



To: Council Work Session
From: Colleen Willger, Planning Director
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Date: March 17, 2021
Subject: Short-Term Rental (STR) Regulations

OVERVIEW

An STR is the renting of all or part of a residential dwelling unit for a period of less than 30 days for compensation. Currently, the LUMO allows residents to rent their primary residence for up to 14 days per year without a permit; however, STRs are prohibited as they are not specifically addressed. STRs may be allowed under the following current LUMO definitions which do not fully describe this use:

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

DECISION POINTS:

- 1. Reaffirm that Council is interested in allowing Dedicated STRs**
- 2. Agreement with revised definitions that have joined Hosted and Unhosted short-term rentals (STRs) into a single definition and use category of Primary Residence STR.**
- 3. Consider placing a cap on the number of Dedicated STRs.**

STR PILOT PROGRAM

Council Question: Does Council want to allow Dedicated STRs?

Staff proposes launching a STR pilot program. A STR ordinance would be adopted requiring Primary Residence and Dedicated STRs to receive a zoning compliance permit for the proposed STR use. Staff will use the permits to collect data and observe trends. Staff can then share updates with the Town Council and revise the adopted ordinance, as necessary.

Staff have researched six (6) years of STR trends and data to determine an appropriate cap on the number of STRs. Staff finds:

- 334 Active Primary Residence and Dedicated STRs in existence in March 2020
- 235 Active Primary Residence and Dedicated STRs in existence in January 2021
 - Estimated 179 Whole-House STRs in January 2021, including:
 - Estimated 148 Whole-House STRs in Residential Zoning Districts
 - Estimated 29 Whole-House STRs in Non-Residential Zoning Districts
- 218 Active Primary Residence and Dedicated STRs in existence in March 2021¹

Placing a cap on the number of Dedicated STR permits specific to residential zoning districts.

In December, Staff and Rebecca Badgett, an attorney with the UNC School of Government, heard from Council there was an interest in implementing a cap on the number of Dedicated STRs permitted in each zoning district as well as a town-wide cap. Staff finds that it would be difficult to do a zoning district cap or town-wide cap due to implementation, recordkeeping, and permitting challenges. Staff recommends moving forward with a percentage cap for all Dedicated STRs in residential zoning districts. Homeowner Associations (HOAs) may choose to prohibit STRs outright within their communities.

Staff has found that most communities choose to either (1) allow or (2) prohibit Dedicated STRs in residential zoning districts. Some communities have set caps on the number of STR permits issued, such as [Wilmington's 2% cap](#)².

The cap would be based on the percentage of the total number of residential dwelling units that may

¹ See AirDNA, accessed 3/1/2021: <https://www.airdna.co/vacation-rental-data/app/us/north-carolina/chapel-hill/overview>

² <https://www.wilmingtonnc.gov/departments/planning-development-and-transportation/short-term-lodging>

be used as a Dedicated STR. The percentage of existing STRs can be used as a base for the cap; however, if the cap is based only on existing numbers, the Town would be grandfathering existing STRs and not permitting any new dedicated STRs. It would be more legally defensible to adopt a general cap that Council determines best preserves neighborhood character. As such, staff has considered the existing percentage of STRs and rounded each number up to the nearest half percentage to allow for some STR growth.

Based on the feedback from Council, the STR Task Force and the community, staff proposes:

1. **Allowing Dedicated STRs in all mixed-use and commercial zoning districts with no cap.**
These areas have fewer single-family residences and provide many of the amenities and infrastructure that visitors need such as restaurants, shopping, and transit stops. Hotels and Tourist Homes are already an allowed use in many of these zoning districts, and there are no caps in place for these uses. In the Blue Hill District, overnight lodging is a permitted use.
2. **Placing a cap on the number of Dedicated STRs in residential zoning districts.** Staff has heard concerns from the Council, STR Task Force, and community members about non-primary resident-occupied properties and impacts of unsupervised guests in residential neighborhoods.

Council Question: What should the cap be for Dedicated STRs in residential zoning districts? (Each of the following is based on 22,767 existing residential addresses.)

- a. 0.5% (114 permits)
- b. 1% (228 permits)
- c. 1.5% (342 permits)
- d. 2% (455 permits)
- e. 2.5% (569 permits)
- f. 3% (683 permits)

The proposed pilot program would allow staff to collect data, including the precise locations of operating STRs. Staff would share this data with the Town Council and amendments can be made to the STR ordinance, as necessary, to address trends.

BACKGROUND--COUNCIL FEEDBACK:

Staff heard the following from Council at recent meetings:

<p>CCES Meeting October 2, 2020</p>	<ul style="list-style-type: none"> • Consider regulations for dedicated STRs separately from hosted and unhosted STRs, as dedicated STRs potentially have a greater negative impact on residential neighborhoods • STRs are a business that require regulation • Interest in safety standards
<p>Council Work Session December 2, 2020</p>	<ul style="list-style-type: none"> • Allow dedicated STRs with density limitations, such as a cap on the number of STRs allowed per zoning district, a cap on the number of permits issued town-wide, or proximity limitations • Difficulty in setting a specific cap based on neighborhood, zoning district, or town-wide as there could be unintended consequences to a cap • Ensuring the cap is not an arbitrary number • Concerns for STR impacts on primarily residential neighborhoods • Recognition that permitting will help staff collect data which could inform refinement of caps • Interest in allowing existing STRs to remain in operation
<p>CCES Meeting March 5, 2021</p>	<ul style="list-style-type: none"> • Interest in allowing dedicated STRs. • Concerns about enforcement of neighborhood caps and multi-family residential caps. • Special consideration for Blue Hill District and interest in seeing statistics specific to Blue Hill • Cap for multi-family dwelling units




TERMINOLOGY

WHAT IS A SHORT TERM RENTAL (STR)?

Staff is proposing the following definitions:

- **Primary Residence:** the dwelling unit or dwelling unit with an accessory apartment on a property in which the host resides a majority of the year (255 days or 70% or more of the time).
- **Primary Residence Short Term Rentals:** the rental of a primary residence that is rented wholly or partly for a fee for fewer than thirty (30) consecutive days to transient guests. (Staff previously used the terms Hosted STR and Unhosted STR to describe this scenario and this definition would encompass both scenarios.) No simultaneous rental contracts are permitted when the host is not on-site.
- **Dedicated Short Term Rental:** 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 thirty (30) consecutive days. No simultaneous rental contracts are permitted.

Council Question: Are these definitions useful for establishing categories of STRs and developing different regulations for each?

Primary Residence STR		Dedicated STR
Hosted STR (AKA Homestay)	Unhosted STR	Dedicated STR
		
<ul style="list-style-type: none"> • Nightly rental of room(s) or an accessory apartment located on the same lot as a private, resident-occupied dwelling. • The use is subordinate to and incidental to the main residential use of the dwelling unit. • Resident is on-site with guests 	<ul style="list-style-type: none"> • Nightly rental of a principal residential dwelling unit or an accessory apartment located on the same site as a private, resident-occupied dwelling, for a maximum of 95 days per year. • A principal residential dwelling unit shall be occupied by the resident domiciled at that location for the majority of the calendar year. • Resident has vacated the site during the guests' stay 	<ul style="list-style-type: none"> • Nightly rental of a residential dwelling unit or accessory structure on a site that is not used as a principal residence. • There is no resident. The site is only used for STRs.
<p><u>Current LUMO Provisions:</u></p> <ul style="list-style-type: none"> • Home Occupation 	<p><u>Current LUMO Provisions:</u></p> <ul style="list-style-type: none"> • Tourist Home • Overnight Lodging (Blue Hill District only) 	<p><u>Current LUMO Provisions:</u></p> <ul style="list-style-type: none"> • Tourist Home • Overnight Lodging (Blue Hill District only)

WHAT DOES THIS MEAN FOR ACCESSORY DWELLING UNITS (ADUs)?

The LUMO currently allows for ADUs as either:

1. Accessory apartment either attached to or detached from the single-family dwelling unit.
2. Duplex, consisting of two physically attached dwelling units

Classification	Main House	Accessory Dwelling Unit (ADU)
Primary Residence STR	Occupied by resident for 270 or more days per year	Entirely rented out as a STR
	Rented out as a STR for 95 days or less per year to the same party renting the ADU	Entirely rented out as a STR
	Entirely rented out as a STR	Occupied by resident for 270 or more days per year
	Rented out as a STR for 95 days or less per year	Occupied by resident for 270 or more days per year
Dedicated STR	Rented out as a STR for more than 270 days per year	Entirely rented out as a STR
Prohibited	Entirely rented out as a STR to different party than ADU	Entirely rented out as a STR to different party than the main house

NEXT STEPS:

Staff has heard interest in adopting STR regulations by summer 2021. If Council provides clear guidance to staff at this meeting, staff would work towards the following schedule:

- March 24 – Call for Public Hearing
- April – Planning Commission review and recommendation to Town Council
- Early May –Town Council Public Hearing
- Late June – Town Council Action
- July through August – Education campaign, including health and safety recommendations, and developing STR application
- September – Implementation of a STR ordinance, including accepting applications and implementing enforcement software

ATTACHMENTS:

1. Draft Staff Presentation
2. Short-Term Rental Summary
3. Background Information and Data
4. STR Location Map
5. Health and Safety Checklist
6. Short Term Rental (STR) Task Force Findings