



Legislation Text

File #: 2015-0355, Version: 1

AMEND CHAPTERS 151 AND 163

AN ORDINANCE TO AMEND CHAPTERS 151 AND 163 OF THE UNIFIED DEVELOPMENT CODE TO MODIFY BED AND BREAKFAST DEFINITION AND USE CONDITIONS

WHEREAS, the City of Fayetteville receives few complaints regarding Bed and Breakfast facilities; and

WHEREAS, it is typical of Bed and Breakfast facilities to serve as a venue for events; and

WHEREAS, Bed and Breakfast facilities and services are reviewed for compatibility with surrounding neighborhoods by the Planning Commission at the time of Conditional Use Permit issuance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That Section 163.03(A) of the Unified Development Code is repealed in its entirety and replaced with the following language:

"§ 163.03 (A) *Term*

A conditional use permit for a bed and breakfast shall remain effective as long as the Planning Commission has not received (through the Planning Department) substantiated neighborhood complaints that would justify amendment or revocation of the conditional use permit."

Section 2. That § 163.03(E) is repealed and replaced with the following language:

"*Meals.* Only overnight and event guests of the bed and breakfast facility may be served meals."

Section 3. That §163.03(F) is repealed and replaced with the following language:

"§ 163.03 (F) *Parties/receptions*

Parties, receptions and other appropriate events may be authorized by the Planning Commission as a part of the Conditional Use with appropriate limitations of the number of authorized events per month, number of attendees, days of the week, time periods, and other appropriate limitations to ensure compatibility with the neighborhood."

Section 4. That the definition of 'bed and breakfast facility' in Chapter151: **Definitions** is repealed and replaced with the following language:

“Bed and breakfast facility. (Zoning) A permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and meals to overnight and event guests.”

City of Fayetteville Staff Review Form

2015-0355

Legistar File ID

8/18/2015

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jeremy Pate

7/31/2015

City Planning /
Development Services Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

ADM 15-5111 Administrative Item (UDC AMENDMENT CHAPTER 163.03: BED AND BREAKFAST FACILITIES AND CHAPTER 151: DEFINITIONS): Submitted by CITY PLANNING STAFF for revisions to the Unified Development Code, Chapters 163.03 and 151. The proposal is to modify bed and breakfast facility definition and use conditions.

Budget Impact:

Account Number	Fund
Project Number	Project Title
Budgeted Item? <u>NA</u>	Current Budget \$ -
	Funds Obligated \$ -
	Current Balance \$ -
Does item have a cost? <u>No</u>	Item Cost
Budget Adjustment Attached? <u>NA</u>	Budget Adjustment
	Remaining Budget \$ -

V20140710

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Approval Date: _____

Comments:

MEETING OF AUGUST 18, 2015

TO: Mayor and City Council

THRU: Andrew Garner, City Planning Director

FROM: Quin Thompson, Current Planner

DATE: July 31, 2015

SUBJECT: ADM 15-5111 Administrative Item (UDC AMENDMENT CHAPTER 163.03: BED AND BREAKFAST FACILITIES AND CHAPTER 151: DEFINITIONS): Submitted by CITY PLANNING STAFF for revisions to the Unified Development Code, Chapters 163.03. The proposal is to modify bed and breakfast facility definition and use conditions.

RECOMMENDATION:

Staff and the Planning Commission recommend approval of an ordinance to modify bed and breakfast facility definition and use conditions.

BACKGROUND:

This amendment was tabled at the Planning Commission meeting of July 13, 2015 in order to allow staff to include suggestions made by Commissioners for bed and breakfast facilities to serve meals other than breakfast. Staff has included this recommendation in the proposed code changes.

The ordinance regulating bed and breakfast facilities in the City has been in place for more than twenty years. These types of facilities are defined in the Fayetteville Development Code as a *'permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast to paying customers'* and are classified as Use Unit 2 (UU-2), City Wide Uses by Conditional Use Permit (CUP). As such they are allowed only by CUP in all zoning districts.

Under section 163.03, staff proposes to modify the current bed and breakfast use conditions as shown with removals in strikeout and additions in highlight:

163.03 Bed And Breakfast Facilities

Bed and breakfast facilities shall be a ~~temporary~~-conditional use in all zoning districts subject to the following conditions:

~~(A) Term. A conditional use permit for a bed and breakfast facility shall be effective for one year. After approval of a conditional use~~

~~permit by the Planning Commission, the applicant must obtain a certificate of occupancy from the Planning Division and Building Safety Division before the facility begins operation. If no complaints regarding those times required to be considered by the Planning Commission prior to the issuance of a conditional use permit as described in §163.02 are received by the Planning Division from neighborhood residents, the Planning Division may issue a renewal certificate of occupancy annually, subject to the inspection requirements of subsection (G) below. If such complaints are received, the owner or operator of the bed and breakfast facility must apply to the Planning Commission for a new conditional use.~~

- (B) *Lot size.* ~~Where~~ **When** a new structure is constructed, the lot on which the bed and breakfast facility is located must comply with the minimum lot size for the zoning district in which the property is located.
- (C) *Parking.* One off-street parking space per guest room shall be required; provided, Planning Commission may allow the use of on-street the parking to meet this requirement upon a determination by the Planning Commission that traffic safety will not be impaired. The parking of motor vehicles may be stacked in a driveway with the owner of the bed and breakfast facility being responsible for the handling of ingress and egress.
- (D) *Length of stay.* The maximum length of stay of any one guest at a bed and breakfast facility shall be 14 days.
- (E) *Meals.* ~~The only meal which~~ **Breakfast, lunch, and dinner** may be served at a bed and breakfast facility ~~shall be breakfast.~~ Only guests of the bed and breakfast facility may be served breakfast **meals.**
- (F) *Parties/receptions.* ~~No parties or receptions shall be allowed at a bed and breakfast facility.~~ **The Planning Commission may allow parties or receptions. Events may be limited as a condition of approval.**

(G) *Inspection.* Before a conditional use permit is issued for a bed and breakfast facility, the building must be inspected by the fire inspector and/or building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazard exists. No conditional use permit shall be issued for a bed and breakfast facility if the building does not pass the inspection.

(Code 1991, §160.095; Ord. No. 4100, §2 (Ex. A), 6-16-98)

In Chapter 151, under the definition of 'Bed and Breakfast Facility' staff proposes to change the word 'breakfast' to 'meals', as shown below.

Bed and breakfast facility. (Zoning) A permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast meals to paying customers overnight and event guests.

Staff is not aware of any complaints about negative impacts from a bed and breakfast facility, nor has staff received requests for or provided the renewals required by ordinance.

DISCUSSION:

Staff feels that the existing ordinance is unnecessarily restrictive and that it discourages a small business type common in many cities. The provisions of the ordinance are redundant to the CUP process, and remove some of the judgment and flexibility that the CUP process, staff review, and ultimate Planning Commission decision are intended to provide.

Staff proposes to remove the annual renewal finding it unnecessary because any business operating under CUP must comply with all conditions as applied by the Planning Commission, including but not limited to hours of operation. Staff also proposes to remove the clause forbidding parties and receptions and service of meals other than breakfast. It is staff's opinion that parties or receptions should be evaluated within the typical CUP process and limited with conditions if necessary. If parties and receptions are a primary use of the facility it would also be classified as Use Unit 4, Cultural and Recreational Facilities, and could be approved by the Planning Commission as part of the overall CUP. Parties and receptions are commonly held at bed and breakfast facilities and the current restriction limits the viability of this type of business in Fayetteville.

If a business is found to be out of compliance with the conditions of the CUP, then that permit is subject to revocation.

On July 27, 2015 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 9-0-0.

BUDGET/STAFF IMPACT:

None

Attachments:

- CC ordinance
- July 27, 2015 Planning Commission staff report.

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Quin Thompson, Current Planner

MEETING DATE: ~~July 27, 2015~~ **UPDATED JULY 30, 2015**

SUBJECT: **ADM 15-5111 Administrative Item (UDC AMENDMENT CHAPTER 163.03: BED AND BREAKFAST FACILITIES AND CHAPTER 151: DEFINITIONS):** Submitted by CITY PLANNING STAFF for revisions to the Unified Development Code, Chapters 163.03. The proposal is to modify bed and breakfast facility definition and use conditions.

RECOMMENDATION:

Staff recommends that the Planning Commission forward **ADM 15-5111** to the City Council with a recommendation for approval.

BACKGROUND:

This amendment was tabled at the Planning Commission meeting of July 13, 2015 in order to be able to allow staff to include suggestions made by Commissioners for bed and breakfast facilities to serve meals other than breakfast. Staff has included this recommendation in the proposed code changes.

The ordinance regulating bed and breakfast facilities in the City has been in place for more than twenty years. These types of facilities are defined in the Fayetteville Development Code as a *'permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast to paying customers'* and are classified as Use Unit 2 (UU-2), City Wide Uses by Conditional Use Permit (CUP). As such they are allowed only by CUP in all zoning districts.

Under section 163.04, staff proposes to modify the bed and breakfast use conditions as follows:

1. Every bed and breakfast facility is required to renew the CUP annually, and that the renewal may be granted by staff if there are no complaints from neighborhood residents about the operating hours of the business. If complaints are received, then the bed and breakfast operator must apply to the Planning Commission for a new CUP.
2. The ordinance forbids parties or receptions at bed and breakfast facilities.
3. The ordinance forbids meals be served other than breakfast.

In section 151, staff proposes to change the word 'breakfast' to 'meals', as shown below.

Bed and breakfast facility. (Zoning) A permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast meals to paying customers.

Staff is not aware of any complaints about negative impacts from a bed and breakfast facility, nor has staff received requests for or provided the renewals required by ordinance.

DISCUSSION: Staff feels that the existing ordinance is unnecessarily restrictive and that it discourages a small business type common in many cities. The provisions of the ordinance are redundant to the CUP process, and remove some of the judgment and flexibility that the CUP process, staff review, and ultimate Planning Commission decision are intended to provide.

Staff proposes to remove the annual renewal finding it unnecessary because any business operating under CUP must comply with all conditions as applied by the Planning Commission, including but not limited to hours of operation. Staff also proposes to remove the clause forbidding parties and receptions and service of meals other than breakfast. It is staff's opinion that parties or receptions should be evaluated within the typical CUP process and limited with conditions if necessary. If parties and receptions are a primary use of the facility it would also be classified as Use Unit 4, Cultural and Recreational Facilities, and could be approved by the Planning Commission as part of the overall CUP. Parties and receptions are commonly held at bed and breakfast facilities and the current restriction limits the viability of this type of business in Fayetteville.

If a business is found to be out of compliance with the conditions of the CUP, then that permit is subject to revocation.

PLANNING COMMISSION ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Forward
<u>Date:</u> July 27, 2015			
<u>Motion:</u> COOK		<u>Vote:</u> 8-0-0	
<u>Second:</u> HOFFMAN			
<u>Note:</u> RECOMMEND APPROVAL AS PROPOSED BY STAFF			

BUDGET/STAFF IMPACT:

None

Attachments:

- The proposed code changes to UDC Chapter 163.03 (Bed and Breakfast Facilities) and Chapter 151 (Definitions) are shown in strikeout-highlight.

PROPOSED UDC 163.03

163.03 Bed And Breakfast Facilities

Bed and breakfast facilities shall be a ~~temporary~~ conditional use in all zoning districts subject to the following conditions:

- (A) ~~Term.~~ A conditional use permit for a bed and breakfast facility shall be effective for one year. After approval of a conditional use permit by the Planning Commission, the applicant must obtain a certificate of occupancy from the Planning Division and Building Safety Division before the facility begins operation. If no complaints regarding these times required to be considered by the Planning Commission prior to the issuance of a conditional use permit as described in §163.02 are received by the Planning Division from neighborhood residents, the Planning Division may issue a renewal certificate of occupancy annually, subject to the inspection requirements of subsection (G) below. If such complaints are received, the owner or operator of the bed and breakfast facility must apply to the Planning Commission for a new conditional use.
- (B) *Lot size.* ~~Where~~ **When** a new structure is constructed, the lot on which the bed and breakfast facility is located must comply with the minimum lot size for the zoning district in which the property is located.
- (C) *Parking.* One off-street parking space per guest room shall be required; provided, Planning Commission may allow the use of on-street the parking to meet this requirement upon a determination by the Planning Commission that traffic safety will not be impaired. The parking of motor vehicles may be stacked in a driveway with the owner of the bed and breakfast facility being responsible for the handling of ingress and egress.
- (D) *Length of stay.* The maximum length of stay of any one guest at a bed and breakfast facility shall be 14 days.

PROPOSED UDC 163.03

- (E) *Meals.* ~~The only meal which~~ Breakfast, lunch, and dinner may be served at a bed and breakfast facility ~~shall be breakfast.~~ Only guests of the bed and breakfast facility may be served breakfast meals.
- (F) *Parties/receptions.* ~~No parties or receptions shall be allowed at a bed and breakfast facility.~~ The Planning Commission may allow parties or receptions. Events may be limited as a condition of approval.
- (G) *Inspection.* Before a conditional use permit is issued for a bed and breakfast facility, the building must be inspected by the fire inspector and/or building inspector to assure compliance with the Arkansas State Fire Code and to assure that no significant safety hazard exists. No conditional use permit shall be issued for a bed and breakfast facility if the building does not pass the inspection.

(Code 1991, §160.095; Ord. No. 4100, §2 (Ex. A), 6-16-98)

PROPOSED UDC CHAPTER 151

Bed and breakfast facility. (Zoning) A permanently owner occupied private home with a maximum of five guest rooms furnishing temporary lodging and breakfast meals to paying customers.