

**Town of Seven Devils  
Planning Board Meeting  
Tuesday – April 16, 2024  
5:30pm**

- 1) Call to Order – Jim Jones, Chairperson
- 2) Oath of Office – Reappointed Member - Joan Streightiff
- 3) Approve minutes of Planning Board – February 20, 2024
- 4) New Business
  - A. Tiny Homes
  - B. Tree Ordinance
    - (i) North Carolina Forest Service
- 5) Old Business
  - A. Short Term Rentals
    - (i) SB 667 – April 6, 2023
    - (ii) Town of Boone – January 22, 2024
  - B. CLUP Review – Eddie Barnes, Zoning Administrator
- 8) Citizen Comments
- 9) Planning Board Comments
- 10) Adjourn

Meeting Live Stream  
Calendar – YouTube



## OATH OF OFFICE

I, **Joan Streightiff**, do solemnly swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith, and that I will faithfully discharge the duties of my office as a **Member of the Planning Board of the Town of Seven Devils**, so help me God.

On this 16<sup>th</sup> day of April 2024.

\_\_\_\_\_  
Joan Streightiff

\_\_\_\_\_  
Administered by Hillary Gropp  
Town Clerk

Town of Seven Devils  
Planning Board Minutes  
February 20, 2024

**AGENDA ITEM** 3)

The Seven Devils Planning Board met on Tuesday, February 20, 2024, at 5:30pm at Town Hall.  
Planning Board members in attendance included: Richard Blonshine, Jim Jones, Cindy Miller, Stuart Ryan, and John Wells IV.  
Members absent: Walt Hogan & Joan Streightiff  
Staff attendance: Eddie Barnes, Zoning Administrator; the minutes were recorded by Hillary Gropp, Town Clerk.

**Call to Order**

Zoning Administrator Barnes called the meeting to order at 5:30pm.

**Oath of Office**

Town Clerk Gropp administered the oath to Planning Board members – Cindy Miller & John Wells IV.

**Election of Chairperson**

Zoning Administrator opened the floor for nominations of Chairperson.  
Member Ryan nominated Member Wells for Chairperson.  
Member Blonshine nominated Member Jones for Chairperson.  
Member Miller made a motion to close the nominations; Member Wells seconded the motion.

Roll Call vote for Member Wells as Chairperson – 2 Yeas – 3 Nays

Cindy Miller – Nay  
Stuart Ryan – Yea  
Jim Jones – Nay  
Richard Blonshine – Nay  
John Wells IV – Yea

**Roll Call vote for Member Jones as Chairperson – 3 Yeas – 2 Nays**

Cindy Miller – Yea  
Stuart Ryan – Nay  
Jim Jones – Yea  
Richard Blonshine – Yea  
John Wells IV – Nay

Member Jones was elected as Planning Board Chairperson; the gavel was turned over to Chair Jones for the continuation of the meeting.

**Election of Vice Chairperson**

Chair Jones opened the floor for nominations of Vice Chairperson.  
Member Ryan nominated Member Wells for Vice Chairperson.

Member Blonshine made a motion to close the floor for nominations; Member Wells seconded the motion.

Planning Board members voted unanimously 5 -0 for John Wells IV as Vice Chairperson.

### **Amend Agenda**

Member Ryan requests the agenda be amended to add New Business Item) B. Short Term Rentals Chair Jones made a motion to amend the agenda; Member Wells seconded the motion.

### **Approval of Planning Board Minutes – November 21, 2023**

Member Wells made a motion to approve the Planning Board Minutes of November 21, 2023; Member Blonshine seconded the motion. All members agreed.

### **New Business**

#### **A. Application of UDO Amendment – Zoning Text – Max Smith, Applicant**

Zoning Administrator Barnes provided background information.

- On January 10, 2024, Max Smith submitted an application for request to add Zoning Text in Recreational Business (RB) to allow park model homes/RV/Tiny Home as permitted use.
- Currently, RVs are prohibited in the Town and no zoning district allows RV; General Business (GB) allows for manufactured homes.
- Applicant Smith owns approximately twenty six (26) acres commonly known as the Stables property. The Town's zoning map indicates the following designations on several parcels, including Recreational Business (RB), High Density Residential (HDR) and Low Density Residential (LDR).
- Tiny homes, if they are site built and modular homes are already permitted in the Town's residential districts. These proposed Tiny homes are on a chassis.
- The request is to add a new definition for Park Model Homes/Tiny Homes/RV.
- Add to the table of permitted uses in RB district with a required Special Use Permit (SUP).
- Or the Planning Board to consider a separate overlay district such as Recreation-Residential.
- The Planning Board will need to create standards and regulations in the RB district or overlay district for Recreation-Residential use including Lot size, Max number of units per acre, Utilities, Site Plan & Infrastructure.

Applicant Smith – provided background on his history, he is a resident at 350 Skyland Drive since 2019 and purchased this Stables Property with the goal of appropriately growing the Seven Devils community. Recently, there have been improvements to the barn, with 8 stables, new fencing, paddocks and boarding and future professional landscaping. This is an investment and intended to be profitable.

The presentation had examples of Tiny homes, less than 400 sq. ft., and even though categorized as RV, these would be permanent, not moved, with Short Term Rental (STR) potential for those who are horse enthusiasts, the community will be equine focused. The occupancy per Tiny home is 6 persons maximum.

Discussion & questions occurred with Planning Board members and Applicant Smith.

Topics included:

Type of foundation is cinder block & under pinned; Stables feature limited rent & ride; Horse trailers with power amp hookup accommodations; Low density = 1 per acre; Visibility not expected to be seen from Skyland Drive or Seven Devils Road, probable entrance at both; Located below Hawkspeak South Condo;

Option B for other plans if application request is not approved, N/A; Current NC GS 160D removes requirements of minimum square footage; Cost are less with Tiny home vs Site built; Town of Seven Devils zoning allows for SFR site built homes, not RV; No current plans to build on LDR & HDR zoning; Tiny Homes will be STR, if larger site built home is required, then will most likely be sold, not STR. Discussion occurred that if RV approval is allowed on RB zoning, this would be allowed on other RB zoning parcels in Town; Procedural steps involved to approve the Applicant's request include – Planning Board and Zoning text amendment, Public Hearing, Town Council action/approval, Board of Adjustment – Special Use Permit. Development of the adjoining parcel of LDR will require UDO Subdivision guidelines.

Chair Jones stated more information is needed; Applicant to follow up with Zoning Administrator Barnes. Applicant Smith concluded the presentation with the Planning Board.

**No Action Taken ~OPEN~**

### **B. Short Term Rentals – Stuart Ryan, Planning Board Member**

Member Ryan added this agenda item to open discussion about Short Term Rentals.

- 1.) History – Town has increasing inventory of STR, instead of owner's vacation homes.
- 2.) Advantages of STR include – Revenue for Town – Occupancy Tax/TDA, Owner's generate income, Markets the Town of Seven Devils and tourism dollars are spent in the local economy.
- 3.) Disadvantages of STR include – Noise, trash, traffic, tourists/strangers, and parking issues.
- 4.) Solutions – HOA have stricter control over STR, require permits, limit days and limit cars at STR.

Member Ryan understands the Town's Nuisance Ordinance addresses some issues such as noise, trash and requires the action of the Town Council to adopt/update. Member Ryan suggested consideration the noise ordinance to begin at 9:00pm, instead of 10:00pm and limit the number of cars parked at STR to 1 car per bedroom.

Zoning Administrator Barnes advised that NC SB667 prohibits regulations applied to STR's only, any regulations are to be applied to all owners equally, such as parking limits.

Zoning Administrator Barnes reports that other towns, including Boone and Blowing Rock have drafted ordinances for STR's and to allow the time to see what legal challenges might come from this action.

Other discussion among Planning Board members included: What is the identity of the Town – Resort Town or Residential; should parking at each STR be limited then where will the extra cars be allowed to park – Town owned property; Homeowner's Associations (HOA) have the ability to regulate STR's; what additional ways can the Town ordinances be communicated to tourists, including fines for violations.

Zoning Administrator Barnes to follow up on ordinance language of other towns.

**No Action Taken ~OPEN~**

### **Old Business**

#### **A. CLUP Review/Discussion**

Chair Jones stated the Comprehensive Land Use Plan (CLUP) is required to be updated every five years. In reviewing the language of the CLUP, the updates will include the total number of homes and population statistics. Survey questions have not been drafted or sent to citizens. The CLUP is a guiding document for the Town, but not an enforceable document.

**No Action Taken ~OPEN~**

### **Citizen Comments**

Leigh Sasse – 245 Chestnut Ridge Trail- commented thoughtful consideration should be given to limiting the number of cars parked at STR residential location, as it could cause conflict with year round citizens whose household includes more drivers/cars than the number of bedrooms.

Tom Bookstaver – 231 Snowcloud Drive – reported after a recent mix up on a fire call, Bookstaver asked about changing the name of a road in Town, to avoid confusion with another similar named road.

Brian Davies – 299 Cliffside Lane- commented about the topic of STR and Owner occupied residents/citizens is the language in the Town's UDO. Davies also commented about Tiny Home and the Table of Permitted Use for RB allows for Lodge vs Tiny Home and suggested this is better for the Town.

### **Planning Board Comments**

Member Wells inquired how the Town's website could better inform tourists and occupants of STR of the Towns' Nuisance Ordinances.

Member Ryan inquired about the recent Planning Board recommendation to extend the construction timeline and if this contributed to the cancellation of a Board of Adjustment meeting, as well as possible lost revenue due to fines not being imposed.

### **Adjourn**

Member Blonshine made a motion to adjourn the meeting; Member Ryan seconded the motion. All members agreed. The meeting was adjourned at 7:15pm.

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Jim Jones, Chairperson

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Hillary Gropp, Town Clerk

# Sample Tree Inventory Canopy Cover Assessment Program

AGENDA ITEM 4) B.(i)



## Urban and Community Forestry

The N.C. Forest Service has partnered with the N.C. Urban Forest Council and urban forestry consulting firm ([PlanIT Geo, Inc.](#)) to provide sample tree inventories and tree canopy cover assessments on demand for North Carolina municipalities through our [Financial Assistance Program](#).

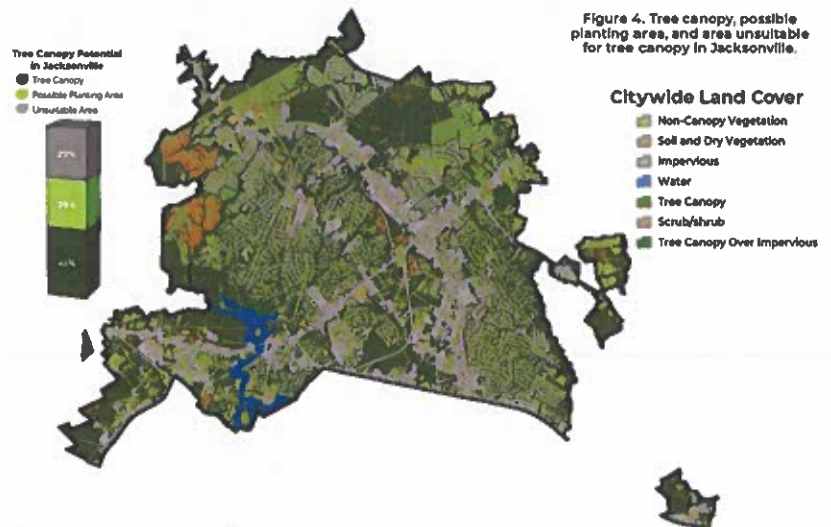
### Canopy Cover Assessments

A tree canopy cover assessment uses aerial photographs and other types of imagery to quantify the area of a community covered by tree canopy, vegetation and other land features and the ecosystem service benefits the existing tree canopy provides.

These analyses are used for planning purposes to set tree canopy cover goals and monitor change over time. The maps generated also visually identify areas of opportunity to add canopy cover.

### Services Provided

Analyses are completed within the boundaries of the municipality as well as within smaller geographically bound areas (zoning districts, parcels, rights-of-way, census blocks, storm water areas) within your municipality. Within these boundaries, the percent area covered by land cover classes is quantified. A summary report of the findings will be provided. There are three cost options (levels of analysis) based on the number of geographic bound areas (Geographies) and land cover classes to be analyzed.



Items Analyzed	Basic Analysis	Medium Analysis	Advanced Analysis
# of Land Cover Classes	Up to 6	6 plus available dependent on local GIS data*	6 plus available dependent on local GIS data*
Geographies (Dependent of local GIS data)	Municipal Boundary, Census Blocks, Zoning Districts, Rights-of-way/Parks	Add 1 additional geography choice	Add 4 additional geography choices

\* Minimum six land cover classes (aka, outputs): tree canopy, shrub, grass, bare earth (soil, sand, dry vegetation), impervious surfaces, and open water. Up to 10 classes with additional sub-types of impervious surfaces will be added to the land cover data map only for the municipalities that can provide recent (updated) high-quality GIS data layers, such as buildings, streets, sidewalks, parking lots, and driveways.

### Cost

Based on the square miles of your community and the level of analysis to be completed, a cost to complete the canopy cover assessment is calculated. The standard [Financial Assistance Program](#) offering is 50% of the cost. Disadvantaged Communities may be eligible additional financial assistance. **Square Miles x Analysis Cost + Base Setup & Report = Total Cost of Canopy Cover Assessment**

Area Square Miles Range	Basic Analysis Cost	Medium Analysis Cost	Advanced Analysis Cost
0-25 sq miles	\$165.00	\$192.50	\$225.50
>25-50 sq miles	\$161.70	\$188.65	\$220.99
>50-100 sq miles	\$158.40	\$184.80	\$216.48
>100+ sq miles	\$155.10	\$180.95	\$211.97
Base Setup & Report Fee	\$4,500	\$6,022	\$8,500

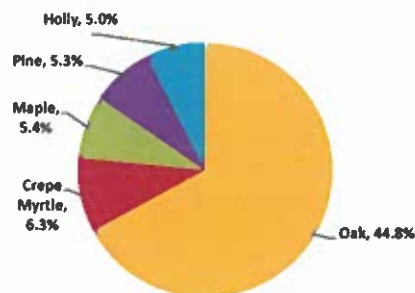


## Sample Tree Inventory

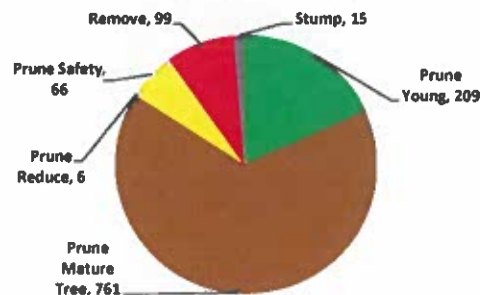
A sample tree inventory is a statistically valid sample of the urban forest. The results provide good estimates of the numbers of trees in the population, health, management needs and other management information. This information can be used for planning purposes and budgeting. It is a good tool for beginning to develop a plan, and/or communities that do not have the capacity to complete and maintain a complete tree inventory.

A sample inventory can also be used as a storm damage assessment tool. The sample plots are re-inventoried after a community wide event and the data can be used to estimate the amount of damage and needs to mitigate the damage.

Estimated Top 5 Tree Genus



Estimated Tree Work Needs



## Services and Cost

A statistically valid sample will be designed based on the size of your municipality. Trees on the sample plots will be inventoried using specifications developed by the N.C. Forest Service and completed by International Society of Arboriculture Certified Arborists. The findings of the inventory will be summarized in a report generated from TreePlotter Inventory.

The cost to complete the sample tree inventory is based on the sample size and the number of street miles for street trees and the number of acres for trees on your parks and other public properties. The standard [Financial Assistance Program](#) offering is 50% of the cost. Disadvantaged Communities may be eligible for additional financial assistance.

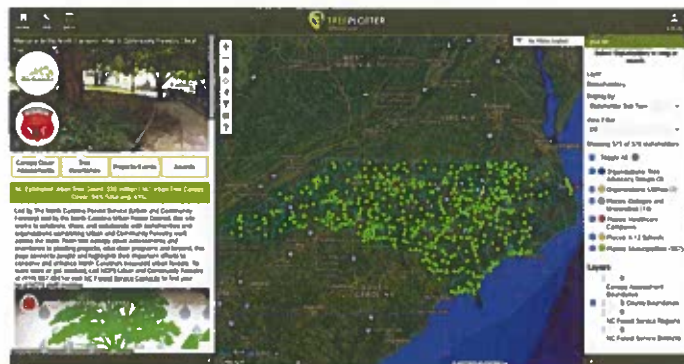
$$\text{Cost} = \text{Sample Size} \times \text{Number of Street Miles or Acres}$$

Population	Sample Size
Less than 50,000	6%
Between 50,000 and 150,000	5%
Between 150,000 and 250,000	4%
Over 250,000	3%

Street Trees (Cost per Street Mile)	\$300
Parks and Public Property Trees (Cost per Acre)	\$200

## N.C. Urban and Community Forestry Cloud Software

Included with either service, your data will be uploaded into the North Carolina Urban & Community Forestry Cloud and you will be given login credentials that will allow you to access to plan and report on your community efforts. Municipalities may also purchase a discounted annual subscription for editing level access to TreePlotter Inventory software.



Contact your County Ranger | [neforests-service.gov/contacts](http://neforests-service.gov/contacts)

Urban & Community Forestry | 919-857-4801 | [neforests-service.gov/urban](http://neforests-service.gov/urban)

The N.C. Forest Service is a division of the N.C. Department of Agriculture and Consumer Services | Steve Traxler Commissioner  
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Version | 01-23



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023FILED SENATE  
Apr 6, 2023  
S.B. 667  
PRINCIPAL CLERK

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## SENATE BILL DRS15293-NKf-60C

Short Title: Regulation of Short-Term Rentals. (Public)

Sponsors: Senators Moffitt and Hanig (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE REGULATION OF SHORT-TERM RENTALS BY LOCAL  
3 GOVERNMENTS TO PROTECT PRIVATE PROPERTY RIGHTS AND TO ESTABLISH  
4 GUIDELINES FOR REGULATING SHORT-TERM RENTALS.

5 Whereas, Section 1 of Article I of the North Carolina Constitution provides that "...all  
6 persons are created equal; that they are endowed by their Creator with certain inalienable rights;  
7 that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit  
8 of happiness."; and

9 Whereas, Section 19 of Article I of the North Carolina Constitution provides that  
10 "[n]o person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or  
11 outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of  
12 the land."; and

13 Whereas, Section 1 of Article VII of the North Carolina Constitution provides that  
14 the General Assembly "shall provide for the organization and government and the fixing of  
15 boundaries of counties, cities and towns, and other governmental subdivisions, and, except as  
16 otherwise prohibited by this Constitution, may give such powers and duties to counties, cities  
17 and towns, and other governmental subdivisions as it may deem advisable."; and

18 Whereas, North Carolina has 100 counties and 532 municipalities; and

19 Whereas, short-term rentals are vital to the tourism and marketability of the State; and

20 Whereas, short-term rentals provide housing options for transitory workers, including  
21 nurses, tradespeople, and executives; and

22 Whereas, local governments often frustrate tourism and infringe on property owners'  
23 private property rights by adopting ordinances that inhibit property owners' right to use their  
24 property as they see fit; and

25 Whereas, it is in the best interest of the State to establish uniform guidelines for  
26 short-term rentals; Now, therefore,  
27 The General Assembly of North Carolina enacts:

28 **SECTION 1.** Article 21 of Chapter 160A of the General Statutes is amended by  
29 adding a new section to read:

30 **"§ 160A-499.6. Regulation of short-term rentals.**

31 (a) No city may adopt or enforce an ordinance, rule, or regulation that does any of the  
32 following:

33 (1) Prohibits the use of residential property as a short-term rental.

34 (2) Prohibits the use of accessory dwelling units as short-term rentals.

35 (3) Limits the number of nights a property can be rented as a short-term rental.



\* D R S 1 5 2 9 3 - N K F - 6 0 C \*

- 1           (4)     Requires the owner of the short-term rental to occupy the property for any  
2                 period of time during a rental to an occupant.  
3           (5)     Classifies short-term rentals as a commercial use.  
4           (6)     Limits the operation of a short-term rental marketplace.  
5       (b)     A city may adopt an ordinance, rule, or regulation that regulates short-term rentals  
6       by:  
7           (1)     Requiring a lodging operator to obtain a permit to operate a short-term rental  
8                 within the city's corporate limits. The city may revoke the permit if the  
9                 short-term rental incurs five health and safety violations within a 12-month  
10                rolling period; provided, however, the city shall, prior to revoking the permit,  
11                give the lodging operator an opportunity to contest the alleged violations and,  
12                if found to exist, an opportunity to remedy the violations. The city may charge  
13                a one-time fee of not more than twenty-five dollars (\$25.00) for each permit  
14                issued and may charge an additional fee of not more than twenty-five dollars  
15                (\$25.00) to reinstate a permit that has expired or been revoked.  
16           (2)     As part of the permitting process authorized under subdivision (1) of this  
17                 subsection, limiting the number of occupants allowed to stay in a short-term  
18                 rental. The city may consider State and local building code standards and  
19                 septic tank capacity in determining the number of occupants under this  
20                 subdivision.  
21           (3)     As part of the permitting process authorized under subdivision (1) of this  
22                 subsection, restricting the number of occupant vehicles to one vehicle per  
23                 bedroom.  
24           (4)     Restricting the location of short-term rentals to areas of the city that have been  
25                 zoned for residential use, and requiring that the property remains in  
26                 compliance with all applicable residential zoning requirements.  
27           (5)     Requiring that short-term rentals comply with all applicable city ordinances  
28                 and codes, including building codes and housing codes.  
29           (6)     Requiring that all contracts for short-term rentals include a copy of any city  
30                 ordinances that regulate noise, waste removal, and parking or, in the  
31                 alternative, that the lodging operator provides to the occupants a written  
32                 summary of city ordinances that regulate noise, waste removal, and parking.  
33           (7)     Prohibiting the use of short-term rentals for any purpose other than that which  
34                 is allowed in hotels, motels, and inns without the property owner's prior  
35                 approval, which shall be evidenced by a written agreement between the  
36                 lodging operator and the occupant.  
37           (8)     Requiring a lodging operator or authorized agent of a lodging operator be  
38                 within a 50-mile radius of a short-term rental during the time that an occupant  
39                 is staying in a short-term rental.  
40       (c)     Unless the context indicates otherwise, the following definitions shall apply in this  
41       section:  
42           (1)     Lodging operator. – A person who rents a short-term rental to an occupant  
43                 using a short-term rental marketplace.  
44           (2)     Short-term rental. – All of the following that are offered to the public for a fee  
45                 and for a period of 90 days or less: (i) an individually or collectively owned  
46                 single-family house or dwelling unit; (ii) a unit in a condominium, timeshare,  
47                 townhome, or accessory dwelling unit; and (iii) an owner-occupied residential  
48                 home. The term does not include any of the following:  
49                 a.     A collective group of units in a complex of condominiums owned by  
50                        a single owner, corporation, or related owner that is non-owner  
51                        occupied and is used in a similar manner as a hotel, motel, or an

- 1                    extended stay inn if the complex of condominiums is not required to  
2                    adhere to the same building standards and regulations as hotels,  
3                    motels, and extended stay inns.  
4                    b.     A unit that is used for a retail business or as a restaurant, banquet space,  
5                    event center, or a similar purpose.  
6                    (3)   Short-term rental marketplace. – A platform through which a lodging  
7                    operator, or the lodging operator's authorized agent, offers a short-term rental  
8                    to an occupant."

9                    **SECTION 2.** This act is effective when it becomes law.

This Staff Report has been modified to reflect the Planning Commission's recommendations made on January 22, 2024 (page 4). All changes are highlighted in green.



January 22, 2024

Case A24-0010 Vacation Rental Regulation Clarification -UDO Text Amendment

### Request

Modify language in UDO Article 15 Limited Use Requirements to clarify inartful language relating to when a single-family or two-family dwelling in certain zoning districts can be used as a Use 3.06 Vacation Rental.

The existing language at 15.14.05 was recently interpreted by one Board of Adjustment member as prohibiting multifamily buildings in R-3, B-1, B-2 and B-3 zoning districts from having any short-term rentals. The actual intent behind 15.14.05 was to allow single and two-family dwellings in those zoning districts to be used for short-term rentals only if the dwelling existed as of January 1, 2014. (In other words, short term rentals are not allowed in recently- or newly-built single and two-family dwellings in those zoning districts, the point being to prohibit construction of such dwellings in those zoning districts for purposes of short term rental.) Staff and the Town Attorney propose to a revision of the existing provision so as to eliminate the claimed ambiguity.

### CONFORMITY TO ADOPTED PLANS

#### COMPREHENSIVE PLAN UPDATE

##### 1.1 Overall Objectives for the Boone Comprehensive Plan

The following objectives, which have not been listed in any particular order of importance, are deliberately broad in scope and less specific than either a policy statement or an implementation action.

**Economic Development:** Acknowledge the area's natural beauty, university, and medical center presence as the Town's greatest assets for economic development and jobs creation. Treat them accordingly.

**Community Appearance and Community Character:** Blend the built environment with the natural, scenic, and historic character of a High Country small town. Especially discourage commercial strip development, cluttered signage, and "cheap" apartment buildings.

**Open Space:** Integrate open space and greenways into the urban fabric of the Town. Preserve the countryside by discouraging suburban sprawl. Avoid development in floodplains, on ridgetops, and on steep slopes.

**Environmental Quality:** Address and monitor growth factors and activities that contribute to water, air, light, and noise pollution.

**Trees:** Conserve existing trees and plant new trees, especially hardwoods.

**Bikeways:** Implement the planned system of bikeways as a legitimate transportation alternative. Unify with greenways and other pedestrian facilities where possible.

**Pedestrian Movement:** Encourage a system of sidewalks, paths, crosswalks and compact development patterns which make it easy to get around Boone on foot.

**Infrastructure:** Engage in long range planning for water and sewer systems, stormwater runoff, natural gas, and other utility systems. Place overhead utilities underground whenever feasible.

**Public Safety:** Maintain a high level of policing and fire protection and plan the expansion of public safety services to coincide with projected population increases and identified needs.

**Energy and Waste:** Reduce waste generation, and the consumption of energy and water. Develop area recycling programs to the fullest. Encourage an anti-litter consciousness among residents and visitors.

**Downtown:** Support and enhance the cultural and historic significance of downtown Boone, and affirm its appealing, pedestrian orientation.

**Neighborhoods:** Ensure the livability of neighborhoods, especially through land use and traffic planning.

**Public Involvement:** Encourage active public involvement and volunteerism to expand the effectiveness of community planning and action.

**Comprehensive Plan Policies:** Staff has reviewed land use and comprehensive plan policies, and listed those policies which in staff's opinion have a bearing on the request. The Commission and Council should review these policies carefully. Each member may make his or her own interpretation as to the relevance of each and which carry the most weight thereby shaping their overall recommendation.

## **COMPREHENSIVE PLAN POLICIES**

### **2.1 THE ECONOMY**

#### **2.1.1 Economic Development**

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

- A.1 Continue to evaluate and amend development regulations to help insure aesthetic quality in the area and preserve the natural beauty of the area.

...

- E. The Town shall encourage a public service and regulatory environment conducive to business recruitment and expansion, while at the same time enhancing the area's physical and human resources.

- E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

...

## **COMPREHENSIVE PLAN POLICIES**

### **2.1 THE ECONOMY**

#### **2.1.1 Economic Development**

- A. The Town shall protect and enhance a high quality of life, image, cultural amenities, and natural beauty as the most effective, long term component of an economic development strategy.

### **2.3 THE COMMUNITY**

#### **2.3.2 Community Character**

- A. The identification, restoration and active use of structures, buildings, monuments, and neighborhoods of historic or architectural significance shall be encouraged as a means of enhancing their economic and cultural value to the planning area.

#### **2.3.3 Housing and Neighborhoods**

- A. The protection and rehabilitation of viable neighborhoods shall be encouraged to insure their continued existence as a major housing source and as a reflection of the area's image as an attractive, highly livable community.
  - A.1 As road widenings are proposed, carefully evaluate their potential impact on the integrity of residential areas, pedestrian-oriented commercial districts, and the ability of bicyclists and pedestrians to function in the affected area.
  - A.2 Prepare at least two neighborhood plans, working closely with neighborhood residents, and incorporating the full range of neighborhood issues to include: land use, traffic, housing, neighborhood business services, infrastructure improvements, parks and recreation needs, crime and safety.
  - A.3 Prepare a document readily accessible to the public that details residential zoning areas and the date on which each was implemented.
  - A.4 Establish a planning and development policy that protects older established residential neighborhoods from the negative effects of adjacent commercial development.
  - A.5 Establish a task force to determine how like communities successfully enforce their existing residential codes. Items requiring focused attention: Detailed analysis of implementation and enforcement. For example, penalties, personnel requirements, budget implications, long-term effect on town character and economic development.
  - A.6 Implement a residential zoning enforcement policy based on the task force analysis above.
- B. Street system designs which discourage through traffic on purely local streets while allowing for free circulation within the neighborhood shall be encouraged.
- C. Proposed residential development which would expose residents to harmful effects of incompatible development or to environmental hazards shall be prohibited.
- D. Innovative and flexible land planning and development practices shall be encouraged to create livable developments which better safeguard land, water, energy and historic resources.
- E. Factors in determining preferred locations for high density residential development shall include: close proximity to the university, employment or shopping centers; access to major thoroughfares and the transit system; the availability of public services and facilities; and compatibility with adjacent land uses.
- F. The affordable housing needs of area residents, particularly elderly and low to moderate income residents, shall be recognized in Town policies and actions regarding residential development.
- G. Compact, full service neighborhoods, offering opportunities for living, working, shopping, and gathering places, shall be encouraged in newly planned developments, as well as for redeveloping areas.
- H. The overall housing unit density for proposed infill residential development or redevelopment should be compatible with the average density of existing areas.

## **PLANNING BOARD REPORT/RECOMMENDATIONS**

Per NCGS 160D-604(b), subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the Planning Commission for review and comment. If no written report is received from the Planning Commission within 30 days of referral of the amendment to that board, the Town Council may act on the amendment without the Planning Commission report. The Town Council is not bound by the recommendations, if any, of the Planning Commission. Per NCGS 160D-604(d), when conducting a review of proposed zoning text or map, the Planning Commission shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Commission shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Commission, but a comment by the Planning Commission that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

**First Motion and Vote:** Chair Tait made a motion, seconded by Commission Member Behrend, that the proposed amendment to the Town's zoning ordinance is consistent with the Town's comprehensive plan and any other adopted plans of the Town that are applicable because the amendment is consistent with:

### **Comprehensive Plan Policy 2.1.1 Economic Development**

E.1 Continue to look for ways to make development regulations and permit procedures more predictable and timely. Evaluate opportunities for administrative review and permit issuance for development projects which, due to their small size or relatively minor impacts, may not require review by a formal public commission or board.

### **Comprehensive Plan Policy 2.1.1 Economic Development**

A.1 Continue to evaluate and amend development regulations to help ensure aesthetic quality in the area and preserve the natural beauty of the area.

**Vote:** Aye – 4  
Nay – None

The motion passed.

**Second Motion and Vote:** Chair Tait made a motion, seconded by Commission member Behrend, that the Planning Commission recommends approval of Ordinance A24-0010 within Exhibit A and approval is reasonable and in the public interest because this clarifies language related to multi-family short-term rentals.

**Vote:** Aye – 4  
Nay – None

The motion passed.



**TOWN COUNCIL ACTION – Adoption of Ordinance**

Per NCGS 160D-605, when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan.

**Vote 1:** The proposed amendment to the Town's zoning ordinance ☐is OR ☐is not consistent with the Town's comprehensive plan and any other adopted plan(s) of the Town:

*Note 1*

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**Vote 2:** The Town Council ☐approves OR ☐denies Ordinance #A24-0010 to the Town's zoning ordinance and believes ☐approval OR ☐denial is reasonable and in the public interest because:

*Note 2*

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**Note 1:** describe elements of controlling land use plans and how the amendment is or is not consistent. Town Council members may reference the comprehensive plan policies in the Planning Commission's recommendations, or use the other comprehensive plan policies as the Council member see relevant and pertinent to the

**Note 2:** briefly explain why, factors may include (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

**ORDINANCE # A24-0010**

**AN ORDINANCE TO REVISE UNIFIED DEVELOPMENT ORDINANCE RELATING TO VACATION RENTALS**

WHEREAS, the Boone Town Council has in several meetings over the prior years discussed the desirability of establishing new and clarified regulations for short-term rental uses within the town, and

WHEREAS, the Boone Town Council held a duly-noticed public hearing on January 22, 2024 with respect to this ordinance; and

WHEREAS, the Boone Town Council has taken into full consideration any information offered at the public hearing; and

WHEREAS, this Town Council has reviewed the written recommendations of the Town of Boone Planning Commission; and

WHEREAS, the Town Council finds that it is in the best interest of the Town and its citizens that Town Council directly consider and, with input from the public as deemed appropriate by Council; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its zoning authority under G.S. Chapter 160D, Article 6;

**NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:**

**SECTION 1.** The Town of Boone Unified Development Ordinance ("UDO") is hereby revised as set forth in the attached **Exhibit A** to this Ordinance, which is incorporated by reference, with deletions and additions shown in ~~red~~ and blue respectively:

**SECTION 2.** All provisions of any Town ordinance in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 3.** In the event any section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

**SECTION 4.** This Ordinance shall be effective immediately upon its adoption by Town Council.

Adopted this the 14th day of February, 2024.

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**The Honorable Tim Futrelle, Mayor**

**Attest:**

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**Nicole Harmon-Church, Town Clerk**

**Exhibit A****Appendix B Excerpt**

Use #	Specific Use	Zoning Districts																				Reference		
		Low Density Residential				Medium to High Density Residential						Commercial/Industrial							Education					
		RA	R1	R3A	RR	R1S	R2	R4	MH	R3	R5	CI	B1DC	B1DI	B2	B3	WD	M1	U1	E1	E2		E3	E4
3.0 Transient Living																								
3.01	Home for Survivors of Domestic Violence	L	L	L			L	L				L		L <sup>T125</sup>	L									15.11
3.02	Shelter for Homeless, Category 1									L <sup>T50</sup>		L <sup>T50</sup>		L <sup>T50</sup>		L <sup>T50</sup>								15.12
3.03	Shelter for Homeless, Category 2									L <sup>T300</sup>		L <sup>T300</sup>				L <sup>T300</sup>								15.12
3.04	Bed and Breakfast, Category 1	L	S <sup>T50</sup>	S <sup>T50</sup>			L <sup>T50</sup>	L <sup>T50</sup>						L	L									15.13
3.05	Bed and Breakfast, Category 2						L	L <sup>T125</sup>								L <sup>T125</sup>								15.13
3.06	Vacation Rental	L <sup>T25</sup>								L <sup>T25</sup>			L <sup>T25</sup>	L <sup>T25</sup>	L <sup>T25</sup>	L <sup>T25</sup>								15.14
3.07	Homestay Rental	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L						15.05

**Article 15 Limited Use Requirements**

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**15.14 Vacation Rental**

A vacation rental is defined as a single-family detached dwelling, a two-family detached dwelling or a multi-family dwelling unit with up to six guest rooms that is used, offered, and/or advertised (through an online platform or any other media) for transient overnight accommodations for any period of less than one month. A vacation rental is considered a "Lodging" use under this UDO. Vacation rentals do not include homestay rentals (as defined herein). A vacation rental includes any residential dwelling or dwelling unit, or portion thereof, provided to renters for any period of less than one month that does not qualify as a homestay rental under this ordinance; provided, that any use that comes within the purview of another use under this ordinance (e.g., motel, hotel, boarding house, etc.) shall be governed by the terms of that use and not as a vacation rental.

Notwithstanding the foregoing, the full-time resident of a dwelling unit (as defined at section 15.05.02 above) may rent out his or her dwelling unit for up to two weeks in any calendar year and such rental shall not be deemed a vacation rental under this section 15.14 but rather shall be considered an incidental use of the dwelling that does not require approval or permitting under this Article.

- 15.14.01** Every vacation rental operator must first apply for and procure a zoning permit from the Town. Zoning permits must be renewed annually. The zoning permit number authorizing the short-term rental shall be conspicuously posted on (i) all advertisements for short-term rentals, and (ii) on the subject property in a location easily viewable from the exterior of the structure provided, that if the permit number cannot be viewed from a private or public street, it shall be displayed where it can be viewed from the public or private street adjoining the primary façade of the dwelling unit.
- 15.14.02** A vacation rental is required to provide at least one (1) parking space per bedroom, which may not be located on any street right of way and must conform to all applicable parking regulations of this ordinance. In the RA Residential Agriculture zoning district, parking should be to the side or rear of the vacation rental dwelling.
- 15.14.03** A vacation rental operator shall ensure that the primary responsible renter of a vacation rental is at least twenty-one (21) years old.
- 15.14.04** Without limiting the applicability of other Ordinance requirements, a vacation rental is subject to Article 31 Landscape Standards.
- 15.14.05** In the R3 Multiple-Family, B1 Central Business, B2 Neighborhood Business, and B3 General Business zoning districts, ~~only a~~ single-family detached dwellings and two-family detached dwellings ~~existing as of January 1, 2014~~ may be converted to vacation rental only if the dwelling existed as of January 1, 2014.

- 15.14.06** Cooking facilities are not permitted in any bedroom. For the purpose of this regulation, cooking facilities include any refrigerator in excess of seven cubic feet; any stovetop range that operates on 220-volt electric service; any appliance that operates on natural gas; or any cooktop, whether integrated into a countertop or a separate appliance, which contains more than two cooking surfaces or burners. This shall not prohibit cooking facilities within a one-room studio vacation rental. For the purpose of this regulation, a studio shall be a single-room rental with a sleeping area, living area and kitchen/eating area in one consolidated room.
- 15.14.07** No signs advertising the property as a rental are allowed.
- 15.14.08** In residential zoning districts, renters of vacation rentals shall not utilize the premises for holding special events or large gatherings. The rental operator shall inform renters of this regulation and of the applicability of the town's noise ordinance (Chapter 82 of the Code of Ordinances), which regulates nuisance noises and makes it unlawful to create, cause, or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes with neighboring residents' reasonable enjoyment of their properties.
- 15.14.09** The premises shall not be used for a home occupation that allows employees, customers, clients or patrons to visit.
- 15.14.10** For any building that contains multiple dwelling units, no more than 5% of the dwelling units or two dwelling units, whichever is greater, may be operated as a vacation rental in any single building. Permits shall be issued on a first-come, first-served basis based on the initial application date, and thereafter may be renewed. If a permit lapses before renewal, a renewal application shall be treated like an initial application for purposes of this paragraph.
- 15.14.11** Vacation rental operators shall comply with all applicable State and local laws, including those relating to fire and building codes, smoke detecting and carbon monoxide detecting equipment, and housing codes.
- 15.14.12** Vacation rental operators are responsible for and must ensure that any and all occupancy taxes and other applicable taxes due under law as a result of their rental activities are remitted to the proper tax authorities, whether through their online platform service or by personally remitting the required taxes. The town shall require evidence of payment of such taxes as part of the application and permitting process, and may also conduct audits of vacation rental permittees, as it sees fit in its sole discretion, in order to ensure payment of all such applicable taxes.
- 15.14.13** The rental operator or the operator's employee, management company, or other agent must be available to respond to complaints by renters or neighbors and to emergencies within two (2) hours at all times that a rental is occupied. A method will be provided for concerned citizens to make complaints or report emergency situations.

- 15.14.14** If the primary structure on a property qualifies for vacation rental use, a lawful accessory dwelling structure on the same property also may be used for vacation rental. The operators of such a vacation rental may, at any given time, offer for short-term rental either the single-family dwelling unit or the accessory apartment, or both units. The simultaneous rental of both the single-family dwelling unit and the accessory apartment to more than one party under separate contracts is prohibited. The units may, however, be rented out together to one party under a single contract.
- 15.14.15** Vacation rental operators must carry insurance that covers the rental use and renters.
- 15.14.16** Vacation rental permits are not transferrable. Every person wishing to operate a vacation rental must apply for and obtain the required permit prior to beginning operation of the rental.
- 15.14.17** **Revocation of Permit.** The Administrator shall revoke a vacation rental permit following a written determination that an operator of the facility has been:
- A. Convicted of violating any of the following criminal laws on the short-term rental premises within the prior three-year period: Article 10 (*kidnapping*), Article 10A (*human trafficking*), or Article 27 (*prostitution*) of Chapter 14 of the North Carolina General Statutes;
  - B. Convicted of committing a violent felony as defined at N.C. Gen. Stat. §14-7.7 on the short-term rental premises within the prior three-year period.
  - C. Convicted of violating any of the following criminal laws on the rental premises within the prior 365-day period:
    - 1. Article 3 of Chapter 18B of the North Carolina General Statutes (*sale, possession and consumption of alcohol*)
    - 2. N.C. Gen. Stat. §14-71.1 (possession of stolen goods)
    - 3. N.C. Gen. Stat. §14-292 (unlawful gambling)
  - A. Received within a 365-day period two or more “Verified Violations” of any combination of the following, occurring on the short-term rental premises:
    - 1. Any Town Code zoning regulation.
    - 2. Any noise regulation set forth at Town Code Chapter 82.
    - 3. Any nuisance prohibited by Town Code Chapter 80.
- A Verified Violation means a determination made by a code enforcement official, law enforcement officer, or judge, following notice of violation being issued by the Town Code and opportunity to respond to the noticed alleged offenses and an order or other mandate issued to the owner or any other person imposing a sanction or requiring further actions to comply with the Town Code, including, without any limitation, the

payment of civil penalties or administrative fees, or implementation of corrective measures, or cessation of activities, or conviction of a criminal offense. A verified violation that is appealed continues as a verified violation unless it is overturned on appeal. If the violation is reinstated on a further appeal, it resumes its status as a verified violation.

- B. Once lawfully revoked, a new permit for a short-term rental cannot be issued or re-instated for the premise for a period of 365 days, except that in case of revocation under (A) or (B) above a new permit cannot be issued or re-instated for the premise for three years unless the person convicted of the criminal violation is no longer a resident, manager or operator of the short-term rental.

**15.14.17 Compliance period; existing nonconformities**

- A. The owner of any un-permitted vacation rental in operation as of June 30, 2022 must apply for a permit as required in this section 15.14 on or before December 31, 2022 and must come into compliance with this section by June 30, 2023.
- B. Any existing, un-permitted vacation rental not conforming under this section 15.14 must be brought into compliance with this ordinance or cease operation by June 30, 2023.
- C. Any person seeking to begin operation of a vacation rental after June 30, 2022 must first apply for and obtain a vacation rental permit as required under this section 15.14.