

# Regulating Short-Term Rentals

Rebecca Badgett



UNC  
SCHOOL OF GOVERNMENT

# So many choices! MisterBnb, Evergreen Club (over 50)



# What is a STR?

- Model 1: **Homestay**: An arrangement where the guest and host are co-occupants of a dwelling unit being used as a short-term rental. This means that the host remains on-site during the rental period.
- Model 2: **Whole-House STR**: The entire dwelling unit is rented while the host is away from the property. Property may be used as a permanent vacation rental.

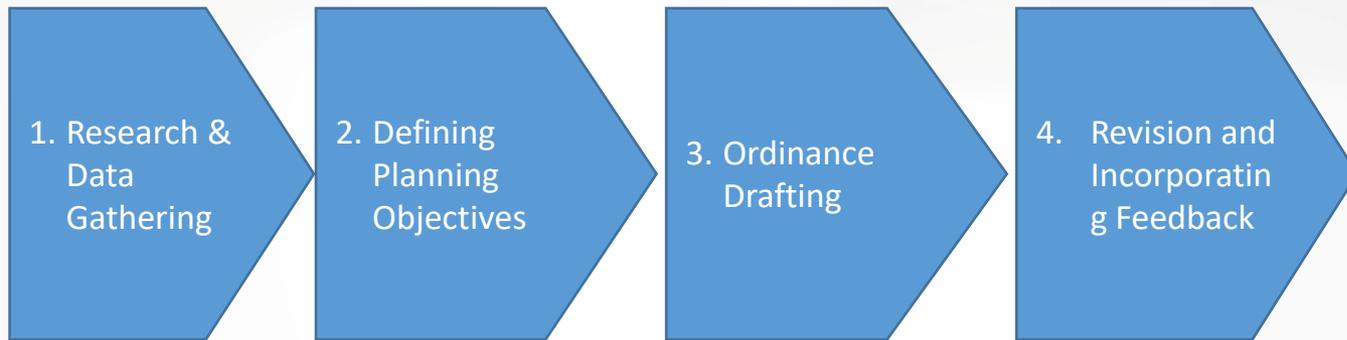
# What authority does LG have to regulate?

- For the purpose of promoting health, safety, morals, or the general welfare, a LG may adopt zoning and development regulation ordinances. § 153A-340 (counties); § 160A-381 (cities).
- Cities/counties may regulate STRs as a land use.
- No “unreasonable and confiscatory” property regulations under the “guise of the police power.” *Vill. of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365, 387 (1926).

# Can a LG ban STRs entirely?

- From a zoning standpoint, there is a general belief that all lawful land uses have a place somewhere within a jurisdiction's boundaries.
- A local government may use its zoning powers to regulate the areas in which STRs may lawfully operate.
- Be mindful of “takings” challenges if banning STRs.
- Courts must consider: (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation has interfered with distinct investment-backed expectations, and (3) the character of the governmental action.
- *Vill. of Tiki Island v. Ronquille*, 463 S.W.3d 562, 582 (Tex. App. 2015).
- Consider “grandfathering” in STRs.

# Steps To Effective STR Regulation



**Ordinance Adoption**



## Step 2: Define Planning Objectives

### Planning Objectives:

- Housing Availability/Affordability
- Preservation of Neighborhood Character
- Economic Development
- Health & Safety
- Regulatory Consistency

# Zoning Permit

- Property registration is key to regulation.
- LG will need to adopt a zoning ordinance for STRs.
  - Application process
  - Associated fees (only charge fees to cover the administrative costs)
  - Renewal
  - Lawful zoning districts
  - Operational standards
  - Enforcement

# Types of regulations

- Geographic regulations
  - In which zoning districts may STRs operate
- Quantitative regulations
  - Capping # of permits
  - Capping # of units
  - Capping # of nights
- Operational requirements
  - What will be asked of the host

\*These three types of regulations are not either/or.

Two KEY questions:

Will the LG allow STRs in residential districts?

How will the LG regulate in commercial and mixed-use zones?

## Geographic Regulations

Two KEY questions:

- Will the LG allow STRs in residential districts?
- How will the LG regulate in commercial and mixed-use zones?

HOMESTAY: All Residential, Mixed-Use, and Commercial

Whole-house STR  
Residential Zones

Whole-house STR  
Mixed-Use or  
Commercial Zones

Whole-House STR, Residential District

Ban

Allow

Unrestricted. Subject to operational regs.

Cap on nights rented; New Orleans, 90 days

Density; one per every 400 ft. 2% cap (ILM)

One STR permit per natural person



Whole-House STR, Commercial/Mixed-Use

Ban or severely restrict

Allowed

Unrestricted. Subject to operational regs.

Cap on nights rented

Percentage of units

Permit cap: one permit per natural person. Would cut down on investor-owned property

# Austin, TX, Whole-house STR in Commercial and Mixed-Use Zoning Districts

- 3% of units may be STRs in multifamily properties in non-commercial districts
- Increases to 25% of units within a multifamily dwelling if located in a commercial district. AUSTIN, TX, CODE § 25-2-791.
- Ex: Chapel Hill: 25% of units in condo buildings located in the Town Center (TC-2, TC-3)

# Takeaway

- One of the biggest regulatory challenges will be to determine what types of geographical an/or quantitative restrictions to place on STRs.



# Operational Regulations

- Occupancy caps
- Designated responsible party
- Notice to neighbors
- Noise
- Parking
- Insurance
- Health and safety inspections

# Example: Occupancy regulation

Maximum Overnight Occupancy. The overnight occupancy of a STR shall not exceed two (2) persons per bedroom plus two (2) additional persons. The maximum number of guests in a short-term rental is limited to fifteen (15) persons, excluding children under three (3) years of age. Bedrooms used in calculating occupancy shall be taken from the permit application as affirmed by the owner. For homes on a conditional or non-standard septic system, the maximum overnight occupancy shall be equal to the design load of the septic system. The occupancy limit shall be posted prominently within the short-term rental unit and the owner shall ensure that all online listings and advertisements clearly set forth the maximum number of overnight guests permitted.

Special events including weddings, receptions, and large gatherings are not permitted. Owners of properties that have an overnight capacity of greater than 15 guests, or owners who seek to advertise and use a dwelling unit for large events are required to apply for a special use permit with the Board of Adjustment.

# Designated responsible party

- Local contact person who is available to respond to complaints or property-related issues within a designated timeframe.
- Repeated failure to respond may lead to STR permit revocation
- Responsible party can be a rental agency
- Responsible party could be the property owner is local
- First line of defense: neighbors call to complain of noise; guests call to report issue (e.g. locked out)

# Notice to nearby property owners

Notice may include:

- Street address of the proposed STR;
- Name of property owner;
- Location of on-site parking for STR occupants;
- Contact information for the designated responsible party; and/or
- Maximum occupancy requirements.

# Noise/Parking

- Noise: Include provision to inform guests they are expected to follow all applicable noise restrictions and regulations regarding the public peace and welfare as provided for in the land use code or local ordinances.
- Parking: Require off-street parking on an improved parking surface. One spot for every 1 or 2 bedrooms. Tip: 3 bedroom condos often have 2 designated spots.

# Insurance

- Require evidence of commercial liability insurance coverage of a certain amount.
- Typically \$500,000 or \$1 million per incident.
- The Wilmington STR ordinance requires commercial general liability insurance with a total limit of not less than \$500,00 for each occurrence of bodily injury and property damage. CODE § 18-329(d).
- Asheville: Requires insurance that covers STR stays (no minimum coverage)

# Health & Safety

- On-site inspection vs. safety inspection check-list.
- Check-list considerations:
  - Is the 911 property address clearly posted on the exterior and interior?
  - Is there at least one working fire-extinguisher that is easily accessible?
  - Are all electrical outlets covered by a faceplate?
  - Do all exterior garbage cans and recycle bins have lids?
  - Is there an operable carbon monoxide detector located on each floor?
  - Is there at least one operable smoke detector within X feet of every sleeping area?
  - Does every sleeping area have an operable emergency escape?

	Permit	Zoning Districts	Occupancy	Insurance	Inspection	Parking
Asheville	Yes	Yes; with restrictions	6 bdrms per unit	Yes. No specified coverage amt.	Yes	1 per 2 bdrm for lodging use
Blowing Rock*	Yes	Yes; with restrictions	No	No	Yes	Sufficient off-street
Brevard	No	Yes; allowed	2 person per bdrm, +2	No	No	2 spaces primary; 1 space accessory
Cornelius	Yes	Yes; allowed	3 persons per bdrm	No	No	2 per bdrm
Edenton*	Yes	Yes; allowed	2 per berm,+2; max 15.	Yes (\$500,000)	?	3 total spaces
Lake Lure	Yes	Yes; allowed	2, +4, max 12.	No	Yes	1 per 2 bdrms
Wilm*	Yes	Yes; with restrictions	No	Yes \$500,000	?	1 per bdrm. placard

# Wilmington, Whole-House STR in Residential and Historic Districts

Registration Required	Yes; 1 permit per natural person in residential area. Annual renewal. Registration # displayed in lodging ads.
Events	No parties, events, classes, weddings or large gatherings.
Violations	3 final determinations of violations w/in 12 months. Ineligible for 3 yrs.
Cap and separation requirements	2% cap in residential zones; 400 foot separation
Operator	Local operator within 25 miles, 24/7 availability
Posted within residence	<ul style="list-style-type: none"><li>-contact info for operator</li><li>-address</li><li>-occupancy cap</li><li>-garbage collection days</li><li>-non emergency police number</li><li>-registration #</li><li>-no parties or events</li></ul>



# Raleigh

- Mayor McFarlane clarified that when staff researches other cities, to remember that Raleigh is not a tourism-driven market like Asheville.
- Attorney Tatum Currin advised creating a separate use category for whole house rentals, defining it, and then diving deeper into discussion and research topics

# Next steps

- Why is the city proposing to regulate short-term rentals?
- Where will STRs be allowed and subject to what restrictions?
- What will the application process entail?
- What is a reasonable registration fee?
- Will there be an inspection or a self-inspection checklist?
- Will there be an occupancy cap?
- How will the local government enforce the ordinance?
- How will the local government handle the rental of accessory dwelling units?
- Which local government employee(s) will oversee registration and compliance?



# Need Help?



- Enforceable regulatory frameworks that simultaneously protects citizens' property rights and the rights of the neighbors
- A dramatic reduction in noise, parking and trash complaints related to short-term rentals
- Improved municipal finances resulting from higher TOT collections and permitting fees
- Dramatically lower monitoring and enforcement costs