



**CONSIDER LAND USE MANAGEMENT ORDINANCE TEXT AMENDMENTS - PROPOSED CHANGES TO ARTICLES 3, 4, 6, AND APPENDIX A RELATED TO SHORT-TERM RENTALS**

**STAFF REPORT**

TOWN OF CHAPEL HILL PLANNING DEPARTMENT  
 Colleen Willger, Director  
 Judy Johnson, Assistant Director  
 Anya Grahn, Senior Planner

AMENDMENT REQUEST	DATE	APPLICANT
Amend the Land Use Management Ordinance (LUMO) to provide regulations related to short-term rentals (STRs).	June 23, 2021	Planning Department

**UPDATES SINCE THE JUNE 16, 2021 PUBLIC HEARING**

Town Council discussed the item and requested that staff return with additional information on:

1. Age restrictions
2. Parking
3. Sunsetting Clause
4. Special Events
5. Enforcement
6. Zoning Compliance Permit Fee

Staff will be providing an updated staff memo and revised ordinance reflecting these updates to the Council on Monday, June 21, 2021.

**TOWN MANAGER'S RECOMMENDATION**

I have reviewed and discussed key issues with Town staff. Based on the information in the record to date, I believe the Council could make the findings required to approve the proposal, and therefore should adopt the Resolution of Consistency and enact Revised Ordinance A.

**PROCESS**

The item before the Council is for approval of a Land Use Management Ordinance (LUMO) Text Amendment. The Council must consider whether one or more of the **three findings** for enactment of the Land Use Management Ordinance Text Amendment applies:

1. To correct a manifest error in the chapter; or
2. Because of changed or changing conditions in a particular area or in the jurisdiction generally; or
3. To achieve the purposes of the Comprehensive Plan.

**DECISION POINTS**

- Allow primary residence short-term rentals (STRs) in all zoning districts, but limit dedicated short-term rentals to mixed use and commercial zoning districts.
- Prohibit dedicated STRs in the historic districts.
- Place a cap on the number of dedicated STRs permitted within multi-family dwelling developments.
- Establish operational standards.
- Permit simultaneous rentals only when the STR operator is on-site with guests as part of a primary residence STR.
- Provide an 18-month period in which existing STRs shall come into compliance with the enacted ordinance or cease operations if they do not comply with the ordinance.
- Enable all STR operators able to meet the ordinance requirements to apply for an STR permit within six months of the enactment of the ordinance.
- Establish a new fee type for the STR zoning compliance permit.

**BACKGROUND**

An STR is the renting of all or part of a residential dwelling unit for a period of less than 30 days. The current Land Use Management Ordinance (LUMO) predates the phenomenon of the shared economy and the rise of STRs. The North Carolina General Statutes explicitly exclude the rental of private residences for fewer than 15 days per year from paying sales and occupancy tax on accommodation rentals.

Currently, the LUMO allows residents to rent their primary residence on a weekly basis without a permit; however, STRs are not specifically addressed in the Chapel Hill LUMO. STRs may be considered under the following LUMO definitions which do not accurately reflect the STR use:

- Home Occupation (allowed in most zoning districts)
- Tourist Home (allowed in non-residential zoning districts)
- Overnight Lodging (limited to the Blue Hill District)

On [June 19, 2019](#)<sup>1</sup>, the Town Council directed staff to develop updated standards for STRs. Over the last two years, staff has worked with the STR Task Force, community members, and the Council to receive input on possible ordinance provisions. For more information regarding past meetings, materials, and recordings, please see the project website: <https://chplan.us/ChapelHillSTRs><sup>3</sup>.

## **CHANGES TO DRAFT ORDINANCE FROM JUNE 16, 2021 PUBLIC HEARING**

Staff has provided an analysis below of the six items requested by Council during the last meeting:

### **1. Age Restrictions**

Airbnb, HomeAway, and VRBO require users to be at least 18 years of age and able to enter into legally binding contracts. The primary renter or STR host shall be at least 18 years of age; however, these platforms do not request the ages of any other guests accompanying the primary renter. Short-term rental hosts may set their minimum age requirements to limit their guests to be a minimum certain age as part of their house rules; however, these can be difficult for STR hosts to enforce. It is against most hosting platforms' Terms of Service to discriminate against guests based on age, gender, race, ethnicity, or other characteristics.

The Council had asked staff to consider a minimum rental age of 18 for primary residence STRs and 21 for dedicated STRs. There were concerns younger guests may be more likely to create nuisances for the neighbors with loud parties when unsupervised by a STR host. Under the proposed primary residence STR definition, a STR operator may offer their home as an unhosted rental, leaving guests unsupervised. In those cases, the age distinction would not meet Council's intent of providing on-site hosts to prevent nuisances to neighbors.

Staff recommends revising the STR ordinance to require a minimum rental age of 18.

### **2. Parking**

Staff has researched STR parking requirements in other communities and found the following are common:

- 1 off-street parking space per 2 bedrooms
- 1 off-street parking space per 1 bedroom
- 1 off-street parking space per 1 bedroom + 1 parking space for STR operator
- 2 off-street parking spaces per bedroom

The Council found that a maximum of three (3) on- or off-site parking spaces for the STR use was not sufficient. There was interest in linking the number of parking spaces required to the number of bedrooms. The Council discussed the occupancy cap of two guests per bedroom plus two guests and the amount of parking that the occupancy cap could generate. The Council was not supportive of requiring that parking for the STR use be provided on-site as some STRs may only have on-street parking.

Town Council could consider adopting the ordinance with a parking rate of:

- 1 space per 2 bedrooms
- 1 parking space per bedroom
- 1 parking space per bedroom + 1 parking space
- 2 parking spaces per bedroom

### **3. Sunsetting**

The Council was generally supportive of a sunset provision requiring STRs to come into compliance with the new ordinance or cease operation within 12 to 18 months. The Council was interested in learning more about the time it will take staff to bring the STR permitting process into operation and how that relates to sunsetting provisions.

<sup>1</sup> <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=3985501&GUID=BFA3AA22-D1D1-4D51-9285-1C4FE6B2FF99>

<sup>2</sup> <https://chplan.us/ChapelHillSTRs>

<sup>3</sup> <https://chplan.us/ChapelHillSTRs>

<b>June 23, 2021</b>	<ul style="list-style-type: none"> <li>• Council enacts the STR ordinance</li> </ul>
<b>Summer-Fall 2021</b>	<ul style="list-style-type: none"> <li>• Planning and Development Services staff develop a STR permit and determine roles for processing STR permits.</li> <li>• Planning staff work to educate internal partners on the requirements of the STR ordinance.</li> </ul>
<b>Fall 2021</b>	<ul style="list-style-type: none"> <li>• STR permit application is made available to the community</li> </ul>
<b>Fall 2021 – Spring 2022</b>	<ul style="list-style-type: none"> <li>• Public education campaign to educate STR operators of application requirements</li> </ul>
<b>Spring 2022</b>	<ul style="list-style-type: none"> <li>• Staff check-in with Town Council</li> </ul>
<b>Spring 2022 – Fall 2022</b>	<ul style="list-style-type: none"> <li>• STR operators submit STR permit applications</li> <li>• Staff processes STR permit applications for compliance with the ordinance</li> </ul>
<b>December 31, 2022</b>	<ul style="list-style-type: none"> <li>• Deadline for STRs to either submit a STR permit application or cease illegal STR operations</li> </ul>

Staff estimates that it will take approximately 18 months to address the some 250 STRs operating in the community:

#### 4. ***Special Events***

The Town requires an Outdoor Event Permit for special events on private property in which:

- The event size or activities may impact nearby residents or businesses; or
- The event is publicly advertised and open to the public; or
- The event is near a public street or parking lot

Town staff evaluate the impact of an event on neighborhood residents based on the information provided in the event permit, such as the number of guests, amplified noise or music, if a tent will be used, and if alcohol will be available. Depending on the scale of the event, staff determines if there will be impacts to the neighborhood such as parking, trash, or vendors coming and going before and after the event. Staff also evaluates the timing of the event, such as late night or early morning. More information about hosting events on private property can be found on the Town's website: <https://www.chapelhillarts.org/outdoor-event-permits/>.

#### 5. ***Code Enforcement & Violations***

Enforcement of the STR ordinance follows [LUMO 4.13 Violations and penalties](#)<sup>4</sup>. This provision gives the Town Manager discretion in revoking a STR permit should a STR operator be in violation of the zoning ordinance. Further, it provides direction to reinstate STR permits should the permit be revoked by:

- Requesting a reinstatement within 90 days of the revocation
- Correcting the violations that caused the revocation
- Complying with all the conditions of the permit and all requirements of the STR ordinance

Council expressed concerns about the Town's ability to enforce a STR ordinance. The Planning Department's request for staff and STR software to aid in enforcement was not approved in the budget package currently before Council. There is not staff capacity to create a STR hotline or conduct other proactive enforcement, which would have been included with the STR software. Staff proposes an amendment to the adopted FY 2022 fee schedule to Council at the time of Council's action on the STR ordinance.

Staff has been coordinating with the Inspections and Development Services Departments on the administration of STR permitting. The Town's Code Enforcement is complaint-based, meaning that any violations of the STR ordinance will be brought to staff's attention when staff receives a complaint from community members. These complaints are often of nuisances to the neighborhood, including noise and parking.

<sup>4</sup> [https://library.municode.com/nc/chapel\\_hill/codes/code\\_of\\_ordinances?nodeld=CO\\_APXALAUSMA\\_ART4PR\\_4.13VIPE](https://library.municode.com/nc/chapel_hill/codes/code_of_ordinances?nodeld=CO_APXALAUSMA_ART4PR_4.13VIPE)

It is up to the STR operator to comply with the STR ordinance. Staff has provided an analysis below showing those items that can be addressed by Code Enforcement if the STR operator is found to be in violation of the LUMO:

Ordinance Requirement:	STR operator to certify compliance at time of permit application:	Staff to certify at time of permit application:	Condition of approval on STR permit:	Code Enforcement Verification*:
1. Primary Residence versus Dedicated STR classification	X		X	
2. STR permit number clearly noted in any rental advertisements	X		X	X
3. Annual renewal of STR permits	X	X	X	X
4. Multi-family residential dedicated STR cap		X		X
5. Simultaneous Rentals	X		X	X
6. Maximum Overnight Occupancy	X	X	X	X
7. STR Designated Local Responsible Party	X		X	X
8. Noise	X		X	X
9. Parking	X	X	X	X
10. Special Events	X		X	X
11. Signs	X		X	X
12. Taxes	X		X	X
13. Minimum Rental Age	X		X	X
14. Minimum Rental Duration	X		X	

*\*All Code Enforcement is complaint-based at this time. Each complaint is investigated, and Code Enforcement officers must verify that a violation has occurred. This requires the Code Enforcement officer to research and document the violation.*

To aid in investigations, many municipal STR ordinances require STR operators to maintain a list of all STR guests staying on the premise. For example, Raleigh requires STR operators to maintain the list for a three-year period.

**6. New Fee Type**

The anticipated Town-adopted ordinance for short-term rentals (STRs) requires a zoning compliance permit and associated staff review, monitoring, and tracking. A permit application fee is necessary to support the administration of the ordinance.

Name of Fee	Proposed Rate	Estimated Number	2021-22 Projected Revenue
-------------	---------------	------------------	---------------------------

Short-Term Rental Zoning Compliance Permit (STR ZCP)	\$150	250	37,500
<b>TOTAL:</b>			<b>\$37,500</b>

The purpose is to allow the Town to charge a fee and recognize this revenue to be used for processing STR zoning compliance permit applications, including reviewing and approving applications, tracking, and monitoring STR locations, and reporting efficacy of the ordinance. During drafting of the Land Use Management Ordinance text amendment for STR regulations, a permit fee was discussed to be required for the administration of the ordinance. A budget ordinance amendment must be brought back to Council in the fall to establish the expected revenue budget for the new fee type. The Town also budgets funds annually in the General Fund for fee changes to address town-wide permitting needs.

Multi-family cap on Dedicated STRs in Blue Hill District

Council members expressed an interest in adding a cap for the Blue Hill District on the number of Dedicated STRs in a multifamily development. This could involve applying the same cap proposed for elsewhere in town – up to three percent of total units as specified in 6.27.4(c). Alternatively, it could be a limitation fine-tuned to the development patterns of Blue Hill. The idea of a multifamily cap in Blue Hill was not previously discussed with other stakeholders in the STR Ordinance process, including the Planning Commission and general public. Staff finds that this change is substantial enough to warrant additional opportunity for public input. Staff therefore recommends considering a multifamily cap in Blue Hill as a standalone text amendment, which could happen as soon as Fall 2021.

**TEXT AMENDMENT OVERVIEW**

Staff proposes permitting two types of STRs:

- **Primary Residence STR:** The rental of a dwelling unit or dwelling unit with an accessory apartment on a property in which the host resides a majority of the year and is rented to transient guests for a fee for fewer than 30 consecutive days.
- **Dedicated STR:** The rental of a residential dwelling unit(s) on a property that is not used as a primary residence and is rented in its entirety to one party of transient guests at a time for a fee for fewer than 30 consecutive days.

Primary Residence STRs would be permitted in all zoning districts that allow for residential uses, whereas, Dedicated STRs would only be permitted in mixed-use and commercial areas. Staff would develop a STR permit that requires annual renewal.

The STR ordinance would:

1. Allow Primary Residential STRs in all residential zoning districts and limit Dedicated STRs to only mixed-use and commercial zoning districts.
2. Require a Zoning Compliance Permit (STR permit).
3. Place a cap on the number of STRs permitted in any multi-unit dwelling building to two (2) units or no more than three (3) percent, whichever is greater.
4. Amend Article 6- Special Regulations for Particular Uses to provide operational requirements for STRs.
5. Provide enforcement provisions including a process for revoking the STR permit and penalties for violations.

There have been many items proposed to be included as part of the STR program that are not included in the draft ordinance. Staff has provided the following table to show where these items will occur:

STR Permit:	Planning Dept. Policy:	STR Ordinance in the LUMO:
<ul style="list-style-type: none"> <li>• Reminder that homeowner insurance may not include STR Use</li> <li>• Self-assessment of health and safety checklist</li> </ul>	<ul style="list-style-type: none"> <li>• Items on the health and safety checklist</li> <li>• 100' mailing notification to neighbors</li> <li>• First come, first served</li> </ul>	<ul style="list-style-type: none"> <li>• STR Permit Required</li> <li>• Operational Standards</li> <li>• Requiring permit number to be listed in all advertisements</li> </ul>



approach for managing the multi-family cap which restricts STRs to 2 units or 3% of units, whichever is greater.

These LUMO text amendments are proposed to create a program for regulating STRs. Following adoption of the ordinance, staff will collect data on existing STRs through the permitting process and gain a better understanding of where STRs exist, types of STRs, and the number of STRs in the community. The ordinance will provide an opportunity for additional monitoring, community feedback, and identifying issues that need to be addressed. Staff proposes scheduling an annual check-in with Council, as necessary, to discuss the progress of the STR program. Staff will initiate text amendments to amend the STR ordinance as necessary based on our data collection.

<b>ATTACHMENTS</b>	<ol style="list-style-type: none"> <li>1. Text Amendment Summary</li> <li>2. Draft Staff Presentation</li> <li>3. Resolution of Consistency (For proposed Land Use Management Ordinance amendment)</li> <li>4. Ordinance A (Enactment of Land Use Management Ordinance Text Amendment Proposal)</li> <li>5. Resolution B (Deny Land Use Management Ordinance Text Amendment Proposal)</li> <li>6. Planning Commission Recommendation</li> <li>7. Planning Commission Letter to Council</li> <li>8. Emails from the public</li> </ol>
--------------------	--

**PROPOSED CHANGES: TEXT AMENDMENTS TO THE LAND USE MANAGEMENT ORDINANCE ARTICLES 3, 4, 6, AND APPENDIX A**

The following is a summary of the proposed text amendments to amend the LUMO to include STR regulations:

**1. Allow Primary Residence STRs in all residential zoning districts and limit Dedicated STRs to only mixed-use and commercial zoning districts.**

This amendment will modify the use table in order to specifically allow primary residence and dedicated STRs in certain zoning districts.

**2. Require a Zoning Compliance Permit (STR permit).**

This amendment will require that STR operators obtain a STR permit annually. A permit number will be assigned to each residential unit and this permit number shall be included in all online advertisements.

**3. Place a cap on the number of Dedicated STRs permitted in any multi-unit dwelling building to no more than two (2) units or three (3) percent of units, whichever is greater.**

This amendment will permit only three (3) percent of units within a multi-unit dwelling development, such as apartment and condo complexes, to operate as Dedicated STRs. Permits will be issued on a first-come, first-served basis.

**4. Amend Article 6- Special Regulations for Particular Uses to provide definitions and operational requirements for STRs.**

- A. Staff proposing adding definitions for:
  - Primary Residence
  - Short-term rental (STR)
  - STR, Dedicated
  - STR, Primary Residence

- STR Local Designated Responsible Party
- STR Hosting Platform
- STR Permit

B. Operational requirements include the following:

- Limiting simultaneous rentals to primary residence STRs and only when STR operator is on-site.
- Maximum overnight occupancy of two (2) persons per bedroom + two (2) additional persons, not including children under 12 years of age
- Designated Responsible Party that is available to respond on-site within two (2) hours to address any emergency situations stemming from the STR use
- On-site parking
- Special Events permits required for those events that may impact neighbors
- Prohibition of signs advertising the STR use
- STR operators are responsible for paying all applicable taxes and fees
- Minimum rental age of 18 years of age
- Minimum rental duration not less than 18 hours, including overnight

**5. Provide enforcement provisions including a enforcement of violation and penalties.**

Similar to other zoning compliance permits, the STR permit is subject to enforcement. The Town Manager will have the discretion to revoke a STR permit should he/she find that the STR operator is in violation of the zoning ordinance and provides a process for reinstating revoked permits. STR violations and penalties will follow the same process as other zoning violations.

**6. Amend Appendix A to clarify that these definitions do not apply to STRs.**

Staff proposes amending the following definitions to clarify that they do not apply to STRs:

- Lodging Unit
- Tourist Home
- Hotel or Motel