



Buncombe County Planning and Development  
Long Range Planning Division  
46 Valley St.  
Asheville, NC 28801

## **SHORT-TERM RENTAL TEXT AMENDMENTS MEMORANDUM**

**Original Date:** 12-1-2023  
**Updated:** 1-12-2024  
**To:** Buncombe County Planning Board  
**From:** Buncombe County Planning and Development Department

### **PURPOSE**

The Short-Term Rental (STR) Memorandum provides an overview of key issues and proposed Zoning Ordinance changes related to short-term rentals in Buncombe County. The working definition of STR is any lodging rental that is for less than 30 days. The current Buncombe County Zoning Ordinance defines “vacation rentals”, but these can also be referred to as “short-term rentals”. This document will summarize an analysis of equity issues, relevant case law, current bills before the General Assembly, a consideration of regulations in other jurisdictions, and proposed text amendments.

### **EQUITY ANALYSIS**

Planning staff are proposing a series of text amendments to the current zoning ordinance regarding STRs. These text amendments seek to mitigate the impact of STRs on affordable housing stock by limiting the use of existing and future residential development for STRs. The goal is to create more long-term rental and owner-occupied housing opportunities for residents and the local workforce.

During the extensive public input process of the Buncombe 2043 Comprehensive Plan, residents, including historically marginalized groups, expressed concerns about the lack of housing affordability and the use of housing as STRs, which leaves fewer options for year-round residents.

The changes in these text amendments will affect low and middle-income renters, home buyers, and local workers by seeking to make more housing stock available for long-term rentals and owner-occupied housing. According to a 2021 Dogwood Health Trust study, Buncombe County’s long-term rental housing gap was 7,699 units, while the housing ownership gap was 2,048 units.<sup>1</sup> Individuals and families earning less than or equal to

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<sup>1</sup> Bowen National Research. (2021). Housing Needs Assessment Western North Carolina. <https://dogwoodhealthtrust.org/wp-content/uploads/2021/10/Western-North-Carolina-Hsg-Needs-Assmt.pdf>

50% AMI make up 70% of the housing gaps (both rental and home ownership); therefore, the loss of housing to short-term rentals uniquely affects Buncombe’s low-income population.

Using AirDNA, a software company that provides analysis of vacation rental data, our Comprehensive Plan consulting firm Clarion & Associates identified 5,268 STRs in Buncombe as of 2022, which is roughly 4.5% of the county’s housing stock. These rentals account for around 68% of the rental housing gap of 7,699 units. By limiting the amount of housing used for STRs, the County can work towards closing the long-term rental and homeownership gaps outlined in the Dogwood Study. Allowing STRs only within detached single-family dwellings can also help reduce conflict related to noise and safety that can be exacerbated in multi-family developments. Multi-family units also tend to be more affordable types of housing. Without these proposed text amendments, the County may be unable to minimize the ongoing loss of long-term rental and owner-occupied dwelling units to STRs.

The proposed text amendments aim to prioritize existing and new long-term housing stock. To measure the success of these Zoning Ordinance changes, staff will use the performance metrics from the Buncombe 2043 Comprehensive Plan. These metrics will measure the increase in the number of ownership units and rental units which are affordable to households earning less than 80% Average Median Income (AMI).

## CASE LAW

### *Schroeder v. Wilmington*

A 2019 amendment to G.S. 42A-3 clarified that housing code inspection, permits, and registration (IPR) programs apply to properties subject to the Vacation Rental Act (VRA), which was written with long-term rentals in mind but also includes most if not all STRs. The North Carolina Court of Appeals ruled that, per state law, local governments may not require registration or permits as a condition of renting. However, general land use zoning authority is retained: you may require a zoning compliance permit but not a leasing/rental permit. Many regulatory provisions in the Wilmington ordinance were upheld by the ruling while others were struck down simply because they were intertwined with the registration requirement. Density caps on rental units and requirements that the rentals be separated by a certain distance from each other are two issues that may be problematic. Both were among those struck down due to the relationship with the registration requirements of the Wilmington ordinance but are likely achievable through conventional zoning methods, which begin with defining short-term rentals as a land use. *For more information, see the October 2022 memo prepared by Clarion Associates, as well as the summary by Adam Lovelady from UNC School of Government on the Coates’ Canons law blog.*

## STR REGULATION IN OTHER JURISDICTIONS

This is a curated look at STR regulations from other counties and local governments in the state (generally and in response to *Schroeder*), including examples from other localities outside of North Carolina. Please note, the examples from other states may not be allowed by North Carolina General Statute, but are presented to illustrate a variety of approaches.

### *Common Practices and Language*

Common design and operation standards are listed below. These are provisions which many or most jurisdictions include in their ordinances.

Trash	Owner is required to provide receptacles for and collect and dispose of trash
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<b>Liability Insurance</b>	Owner is required to carry liability insurance
<b>Posted Information</b>	Various safety, information and contact info is required to be posted inside, often property manager’s contact, but can include relevant ordinances or waste disposal information
<b>Owner/Operator Proximity</b>	Property manager is required to be within some reasonable and defined distance of the unit
<b>Parking</b>	Minimum, off-street parking requirements
<b>Taxes</b>	Places the tax responsibility on the owner/operator
<b>Timeframe</b>	Rentals are limited to 30 days or less
<b>Zoning Compliance Permits</b>	Zoning permits required for short-term rental land use
<b>Occupancy and/or Gathering Limits</b>	Limits on the number of occupants or visitors to the site, most often when located in residential areas
<b>Cooking</b>	Many prohibit cooking in bedrooms

**Zoning Districts**

Most localities limit, restrict, or prohibit STRs in various districts through their Permitted Use table. Where permitted by-right, many localities have a “use-by-right with additional requirements” category. Most localities prohibit STRs in residential districts.

**Owner-Occupied/Homestays vs. Whole-Home/Dedicated Short-Term Rentals**

There is an important distinction between owner-occupied homestays and whole-home dedicated STRs. These two kinds of STR are sometimes considered separate uses based on locality. For example, **Asheville** and **Boone** distinguish between homestays and non-owner-occupied STRs and have standards for each. **Sylva** limits STRs to accessory uses where the primary use is an owner-occupied residence or long-term rental. **Chapel Hill** distinguishes between primary residence STRs and dedicated STRs; the former differs from homestays in that there is no provision requiring the owner to be on-site during the rental period but only that the unit be their primary residence. In communities that take this approach, it is often difficult to police and enforce the nuances of homestays versus whole-home STRs.

**Localities**

<b>LOCATION</b>	<b>STR STANDARD</b>
<b>Sylva, NC</b>	In August 2022, Sylva redefined STRs as an accessory use provided the primary use is owner-occupied or a long-term rental. Requires that outdoor signage be no greater than 2 square feet and list the manager’s name and 24-hour number. Requires the noise ordinance and waste disposal process, schedule, and routes to be posted conspicuously.
<b>Highlands, NC</b>	<i>Notable for involved parties.</i> The board sought amortization (a method requiring the termination of a nonconforming use within a specific time period) of existing STRs but encountered resistance including opposition from Institute for Justice firm, which won the Wilmington case. A text amendment passed on 9/15/22 which grandfathered STRs as nonconforming uses and required that the ordinance standards be posted in the rental unit.

<b>Pinehurst, NC</b>	Village Council recently voted to prohibit new STRs in residential districts and require existing ones to get a Zoning Certificate and be classified as a legal, nonconforming use.
<b>Chapel Hill, NC</b>	Dedicated STRs are not allowed in residential districts but are allowed in mixed-use districts. Owner-occupied STRs are allowed in neighborhoods based on certain residency criteria.
<b>Asheville, NC</b>	Asheville discerns between short-term vacation rentals (STVRs) and homestays, defining each as a commercial lodging use. <i>Homestays</i> are permitted only in the conditional-zoning-only Expansion (EXP) district and are classified as a “use by right subject to special requirements” (USSR) for most other districts, including all Residential districts. <i>STVRs</i> are permitted by right in two conditional zoning districts and as USSR in the resort district; they are not allowed anywhere else, including residential.
<b>Black Mountain, NC</b>	The Town Council recently directed staff to draft life, safety, and permitting regulations for short-term rentals, including: zoning permit requirement, annual fire inspection, and tax reporting if not using a management company or online rental booking site; Units required to have functional smoke and CO2 detectors, bear-proof trash cans, sufficient off-street guest parking spaces, an emergency ladder in upper story bedrooms, and posting of public safety and non-emergency numbers, garbage and recycling information, and noise ordinance requirements on the site; A local owner or property manager must live within 60 miles of the rental unit, and their contact information must be posted in the unit and on file with the town.
<b>Charleston, SC</b>	Charleston recognizes two types of STR: residential and commercial. Both are permitted as conditional uses. Commercial use is subject to an overlay district. Residential is owner-occupied only and requires a 15-day notice to neighbors about the STR application process; concerns must be addressed prior to approval.
<b>Chattanooga, TN</b>	The city allows homestays in limited areas and allows whole-house STRs in the commercial districts.
<b>Jackson Hole, WY</b>	STRs are only allowed in the Lodging Overlay District. The ordinance is framed as protecting the tourism economy and community from low-quality rentals. 300 ft neighbor notices are required. Unpermitted STR operator/owners are not allowed to operate a STR for 5 years from the date of the violation.
<b>Santa Fe, NM</b>	<i>Notable for comparable tourism economy and variety of unique regulations.</i> Santa Fe caps the number of STRs at a maximum of 1,000 STRs on residential property. There is a 50-foot spacing minimum between STRs and a 25% unit cap up to 12 STR permits in multifamily developments. The owner must be able to arrive on-site within an hour of receiving a complaint and keep 3 years of records. Units may only be rented once in a 7-day period. Neighbors within 200 feet of a permitted STR must be notified within 10 days of permit issuance.

## PROPOSED TEXT AMENDMENTS

The following table summarizes the proposed Zoning Ordinance Text Amendments related to Short-term Rentals, and the associated Comprehensive Plan section related to the changes.

SUMMARY OF PROPOSED TEXT AMENDMENTS		PLANNING BOARD REVIEW	COMP PLAN SECTION
1	Limit the use of dwelling units for the purpose of short-term rentals or grouped complexes of STRs to commercial zoning districts (NS, CS, EMP, PS, CR). In Open Use District, allow grouped complexes of STRs as a Special Use Permit <i>(SEC 78-641 Permitted Uses.)</i>		<p><b>GEC - Policy 7:</b> Increase housing options and improve housing affordability for all residents.</p> <p><b>GEC - Action 4:</b> Expand and protect affordable and accessible housing choices. Support a mix of housing types within growth areas to accommodate the projected demand for long-term rental and owner-occupied housing...</p> <p><b>GEC - Action 5:</b> Consider the utilization of available tools to mitigate the loss of year-round housing to short-term rentals.</p> <p><b>ECON. DEV., EDUCATION, AND JOBS - Policy 2:</b> Provide adequate housing options for all income levels to meet the needs of economic development opportunities.</p> <p><b>GEC - Policy 7:</b> Explore protections for existing affordable housing, with a particular emphasis on manufactured housing parks...</p>
2	Change the definition of short-term rental to allow only single-family detached units to be rented short-term.		
3	Lower the maximum gross floor area that a single unit can be for a short-term rental. <i>(SEC 78-581 Definitions.)</i>		
4	Clarify the definition of a short-term rental to state that it includes those which are rented for a minimum of two days and no greater than 30 days. <i>(SEC 78-581 Definitions.)</i>		
5	Create Special Requirement (SR) standards for short-term rentals in the commercial areas where they are allowed. Standards include parking, spacing, limits on events, waste management, signage, owner/operator distance from unit, access standards, permitting requirements, and fire safety. <i>(SEC 78-678 Uses by right subject to special requirements and special use standards.)</i>		
6	Provide a zoning permit process to grant legal, non-conforming status to pre-existing short-term rentals to allow them to remain in operation. <i>(SEC 78-657 Nonconforming Uses.)</i>		
7	To maintain legal, non-conforming status the structure must be rented as a short-term rental for a minimum of two nights every 180 days. <i>(SEC 78-657 Nonconforming Uses.)</i>		
8	Indicate that an existing non-conforming short-term rental that is transferred by deed shall end the grandfathering status of the use for a short-term rental. <i>(SEC 78-657 Nonconforming Uses.)</i>		
9	Prohibit short-term rentals in Manufactured Home Parks <i>(SEC 78-678 Uses by right subject to special requirements and special use standards.)</i>		
10	Prohibit short-term rentals in developments that receive a county incentive, such as a PUD, COD, density bonus program, etc.		
11	Create a definition of detached structure.		

## TIMELINE

- November 2023 - Staff held internal technical meetings with County Departments regarding the proposed amendments.
- December 1, 2023 – Memo provided to Planning Board
- December 18, 2023 – Staff presentation of proposed amendments to Planning Board. A large number of residents wished to provide comments regarding the proposed amendments. The Planning Board asked staff to provide a large space for a night meeting to provide residents with an opportunity to provide feedback on the proposed amendments.