

BILL NO. – 2020

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA,
AMENDING PART 13 OF THE CODIFIED
ORDINANCES OF THE CITY OF BETHLEHEM,
ZONING ORDINANCE RELATING TO HOTELS AND
SHORT TERM LODGING.

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS
FOLLOWS:

SECTION 1. Article 1302, Definitions, of the Zoning Ordinance is hereby amended to include following (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

1302.58 Hotel. ~~A building or groups of buildings which has a central office and which contains 1 or more rental units which are rented to transient visitors to the area, and which may also include an accessory tavern, restaurant, pool, exercise facilities or meeting facilities.~~ A hotel is any building within which 1 or more rental units are rented to transient visitors to the area, but does not qualify as a Short Term Lodging Facility or bed and breakfast home within the meaning of the Zoning Ordinance. Alternatively, a hotel can be a group of buildings served by a central office or coordinator within which 1 or more rental units are rented to transient visitors to the area, but does not include any building in the group which qualifies as a Short Term Lodging Facility or bed and breakfast home within the meaning of the Zoning Ordinance. A “hotel” may also include an accessory tavern, restaurant, pool, exercise facilities or meeting facilities.

1302.117.1 Short Term Lodging Facility: An owner-occupied single family dwelling at which the owner allows the temporary rental of the dwelling unit or portion thereof for not more than 30 consecutive nights by a Transient Visitor or Visitors under an agreement providing compensation to an owner and which dwelling (1) does not operate or

is not licensed as a regulated rental under Article 1739 or (2) does not qualify as a hotel or bed and breakfast home within the meaning of the Zoning Ordinance or the law of nonconforming uses. The temporary rental to one or more Transient Visitors of a single family dwelling unit or portion thereof at a time when the owner-occupant is not physically residing overnight in the structure, and which temporary rental does not otherwise qualify as a bed and breakfast home use, shall be considered a hotel within the meaning of the Zoning Ordinance.

1302.137.1 Transient Visitor: An occupant of a dwelling unit or sleeping unit for not more than 30 consecutive nights under a rental agreement, unless the occupant is related to the Owner as married spouse, parent or child, grandparent or grandchild, or brother or sister.

SECTION 2. Part 13 of the City of Bethlehem Codified Ordinances relating to Zoning, Section 1304.01(b)(2), which consists of the Commercial Uses portion of the Table of Allowed Uses in Primarily Residential Districts, is hereby amended to include the following (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

TYPES OF USES (See definitions in Section 1302)	ZONING DISTRICTS				
	RR	RS	RG	RT	RRC
(2) COMMERCIAL USES <u>Short Term Lodging Facility</u>	<u>SE</u>	<u>SE</u>	<u>P</u>	<u>P</u>	<u>N</u>

SECTION 3: Part 13 of the City of Bethlehem Codified Ordinances relating to Zoning, Section 1305.01(b), which consists of the Commercial Uses portion of the Table of Allowed Uses in Primarily Non-Residential Districts, is hereby amended to include the following (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

TYPES OF USES (See definitions in Section 1302)	ZONING DISTRICTS											
	CL	CG & CS	CB	LI	IN	PI	CM	I	CMU	IR	IR-R	OMU
b. COMMERCIAL USES <u>Short Term Lodging Facility</u>	<u>P</u>	<u>N</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>

SECTION 4. Part 13 of the City of Bethlehem Codified Ordinances relating to Zoning, Section 1319 relating to Off-Street Parking and Loading, Subsection

1319.01(a) relating to Required Off Street Parking Space, is hereby amended to include the following (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

1319.01(a)(36.1) Short Term Lodging Facility– Two off-street parking spaces are required for the dwelling. One additional space is required if more than one room is rented. These off-street requirements shall not apply to any short term lodging facility in a CB Zoning District.

SECTION 5. Part 13 of the City of Bethlehem Codified Ordinances relating to Zoning, Section 1322 relating to Additional Requirements for Specific Uses, Subsection 1322.03 relating to Additional Requirements for Certain Uses, is hereby amended to read as follows (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

Short Term Lodging:

- (1) The Short Term Lodging use is only permitted in an owner-occupied single family dwelling existing and occupiable by persons as of January 1, 2020 or, for lots exceeding one (1) acre in size, in an accessory or outbuilding structure existing and occupiable by persons as of January 1, 2020.
- (2) No more than 2 rooms on any lot may be offered for rent in any short term lodging facility regardless of the size of the structure or number of bedrooms.
- (3) No exterior alteration or expansion shall be made to any building for purposes of furnishing or expanding short term lodging, except as may be required for purposes of sanitation, handicapped accessibility, historic rehabilitation or safety.
- (4) The Short Term Lodging use must meet all City requirements for health, fire and building safety.
- (5) A Short Term Lodging Facility shall be used by any Transient Visitor only for Short Term Lodging and not for other purposes, such as, but not limited to, the hosting, lease or use of the property as reception space, party space, social or business meeting space, or for other similar events open to the public or invitees. Owners shall not circumvent the preceding limitations by hosting such events for the benefit of a Transient Visitor.

- (6) Transient Visitors shall not generate noise, vibration, glare, odor or other effects that unreasonably interfere with a person’s enjoyment of his or her neighborhood, nor shall an Owner allow any Transient Visitor to do so.
- (7) The owner of the Short Term Lodging Facility shall comply with all aspects of Article 1741, Short Term Lodging Facilities, including annual inspections and licensing.

SECTION 6. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2020.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2020.

Mayor

BILL NO. – 2020

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING PART 13 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, ZONING ORDINANCE RELATING TO BED AND BREAKFASTS.

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Article 1302, Definitions, of the Zoning Ordinance is hereby amended to include the following (underlined text denotes additions, whereas ~~strikeouts~~ denote deletions):

1302.12 Bed and Breakfast Home. A detached dwelling which may provide overnight lodging and serve breakfast to transient guests, and which includes the owner or primary operator ~~residing~~ residing on the premises.

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2020 .

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2020 .

Mayor

RESOLUTION NO. 2020-_____

WHEREAS, interest on the part of the Administration and community has surfaced in steering the placement and operations of hotels and short term lodging facilities, as well as bed and breakfast home uses, in ways different from those authorized under the current provisions of the City Zoning Ordinance;

WHEREAS, the City Council is originating two proposed Zoning Ordinance amendments pursuant to section 1326.02(a) of the Zoning Ordinance to address these issues, which proposal are attached hereto as Exhibits “A” and “B”, respectively, and is presently undergoing the review process for obtaining comments and recommendations by and from by the City Planning Commission, Lehigh Valley Planning Commission, and public at large, and all of which comments and recommendations will be accepted by City Council prior to formal consideration and/or enactment.

NOW THEREFORE, be it resolved by authority of the City Council of the City of Bethlehem as follows:

1. Exhibit “A” attached hereto is declared as of this date to be a pending ordinance of the City of Bethlehem.
2. Exhibit “B” attached hereto is declared as of this date to be a pending ordinance of the City of Bethlehem.
3. The actions of the Director of Planning and Zoning, the City Clerk and all other City officials in connection with obtaining comments and recommendations from the City Planning Commission and Lehigh Valley Planning Commission, advertising and conducting public hearings for the purpose of receiving public comment and recommendations, and/or take any other actions in the manner required by the Municipalities Planning Code and City ordinances are hereby ratified and/or otherwise authorized.
4. The City Council shall consider all comments and recommendation from the City Planning Commission, Lehigh Valley Planning Commission, and members of the public obtained in the manner required by the Municipalities Planning Code prior to formal enactment of the said pending ordinances.

Sponsored by: _____

ADOPTED by Council this _____ day of _____, 2020.

President of Council

ATTEST:

City Clerk

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PASSED finally in Council on the _____ day of _____, 2020.

President of Council

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