



City of Asheville  
Planning and Urban Design Department

December 18, 2014

The attached study was commissioned by the City of Asheville to obtain an independent academic analysis of short-term rentals (STRs) in Asheville, including looking at regulation in other cities and to examine the effects of STRs on the supply of affordable housing. Dr. Mai Thi Nguyen of the University of North Carolina at Chapel Hill conducted the study.

It is important for community members and stakeholders to keep the following in mind:

- This study should not be confused with policy recommendations
- There has not been a public input process around short-term rentals.
- There is no current plan for staff action based on this study.
- The consultant did not retain an attorney to review the content of the report.

The issue of short-term rentals and city code is a complex one, and requires a good deal of time and study to fully understand all of the questions involved.

**“SHORT-TERM RENTAL PROGRAMS, POLICIES AND PRACTICES: APPLICATIONS  
FOR THE CITY OF ASHEVILLE, NC”**

**PREPARED FOR THE CITY OF ASHEVILLE, NORTH CAROLINA**

**DECEMBER 12, 2014**

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## EXECUTIVE SUMMARY

The sharing economy, in which people rent their assets to others, usually using web-based services to find renters and collect rental fees, is a cultural revolution in the way people shop for and rent cars, homes, bedrooms, tools, and specialty equipment. These new markets that have brought new businesses, such as Airbnb, to cities have gone largely unregulated. Furthermore, their impact on the local economy and community character is not well understood.

Companies like Airbnb argue that tourists who visit cities and stay in an Airbnb contribute significantly to the local economy. Critics of Airbnb charge that the company does not pay its fair dues in sales and occupancy taxes, unfairly competes with hotels and B&Bs that pay these taxes, and take units out of the housing stock, thereby exacerbating affordable housing problems. Furthermore, Airbnb units are not subject to the same health, safety, and building code standards other types of lodging and are often not monitored or regulated.

The City of Asheville, a destination for tourism, is currently grappling with how to best address the rising number of short-term rental housing or STRs in the city boundaries. This study is intended to assist the City to update its STR policy and offer different possibilities on how to implement such a policy. To this end, this study has the following goals: 1) to develop a better understanding of the current supply and demand for short-term rentals in the City, 2) to identify how other cities in North Carolina and in the U.S. regulate short-term rentals and the costs associated with it, 3) to provide an analysis of the pros and cons of different short term rental regulation approaches, 4) to determine which policies and practices might possibly be applied to the City and 5) to provide options for how the City might effectively and sustainably regulate short-term rentals.

To conduct this research, we examine how cities in and outside of North Carolina regulate short-term rentals. These cities include: Ocean Isle Beach, NC, Blowing Rock, NC, Cornelius, NC, and other cities around the U.S. We review planning and policy documents, newspapers, and conduct interviews of staff in the cities with the regulations most applicable to the city of Asheville. We also gather data on the supply of STRs in the City for a two-week period to assess the supply of STRs on three popular websites for vacation rentals: Airbnb, VRBO, and Homeaway. Finally, we have spoken to city staff to understand the goals and objectives of a STR policy in the city and to assess what policies might be feasible given the local context.

Based on our research of existing regulations around the country and considering the three main concerns expressed by Asheville's city staff regarding short-term rental activity: 1) reducing negative impact on residential neighborhoods, 2) leveling the playing field between STRs and hotels/B&Bs, and 3) minimizing effects of STRs on affordable rental housing, we offer the following approaches:

### **1) To reduce negative impact on residential neighborhoods, the City might consider:**

- Stepping up enforcement of existing regulations
- An ordinance change designating STRs as a different land use and then creation of an overlay district designating areas of the city where STRs may not be located, such as residential neighborhoods

- Charge a *one-time only* registration or permit fee to STR owners (in locations where the STR is a permissible land use)
- Develop additional standards for owners of STRs to minimize the negative effects of STRs in residential neighborhoods

**2) To level the playing field between B&Bs/hotels and STRs, the City might consider:**

- Enacting a registration fee and a yearly registration *renewal* fee for each STR, which will cover the cost of registration administration, inspections, and enforcement of regulations
- Develop health and safety standards similar to B&Bs/hotels
- Require that STRs have appropriate liability insurance
- Work with Buncombe County to ensure that appropriate taxes are being paid

**3) To reduce the impact on affordable rental housing, the City might consider:**

- Set a cap on the number of STRs in each residential neighborhood if the STR is designated a different, permitted land use in that district
- Require that STRs be located a certain distance away from other STRs to avoid concentration effects in one area
- Designate multi-family units used as STRs as a unique land use and regulate them more heavily to discourage conversion of long-term rentals or owner-occupied units to STRs

One major benefit of separately permitting, tracking, and regulating STRs is that data on where STRs are located and changes in the supply and demand of STRs can assist city staff in tracking the impact on neighborhoods and housing prices. The rapid increase of listings on STR websites indicates high and growing demand for short-term vacation rentals, particularly in tourist destinations. If current trends continue, the numbers of STRs in the City is likely to grow.

According to city staff, the City of Asheville currently allows STR of an entire residence as a use only in zones that permit lodging facilities such as hotels. These areas constitute about half of the City's zoning districts and about 30% of the land within its jurisdiction. The zoning ordinance currently does not allow for dwelling units to be rented less than 30 days. The exception is that owners can apply for and receive a homestay permit that allows for renting out one to three rooms in their house; however few people have applied for this permit. The vast majority of STRs currently operating in residential areas are violating the City's zoning code; enforcement is complaint-driven. The City is interested in understanding options for regulation and tracking of STRs, particularly with concern for gathering information on their effects on the community and local economy, and mitigating negative effects where possible.

In this report, we offer a number of possible ways that the City can approach regulation of short-term rentals. Given that very few cities in North Carolina have attempted to regulate STRs, the City will need to seek counsel from attorneys (as well as perhaps building and fire code experts) before taking additional actions.

## INTRODUCTION

The “sharing economy,” in which people rent their assets to others, usually using web-based services to find renters and collect rental fees, is a cultural revolution in the way people shop for and rent cars, homes, bedrooms, tools, and specialty equipment. In July 2014, analysts at Forbes estimated that the value of the sharing economy would hit approximately \$3.5 billion by the end of the year, for a growth rate of 25%<sup>1</sup>. Airbnb, a website that facilitates the short-term rental of a room or an entire private home, has become emblematic of the sharing economy. Founded in 2008, Airbnb has seen exponential growth, and now hosts over 800,000 listings on its online platform.<sup>2</sup> Other sites that provide similar short-term rental services include Vacation Rentals By Owner (VRBO), which hosts over 1 million listings, and flipkey.com, which lists 300,000 rental properties.<sup>3</sup>

As the sharing economy has grown, so has its importance in people’s lives, and in the travel habits of younger adults in particular. The American Planning Association’s recent “Investing in Place” study of ways to improve local economies, 59 percent of respondents nationally said that the sharing economy is at least somewhat important to them. Among millennials nationally, that share of respondents that say the sharing economy is important jumps to 73%.<sup>4</sup> This national trend is even stronger in North Carolina; a corresponding statewide study found that 86% of millennials in this state find the sharing economy important.<sup>5</sup>

The rapid rise of the sharing economy, especially in the realm of short-term lodging, is not without debate about its potential negative consequences. Cities, particularly those that are popular tourist destinations with many properties listed for short-term rental, are now grappling with issues of regulation,<sup>6</sup> fair competition with traditional lodging providers,<sup>7</sup> taxation,<sup>8</sup> effects on neighborhoods,<sup>9</sup> and the risk of gentrification and the loss of affordable housing<sup>10</sup> to short-term rental properties.

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<sup>1</sup> <http://www.forbes.com/sites/kathleenkusek/2014/07/15/the-sharing-economy-goes-five-star/>

<sup>2</sup> <https://www.airbnb.com/about/about-us>

<sup>3</sup> <http://www.vrbo.com/>; [http://www.flipkey.com/pages/about\\_us/](http://www.flipkey.com/pages/about_us/)

<sup>4</sup> <https://www.planning.org/policy/polls/investing/pdf/pollinvestingreport.pdf>

<sup>5</sup> <http://piedmonttogether.org/sites/default/files/attachments/Planning%20for%20Prosperity%20in%20North%20Carolina.pdf>

<sup>6</sup> <http://www.regblog.org/blog/2014/09/02/02-shapiro-regulating-sharing-economy-under-modified-framework/>

<sup>7</sup> <http://www.bizjournals.com/sanfrancisco/blog/techflash/2014/09/airbnb-collect-san-francisco-hotel-tax.html>

<sup>8</sup> <http://business.time.com/2013/06/15/the-other-complication-for-airbnb-and-the-sharing-economy-taxes/>

<sup>9</sup> <http://www.antigravitymagazine.com/2014/03/unfairbnb-what-unlicensed-short-term-rentals-mean-for-new-orleans/>; <https://thecoastnews.com/2014/09/increase-in-short-term-vacation-rentals-upsets-cbad-residents/>

<sup>10</sup> <http://www.npr.org/2014/08/11/338830807/critics-blame-airbnb-for-san-francisco-s-housing-problems>

The City of Asheville, North Carolina has many currently active short-term rental properties (see page 14 of this report for information on the current supply of STRs in Asheville). Many of these properties are operating in violation of the City's zoning code, which allows STR of an entire residence only in zones that permit other types of lodging such as B&Bs and hotels, about half the zoning districts and about 30% of land area within city limits. Enforcement of these illegal STRs is currently limited to response to complaints from neighbors, typically related to noise or other nuisance.

This study was undertaken to provide the City with information and tools to help make decisions about how to update its approach to short-term rentals with three key concerns in mind:

- 1) Minimizing negative impacts on residential neighborhoods,
- 2) Level the playing field between B&Bs/hotels and short-term rentals, and
- 3) Reducing the impact on affordable rental housing.

This report analyzes the various policy tools that cities are using to regulate short-term rentals, and applies Asheville's policy goals and North Carolina's regulatory context to present possible next steps for managing the short-term rental boom.

The format of the report is as follows:

First, we provide a primer on the typology and terminology of STRs, specifically considering the context of Asheville. Next, we offer a review of academic literature on the possible links between short-term rentals and affordable housing. Then, we present case studies of six cities, three in North Carolina and three in other states, to examine how other places are addressing the challenges of short-term rentals and highlight lessons that can be taken from each case and applied to Asheville's decision-making process. After that, we show various policy options and their pros and cons in several tables for simplified comparison of individual elements that could be included in a short-term rental ordinance. Finally, we offer selected policy tools that might be applied to the City of Asheville's three main concerns as outlined above, along with recommendations for how to proceed with each, should City leadership choose to do so. An appendix includes links to sample policies and permit applications.

## **PRIMER ON TYPES AND TERMS RELATED TO SHORT-TERM RENTALS IN ASHEVILLE**

This report uses the term 'short-term rental' (usually shortened to 'STR') as an umbrella term encompassing multiple different residence-based lodging activities. This STR label has been used in other parts of the country, but it may mean different things to different readers. The following table aims to briefly clarify different terms and illustrate the variety of sub-types of STRs that need to be considered by the City of Asheville (CoA), according to information supplied by staff.

**TABLE 1: RANGE OF RESIDENCE-BASED LODGING SUB-TYPES**

Type	Description	How CoA Currently Handles	A.K.A.
Owner-occupied, primary residence rented out in its entirety	An entire dwelling, whose primary use is as the owner’s home, is rented out occasionally to visitors.	In residential districts, dwellings are not allowed to be rented or leased for periods of less than one month – enforcement is complaint-driven. In districts where hotels are allowed, can be permitted as a lodging facility.	Vacation Rental
Non-owner-occupied home (not accessory apartment) rented out in its entirety	Home owned by a party who doesn’t live on the property, whose primary use is as rental to visitors.	Same as first row above.	Vacation Rental
Homestay	Homeowner rents one to three bedrooms to visitors while remaining in house; primary use is as the owner’s home.	Can be legally permitted in all residential districts and most other districts, provided certain requirements are met. Permit required, application process established to add this use.	Mini-B&B, B&B Homestay
Bed and Breakfast	Homeowner rents four to 20 bedrooms to visitors with on-site management. Primary function is inn.	Can be legally permitted in multi-family residential districts and most other districts, provided certain requirements are met. Well-established business model and permit application process.	Bed and Breakfast Inn, B&B
Vacation Resort Lodging	A sizeable complex (minimum size of 30 acres) where housing units are rented to visitors.	Can be legally permitted in all residential districts and the River District, provided special requirements are met.	Cabin Rental, Vacation Rental
Residence Hotel	Resembles a traditional hotel, but units include independent housekeeping features (kitchen and bathroom).	Regarded as commercial structures and are permitted in districts that allow hotels.	Vacation Rental, Extended Stay Hotel
Boardinghouse	Arrangement similar to Bed and Breakfast, but established for long term stays; for “tenants” not “transients.”	Can be permitted in one residential district (RM-16), and ten other districts, but renting to short-term lessees is illegal.	
Accessory apartment rented out (owner on site)	Owner resides in principal dwelling on lot, rents out smaller apartment (e.g. basement apartment or carriage house) to visitors.	Similar to first row above, but can only be permitted in three commercial zoning districts.	Vacation Rental
Accessory apartment rented out (owner not on site)	Owner owns two dwellings on lot, resides elsewhere, and rents out smaller apartment (e.g. basement apartment or carriage house) to visitors.	Similar to first row above, but can only be permitted in three commercial zoning districts.	Vacation Rental

Tenant rents out (space in) dwelling	Tenant rents out either entire home or bedroom(s) to visitors, almost certainly in violation of lease	Same as first row above, in terms of zoning, but most likely would not be able to secure permit, even in commercial districts, without permission of landlord/property owner.	Vacation Rental, Homestay
Couch Homestay	Visitor pays to sleep/stay in a residence, but doesn't receive separate bedroom	Ordinance doesn't allow for such arrangements where lodger is not provided a bedroom.	Couch-surfing

Staff indicates that, at some point, all of the eleven types in the table above have been identified (by citizens) as deserving differentiated regulation and treatment. Nine of the eleven can currently be permitted in some fraction of the City's zoning jurisdiction, four of the eleven in at least one residential district (though boardinghouses can't be for short-term stays).

It is worth noting that someone currently offering a lodging in a residential neighborhood via Airbnb is not necessarily in violation of the Asheville ordinance -- for example, if they have obtained a permit to operate a homestay. However, someone renting out an entire residence in that same neighborhood for periods of less than one month (for which they cannot currently get a permit) would be in violation.

According to City staff, some STR operators (of multiple types), when informed that they are in violation of the zoning ordinance, claim to have been unaware that renting for short periods wasn't allowable in the zoning district. Others cite confusion, since some standards are less restrictive in the adjacent Buncombe County zoning jurisdiction. Both operators and guests have been found to admit not having considered the liability implications or insurance coverage issues if an accidental injury or fire or crime or property loss should occur during the stay.

As of the completion of this report, several zoning violation enforcement actions taken by the City against STRs are under appeal to the Board of Adjustment. The outcome of these appeal cases could potentially affect the City's enforcement options going forward.

Our research suggests that the majority of Asheville's newfound STR activity is in units that meet the descriptions in the first two rows. As such, many of the instances of the term 'STR' in this report refer to those two varieties of STR. Trying to explore how new regulatory options would impact all eleven types would be overly complicated and cumbersome. Nonetheless, it's worth remembering that these different variations exist, and that standards and requirements could conceivably be adjusted for each.

## **EXISTING RESEARCH ON THE LINK BETWEEN SHORT TERM RENTALS AND AFFORDABLE HOUSING**

Despite widespread concerns about the unintended consequences of increasing use of homes as STRs<sup>11</sup>, to date there has been little existing research that explores the possible links between the rise in STRs and the supply of affordable housing.

<sup>11</sup> For examples, see: <http://thebillfold.com/2013/10/i-bought-a-house-with-money-i-made-from-airbnb/>; <https://news.vice.com/article/airbnb-will-probably-get-you-evicted-and-priced-out-of->



Our team has located only one report that used economic research techniques to explicitly assess the link between STRs and affordable housing. The 2013 report, entitled “Short-Term Rentals and Impact on the Apartment Market,” was conducted by Rosen Consulting and reported through the Urban Land Institute<sup>12</sup>. The study focuses on San Francisco, as that city has been a leader in calling for the protection of affordable housing in the face of rising popularity of STRs. The report concluded: “the impact of Airbnb and other online marketplaces on trends in urban housing markets are minimal, though admittedly are difficult to quantify. However, we believe that the local apartment market tightened significantly because of job creation and the improving economy combined with positive demographic conditions” (page 3). Thus, STRs can exacerbate housing supply shortages and increase housing prices when there are other pressures on the housing market including increases in jobs and population, but the independent impact of STRs is difficult to isolate.

A report conducted by the Attorney General’s Office in New York City, using deidentified data supplied from Airbnb, showed that 38% of revenues collected by Airbnb for rentals in the city were from STRs that were rented out for longer than six months, cumulatively.<sup>13</sup> This indicates that STRs are taking units off the market for renters who want longer-term rentals. Furthermore, the report showed that gentrifying neighborhoods accounted for a large share (40%) of Airbnb’s revenues in 2013. Taking rental units off the market for residents and concentration of STRs in gentrifying neighborhoods indicate that STRs may be affecting housing affordability. Interestingly, the data analysis showed that Airbnb is profiting large commercial users that make millions of dollars a year renting units. In fact, over 100 commercial users hosted at least 10 units each during the study period, with the highest grossing commercial user hosting 272 unique unit listings and bringing in \$59.4 million in revenues.

Other reports, most notably those released by pro-STR advocates, argue that STRs may actually function to make housing more affordable for those who rent their homes to travellers. Policy recommendations from the Sustainable Economies Law Center, and cross-posted on Shareable.com, a blog and news source about the sharing economy, note that STRs can build community wealth by supplementing local residents’ income rather than supporting large chain hotels. They also argue that in cities where housing is becoming more expensive, the option for homeowners to operate as an STR can help people stay in their homes rather than be squeezed out by market forces already in action.<sup>14</sup> Furthermore, if homeowners lose their jobs or have seasonal employment that make wages fluctuate, the ability to rent a room in their home can help with mortgage payments and keep them in their homes.

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[the-city](http://www.sfexaminer.com/sanfrancisco/community-advocates-concerned-short-term-rentals-are-edging-low-income-tenants-out-of-sros/Content?oid=2866887); and <http://www.sfexaminer.com/sanfrancisco/community-advocates-concerned-short-term-rentals-are-edging-low-income-tenants-out-of-sros/Content?oid=2866887>

<sup>12</sup> <http://www.rosenconsulting.com/products/rentalreport.html>;

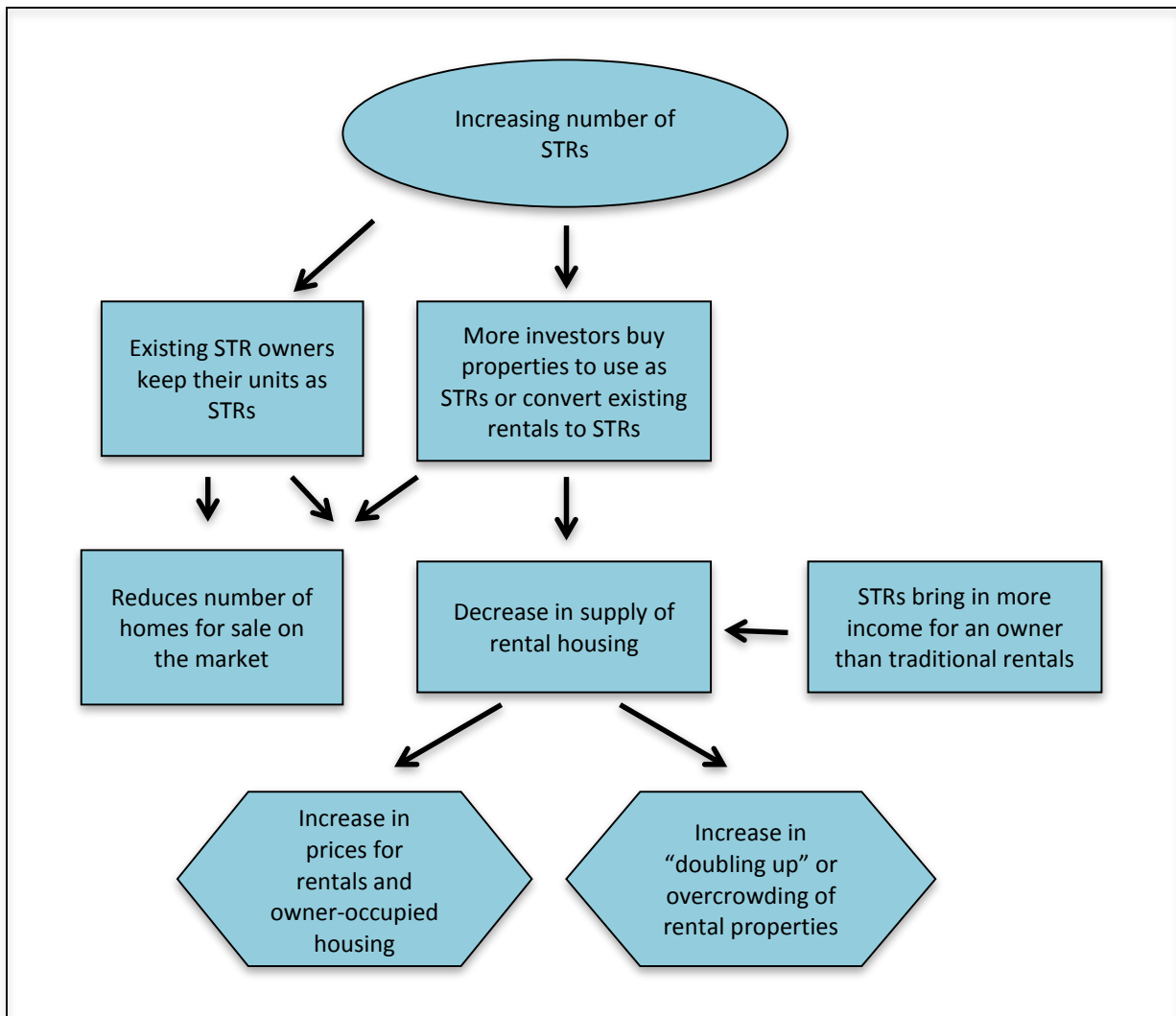
<http://urbanland.uli.org/news/short-term-rentals-and-the-housing-market/>

<sup>13</sup> New York State Attorney General Eric T. Schneiderman’s Office. October, 2014. Airbnb in the city. New York, New York.

<sup>14</sup> <http://www.shareable.net/blog/urban-policy-recommendations-for-airbnb-style-short-term-rentals>

Due to the complexities of a localized housing market, the effects of STRs on affordable housing may vary. Factors such as the overall housing trends in a city, in- versus out-migration, changes in the local and regional economy, current regulations at the municipal and state level, and local preferences for housing and neighborhood choice all influence the supply of affordable housing in the city of Asheville. Nevertheless, the potential effects on affordable housing of increasing numbers of STRs, especially those that are not owner-occupied, continue to weigh on the minds of policymakers and should be addressed as part of an STR policy or ordinance. See Figure 1 for a logic model illustrates the possible link between an increase in STR operation within a city and the supply of housing.

Figure 1: The Link Between STRs and Affordable Housing



## **LESSONS LEARNED: HOW OTHER CITIES MANAGE AND REGULATE STRS**

### **Austin, TX: Allowing STRs by Permit, Inspections, Parking Requirements, and a Neighborhood Cap**

After several years of debate that pitted STR owners against businesses and neighborhood groups, Austin City Council finally voted to allow STRs in 2012. The arguments in support of legalization were that a robust STR market was already operational in the city, and the ban could not be feasibly enforced (and was not being enforced).

The Austin City Council decided that STR owners were going to operate their rental properties, legal or not, and legalizing them would give the city the opportunity to track, regulate, and capture previously lost tax revenues. In crafting their STR ordinance, the City underwent a lengthy public review and negotiation process that ended in several compromises, including differentiating between owner-occupied and non-owner-occupied STRs, and a percentage cap on the latter in each census block. Though affordable housing concerns were not mentioned in these negotiations, such measures could be used to restrict the number of speculative investments in properties for use as STRs rather than as primary residences.

As noted in Table 5 (below), the Austin ordinance has multiple components, including a permitting process, inspections, a 3% cap on the percentage of non-owner-occupied STRs within each census block, and additional parking requirements. As of September 2014, there are 1,128 licensed STRs operating in the City of Austin: 665 owner-occupied homes, 365 non-owner-occupied homes, and 98 units in multi-family complexes. Program staff is still working to identify properties operating without a permit and contacting them to begin the registration process.

The Austin program was designed to pay for itself, and is nearly achieving that goal. The programs' stated budget is \$350,000, projected to come from \$235 of the \$285 registration fee for an estimated 1,500 rentals. This budget was to pay for the costs of three full-time staff to register and inspect rentals.<sup>15</sup> As of September 2014, the program has collected \$277,115 in licensing fees and had expenses of \$336,319. The program currently employs four full-time staff members: two Program Specialists who manage registrations, fee collection, and response to inquiries about the program and two Inspectors who are responsible for enforcement and inspections for health and safety.

*Take-Aways:* Widespread bans on STRs are difficult and costly to enforce and may only serve to create an unregulated, untaxed black market for short-term rentals. In legalizing and regulating STRs, Austin used multiple policy tools to promote safety, decrease negative neighborhood effects of STRs, and begin collecting occupancy taxes as well as fees to support the enforcement program. Finally, it is possible to compromise between allowing and banning STRs in residential areas by placing a percentage cap on rentals in an area.

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<sup>15</sup> As described in The Statesman online edition, February 2013:  
<http://www.statesman.com/news/news/local-govt-politics/austin-broadens-short-term-rental-rules/nWdHG/>

## **Portland, OR: Linking STR Regulations with Affordable Housing**

The City of Portland voted to overturn a ban and legalize STRs in 2014. Affordable housing was an explicit concern during negotiations over the new ordinance. Many newspaper articles focused on the STR-affordable housing debate, and Commissioner Nick Fish said that “encouraging Airbnb-style short-term rentals in Portland will inevitably lead to the loss of affordable housing,” although no studies were cited.

In an effort to mitigate these concerns, Portland Housing Commissioner Dan Saltzman proposed dedicating the 5% lodging tax levied on STRs toward the Housing Investment Fund, which funds affordable housing in the city. In the course of the negotiations, Saltzman backed off and proposed that only a quarter share of the taxes, 1.25%, go to affordable housing. Affordable housing advocacy groups pushed back and said that the entire 5% tax should go to the cause, but the 1.25% went to a vote. In the end, despite broad support for the plan to dedicate a tax to affordable housing, the Commission voted against it. The mayor, who voted against the plan, said that he supported affordable housing, but was reluctant to tie this new revenue source to only one fund.

*Take-Aways:* Some cities are bringing affordable housing concerns explicitly into STR debates, and at least one has attempted to dedicate STR revenues toward affordable housing. This course of action requires a sustained effort on the part of allies in the Council and community groups. A key challenge will be convincing leaders to dedicate a newfound funding source to affordable housing alone. A compromise could involve some percentage of the revenues raised to be dedicated to a Housing Trust Fund and a percentage toward the general or tourism funds.

## **Charleston, SC: Consider all potential benefits of STRs**

In 2012, Charleston, SC legalized STRs only in certain zones (commercial and high density residential) of two neighborhoods of the city<sup>16</sup>. The push to allow STRs in these neighborhoods was led by the neighborhood associations in these areas, and thus the decision to allow STRs in the overlay zone did not meet much public resistance. The City’s allowance for STRs to legally operate in this area achieves three goals of the neighborhood and the City:

- Stimulate investment and redevelopment of this area of town;
- Provide rental options for people visiting family in nearby hospitals or at the College of Charleston; and
- Respond to citizen demands to allow STRs in the City.

Charleston’s focus on using STRs as a tool for reinvestment and for providing rentals in underserved areas (near the hospital in particular) is a strategic way to look at the potential benefits as well as the costs of allowing STRs. A representative for the Charleston Planning Department reports that a handful of STRs are now operational in the overlay district, though no hard numbers on reinvestment or other effects are available at this time.

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<sup>16</sup> See <http://charlestoninsideout.net/wp-content/uploads/2013/11/Short-Term-Rental-Ordinance-and-Map.pdf> for the Charleston, SC Short-Term Rental Overlay District ordinance and map.

At the same time that these allowances have gone into effect, the City has been cracking down on STRs operating in other parts of the city, including issuing heavy fines of \$1,000 or more to those found to be operating on popular websites<sup>17</sup>.

*Take-Aways:* STRs may serve other goals, such as revitalizing distressed neighborhoods. There may be particular neighborhoods in the City where STRs would have a positive benefit and may even be welcomed by the neighbors. The use of an immediate fine for violation, perhaps with an escalating amount for subsequent violations, may be an effective way to rein in illegally operating STRs.

### **Ocean Isle Beach, NC: Investment in Enforcement Pays Off**

Ocean Isle Beach, NC Planning Director Justin Whiteside estimates that the town successfully collects occupancy taxes on 90-95% of active STR units in the Town. After the Town's ordinance first passed, one staff member, a customer service representative, spent significant time each week conducting a dedicated search and check process to enforce the regulations. Using Airbnb, VRBO, FlipKey, and others, she identified all properties listed as for rent by owner (in contrast to by a rental company), then cross-referenced them with the tax collectors' records to check for occupancy tax registration. Any who were not registered would receive a letter or a phone call asking them to register.

This process became too time-intensive to be practical after the first year. The staffer also reports reaching roadblocks with many properties, whose owners would list only an a cell phone number (which cannot be traced to an owner) and no exact physical address, giving her no way to definitively identify and reach them.

The staffer no longer conducts the in-depth search and check process, but instead focuses on sending out letters each December asking property owners whether they plan to rent in the next year, and working with the Register of Deeds to enroll respondents in the tax collection system. She also sends letters each time a property is sold so that the new owners are aware of the regulations and taxation requirements. She readily states that they miss a few people in this less stringent method, but she is only currently aware of two property owners who are operating without paying taxes. She has sent them each multiple letters and phone calls, but does not have the authorization to take further action. She now estimates spending no more than two hours on enforcement most weeks, but feels that the system that is in place is still functioning well. She estimates that they currently tax 285 rentals, including 28 new properties in 2014 so far.

*Take-Aways:* Enforcement of the taxation piece of the regulatory puzzle would likely take no more than one staff member, though in order to get the program running, more time, and perhaps additional staff, may be required for the first year of regulation. Intensive initial enforcement and homeowner outreach may function to build a culture where STR owners expect to be contacted and to register each year, so that even with less stringent enforcement in subsequent years, the City can continue to track and tax STRs effectively. It should be noted that in the city limits, the

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<sup>17</sup> <http://www.abcnews4.com/story/25959492/city-officials-cracking-down-on-short-term-rentals-downtown>

City would not collect occupancy taxes, but rather inform STR owners that they must pay occupancy taxes to the County. Also, as noted on page 28, the neighborhood character of Ocean Isle Beach is dramatically different from that of Asheville.

### **Blowing Rock, NC: STRs Designated as a Unique Land Use**

The Town of Blowing Rock has detailed codes for dealing with STRs, including the use of an overlay district and restricting STRs, which their code calls “tourist homes” to non-residential zones. The Blowing Rock code treats tourist homes the same as B&Bs, and requires them to acquire a conditional use permit to operate and to locate only in the central business, town center, general business, and office/institutional zones. They also require one dedicated parking place for each bedroom rented in a tourist home, and charge a fine of \$500 for STRs operating illegally outside these regulations.

Blowing Rock also has a separate designation for multi-family units used as STRs, which they call “short-term rentals.” These must be located in medium- or high-density residential areas and be managed by a homeowners’ or property owners’ association who can manage and regulate the units, among other regulations<sup>18</sup>.

Take-Away: Blowing Rock’s ability to designate STRs/tourist homes as a unique land use, and to zone for them accordingly, suggests that there is a precedent for this in North Carolina, and we are not aware of any court challenge. Collecting data to show the ways in which STRs differ from owner-occupied or long-term rentals in terms of their service and enforcement needs as well as their impacts on the community could help guide discussion of the differentiation of land uses.

### **Cornelius, NC: A Local Bill to Regulate STRs**

The Town of Cornelius, NC moved to regulate STRs in 2009, driven by year-round resident complaints of neighborhood disturbances caused by short-term visitors staying in the Town’s lakefront luxury homes. (Affordable housing was not cited as a concern, as Cornelius is a small community almost entirely comprised of million-dollar homes.) Though reported in the news as a “ban” on STRs, the regulation that passed was actually a restriction, and included requirements for permitting of STRs, yearly health, zoning, and fire safety inspections of rented homes, and a limit on the duration of the rental of each home of no more than three weeks each year. The ordinance also included a three-year grace period for current STR owners to come into compliance.

At the end of the grace period, at least two Cornelius residents challenged the law and went before commissioners to plead their case, arguing that they had invested in their property with the plan of renting it out weekly, and asking for a 30-year extension of the grace period. The extension was denied, and the couple later brought a suit against the Town for infringing their property rights.

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<sup>18</sup> See [http://townofblowingrock.com/app\\_forms/chapter16.pdf](http://townofblowingrock.com/app_forms/chapter16.pdf), page 97 and page 107 for language on the designation of differential uses for STRs/tourist homes.

In response to the suit, former Cornelius Mayor Jeff Tarte, now a representative in the General Assembly, sponsored a local bill that grants Cornelius the power to regulate STRs. The bill includes the provision that Cornelius may: require permitting of STRs; prohibit STR as a use in residential districts; require additional parking and waste disposal provisions from STRs; require inspections; apply time limits; require payment of taxes; and “any other regulations reasonably necessary to mitigate potential neighborhood impacts” of STRs. Note that this bill only applies to the town of Cornelius.

Immediately following the adoption of the ordinance, planning department staff fielded a lot of questions from residents, but currently the enforcement of STR regulation is carried out by one staff member (an administrative assistant) who dedicates an estimated one hour per week to managing the permitting and inspection of STRs. This person also reports STR registration to the County, who could then choose to collect occupancy taxes from STR owners, though at this time the Assessor is not collecting taxes from STR owners.

Take-Away: The town of Cornelius took a safe approach to regulating STRs by securing local legislation from the General Assembly to protect from legal vulnerability and the expense of going to court. When regulating STRs, cities should consult with legal counsel for advice on what cities have statutory authority to regulate and not to regulate.

## CURRENT SUPPLY OF STR HOUSING IN ASHEVILLE

In order to assess the current supply of STR housing in Asheville as well as test whether the postings varied over time, we examined the supply of STR housing over the course of two weeks (July 28 – August 10) on three popular short term rental websites: Airbnb.com, VRBO.com (Vacation Rentals by Owner), and Homeaway.com.

Table 2: Number of Units Available on Popular STR Websites

Website	Minimum # Units Available	Maximum # Units Available	Average Units Available	Average # Units within City Limits
Airbnb	624	627	626	320
VRBO	492	497	495	164*
Homeaway	342	346	345	157*

\*Because VRBO.com and Homeaway.com do not display locations as specifically as Airbnb.com, these numbers come from the City of Asheville research provided to the team.

As shown in Table 2, Airbnb consistently has the highest number of rentals, both in the Asheville area and within City limits. (Note, however, that it is highly likely that many properties are cross-posted on two or three websites, so we did not add up the numbers in each column to give a “total” number of rentals.) Since VRBO and Homeaway advertise rentals from property management companies in addition to rentals from owners (despite VRBO’s name, nearly 25% of VRBO and Homeaway properties in Asheville are listed as professionally managed), while

Airbnb only shows properties for rent by owner, this indicates a large number of non-professional properties for rent, suggesting that Airbnb rentals may be a source of income for Asheville residents.

This table also shows that about half of the Airbnb and Homeaway rentals are within the City limits (and thus, the City’s jurisdiction), while only about a third of VRBO rentals are within City limits. Thus, the City should look to Airbnb and Homeaway first if it seeks to identify the largest number of property owners in an efficient manner. Finally, we found that the number of postings does not vary from day to day as much as expected, indicating that the incidence of posting a home, then removing the posting once it is rented in order to avoid identification, does not appear to be common.

The next table shows the percentage of postings from each website in the Asheville area that fall into several cost per night categories, as well as a calculated average cost per night.

Table 3: Share of Units by Rental Cost per Night on Popular STR Websites

	Cost per Night						Average Cost per Night
	\$10 - \$100	\$100 - \$200	\$200 - \$300	\$300 - \$400	\$400 - \$500	\$500+	
Airbnb	44.7%	40.8%	9.2%	2.7%	1.1%	1.5%	\$168
Homeaway	10.8%	46.0%	22.5%	12.7%	5.0%	3.0%	\$212
VRBO	13.0%	42.0%	19.0%	11.0%	8.0%	7.0%	\$229

Table 3 shows that Airbnb has a notably lower average cost per night, indicating that lower-income travellers may find Airbnb properties more attractive than other STR suppliers.

About two-thirds of Airbnb postings were for whole homes, both in the Asheville area as a whole and within city limits only. VRBO and Homeaway only rent whole homes. While the offer to rent a whole home does not necessarily mean that the rental is not owner-occupied (for example, some homeowners may stay with friends or family, or even travel themselves, while renting their home to vacationers), it does suggest that many of these approximately 210 rentals are not owner-occupied, while the remaining third (approximately 110 rentals) are rooms within an owner-occupied home.

## TAXATION OF STRs

Finally, we used the current state and county sales taxes, as well as the current 4% Buncombe County occupancy tax that hotels and hostels pay, to calculate the potential revenues that could be gained from the rental of an average-cost unit from each website.



Table 4: Potential Taxes Collected Per Night (Based on Average Rental Cost per Night)

	Tax rates	Airbnb Average Room/Night Cost	Homeaway Average Room/Night Cost	VRBO Average Room/Night Cost
		\$168	\$212	\$229
State Sales Tax	4.75%	\$7.98	\$10.07	\$10.88
County Sales Tax	2.25%	\$3.78	\$4.77	\$5.15
Buncombe County Occupancy Tax	4%	\$6.72	\$8.48	\$9.16
<b>Total Taxes</b>	<b>11%</b>	<b>\$18.48</b>	<b>\$23.32</b>	<b>\$25.19</b>

In Table 4, we calculate the potential tax revenue generated by STRs. If the state sales tax, county sales tax, and county occupancy tax were collected, significant revenues can be generated from these properties.

A 2014 report on local occupancy taxes throughout the state from Asheville-based Magellan Strategies<sup>19</sup> indicated that in the 2011-2012 fiscal year, Buncombe County collected the sixth highest amount of occupancy tax of all 100 counties. The City of Asheville currently has no city-level occupancy tax.

Buncombe County’s 4% occupancy tax rate is near the center of the distribution of County rates across the state, which range from 1% to 8%. 32 counties charge lower rates than Buncombe County, and 44 charge higher rates. Currently, Buncombe’s occupancy tax funds only tourism promotion and tourism-related expenditures through the Tourism Product Development Fund.

The City of Asheville, unlike other cities in North Carolina, does not charge a city occupancy tax. 77 North Carolina cities, towns, and villages charge their own occupancy tax, ranging from 1% to 6%, with an average rate of 2.97%. 7% of municipalities that charge an occupancy tax and 9% of counties who do so dedicated some amount of funding toward non-tourism activities. No city or county currently dedicates occupancy tax to housing, but some municipalities put these monies toward a general fund, building or maintenance of infrastructure, industrial and economic development, or the broader “public purpose.”

In the future, if an opportunity allows for cities to levy an occupancy tax, the city should consider doing so, and might potentially dedicate a portion of the revenues towards affordable housing.

<sup>19</sup> <http://www.magellanstrategy.com/wp-content/uploads/2014/03/Magellan-NC-Occupancy-Tax-Profile.-1.0.1.pdf>

It is vital to note that the City will retain very little of these tax revenues. The occupancy tax goes to the County for various uses, but not to the City. An estimated 4.26% of sales tax collected comes back to the City, thus if STRs generate \$100 in sales tax, the City receives \$4.26 of that \$100. Therefore, under the current taxation structure, the City should not count on sales tax revenue from STRs as a new revenue stream. Monies to finance additional needed staff would need to come almost entirely from other sources, such as STR permitting fees or reallocation of existing funds.

Though relatively expensive for the City to enforce, if these taxes are collected, the price of STRs would increase and be closer to rates charged by more traditional vacation lodging, such as hotels and B&Bs. Requiring STR owners to remit these taxes would put STRs on a more level field of competition with hotels and B&Bs.

### **BASIC STR POLICY QUESTION: MORE OR LESS RESTRICTIVE OR STATUS QUO?**

The text and table on pages 7 and 8 of this report summarize which varieties of STR are allowed in which areas of Asheville, as well as how enforcement is conducted. The essence of the first, most basic consideration facing the City of Asheville is whether the current approach is too restrictive, about right, or not restrictive enough. The following chart gives a basic outline of some possible example actions from, and pros and cons of, moving toward reduction or expansion of STR opportunities, as well as maintaining the status quo. Another way of representing the options and ramifications would be on a smooth continuum from minimally restrictive to maximally restrictive, but rows were used here for simplicity of design. Of course a mix and match of actions from each of the rows below could be a policy approach as well.

**TABLE 5: CONSIDERATIONS OF BASIC STR POLICY DIRECTIONS**

Policy Stance	Action Examples	Pros	Cons
Move toward reducing STR opportunities	<ul style="list-style-type: none"> <li>Proactively step up enforcement with the aim of shutting down many more STRs operating illegally</li> <li>Further reduce number of districts where residences can be rented short-term</li> </ul>	<ul style="list-style-type: none"> <li>Could prevent further potential loss of affordable housing stock</li> <li>If successful in decreasing STRs, may protect neighborhood residential character – less traffic, noise, etc.</li> <li>Could reinforce message of protecting safety of citizens and visitors alike</li> </ul>	<ul style="list-style-type: none"> <li>Difficult and costly to enforce</li> <li>Homeowners are likely to continue renting as STRs</li> <li>Loss of potential income for owners of STR properties</li> <li>Fewer options for visitors, hence fewer visitors</li> </ul>
Status Quo	<ul style="list-style-type: none"> <li>None, except possibly increased communication and education about STR issues</li> </ul>	<ul style="list-style-type: none"> <li>Addresses serious nuisance cases</li> <li>Requires no changes to ordinance</li> <li>No additional costs</li> </ul>	<ul style="list-style-type: none"> <li>No improvement in affordable housing supply</li> <li>Complaint-driven enforcement can divide neighbors</li> <li>Unsafe, unmonitored practices could lead to a tragedy</li> </ul>
Move toward expanding STR opportunities	<ul style="list-style-type: none"> <li>Allow prevalent types of STR to obtain permits to operate in residential districts</li> <li>Loosen standards for homestays</li> <li>Allow STRs in accessory apartments</li> </ul>	<ul style="list-style-type: none"> <li>Revenue from fees could help offset expenses</li> <li>Adds to the tourism infrastructure in the City</li> <li>STR owners have option for income generation</li> <li>Allows for tracking of STR properties through registration or permitting process</li> </ul>	<ul style="list-style-type: none"> <li>Requires staff time and resources for enforcement and tracking</li> <li>Potential negative effects on affordable housing stock</li> <li>Potential for negative effects on neighborhoods – noise, traffic, etc.</li> <li>Potential to negatively impact hotels and traditional B&amp;Bs by lowering demand</li> </ul>

**COMMON COMPONENTS OF SHORT-TERM RENTAL ORDINANCES**

Our research indicates that municipalities that choose to allow and regulate short-term rentals do so in very different ways. The following charts give a broad sampling of the various types of policies included in STR ordinances, under the categories: partial bans; numeric caps; permitting and enforcement; and other considerations. We have not sought legal counsel to verify that every one of these would be feasible in North Carolina.

**TABLE 6: NATION-WIDE STR POLICIES, EXAMPLES, PROS AND CONS**

Complete or Partial Bans			
Policy	Example	Pros	Cons
Ban/allow in particular geographies (by zoning, neighborhood, distance to downtown)	Charleston, SC allows STRs only within commercially-zoned areas that fall within their “Short Term Rental Overlay” district, which covers two neighborhoods.	<ul style="list-style-type: none"> <li>Keeps STRs out of the areas where they have the greatest potential to disrupt single-family residences.</li> <li>Potentially keeps STRs confined so that affordable housing in certain residential areas is protected.</li> </ul>	<ul style="list-style-type: none"> <li>Creates a fractured rule across jurisdiction – may require lengthy negotiations to establish boundaries.</li> <li>Requires differential enforcement across jurisdiction.</li> </ul>
	Ocean City, MD is currently debating a ban on STRs in residential neighborhoods.		
“Free pass” for those renting only during high-traffic times, ie. festival weeks	Austin, TX, New Orleans, LA, and Pinehurst, NC are all currently considering this.	<ul style="list-style-type: none"> <li>STR owners who only rent out a property during high-traffic times don’t have to worry about fee/tax/permitting process.</li> <li>Works around the potential for “cheating” during these times.</li> </ul>	<ul style="list-style-type: none"> <li>May make these weeks less palatable to some local residents.</li> <li>Dramatic sudden increase in STRs and requires more staff time to respond to complaints during these high traffic periods.</li> </ul>
Require that STRs be owner-occupied (no second homes for short-term rental purposes only), or regulate non-owner-occupied units more heavily	Austin’s rule allows both owner-occupied and non-owner-occupied rentals, but designates the latter as “commercial rentals” and restricts them much more heavily.	<ul style="list-style-type: none"> <li>Heavy regulations may remove the incentive for investors to purchase properties speculatively for use as STRs, keeping more properties available as traditional rentals.</li> <li>Portland advocates of their owner-occupied only rule cited affordable housing concerns as a primary reason for its adoption.</li> </ul>	<ul style="list-style-type: none"> <li>Difficult to enforce because it requires knowing which units are owner-occupied and which are not.</li> <li>Some STR owners will continue to run non-owner-occupied STRs.</li> </ul>
	Portland only permits the rental of owner-occupied units.		

**TABLE 6: NATION-WIDE STR POLICIES, EXAMPLES, PROS AND CONS (CONTINUED)**

Numeric Caps on STRs			
Policy	Example	Pros	Cons
Cap the number or percentage of homes allowed to be used as STRs (can be done by city as a whole, census tract, neighborhood)	Austin, TX has a rule that no more than 3% of the homes in a given census tract may be STRs that are NOT the primary residence of the homeowner. The City maintains a waiting list for homeowners wishing to get licenses for commercial rentals in tracts that have reached their limit. (Note that this only currently applies to one census tract).	<ul style="list-style-type: none"> <li>Allows STRs to continue operating, but limits the concentration in any single neighborhood. This can reduce the harmful effects on neighbors, affordable housing, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Requires deciding on geographic boundaries and permitting and tracking of STRs these boundaries.</li> <li>Potential challenges over fairness if there are too many STRs currently operating in one neighborhood or census tract – should take current levels of STR activity into account when designing rule.</li> </ul>
Cap the number or percentage of units in a given multifamily complex that can be used as STRs	The City of Austin considered, but did not eventually pass, a rule that would limit the number or percentage of STRs in a multifamily complex.	<ul style="list-style-type: none"> <li>Prevents use as illegal hotels</li> <li>Keeps residential neighborhoods or complexes primarily residential</li> </ul>	<ul style="list-style-type: none"> <li>Requires staff time for monitoring and enforcement</li> <li>Requires data on whether the unit is owner-occupied</li> </ul>
Cap the number of nights per year or per month that an STR may be rented	The City of San Francisco is considering a 90-day rental cap, though the Planning Commission, as of August 9 <sup>th</sup> 2014, has recommended a cap greater than 90 days. They have worries about the enforceability of a cap on rentals and fear underreporting of days rented.	<ul style="list-style-type: none"> <li>Lessens potential impacts on neighbors</li> <li>Decreases incentive for using second homes primarily as STRs – may preserve affordable housing in this way</li> </ul>	<ul style="list-style-type: none"> <li>Difficult to enforce, and likely to be ignored or broken through underreporting</li> <li>Costly to monitor and track. The added component of tracking nights rented would add significant staff time needs to an enforcement program.</li> </ul>

**TABLE 6: NATION-WIDE STR POLICIES, EXAMPLES, PROS AND CONS (CONTINUED)**

Permitting, Taxation, and Enforcement			
Policy	Example	Pros	Cons
Require registration and/or permitting through City	Most cities that choose to regulate STRs do so at least partially through a permitting process. This includes Portland, OR; San Francisco, CA; and Madison, WI.	<ul style="list-style-type: none"> <li>Allows for easy tracking and monitoring of STRs, including growth trends.</li> <li>Makes enforcement of noise and other laws easier because owners are on record.</li> </ul>	<ul style="list-style-type: none"> <li>Requires staff time and other resources to manage and enforce.</li> <li>Any new requirement is likely to be met with some resistance from STR owners.</li> </ul>
Require health, safety, or other inspections	New Orleans, LA requires health and safety inspections before an STR may be legally rented out.	<ul style="list-style-type: none"> <li>Protect the safety and health of STR renters.</li> <li>Places a burden of responsibility on owners.</li> <li>Fairness with hotels/B&amp;Bs who must comply with these rules.</li> </ul>	<ul style="list-style-type: none"> <li>Staff time and resources required for maintenance and enforcement.</li> </ul>
Require fee, up front and/or yearly renewal fee	<p>Madison, WI: Initial fee of \$595 and yearly re-licensing fee of \$220</p> <p>Portland, OR: \$180 yearly permit</p>	<ul style="list-style-type: none"> <li>Requires pre-planning and a small investment on the part of homeowners, which will reduce the number of STRs</li> <li>Potential source of income that can be used to fund affordable housing, inspections/enforcement staff, or other needs</li> </ul>	<ul style="list-style-type: none"> <li>High likelihood of resistance from STR owners.</li> <li>Staff time and resources required to maintain/enforce.</li> <li>Some STR owners will not register their property or pay the fee.</li> </ul>
Require remittance of occupancy/hotel taxes	Ocean Isle Beach, NC requires that STR owners remit the same tax as hotels or B&Bs.	<ul style="list-style-type: none"> <li>Places equal burden on STR owners and B&amp;B or hotel owners for a more fair taxation structure.</li> </ul>	<ul style="list-style-type: none"> <li>Significant staff time required to monitor and collect taxes.</li> <li>City gets very little revenue from tax collection.</li> </ul>

**TABLE 6: NATION-WIDE STR POLICIES, EXAMPLES, PROS AND CONS (CONTINUED)**

Additional Considerations			
Policy	Example	Pros	Cons
Consequences for complaints or violations (single or multiple)	Savannah, GA has proposed rules that would revoke a license for short-term rental using a point system for noise, parking, and other code violations. Other cities use a “three strikes” or “one strike” rule, or write in a provision that allows code enforcement to revoke the permit at any time.	<ul style="list-style-type: none"> <li>• Builds in accountability for homeowners to monitor their guests.</li> <li>• Could be seen as a promise to neighborhoods that safety and neighborhood preservation is top priority.</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring and enforcement heavy.</li> </ul>
Minimum stay requirements	Palm Desert, CA requires a minimum two-night stay.	<ul style="list-style-type: none"> <li>• Guests who stay longer tend to be more quiet, clean, and respectful of neighborhood norms.</li> <li>• Guests staying longer would also likely spend more in local businesses.</li> </ul>	<ul style="list-style-type: none"> <li>• Requires staff time for monitoring and enforcement.</li> </ul>
Notification requirements	San Bernardino County, CA notifies all neighbors to an STR property that an application has been filed, the number of people and vehicles allowed, and whether on-street parking is allowed by visitors.	<ul style="list-style-type: none"> <li>• Alerts neighbors to the rules and regulations and gives them the resources to report violations.</li> </ul>	<ul style="list-style-type: none"> <li>• Could require significant staff time in dealing with challenges and complaints if such a system allows for neighbor feedback.</li> </ul>
Special trash/recycling rules	Telluride, CO requires STRs to have a clearly marked trash and recycling area that is large enough for the unit.  Topsail Beach, NC requires two trash carts per STR.	<ul style="list-style-type: none"> <li>• Decrease the negative effects on year-round residents in STR areas.</li> <li>• Protect property values for all homeowners in STR areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Staff time required for monitoring and enforcement.</li> <li>• Extra burdens on homeowners may be hard for some to meet.</li> </ul>
Parking requirements	San Bernardino County, CA requires one parking place (off-street) per one bedroom for rent.	<ul style="list-style-type: none"> <li>• Decrease the negative effects on year-round residents in STR areas.</li> <li>• Protect property values for all homeowners in STR areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Staff time required for monitoring and enforcement.</li> <li>• Extra burdens on homeowners may be hard for some to meet.</li> </ul>

**TABLE 6: NATION-WIDE STR POLICIES, EXAMPLES, PROS AND CONS (CONTINUED)**

Additional Considerations, Continued			
Policy	Example	Pros	Cons
Maximum occupancy	San Bernardino County, CA: one person per 100 square feet of habitable building area. Arch Cape, OR: two persons per sleeping room plus four additional persons.	<ul style="list-style-type: none"> <li>• Protect the safety of renters and visitors.</li> <li>• Protect the safety of neighbors to STR properties.</li> <li>• Create accountability for owners of STR properties.</li> </ul>	<ul style="list-style-type: none"> <li>• Staff required for monitoring and enforcement.</li> </ul>
Emergency access requirements	If an STR is part of a gated or locked complex, owners must provide gate key or access code to police prior to rental.		
“Mandatory designated representative” requirement	Austin, TX requires a “local responsible contact” be available at all times.		
In-unit postings	Requirement for emergency contact information, including owner or representative’s contact, and rules of occupancy be posted in the rental.		



## SAMPLE STR ORDINANCES: POLICY COMBINATIONS

Table 7 shows the way a sampling of municipalities have combined elements from the above potential ordinance components to craft a comprehensive STR policy, arranged from the least stringent ordinance on the left to the most stringent on the right.

**TABLE 7: ALL COMPONENTS OF STR ORDINANCES BY CITY**

	Ocean Isle Beach, NC	Telluride, CO	Charleston, SC	Savannah, GA (proposed)	Portland, OR	Austin, TX	Blowing Rock, NC	Cornelius, NC
<b>Bans</b>								
Complete ban								
Ban/allow in certain areas			✓	✓		✓	✓	
“Free pass” for popular event weeks								
STRs must be owner-occupied					✓	**		
<b>Caps</b>								
Cap on number of STRs			✓					
Cap on percentage of homes used as STRs						✓		
Cap on number of nights rented in a time period		✓						✓
<b>Registration/Permitting</b>								
Registration Required		✓	✓	✓	✓	✓	✓	✓
Fee required				✓	✓	✓	✓	
Inspection required					✓	✓		✓
Occupancy and/or other taxes required	✓	✓	✓	✓	✓	✓		
Consequences for complaints filed?				✓	✓	✓	✓	
<b>Additional Requirements</b>								
Parking requirements			✓	✓	✓	✓	✓	
Trash/recycling requirements		✓				✓		
Emergency access requirements								
Mandatory Designated Representative		✓		✓		✓		
Postings inside units				✓	✓	✓		
Minimum stay								
Maximum occupancy			✓	✓				
Notification of neighbors					✓	✓		

\*\*Austin does not ban non-owner-occupied rentals, but it does enforce more stringent regulations on these.

When considering the wide variety of short-term rental regulations, it is vital to take into account the context of each individual municipality, including any legal constraints, policy goals, willingness of residents to accept tourist presence in residential areas, and general municipal and neighborhood character. For example, the Town of Ocean Isle Beach, NC has very few year-round residents, and all residents of this beach town expect that there will be large numbers of tourists in their neighborhoods at all times. Their main policy goal with the STR ordinance was to capture occupancy tax dollars that were being lost in the STR market. Thus, their policy focuses entirely on identifying STRs and capturing the occupancy tax on these properties, and does not limit STRs either by number or by geography.

The Town of Cornelius, NC was primarily concerned with protecting the property values and quality of life for its year-round residents; affordable housing preservation was not a policy goal for this small, high-income community. Thus, their STR policy caps the number of nights a property can be rented in a year, but does not place geographical restrictions on the location of STRs.

Cities such as Austin, TX, Charleston, SC, and Savannah, GA do list preserving affordable housing as a policy goal of STR regulation. These communities choose to use geographical restrictions on the location of STRs, generally through an overlay zoning district, which bans or limits STRs in single-family residential areas. Charleston's overlay is the smallest, encompassing only two small neighborhoods and limiting STR use to commercial buildings in those zones.

## **SURVEY OF 10 LARGEST NORTH CAROLINA CITIES: HOW THEY REGULATE STRS**

While the previous chart focuses on cities around the country that have taken notable action to regulate STRs using a variety of policy options, the following table reports our findings from a survey of NC cities' treatment of STRs, whether or not explicit action has been taken. We include this to ensure that we report the current picture of the state of STR regulations in NC cities, which face the same regulatory and legal framework as the City of Asheville. We report findings from the top ten cities in NC by size, which likely have more similar contexts for regulation than small beach or resort communities reported in the tables above.

TABLE 8: HOW TOP 10 LARGEST NORTH CAROLINA CITIES REGULATE STRS

NC City in Size Rank Order (Asheville is #11)	STRs Allowed in Residential Zones?*	Notes
1	Charlotte	Yes If the homeowner is living in the home, it might be considered a boardinghouse, but the ordinance for boardinghouses says that they should not operate like a B&B or hotel. If the homeowner is not living in the home, there is no Planning and Zoning jurisdiction over it. The homeowner would ideally get a business license, but this is not currently enforced for STRs.
2	Raleigh	<b>No</b> <b>Zoning Department is interpreting their ordinance to mean that STRs are not allowed as a use in residential areas.</b>
3	Greensboro	Yes No Planning and Zoning ordinance. Only concern would be with code enforcement for health and safety, which would be investigated only in the case of complaints.
4	Durham	Yes STRs allowed; no ordinance.
5	Winston-Salem	Yes No ordinance currently in effect.
6	Fayetteville	Yes No ordinance currently in effect.
7	Cary	Yes No explicit STR ordinance currently in effect. Could potentially regulate under the definition of Bed and Breakfast: An operator-occupied single-family residence where eight (8) or fewer rooms are rented on an overnight basis, for a period of no more than fourteen (14) consecutive days per guest stay. B&Bs are allowed as a special use, and require registration as a business, additional parking, and collect all relevant taxes. However, this is not currently being actively enforced for STRs.
8	Wilmington	Yes No explicit ordinance currently in effect. Similar to Cary, there is a B&B and home business classification that could apply, but are not actively enforced for STRs at this time.
9	High Point	Yes No explicit STR ordinance currently in effect. Again, the tourist home/B&B ordinance could apply, but is not being enforced.
10	Greenville	Yes No explicit STR ordinance currently in effect. Again, the B&B ordinance, which requires a special use permit, could potentially be applied, but is not being enforced.

It is important to note that even in cities listed as allowing STRs in residential neighborhoods, only Greensboro answered with an affirmative “Yes” to the question about whether STRs are allowed in residential zones. The others said either that they had no ordinance against it, weren’t enforcing an ordinance at this time, or hadn’t received any guidance on what to do about STRs. From conversations with planners and zoning department personnel, this is an issue many cities in NC are struggling with. Most of the front-line employees contacted for during this research first did not know the answer to the question, and in many cases the inquiry was transferred to a supervisor or a senior planner. Raleigh is the only city that said they are now interpreting the code to disallow STRs in residential zones.

This survey suggests that many NC cities are in a similar place as the City of Asheville with regards to how to address STRs. Most of the department representatives we spoke with did not have an immediate answer to the question of whether an STR would need to be registered or reported to the local government in any way, indicating that there are not yet clear institutionalized practices with regards to STRs in these NC cities. However, many of the cities do have a B&B or homestay regulation that could potentially be extended to cover STRs, but none of them are actively being applied to STRs.

## **AIMS OF REGULATION AND SAMPLE POLICY SOLUTIONS**

In crafting an STR ordinance that fits the City of Asheville, it is important to consider the policy goals of the City, the legal constraints under which the City must operate, and the preferences of local citizens in relation to tourist presence in residential neighborhoods. This section provides an overview of the policy concerns as outlined by the city staff, and offers potential policy solutions that might fit within the City's regulatory context. Note that this report does not address the preferences of local citizens, as this type of outreach is best done at the local level and should be led by the City.

In our conversations with staff members in the City of Asheville, three main concerns guiding decision-making on updating the short-term rental stance were expressed: 1) reducing negative impacts on residential neighborhoods, 2) increasing equity between STRs and hotel/B&Bs, and 3) reduce effects of STRs on affordable rental housing. Below, we make suggestions as to specific policy components that might address each concern. Some suggestions, like stiffer fines, could address more than one concern.

Some of the policy options (such as placing a cap on the number of STRs allowed in residential neighborhoods) would only be applicable if a decision is also made to alter the ordinance so that there is a process whereby more types of STRs can be legally permitted in such neighborhoods.

An important consideration is the staff time that will be necessary to carry out any policy changes. According to City staff, the City currently employs two full-time zoning enforcement officers who have full workloads already, so increasing STR enforcement would require additional staff or a shift in current staff responsibilities toward enforcement. As these options are discussed and weighed, additional required staff time, and how it will be funded, should be a consideration.

### **Concern 1: Reducing negative impact on residential neighborhoods.**

Sample Policy Idea 1a: Create an overlay district through zoning that clearly designates areas of the city where most STRs may not be located, such as residential neighborhoods and/or neighborhoods that have a large share of the affordable housing stock.

This can best be achieved through designation of STR types as a different land use category from residential or long-term rental housing on the basis that they have differential impacts on the neighborhood or city, such as parking, traffic, trash, and increased need for enforcement of noise, etc. The power of municipalities to designate overlay districts is found in [§ 160A-382](#).

### Sample Policy Idea 1b: Permit Fee

If the City designates additional STR land types as their own unique land use category, it may also make the argument that it requires funding to monitor and regulate this use. This could perhaps justify the City looking into charging a yearly permit fee to STR owners.

In order to understand the local nuances of the issue and impacts of STRs on Asheville neighborhoods, the City should do the following before adopting these policies:

1. Gather data on the impacts of STRs in the neighborhoods where they are most concentrated. If possible, pull data on the number of noise, traffic, parking, and other complaints in these neighborhoods. Gather additional data that can be used to test whether STRs have a differential effect on the neighborhood than single-family residential or long-term rental uses. If the impact on the neighborhood resulting from STRs is measurable, this data may be used to demonstrate the need for differential zoning, enforcement, and the charging of a permitting fee.
2. Solicit feedback from key stakeholders such as homeowners in high-STR neighborhoods.

Sample Policy Idea 1c: If a registration or a permit system is set up, the City could require an owner to register a home as an STR and meet requirements such as these:

1. Provide a phone number at which the owner or a designated representative will be available 24 hours a day when the property is rented;
  - If a designated representative is used, this person's name and contact information must also be supplied to the City upon registration.
2. Demonstrate an understanding that the owner or a representative will be within a one hour drive of the property at all times that it is rented in case of emergency;
3. Provide a copy of any existing homeowners' association regulations that allow, or do not specifically ban, STRs as a use in a subdivision.
4. Provide written notice to all neighbors (within a specified geographic area, such as a block) informing them that the property will be used as an STR and providing the phone number of the owner and designated representative, if applicable; and
  - NOTE: The City may want to provide form letters for this purpose, which the property owner may fill in and distribute to neighbors.
5. Agree to all terms and conditions of registration as an STR in the City of Asheville, including agreement to follow all operating rules and regulations (e.g. parking, trash), update registration yearly, update owner/representative contact information at the time of any changes, and agree to the City's fine schedule in the case that rules and regulations are broken.

**Concern 2: Leveling the playing field for B&Bs and hotels by charging STR owners the same occupancy taxes and/or a yearly fee for registration.**

Sample Policy Idea 2a: Send STR property owners contact information to the County and partner with the County Tax Office to begin charging occupancy taxes. This should be discussed with the Tax Office before moving further.

Sample Policy Idea 2b: Enact a yearly fee for registration of an STR, which will cover the cost of registration administration, inspections, and enforcement of regulations.

- NOTE: The exact amount of this fee will need to be calculated by city staff, by estimating the number of STRs expected to register (e.g., number of STRs active in the City now) and cost of staff time to register, monitor, inspect, and enforce. Registration fees in other cities range from \$25.75 (Destin, FL) to \$285 (Austin, TX). Most cities charge the same fee each year, but another option is to charge a lower fee for a re-permitting. Talbot County, MD charges \$100 for first time registration and lowers the fee to \$75 for yearly renewal. It is important that the fee be based on a calculation of the money it will cost to administer and enforce the regulation in order that the program is sustainable.

### **Concern 3: Reducing impact on affordable rental housing.**

Before crafting a policy to reduce the impact on affordable rental housing, the City should collect more data on the relationship between STRs and rental housing and housing sale prices. This can be achieved if a registration system is set up for STRs. Once STR addresses are determined, an assessment of whether areas with concentrated STRs have higher rental housing prices can be assessed. If it is determined that greater numbers of STRs in certain neighborhood are positively correlated with rental housing prices or an increase in the number of STRs over time, the City should consider ways to reduce the concentration of STRs so that increases in housing rental prices due to STRs will be minimized in each neighborhood.

Sample Policy Idea 3a: Set a cap on the number of STRs in each residential neighborhood.

- The exact method for determining the level of the cap would be decided upon based on conversations between City leadership, staff, and stakeholders, but two examples of methodology include:
  1. The City of Austin, TX chose to cap only non-owner-occupied, or “commercial” STRs at 3% of dwelling units within each census tract. This was decided upon based on staff recommendations<sup>20</sup>. In a phone conversation on how exactly Austin’s city staff came to this number, a representative told me that it was mostly the result of compromise. They wanted to keep the percentage low, and various councilmembers had differing opinions on how low was low enough.
  2. The City of Manzanita, OR established its cap of 17.5% of dwelling units in residential zones at the percentage of existing STRs when the ordinance was passed<sup>21</sup>.

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<sup>20</sup> [://www.austintexas.gov/edims/document.cfm?id=187610](http://www.austintexas.gov/edims/document.cfm?id=187610)

<sup>21</sup> The text of the City of Manzanita, OR ordinance can be found at [http://www.ci.manzanita.or.us/\\_docs/forms/STRentalPacket/2010-2011pdffiles/95-4,%20section%206.030.3.pdf](http://www.ci.manzanita.or.us/_docs/forms/STRentalPacket/2010-2011pdffiles/95-4,%20section%206.030.3.pdf).

3. Similarly, Cannon Beach, OR capped the number of STRs at 92, the number in existence at the time the ordinance was passed<sup>22</sup>.

NOTE: A cap to limit the number of STRs in a geographic area has not been adopted by any city in North Carolina. Therefore, (as is true with all potential ordinance changes) the City must consult with legal counsel before implementing such a policy. But, if the city designates STRs as a different type of land use and can quantify the negative impact of STRs on neighborhoods, perhaps a cap would be allowable.

Sample Policy Idea 3b: Designating multi-family units used as STRs as a unique land use.

Following the city of Blowing Rock's example, Asheville can create a separate designation for multi-family units used as STRs if they are located in medium- or high-density residential areas. These units could be overseen by the homeowners' association and have other regulations that apply specifically to multi-family units used as STRs.

Sample Policy Idea 3c: Enact a fine schedule for STRs operating illegally. Set the fine high enough, and potentially as a zero-tolerance rule, to induce compliance.

### **MOVING FORWARD WITH STR REGULATIONS**

In this study, we provide demonstrated practices in regards to regulating short-term rental housing in the City of Asheville. We provide sample policies for each of the three broad concerns that city staff members have expressed in regards to STRs: 1) reducing negative impacts on residential neighborhoods, 2) increasing equity between STRs and hotel/B&Bs, and 3) reducing affects of STRs on affordable housing.

Whichever policy strategy the city adopts, we believe that the key to an effective STR policy is to be able to locate addresses for STRs, understand the characteristics of STRs (owner-occupied vs. rental, size, housing value, etc.), and monitor the growth trends in STRs. This will enable the City to adjust policies if needed, respond to elected officials and stakeholders with data on STRs, and to measure the housing price impacts of STRs.

One possible direction for increased regulation and enforcement would be a phased approach. In phase I, the City of Asheville registers and permits STRs to determine their supply, characteristics, and addresses. Once this is done, phase II would involve better understanding the magnitude and concentration of STRs and then crafting more specific regulatory standards.

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<sup>22</sup> <http://www.washingtontimes.com/news/2014/aug/30/bend-wades-into-vacation-rental-home-issues/?page=all>

## **APPENDIX: OTHER RESOURCES**

Talbot County, MD ([http://www.talbotcountymd.gov/uploads/File/P&Z/Short Term Rental Application.pdf](http://www.talbotcountymd.gov/uploads/File/P&Z/Short%20Term%20Rental%20Application.pdf)) and the City of Destin, FL (<http://www.cityofdestin.com/DocumentCenter/Home/View/115>) have useful application materials and checklists, including form letter to provide for neighbor notification, definitions, and list of inspections that must be performed. These could be tailored to fit the final set of rules the City of Asheville decides upon.

The City of Austin's map of STR licenses issued by census tract, with tracts at 50% and 100% of their allowance of the 3% cap on non-owner-occupied STRs, is available here: [http://www.austintexas.gov/sites/default/files/files/Code\\_Compliance/STRs/STR\\_LicenseIssued20140424.pdf](http://www.austintexas.gov/sites/default/files/files/Code_Compliance/STRs/STR_LicenseIssued20140424.pdf)

The City of Charleston's map of their STR overlay district and ordinance is available at <http://charlestoninsideout.net/wp-content/uploads/2013/11/Short-Term-Rental-Ordinance-and-Map.pdf>.