



Town of Jamestown  
Planning Board

*Welcome to the Town of Jamestown Planning Board meeting. We appreciate your interest and we encourage public participation in our meeting. Your comments are important to our decision making process. Please note that there will be opportunities during the meeting for you to address the Board members. The first opportunity will come if there is a public hearing on the agenda, when the Chairman declares the hearing open for comment. The second opportunity to address the Board will come near the end of the agenda with the Chairman will inquire if anyone wishes to address the members of the Board. Anyone addressing the Board will approach the podium; give your first and last name and your complete physical address. Comments may be limited to three minutes.*

TO: Planning Board Members

FROM: Matthew Johnson, AICP; Director of Planning

RE: **Regular Meeting**  
**Monday, April 9, 2018 – 6:30 PM**  
**Jamestown Town Hall, Council Chambers**

Items on the agenda:

1. Call to Order – Matthew Johnson, Director of Planning
2. Roll Call – Matthew Johnson, Director of Planning
3. Organizational Meeting – Matthew Johnson, Director of Planning
  - a. Election of Chair – Matthew Johnson, Director of Planning
  - b. Election of Vice-Chair – Chair of the Planning Board
  - c. Introduction of Rebecca Mann Rayborn, Council Liaison
  - d. Introduction of Planning Board member Russ Walker who will fill the unexpired term of John Capes (Expiration 8/2020).
  - e. Introduction of Planning Board alternate, Lawrence Straughn.
4. Approval of minutes from October 9, 2017, meeting –Chair of the Planning Board
5. **Public Hearings:**  
*Procedure: Staff will present the case to the Board, followed by commentary from the applicant. The Chair will open the public hearing and request to hear from both those in favor and those opposed. If you wish to address the Board during the public hearing, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you at this time, even if direct questions are asked. **Once the public hearing is closed, no one may speak on the issue unless specifically requested by the Board Chair.***

**A. Master Sign Plan – Jamestown Presbyterian Church – 1804 Guilford College Rd. – Tax Parcel # 0158762 – request for master signage plan per Article 17; Sec. 17.10 of the Land Development Ordinance.**

6. Discussion of short-term rentals – Matthew Johnson, Director of Planning

7. Public Comment Period:

*Procedure: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting. Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.*

8. Other business

9. Adjourn

10. Next regularly scheduled meeting will be May 14, 2018, at 6:30pm in the Council Chambers.

**WORKING AGENDA**

*Items on the agenda:*

1. **CALL TO ORDER**

- i. **Welcome to the April 9, 2018, regularly scheduled Planning Board meeting.** In order to allow for all attendees to be able to hear Board business, I would ask that at this time, members of the board and the audience please set your cell phones to “SILENT”. As a reminder, public comments are welcome during public hearings and during the “PUBLIC COMMENT” portion of the agenda. Speakers during that portion of the meeting will be limited to 3 minutes per speaker.

2. **ROLL CALL**

	<b>Present</b>	<b>Absent</b>
Art Wise	<input type="checkbox"/>	<input type="checkbox"/>
Sarah Glanville	<input type="checkbox"/>	<input type="checkbox"/>
Eddie Oakley	<input type="checkbox"/>	<input type="checkbox"/>
Ed Stafford	<input type="checkbox"/>	<input type="checkbox"/>
Russ Walker	<input type="checkbox"/>	<input type="checkbox"/>
Richard Newbill, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Steve Monroe, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Robert Lichauer, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Sherrie Richmond, ETJ	<input type="checkbox"/>	<input type="checkbox"/>
Rebecca Rayborn, Council Rep.	<input type="checkbox"/>	<input type="checkbox"/>

3. **Organizational Meeting – Matthew Johnson, Director of Planning**

- a. **Election of Chair – Matthew Johnson, Director of Planning**
- b. **Election of Vice-Chair – Chair of the Planning Board**
- c. **Introduction of Rebecca Mann Rayborn, Council Liaison**
- d. **Introduction of Planning Board member Russ Walker who will fill the unexpired term of John Capes (Expiration 8/2020).**
- e. **Introduction of Planning Board alternate, Lawrence Straughn.**

4. **Approval of Minutes: October 9, 2017, regular meeting – Chair of the Planning Board**

- a. **Request from Staff: Staff requests approval of minutes from October 9, 2017, regular meeting as presented.**
  - i. **Motion:**
  - ii. **Second:**

iii. VOTE:

5. Public Hearings

- A. Master Sign Plan – Jamestown Presbyterian Church – 1804 Guilford College Rd. – Tax Parcel # 0158762 – request for master signage plan per Article 17; Sec. 17.10 of the Land Development Ordinance.
- a. Board Chair will \*OPEN\* the public hearing and ask the staff to present the case.
  - b. Staff will present the case
  - c. Board Chair will ask if the applicant wishes to address the Board.
  - d. Board Chair will ask if there is anyone who wishes to speak in favor of the request.
  - e. Board Chair will ask if there is anyone who wishes to speak in opposition to the request.
  - f. Board Chair will then \*CLOSE\* the public hearing.
  - g. Board Chair will ask the Board members for any further discussion. Once discussion is concluded, the Chair will entertain a motion on the item for recommendation to the Town Council.
  - h. **Request from Staff: Staff requests Planning Board recommend approval to the Town Council as presented.**
    - i. Motion:
    - ii. Second:
    - iii. VOTE:

6. Discussion of short-term rentals – Matthew Johnson, Director of Planning

- a. *Reminder from Board Chair to audience: This will be a discussion between the staff and the Planning Board. Since this is not a public hearing, the audience may not participate. However, a public comment portion of the meeting will follow and the public may speak during that time. The purpose of this discussion is for the Planning Board to provide direction to the staff and a recommendation on how to move forward to the Town Council. Any ordinance changes in the future would, of course, require public hearings before both the Planning Board and the Town Council.*
- b. **Request from Staff: Staff requests Planning Board make a recommendation on how they wish to proceed with this issue. That recommendation will be reported to the Town Council at their March 20, 2018, regular meeting.**

7. Public Comment

- a. *Reminder from Board Chair to audience: The Board Chair will ask the Town Clerk if anyone has signed up to speak to the Board. It is advisable that if you wish to address the Board that you see the Town Clerk prior to the start of the meeting. Once you have been recognized by the Chair, please come to the podium and state your name and address for the record. Speakers may have up to 3 minutes to address the Board. Please note, this is not a time for dialogue or discussion and the Board may or may not engage with you, even if direct questions are asked.*

8. Other business

9. Adjourn

- a. **Motion to adjourn:**
- b. **Second:**
- c. **VOTE:**

10. Next regularly scheduled meeting will be May 14, 2018, at 6:30pm in the Council Chambers.

## TOWN OF JAMESTOWN PLANNING BOARD

### Rules of Procedures

#### I. Applicability

##### Rule 1. Applicability of Rules

These rules apply to all meetings of the Planning Board of the Town of Jamestown at which the Board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

#### II. Open Meetings

##### Rule 2. Meetings to Be Open

(a) It is the public policy of North Carolina and of the Town of Jamestown that the hearings, deliberations, and actions of this Board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Town of Jamestown Planning Board shall be open to the public and any person is entitled to attend such a meeting.

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the Board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of Board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the Board.

### **III. Organization of the Board**

#### **Rule 3. Organizational Meeting**

The Board shall hold an organizational meeting at its regular meeting place at 6:30pm on the second Monday in January. Staff shall call the meeting to order and shall preside until a Chair is elected. If they have not already been sworn and inducted into office, the newly appointed members of the Board shall take and subscribe the oath of office as the first order of business. As the second order, the Board shall elect a Chair and Vice-Chair from among its members.

The Board shall be comprised of five regular members and four extraterritorial (ETJ) members. The five regular members shall reside within the Town limits and shall be appointed by the Town Council. ETJ members shall reside in the Town's extraterritorial area and shall be appointed by the Guilford County Board of County Commissioners after a favorable recommendation by the Town Council of the Town of Jamestown. The ETJ representatives shall deliberate and vote on those matters affecting policy and land in the extraterritorial jurisdiction.

Members of the Board shall serve a term of five (5) years, provided that upon initial appointment the terms of office may be staggered. The terms of all Board members shall not expire at the same time. Members may be reappointed to a second term, but shall not be reappointed for more than two (2) consecutive terms. Members who have served two (2) consecutive terms may be appointed to another term after a one term (5 year) hiatus from the Board. Members may serve as 'alternates' during the hiatus period if so appointed by the Town Council.

Vacancies to the Board may be filled by a new or alternate member. Members filling a vacancy shall serve for the remainder of the unexpired term. At the end of that term, a member appointed to a vacancy shall be eligible for a full 2-term service period if appointed to serve by the Town Council.

#### **Rule 4. Election of the Chair**

The Chair of the Board shall be elected annually for a term of one year and shall be eligible to be elected to serve successive terms. The Chair of the Board shall not serve greater than five (5) consecutive terms.

In absence of the Chair, the Vice-Chair shall perform all duties assigned to the Chair. The Vice-Chair shall be elected in the same manner and serve the same terms as the Chair of the Board.

## IV. Regular and Special Meetings

### Rule 5. Regular and Special Meetings

**(a) Regular Meetings.** The Board shall hold a regular meeting on the second Monday of each month at 6:30pm. If a regular meeting day is a holiday on which Town offices are closed, the Board shall decide upon an alternate meeting date by a motion prior to adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Town Hall, Council Chambers, 301 East Main Street in Jamestown. The Board may change the place or time of a particular regular meeting or all regular meetings within a specified time period by resolution adopted, posted, and noticed no less than ten days before the change takes effect. Such a resolution shall be filed with the Town Clerk and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the Board.

**(b) Special Meetings.** The Chair, or Vice-Chair acting in absence of Chair, may at any time call a special meeting of the Board provided that a minimum of forty-eight (48) hours notice is given to all members. Staff shall cause the notice to be posted on the bulletin board of the Town Hall. In addition, the notice shall be delivered to individual persons and news media organizations that have requested such notice as provided in subsection (c), below. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed a written waiver.

**(c) Sunshine List.** Any individual person and any newspaper, wire service, radio station, and television station may file with the Town Clerk a written request for notice of all special meetings of the Board. Requests by individuals must be renewed on or before the last day of each calendar year and are subject to a \$10.00 nonrefundable annual fee.

**(d) Work Sessions and Committee Meetings.** The Board may schedule work sessions, committee meetings, or other informal meetings of the Board or a majority of the members of the Board at such times and with respect to such subject matter as may be established by resolution or order of the Board. A schedule of any such meetings that are held on a regular basis shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held on a regular schedule are subject to the same notice requirements as special Board meetings.



**Rule 6. Broadcasting and Recording Meetings**

(a) Except as provided in this rule, any radio or television station is entitled to broadcast all or any part of an official meeting of the Board that is required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official meeting of the Board shall so notify the Planning Director no later than twenty-four hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room, the Planning Director may require the news media either to pool equipment and personnel or to secure and pay the costs of an alternative meeting site that is mutually agreeable to the Board and the media representatives.

**V. Agenda****Rule 7. Agenda**

(a) Staff shall prepare the agenda for each regular and special meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least 2 weeks (10 working days) before the meeting. Any Board member may request an item be placed on the agenda.

(b) Due to requirements of various ordinances, deadlines to be added to the agenda may be increased.

(c) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be made available to each member of the Board at least one week (7 working days) before the meeting by any method chosen by each Planning Board Member. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each Board member or left at his or her usual dwelling.

**Rule 8. Informal Public Comments**

Staff shall include on the agenda of each regular meeting a period of at least thirty minutes for comments or questions from members of the public in attendance. The Chair will first recognize individuals or groups who have made a

prior appointment to be heard, and then may recognize others, subject to available time. The Chair may specify the time allotted to each speaker. After the time set aside for informal public comments has expired, the Chair will recognize further speakers only upon motion duly made and adopted.

### **Rule 9. Order of Business**

Staff has the discretion to set the agendas before each meeting.

Without objection from the Board, the Chair may call items in any order most convenient for the dispatch of business.

## **VI. Conduct of Debate**

### **Rule 10. Powers of the Chair**

The Chair shall preside at all meetings of the Board. A member must be recognized by the Chair in order to address the Board. The Chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a recess at any time;
4. To adjourn in an emergency.

### **Rule 11. Action by the Board**

The Board shall proceed by motion. Any member, including the Chair, may make a motion.

### **Rule 12. Second Required**

A motion shall require a second

**Rule 13. One Motion at a Time**

A member may make only one motion at a time

**Rule 14. Substantive Motion**

A substantive motion is out of order while another substantive motion is pending.

**Rule 15. Adoption by Majority Vote**

A motion shall be adopted if approved by a majority of the votes cast, a quorum being present, unless these rules or the laws of North Carolina require an extraordinary majority.

**Rule 16. Debate**

The Chair shall state the motion and then open the floor for open debate

**Rule 17. Renewal of Motion**

A defeated motion may not be renewed at the same meeting.

**Rule 18. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before the Chair puts the motion to a vote.

**Rule 19. Duty to Vote**

It is the duty of each member to vote unless excused by a majority vote according to law. The Board may excuse members from voting on matters involving their own financial interest or official conduct. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative. An excused absence shall not be counted in the vote. An unexcused absence will be recorded as voting in the affirmative.

The Chair shall not be required to vote, except in the case of a tie.

**Rule 20. Faithful Attendance**

Faithful attendance at Planning Board Meetings shall be a prerequisite to continued membership on the board. A member may miss up to 25% of the regular and special meetings or up to three (3) consecutive regular meetings per year with good cause: i.e. job requirements or personal emergency. Once a person misses more than 25% of the regular and special meetings or more than three (3) consecutive regular meetings without good cause in one year, the board should recommend dismissal of the person from the board to the Town Council. ETJ members are "called" when necessary and, as such, their attendance shall only be considered when "called".

**Rule 21. Conflict of Interest**

At the beginning of consideration of a matter before the Planning Board, any member who has an interest, whether direct or indirect shall notify the Planning Board forthwith of said interest. The chairman shall excuse said member from further participation in the matter. A members' withdrawal from participation shall not be interpreted as voting on the matter

**Rule 22. Prohibition of Secret Voting**

No vote may be taken by secret ballot. If the Board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, at which time they may be destroyed.

**Rule 23. Action by Reference**

The Board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

**Rule 24. Recommendations for Adoption, Amendment, or Repeal of Land Use Ordinances**

Recommendations for adoption, amendment, or repeal of ordinances may be made per request of the Town Council or by Planning Board initiative.

**(a) Request by Town Council****Zoning Ordinances and Land Development Ordinance**

The Town of Jamestown Town Council members shall refer all proposed amendments to the Planning Board for review. The Planning Board shall submit its recommendation in writing to the Town Council following the procedures set forth in the Land Development Ordinance. A majority vote is necessary for any recommendation to be sent to the Town Council. The Town Council is not bound by the recommendations, if any, of the Planning Board. Special exceptions may apply, whereby the Town Council may appoint a special committee to review planning related materials which reports directly to the Council. In the event Council appoints such a committee, the Planning Board shall be represented by on said committee by at least one member.

**Other Land Use Ordinances**

The Town of Jamestown Town Council members, at their discretion, may refer proposed amendments to the Planning Board for review. A majority vote is necessary for any recommendation to be sent to the Town Council. The Town Council is not bound by the recommendation, if any, of the Planning Board.

**(b) Recommendations Initiated By Planning Board**

Any member of the Planning Board may initiate discussions concerning the adoption, amendment or repeal of any Land Use ordinance. A majority vote is necessary for any recommendation to be sent to the Town Council.

**Rule 25. Quorum**

A majority of the Board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members present, he or she shall be counted as present for the purposes of determining whether a quorum is present.

**Rule 26. Public Hearings**

The Chair or staff has the authority to call public hearings. Public hearings required by law or deemed advisable by the Board shall be discussed setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. Staff shall advertise for the public hearings with proper legal notice. At the appointed time, the Chair shall call the hearing to order and preside over it. When the allotted time expires, the Chair

shall declare the hearing ended and the Board shall resume the regular order of business.

The Chair shall follow the approved methods for conducting a public hearing or other presentations to the Board. Generally, this is as follows:

- a. Staff Report
- b. Presentation of Business before Board by applicant (20 min. maximum)
- c. Speakers from the floor in favor of business before Board (15 min. maximum for all speakers).
- d. Speakers from the floor in opposition of business before Board (15 min. maximum for all speakers).
- e. Rebuttal Period for those presenting business before Board (10 min. maximum to respond).
- f. Closing of Public Comment period.
- g. Discussion among members of Board.
  - i. May request further information from applicant/speaker as necessary (for clarity).
  - ii. May request further information from staff as necessary.
  - iii. May request continuation of meeting to allow staff and/or applicant to address concerns.
- h. Call to vote on business before Board.

### **Rule 27. Quorum at Public Hearings**

A quorum of the Board shall be required at all public hearings required by law.

### **Rule 28. Minutes**

Minutes shall be kept of all Board meetings.

### **Rule 29. Reference to *Robert's Rules of Order***

To the extent not provided for in, and not conflicting with the spirit of, these rules, the Chair shall refer to *Robert's Rules of Order* to resolve procedural questions.

**Rule 30. Reference to *Suggested Rules of Procedure for Small Local Government Boards*.** Second Edition. Bell, A. Fleming, II. Institute of Government. University of North Carolina at Chapel Hill.

Planning Board Meeting  
10-9-17  
Council Chambers  
6:30 pm  
Minutes & General Account

**Planning Board Members Present:** Art Wise, Chair; Sarah Glanville, Vice Chair; Eddie Oakley, Ed Stafford, John Capes, Robert Lichauer (ETJ), and Sherrie Richmond (ETJ)

**Planning Board Members Absent:** Richard Newbill (ETJ) and Steve Monroe (ETJ)

**Town Council Representative:** Lynn Montgomery

**Staff Present:** Matthew Johnson & Katie McBride

**Visitors Present:** Marty Jones, Connie Dearman, Dennis Rodgers, Sandra Rodgers, Ronnie Hancock, Rebecca Mann Rayborn, Martha Wolfe, & Carol Brooks.

1. **Call to Order-** Art Wise, Chair, called the meeting to order
2. **Roll Call-** Matthew Johnson, Planning Director, took roll call as follows:

Art Wise- Present  
Sarah Glanville- Present  
Eddie Oakley- Present  
Ed Stafford- Present  
John Capes- Present  
Richard Newbill- Absent  
Steve Monroe- Absent  
Robert Lichauer- Present  
Sherrie Richmond- Present  
Lynn Montgomery- Present

3. **Approval of minutes from the August 14, 2017 meeting-** Lichauer made a motion to approve the minutes from the August 14, 2017 meeting. Stafford made a second to the motion. The motion passed by unanimous vote.
4. **Discussion of short-term rental complaint issue-** Johnson presented background information on the issue. A citizen had complained that their neighbor was violating a zoning ordinance by renting their house on Airbnb. He stated that Airbnb and a few other websites allowed owners to post their homes online and rent them out for short-term stays. He noted that these stays could include a portion of a room, entire room, or even the entire home for a short-term period. He said that it was similar to a Bed and Breakfast, but it did not include the breakfast aspect. The Town of Jamestown currently has an ordinance that regulates the uses of Bed and Breakfasts. However, it cannot be applied to short-term stays in the same manner because it clearly defines a Bed and Breakfast as a business that provides meals at no cost to a person's stay.

He noted that the citizen that had made the complaint was in attendance and would like to present his recommendation for the restriction of short-term stays in residential areas. The owner of the house that had been utilizing Airbnb to rent his home was also at the meeting. Each party would have fifteen minutes to address the Board and present their opinions on the subject.

Johnson also stated that the issue had come up in other municipalities. He gave an overview of the opponents and proponents of the issue. He also reminded the Board that restrictions on short-term rentals would likely impact citizens that rent their homes to those attending the Furniture Market in High Point. Johnson stated that any restrictions on short-term stays would be difficult to enforce and would probably be complaint driven. He requested that the Planning Board provide direction to staff on the matter and asked if they had any questions.

Capes asked what the existing guidelines were. Johnson stated that the Town did not have any regulations on the issue.

Richmond asked if they could have information on what other municipalities were doing in order to address the issue. Johnson said that towns and cities were dealing with short-term stays in a variety of ways. The amount of restriction was unique to each community.

There was discussion between Members and Johnson about the options they had to address the issue. Johnson gave them a number of ideas, but reminded them that they could not restrict who could occupy a structure in a residential area.

Planning Board Members also spoke with Johnson about how the short-term stays relate to occupancy taxes. There was also concern expressed about how any restriction could adversely impact those renting their homes for the Furniture Market.

Wise asked the representative of those opposed to the short-term stays to come forward. He asked that the representative give his name and address and adhere to the fifteen minute time limit.

**Ronnie Hancock, 605 Havershire Dr.** - Hancock distributed an agenda he created for his presentation to the Planning Board Members. He thanked the Planning Board for allowing him to speak against the short-term stays. He stated that he has lived at 605 Havershire Drive for thirty-four years and has loved it there until recently. He said that he had brought a petition that had been signed by 28 people in his neighborhood that were against short-term stays in residential areas.

He also referenced an article he found that argued that Airbnbs violate zoning laws. He highlighted the importance of adhering to zoning laws and possible repercussions of ignoring them. Hancock was concerned that having Airbnbs in residential areas would bring problems typically related to commercial areas into neighborhoods (crime, traffic, etc.). He also noted that there was no ordinance that allowed this type of use in a residential area within the Town. Hancock was concerned about the safety of his neighborhood and what could result from non-residents renting the neighboring property. He gave examples of horror stories that had resulted from Airbnb rentals. Hancock also believed that allowing short-term rentals within the



neighborhood would decrease the property value of surrounding homes. He thanked the Board for their time and asked if they had any questions.

There was brief discussion between Board Members and Hancock about the distinction between Airbnb and the people that rent their homes during the Furniture Market.

Board Members also asked Johnson for more details about how short-term rentals were defined.

Wise asked the representative that was in favor of short-term stays to come forward. He asked that the representative give his name and address and adhere to the fifteen minute time limit.

**Marty Jones, 608 Havershire Dr.** - Jones stated that when he first learned about the complaint that he was shocked. He noted that renting his property on Airbnb was legal and he did not feel like he and his family were doing anything wrong. Jones said that when he originally bought the home that he wanted to make it his family's primary residence. However, their family grew and they needed more space. The family bought a larger house, but did not want to sell their former home because they loved it.

Jones said that they do not only rent the house to Airbnb guests, but they also allow family members to use it when they are in Town. He stated that he has a large extended family that comes to visit often. He noted that his neighbors could not possibly be able to distinguish who was an Airbnb guest or his own family member.

Jones also stated that they rent their house to those attending the Furniture Market, PGA Tour players, families visiting their children at college, and people that are trying to relocate to the area. Jones does not believe that traffic has become a problem because his large family was coming and going constantly when the home was their primary residence. He stated that using Airbnb may be strange to those from older generations, but younger people frequently and openly utilize these services. Jones added that there has already been a precedent set for allowing short-term stays as a result of the region's long history with the Furniture Market in High Point. Jones stated that he did not believe that the need for regulation existed. He also said that he planned on renting the property for long-term periods if new regulations were put into place. Jones stated that he would abide by any decision that the Board made, but he hoped they recognized the legitimacy of renting homes for short-term stays. He thanked the Board for their time.

Wise stated that he felt the discussion had raised several questions amongst Board Members. Johnson said that the Board did not need to make a decision at the moment if they needed time to gain additional information. There was some discussion about inviting an expert on Furniture Market rentals to a meeting or holding a joint session between the Town Council and the Planning Board. Members expressed interest in postponing a decision in order to gain more information.

Wise thanked the representatives of both sides for being prepared and presenting their opinions thoughtfully.

5. **Public Comment-** Nobody signed up.

6. **Other Business-** There was a brief discussion between Board Members and Johnson about ongoing sidewalk projects
7. **Adjournment-** Capes made a motion to adjourn. Glanville made a second to the motion. The motion passed by unanimous vote.

The meeting ended at 7:43 pm



# SIGN PERMIT

Applicant/Installer: Jamestown Pres Church **SIGN TYPE**  
 Property Address: 1804 Guilford college Rd.  Permanent Sign  
 Phone Number: 336.454-1311  Temporary Banner Sign  
 Date Erected: \_\_\_\_\_ To be Removed: \_\_\_\_\_  Sandwich Board Sign

PROPOSED SIGNS - see attached

Type	Location	Size	Materials	Fee
TOTAL \$				

**SIGN LETTERING/PURPOSE:** (i.e.- What will sign "say"?) - Attach Plans or Sketch of Sign & Proposed Location on Property

see attached

Notes: NO electricity

By signing this application, I acknowledge I have read and understand the conditions that will allow placement of a sign in the approved districts in Jamestown. Any change to the board or sign from the attached sketch will be cause for the Town of Jamestown to have the sign removed. Also, the persons erecting a sign shall indemnify and hold harmless the Town and its officers, agents, employees from any claim arising from the presence or placement of the sign on Town property or right(s)-of-way.

APPLICANT Jean B Aydelotte DATE 1/24/18

NOT VALID UNLESS VALIDATED AND APPROVED RECEIPT # \_\_\_\_\_

- Permit Approved by \_\_\_\_\_ Date: \_\_\_\_\_
- Permit Denied
- Development Clearance Certificate Issued Fee: \_\_\_\_\_ Receipt # \_\_\_\_\_

Please note that it is the applicant's responsibility to contact and apply for any building or electrical permits from the Guilford County Building Inspection Department before sign installation. Please call (336) 454-1138 for more information.

<b>Office Use Only:</b>	
Zoning: _____	Tax PIN #: _____
Number of times applied this year: _____	
Type of Group (Religious/Civic, Business, etc.) _____	
Sketch/Plans Attached: _____ Y _____ N	

**B**

**ENROLL NOW**

6x18



JPCPreschool.com

**Jamestown  
Presbyterian  
Preschool**

24x18

***Ages 2 - PreK***

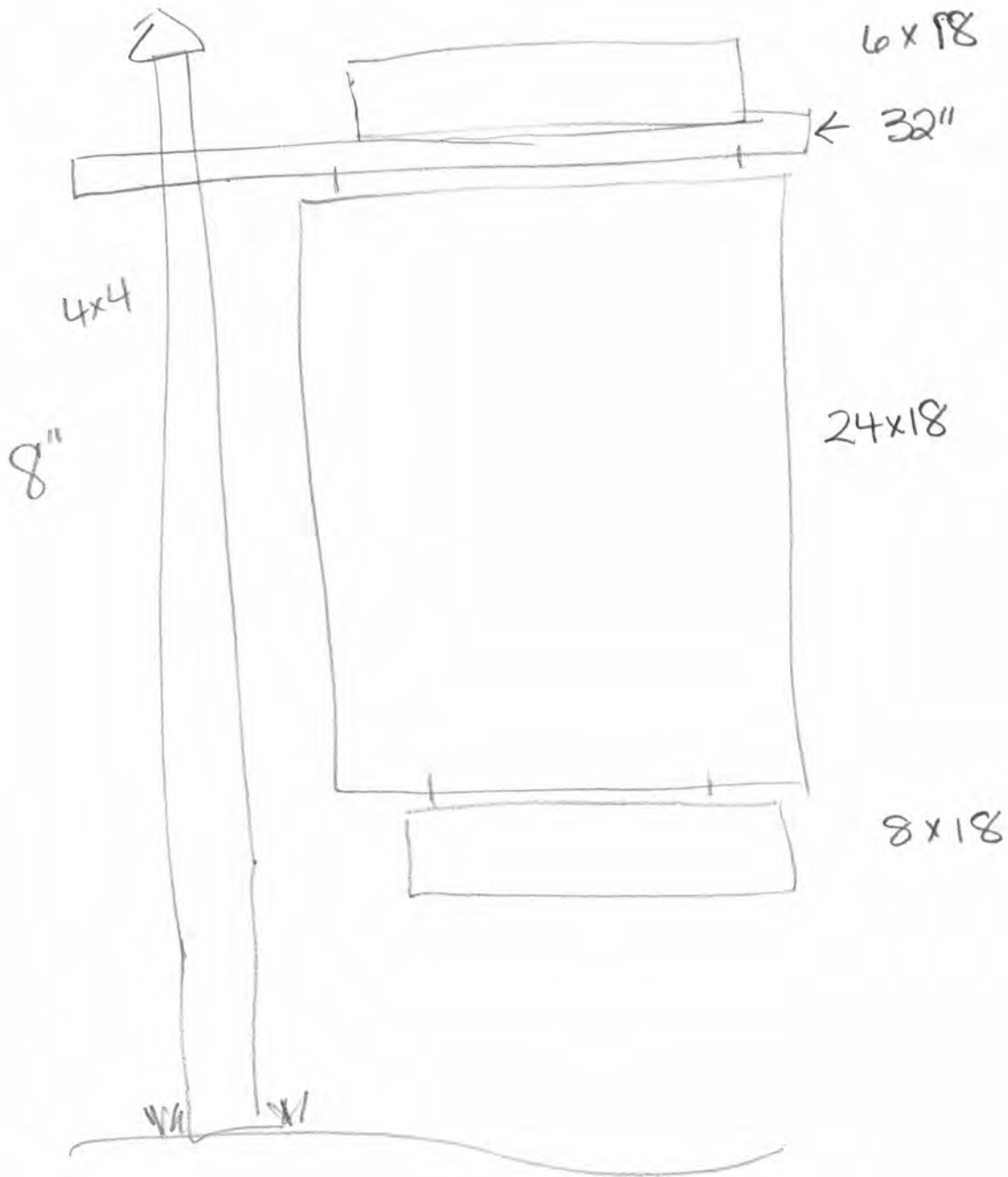
**336-454-1311**

**Afterschool Program**

***K - 5th Grade***

8x18

**336-454-3718**





**FASTSIGNS High Point**

1305 N. Main St.  
High Point, NC 27262  
ph: (336) 887-2923  
fax: (336) 887-2921  
Email: 250@fastsigns.com

**Estimate**

**250 48164**

Estimate Date: 11/9/2017 10:22:34AM

Printed: 11/9/2017 10:57:08AM

Salesperson: 250@fastsigns.com

Customer: **Jamestown Presbyterian Preschool** ph: (336) 339-2582  
Contact: Joan Aydelette Customer: 16287  
Description: Single Arm Preschool sign with top and bottom riders: NO INSTALL AT THIS TIME  
Sales Person: Amy Wright  
Clerk: Amy Wright email: jpcpreschool@gmail.com

Dear Joan:

We appreciate the opportunity to continue working with you in selecting the best options to meet your needs, reduce your costs, and insure the sign or graphic is the best value for your application.  
Every sign we sell is 100% SATISFACTION GUARANTEED to be made the way you ordered it, on time. Estimates are valid for 30 days

Please note: colors viewed on screens/monitors do not always match the colors that are actually printed/cut. In order to achieve the color closest to your artwork, we would need to have a PMS (pantone matching system) color provided or you would need to come in and pick out a color from our stock colors. If the color needs to be an exact match to the PMS color, there may be additional fees.

We appreciate your order and are happy to assist you with your projects. Unless your company has existing agreements with our store please contact us to make payment arrangements so that we may proceed with your order.

If we can be of further assistance, please contact us at 887-2923.

Sincerely,

Amy Wright  
Customer Service

	Product	Qty	Sides	H x W	Unit Cost	Install	Totals
1	Post & Panel Signage <b>Description:</b> 4"x72" single post with 4" gothic cap and anchor. 32" arm/hanging space Includes rider clips and .040 24x18" blank (will be using blank in place of rider) <b>Color:</b> White	1	1	1 x 1	\$135.00	\$0.00	\$135.00
2	MDO .50 (1/2") <b>Description:</b> 1/2" MDO painted with printed vinyl applied to both sides with a lustre laminate for protection from elements and fading. trimmed with outdoor trimcap to extend longevity of material. <b>Color:</b> logo/black? on White, customer's choice <b>Text:</b> LOGO  Jamestown Presbyterian Preschool Ages 2-PreK 336-454-1311	1	2	24 x 18	\$102.80	\$0.00	\$102.80
3	MDO .50 (1/2")	1	2	8 x 18	\$32.20	\$0.00	\$32.20



More than fast. More than signs.

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	Product	Qty	Sides	H x W	Unit Cost	Install	Totals
<b>Description:</b> 1/2" MDO painted with printed vinyl applied to both sides with a lustre laminate for protection from elements and fading. trimmed with outdoor trimcap to extend longevity of material. <b>Color:</b> TO BE DETERMINED on White, customer's choice <b>Text:</b> Afterschool Program K-5th Grade 336-454-3718							
4	Applied Vinyl Graphics-Letters	2	1	6 x 18	\$12.60	\$0.00	\$25.20
<b>Description:</b> Cut vinyl graphics applied to provided .040 aluminum substraight for top rider <b>Color:</b> to be determined on cut vinyl, customer's choice <b>Text:</b> ENROLL NOW							
5	8ft. 4x4 Wooden Post	1	1	96 x 4	\$15.90	\$0.00	\$15.90
<b>Description:</b> 4x4 Wooden Post 8 ft. tall.							

**Notes:**

Proofs will be received in 24-48 hours once order is placed. Signage will be made in 24-48 hours after approval by customer.

Premium Vinyl is estimated to last 5-7 years against fading, cracking, peeling, etc.

PLEASE NOTE: This is an estimated price. Factors out of our control or changes made by the customer may affect the price. Examples of these are: quantity, color change, size change, logo changes, art & design time, shipping costs, installation, etc. Thank you.

Fastsigns is not responsible for attaining permits or knowing what sign limitations are placed on your location. Please contact the city sign department in regards to this.

Thank you for your business and we appreciate having you as our customer! Please come again soon!

Line Item Total:	<b>\$311.10</b>
Subtotal:	<b>\$311.10</b>
Taxes:	<b>\$21.00</b>
Total:	<b>\$332.10</b>

**Bill To:** Jamestown Presbyterian Preschool  
Joan Aydelette  
1804 Guliford College Rd  
Jamestown, NC 27282

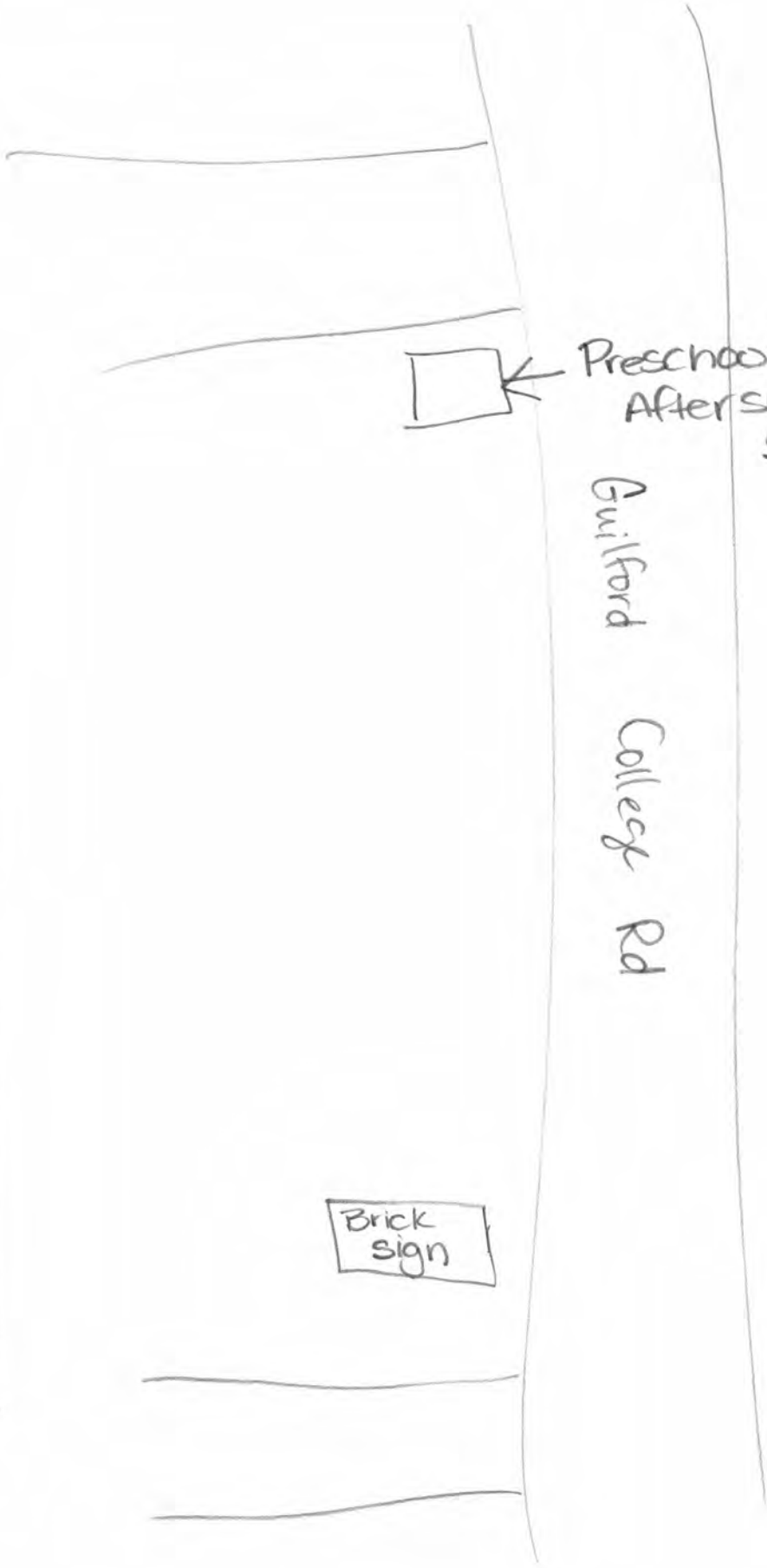
We appreciate full payment upon order placement. When order is completed, customer will be informed. Items can be picked up after 4PM.

**Received/Accepted By:**

/ /



JRC



Preschool  
After school  
Sign

Guilford

College Rd

Brick  
sign



**Town of Jamestown Planning Board  
Master Signage Plan  
Staff Report  
March 12, 2018**

*The information provided in this staff report has been included for the purpose of reviewing a proposed master signage plan.. Since the review process does not require a site plan, there may be additional requirements placed on the property through the Plan Review process to address development regulations.*

**Item: MSP 2018-01**

**Location:** 1804 Guilford College Rd. Jamestown, NC 27282

**Applicant:** Jamestown Presbyterian Church of Jamestown NC (same address)

**Owner:** same as applicant

**Reason for Request:**

- 1) Master Signage Plan requested for JPC property.

**APPLICANT STATED REASONS FOR REQUEST**

**Explain in detail why the change is needed and a justification for such a change:**

The Jamestown Presbyterian Church (JPC) operates a preschool and various after-school programs at the location of their church. The church wishes to identify the preschool and afterschool program location with an additional sign on the premises. The ordinance only permits one free-standing sign per road frontage. However, this site meets the requirements for a "Master Sign Plan" which would allow the church to define its sign needs separate from the ordinance.

**STAFF COMMENTS**

**Planning:**

In late 2008, the Town of Jamestown revised its sign ordinance to allow for deviations to the strict letter of the ordinance to permit creativity in sign design and placement and to address site issues and constraints associated with topography, pedestrian-orientation, way-finding, and other conditions unique to the subject development or area of Town. To deviate from the strict letter of the law, a master signage plan may be submitted to the Town Council provided that the site meets at least one of the following criteria:

- 1) Urban Village Projects
- 2) Commercial, Industrial, Institutional or mixed use developments containing 3 or more acres in area.
- 3) Areas of Town governed by a corridor plan or area plan that includes sign guidelines.

In reviewing the proposed master sign plan, the Planning Board and Town Council shall take the following matters into consideration.

- 1) The extent to which the proposed master sign plan deviates from the sign allowances otherwise applicable in this Article.
- 2) The rationale provided by the applicant for the deviations.
- 3) The extent to which the master sign plan promotes Town goals associated with community character, way-finding, pedestrian-orientation, and business identification.
- 4) The degree to which the master sign plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.

The Planning Board shall provide a recommendation to the Town Council whether to deny or approve the proposed master sign plan in part or in total and shall further recommend conditions regarding approval where deemed warranted.

The Town Council may deny or approve the proposed master sign plan in part or in total and may establish conditions regarding approval. In the event that the master sign plan is denied, the applicant must wait at least 365 days before reapplying for a new master sign plan substantially similar (as defined above) to the proposed master sign plan.



## NOTICE OF PUBLIC HEARING Planning Board

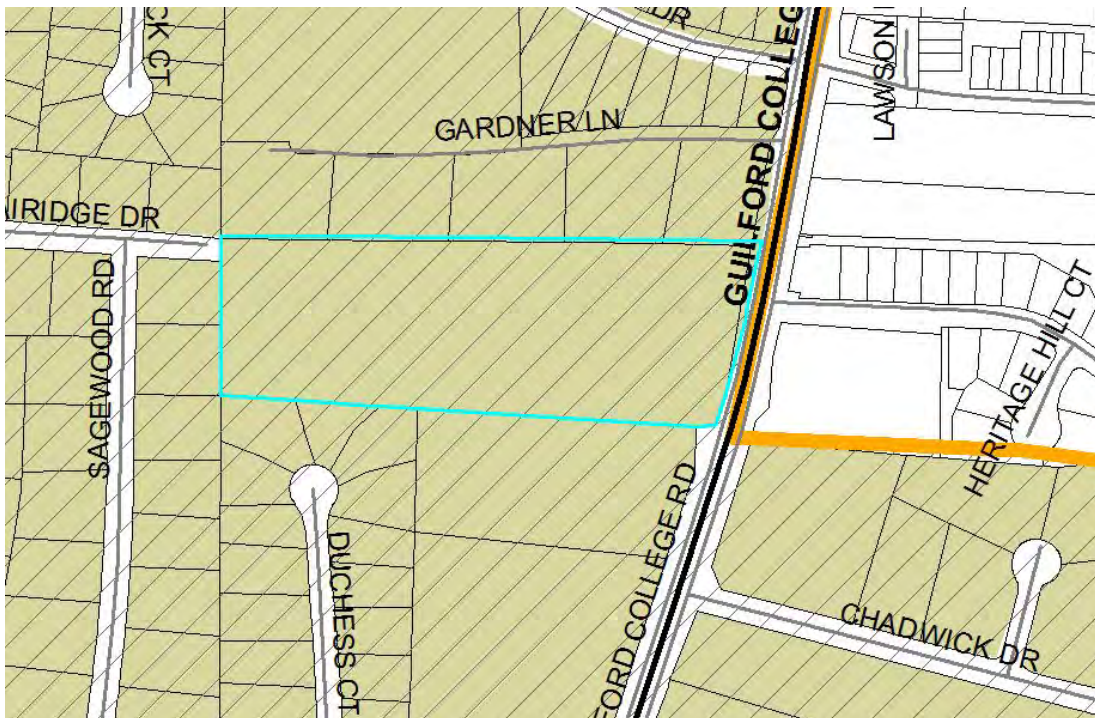
MASTER SIGN PLAN: CASE MSP-2018-01

**Due to inclement weather on March 12, this public hearing was postponed until the April 9<sup>th</sup> regular meeting. You are receiving another notice to ensure you are aware of the change.**

A request for a Master Sign Plan has been filed with the Town of Jamestown Planning Department for the property shown on the attached map (highlighted in blue). The request is described below:

Proposal: Request for a Master Sign Plan to permit one additional free-standing sign on the property.

Location: Jamestown Presbyterian Church. The site is located at 1804 Guilford College Rd. (outlined in blue)



Applicant: Jamestown Presbyterian Church, 1804 Guilford College Rd., Jamestown, NC 27282

Applicant's  
Contact: Jamestown Presbyterian Church - 336-454-1311

You are receiving this notice because public records indicate that you own property adjacent to, and within 500 feet, of this request, which has been scheduled for a public hearing. Recipients of this notice may wish to share it with their neighbors whose property is nearby the above noted proposal.

The purpose of the public hearing is to allow citizens to comment regarding potential impacts the proposal would have on their properties or on the area in general, and to identify issues or concerns related to the appropriateness of the request.

**The public hearing is not the appropriate setting to learn about a zoning proposal for the first time. It is difficult to gain understanding of a proposal and offer well thought out comments during the relatively short time of a public hearing.**

If you would like more information about this request, you could contact the Town of Jamestown Planning Department at (336) 454-1138 prior to the public hearing. You may also contact the applicant's contact person listed above.

### **PUBLIC HEARING**

PUBLIC HEARING DATE: Monday, April 9, 2018  
LOCATION: Town of Jamestown Town Hall, 301 E. Main St., **COUNCIL CHAMBERS** TIME: 6:30 PM

The meeting facilities of the Town of Jamestown are accessible to people with disabilities. Anyone needing special accommodations should call (336) 454-1138. Notice of public hearing shall also be published in the Jamestown News.

Mailed: March 26, 2018



**Planning Board Meeting Date: March 12, 2018**

## **GENERAL INFORMATION & HISTORY**

The Town received two matching requests for investigation of a possible zoning violation from residents located at 605 and 606 Havershire Drive in late September of 2017 regarding the use of the property at 608 Havershire Dr. as a possible 'Airbnb'. Airbnb, VRBO (Vacation Rental by Owner) and various other websites have been created in the recent past which offer an outlet for property owners to market their property for short-term rentals. Such rentals may include a portion of a room, an entire room, a suite or even an entire home for rent for a short-term period. This is akin to a bed and breakfast, sans the breakfast.

Currently, the Jamestown LDO has provisions for bed and breakfast uses, but does not address "short-term rentals" (STR's) as it has just recently gained some visibility through the websites mentioned above; although it is worth noting that the particular land use in question has been occurring in our community for decades.

Planning Board heard information from a complainant and the owner of the property against which the complaint was filed at the October 2017 Planning Board meeting. During that meeting, the general consensus of the Planning Board appeared to be the following:

- 1) The Board did not wish to adversely impact short-term rentals in our jurisdiction; primarily due to the fact that this use has been happening without issue for decades as it centers on the High Point Furniture market events. The Board felt that regulating STR's would adversely impact HP Furniture Market traffic.

At the February 20, 2018, Town Council meeting, Mr. Hancock and Mr. Rogers from the Yorkleigh subdivision addressed Council during the public comment portion of the meeting. At that time, each made a request that the Council consider regulations to prohibit short-term rentals in Jamestown.

Per the Jamestown LDO, the Planning Board shall advise the Town Council on matters related to land use and should make a recommendation to them regarding any changes to the current ordinances.

## **STAFF COMMENTARY:**

This issue has come up in many municipalities around the nation and around North Carolina in the recent past. Likewise, the solutions have been varied depending on the interests of the community and the limitations of state and local laws. Proponents of the issue tend to cite private property rights claims, low/no impact to the surrounding properties, additional income to the municipalities either from occupancy taxes and/or revenues related to visitors shopping/dining/etc. in town, and other claims as reasons why such uses should be permitted. Opponents tend to cite loss of residential character, competition to bed & breakfast/hotel/motel lodging, increased crime or the "potential" for crime, and property maintenance issues as reasons they are opposed to such uses.

In Jamestown, we should be cognizant of the fact that some residents have been engaging in short-term rentals for many years in conjunction with the High Point Furniture Market and any regulations might adversely impact these uses.

Research conducted by other municipalities in North Carolina focused on definition of use, duration of stay, property supervision, use/type of activity on the property and enforcement scenarios as benchmarking tools. Outcomes generally focus on a balanced approach to address concerns with some regulation/oversight by the municipality.

The UNC School of Government has recently published two blog articles regarding short-term rentals in late February. I have included those in the Planning Board packet for reference.

After reviewing the guidance from the UNC SOG and in discussions with colleagues across the state, the Planning staff have attempted to distill this issue down into the following bullet points for Board consideration:

### Probably Illegal:

- Attempting to regulate “some” STR’s while making exceptions for things like HP Furniture Market, Wyndham, etc.
- Attempting to regulate “who” is staying at a property. Municipalities can regulate **use** of the land, but the land use associated with STR’s is often defined as “residential”.
- Attempting to regulate residential rental properties through permitting or fees. The law is clear that we may not require permits, may not require registration of properties, and may not levy special fees related to these types of uses.
- Attempting to **prohibit** STR’s completely.

### Probably Legal:

- Some type of limited regulation which focuses directly on the **use** of the property – ex – traffic issues, noise, crime or similar concerns which are clearly within the power of the Town to regulate.
- Attempting to receive tax monies for occupancy. Note: This would require the Town to obtain special permission from the General Assembly. It is the staff’s opinion that getting such permission would be time-consuming and would not yield significant revenues at this time.

### Methodologies for Regulation or Resolution of These Issues

- 1) Neighborhoods with concerns about such uses could form a Homeowners Association (HOA) and self-regulate such uses.
- 2) Owners could file civil claims in court against their neighbors for alleged violations of deed restrictions.
- 3) The Town could enhance the language in the LDO related to “Boarding Houses”, which currently resides under the Bed & Breakfast language in the ordinance.
  - a. Currently BnB’s require a conditional use permit (public hearing at PB and Town Council required) and must meet special conditions. This would likely need to be repealed for STR’s and uses defined as “Permitted by Right” in zoning districts.
  - b. It’s staff’s opinion that STR’s are **not** the same type of use as traditional BnB’s. As such, regulations for STR’s should be significantly less because the **land use** impact is less.
  - c. It is the staff’s opinion that any changes in the ordinance would simply attempt to make it clearer that STR’s are permitted and provide general guidance on operations as they relate to land use – much of which is already covered by existing language.
  - d. **Staff does not feel that any ordinance changes would satisfy the complainant’s desires to completely prohibit such uses.**

### What are other municipalities doing?

- 1) Mostly, nothing. Most have not taken any action either for or against such uses. It is the staff’s opinion that many are waiting for the General Assembly to provide clear direction before exposing themselves to legal liabilities which would make them a “test case”, which is undoubtedly expensive and time-consuming.
- 2) Right now, it appears that Asheville and Blowing Rock are the only municipalities which have enacted clear guidelines for STR’s. However, the UNC SOG blog states that these are “...extremely controversial...”.

### Potential Challenges & Issues

- Potential exists for lawsuits. The law is unclear on whether this is a valid exercise of the Town’s police powers. Two court cases in other states are contradictory and it is unclear how NC courts would rule.
- Lawsuits would be costly to the Town.
- Enforcement of regulations would be time-consuming (expensive) and difficult for staff to identify.
- May be able to regulate **use**, but cannot regulate **ownership** or who an owner allows to stay on their property.
- The Town **must** identify what it hopes to accomplish through regulation:
  - It is inappropriate for the Town to attempt to use legislation to regulate neighborly disputes.

## SUMMARY

The Planning Department staff believe that the law is very unclear with regards to how municipalities may treat STR's currently. That could change if the General Assembly were to address such issues or case law rulings were to provide some insight as to how the courts view such uses. However, that has not occurred in North Carolina at this point. Most municipalities in our state have not addressed STR's because the law does not appear to favor intense regulation. In the past, planning law around the nation has most often favored the rights of the individual property owner over those of the government. The exception being when a property owner is engaging in activity which is clearly detrimental to the health, safety and welfare of the community.

Staff believe that there are regulations already in place to address concerns of the complainant. For example, the complainant has argued that he is concerned about noise, blocking of his driveway, crime or the potential for crime and that he "no longer knows who is coming and going." The Town already has ordinances in place to address noise and other nuisance complaints. And, the Town contracts with the Guilford County Sheriff's Dept. for police protection. The Town cannot regulate the "potential" for crime and it may not regulate *who* drives into a neighborhood or visits any property.

As mentioned above, the Planning Board and Council must identify what it hopes to accomplish through regulation, should it determine that regulation is warranted. It is inappropriate for the Town to attempt to use legislation to regulate civil disputes between neighbors.

While it may be possible to better define STR's within our Land Development Ordinance, it would be the staff's opinion that clarification would simply better define that such uses would be permitted within residential areas. To do otherwise could potentially expose the Town to legal liabilities.

The staff respectfully request that Planning Board provide guidance with respect to how it wishes to address STR's. The Board may elect to further regulate such uses; it may wish to better define such uses and show that they are permitted; or it may simply decide that it feels that the current ordinances cover any perceived negative impact from STR's (noise, nuisance, etc.). Once the Board's position is determined, the staff will report this to the Town Council for their information.

**The Planning staff respectfully requests that the Planning Board provide direction to the staff on this matter.**

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## Coates' Canons Blog: The Airbnb Gold Rush: What's a City to Do?

By Rebecca Badgett

Article: <https://canons.sog.unc.edu/airbnb-gold-rush-whats-city/>

This entry was posted on February 15, 2018 and is filed under Land Use & Code Enforcement, Ordinances & Police Powers, Police Power Regulations

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Most of us know that Airbnb is popular, but how big is it really? Well, the statistics are mind-boggling. Airbnb is currently valued at \$31 billion. By mid-2017, it had 4 million listings in 191 countries worldwide, which surpassed the number of available rooms in the top five hotel brands combined, with a mere 3.3 million global listings. According to the [News & Observer](#), Asheville residents earned nearly \$20 million in 2017 by renting their homes to nearly 160,000 guests. Charlotte, Raleigh and Durham also profited—residents in these cities made 8.7 million, 3.8 million and 3.1 million respectively. And approximately [25% of leisure travelers](#) are expected to book a stay on Airbnb at least once. The answer: it's HUGE.

It is not just Airbnb that is exploding. As the sharing economy continues to grow, web-based booking sites like VRBO, Homeaway and FlipKey are also gaining momentum. These booking platforms are here to stay. Local governments have begun to ask what, if any, steps they should take to regulate the short term rental market? It be clear, a short term rental ("STR" for short) is usually for a term of 30 days or less. Both nationwide and locally, the regulation of these properties has become a hot topic as some cities have opted to ban these rentals while others have chosen to let sleeping dogs (or houses) lie.

This is my first of two blogs on STR regulation. It discusses the key issues surrounding regulation and highlights how a few North Carolina municipalities are responding to this changing market. The second blog goes into more detail on how to regulate STRs and discusses the tax implications. You can find it [here](#).

### What is a STR?

Generally, there are two types of short-term rental accommodations available through web-based platforms like Airbnb. The first type of STR involves a home-sharing situation often called a "homestay." A homestay allows the homeowner or permanent resident (a.k.a. the host) to rent individual rooms within his/her residence for overnight lodging. The second type involves the rental of an entire dwelling unit, often called a "whole-house" STR. Some whole-house properties are primarily used as vacation rentals, while other are the host's primary residence and rented only during temporary absences. It is common for municipalities to regulate the two types of STRs differently. For example, Asheville permits homestays but not whole-house STRs in residential neighborhoods.

### Why regulate?

There are four chief policy justifications for bringing STRs into the regulatory fold: (1) the desire to provide for the safety of renters, (2) the generation of transient occupancy tax revenue, (3) the duty to ensure that permanent residents have affordable housing options, and (4) the need to preserve neighborhood character (e.g. limit parking and overcrowding). There is also an equity argument to be made—STRs are viewed as unfairly competing with hotels and B&B's, which are required to pay local taxes and are subject to inspection for compliance with local health and safety codes.

When challenged by lawsuits, municipalities outside of our state have argued that regulating for these purposes constitutes a valid exercise of the police powers. Courts have ruled both ways. A California court upheld a municipal ordinance prohibiting transient occupancy because the city's goals of securing affordable housing for permanent residents and of preserving neighborhood character were legitimate government interests. *Cope v. City of Cannon Beach*, 317 Or. 339, 855 P.2d 1-81 (1993). In contrast, a New Jersey court held that prohibiting the rental of residential real estate to cure perceived socio-economic problems, including the need to provide permanent residents with affordable housing options,



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fell outside the scope of the police powers and unlawfully infringed on property owners' rights. *Repair Master, Inc. v. Borough of Paulsboro*, 352 N.J. Super. 1, 11 (App. Div. 2002). These cases are not binding on North Carolina courts.

### **Do North Carolina cities have authority to regulate STRs?**

Probably, but to what extent is still unknown. We do know that municipalities have the authority to control the location and use of property through zoning regulations. [N.C. Gen. Stat. § 160A-381](#). And zoning ordinances enjoy a strong presumption of validity if they serve a public purpose related to the “public health, safety, morals, or general welfare” of the communities they regulate. *City of Wilmington v. Hill*, 189 N.C. App. 173, 177, 657 S.E.2d 670, 673 (2008). It seems likely that our courts would hold that municipalities are vested with authority to regulate STRs under the police powers, just as they may regulate hotels, motels, boarding or rooming houses, and B&B's.

### **What are the possible issues surrounding STR regulation?**

There is some concern that municipal regulation of these rentals is not a valid exercise of the police powers. The first concern is that STR regulations which, for example, control the duration of a private lease or the nature of occupancy of a private residence, go beyond regulating a property's use and instead restrain the manner in which the property is owned, which is prohibited by North Carolina case law. See *City of Wilmington v. Hill*, 189 N.C. App. 173 (2008) and *Graham Court Associates v. Town of Chapel Hill*, 53 N.C. App. 543 (1981). But communities have long used zoning to regulate temporary residential uses such as hotels, inns, boarding houses, and B&Bs. However, it is possible that certain limitations placed on STRs may be found to be unlawful restrictions on ownership.

Another concern is that it is unlawful to regulate residential rental property by implementing permitting programs or by requiring homeowners to pay a special fee. Specifically, N.C. Gen. Stats. §§ [153A-364\(c\)](#) and [160A-424\(c\)](#) clearly provide that a county/city may not adopt or enforcing a local ordinance that requires owners of residential rental property to: (1) obtain a permit or permission to operate, (2) register a rental property, or (3) levy a special fee or tax on residential rental property that is not also levied against other commercial and residential properties. Some local governments have adopted (or are considering) registration programs and are levying fees in connection therewith. Specifically, a few jurisdictions have imposed business registration requirements on owners of short term vacation rentals. They argue that STRs are used for hospitality, not as a residence, during the vacation rental season. As such, these jurisdictions contend that the IPR statutes' prohibition on residential rental property registration would not apply to short term vacation rentals. The IPR statutes do not clarify how a STR should be characterized. The bottom line is that it is important to be aware of these statutes and know that they could render certain regulatory action unlawful. For more information, see [here](#).

The final concern is the possibility that the [North Carolina Vacation Rental Act](#) preempts the local regulation of vacation rental agreements in residential properties. The Act defines “vacation rental” as being the “[t]he rental of residential property for vacation, leisure, or recreation purposes for fewer than 90 days . . .” The contention is that the Act covers the field and leaves no room for cities to regulate leases of shorter duration or to enact outright bans on vacation rentals in residential neighborhoods. However, there are other state rules regulating of real estate transactions that do not strip zoning authority from local laws (e.g. Planned Community Act and the Condominium Act). Thus, it seems unlikely that the Vacation Rental Act preempts local regulation, particularly because it make no mention of municipal regulation. Its primary purpose is simply to regulate the competing interests of landlords, tenants, and real estate brokers. Our courts have yet to weigh in on these issues.

### **How are NC cities regulating the STR market?**

For the most part, they're not. The great majority of cities and counties within our state have taken no regulatory action to date. Below, I've set out where few cities stand in the regulatory process.

**Asheville:** When it comes to having a model for STR regulation, the spotlight is primarily on Asheville. The city (and Buncombe County) initially began to regulate STR use to help curb its affordable housing crisis, which developed in part due to an increased demand for STRs in residential neighborhoods. Asheville decided to restrict the rental of entire dwelling units (sometimes called “whole-house” STRs) to those zones that allow “lodging facilities,” like hotels and motels. This means that the homeowner or permanent resident (a.k.a. the host) may not rent out his/her entire home in a residential district. This ban has been extremely controversial, but it remains in place as of now.



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The city also regulates STRs that involve home-sharing situations called “homestays.” A homestay allows the host to rent individual rooms within his/her residence for overnight lodging for a term not to exceed thirty days. A homestay host must apply for a permit, pay an annual \$208 registration fee, make the property available for inspection, and agree not to rent more than two bedrooms in the dwelling unit simultaneously. Hosts must also remain on-site during the homestay (e.g. no overnight travel allowed). Hosts who violate the whole-house or homestay regulations are subject to a \$500 per night fine. The city now uses an independent company to identify violations.

**Blowing Rock:** The Town of Blowing Rock has also recently begun to regulate STRs, which it defines as the rental or lease of an attached or detached residential dwelling unit for a duration that is less than 28 consecutive days. Specifically, the town has limited whole-house STRs to its business districts, the town center, and office-institutional zoning districts. A short-term overlay district can be approved by Town Council within particular zoning districts. Violators are subject to a \$500 per night fine. For more information, see [here](#).

**Wilmington:** The city is currently hammering out how it wishes to proceed with STR regulation. In the January 29, 2018 Planning Commission meeting, the commissioners agreed it is a good idea to allow homestays in residential areas and agreed to require all STR hosts to register their properties with the city. However, the commissioners did not come to a conclusion on how to define whole-house STRs or how to limit the number of them in residential neighborhoods. The matter now rests with City Council.

**Raleigh:** Technically the practice of renting STRs in residential neighborhoods is prohibited in Raleigh. However, Raleigh officials are allowing hosts to operate while they consider adopting new regulations.

**Beach Communities:** It's worth mentioning that most (if not all) of the state's beach towns have not taken steps to regulate STR use. This is likely because either they see no need for additional regulation or because a preexisting ordinance sufficiently regulates this area. These towns generally welcome STRs given that their economies are largely based on tourism. In fact, the Town of Duck considered amending its list of permitted uses to clarify that STRs on a daily basis are a permitted use (as opposed to only allowing weekly rentals). The Town decided to hold off in case such action would unlawfully restrain the ownership of property. From what I can tell, the rest of the Outer Banks, as well as Holden Beach, Carolina Beach, and Topsail Beach, and Wrightsville Beach also currently allow unregulated STRs.

### Summary:

In North Carolina there are still many unanswered questions about the scope of a local authority to regulate STR use. For more detail on how to approach STR regulation, see my second blog on this topic. I welcome comments and would like to know of other municipalities that are regulating STRs. My email is [rbadgett@sog.unc.edu](mailto:rbadgett@sog.unc.edu).

[contact-form][contact-field label="Name" type="name" required="true" ]/[contact-field label="Email" type="email" required="true" ]/[contact-field label="Website" type="url" ]/[contact-field label="Message" type="textarea" ]/[contact-form]

### Links

- [www.newsobserver.com/news/local/article196151729.html](http://www.newsobserver.com/news/local/article196151729.html)
- [www.recode.net/2017/7/19/15949782/airbnb-100-million-stays-2017-threat-business-hotel-industry](http://www.recode.net/2017/7/19/15949782/airbnb-100-million-stays-2017-threat-business-hotel-industry)
- [canons.sog.unc.edu/reservation-changed-regulating-sharing-economy/](http://canons.sog.unc.edu/reservation-changed-regulating-sharing-economy/)
- [www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_160A/GS\\_160A-381.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_160A/GS_160A-381.pdf)
- [www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_153A/GS\\_153A-364.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_153A/GS_153A-364.pdf)
- [www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_160A/GS\\_160A-424.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_160A/GS_160A-424.pdf)
- [canons.sog.unc.edu/periodic-inspections-permits-registration-residential-rental-property-changes-2017/](http://canons.sog.unc.edu/periodic-inspections-permits-registration-residential-rental-property-changes-2017/)
- [www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter\\_42a.html](http://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_42a.html)
- [www.townofblowingrocknc.gov/Home/Components/News/News/68/16](http://www.townofblowingrocknc.gov/Home/Components/News/News/68/16)

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## Coates' Canons Blog: Your Reservation Has Changed: Regulating the Sharing-Economy

By Rebecca Badgett

Article: <https://canons.sog.unc.edu/reservation-changed-regulating-sharing-economy/>

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Picture this: You're the attorney for a small town that is not commonly visited by tourists. There are only about five short term rental properties in your jurisdiction listed on Airbnb. One of these rental properties is in a quiet residential neighborhood on a dead-end street. The neighboring property owner is furious that the property is being used as an STR. He claims that STRs threaten neighborhood safety and demands that the town act NOW to ban transient rentals. What's a town attorney to do? The answer: maybe nothing. It's really up to the municipality to consider the pros and cons of regulating this market.

In my first blog on short term rentals (which I suggest reading first), found [here](#), I note that the great majority of North Carolina's cities have not enacted separate ordinances to regulate short term rental properties ("STRs"). This is likely because there is no need for additional regulation (STRs are not problematic) or because a preexisting ordinance sufficiently regulates this area. Thus, if you're concerned that your municipality has lagged behind by not taking action to regulate this market, fear not. There may not be a need to regulate unless you have valid concerns that fall within the scope of the police powers. See [here](#) for more on this.

For those of you who are interested in adopting some type of regulations, this blog is for you. Its purpose is to discuss the varied aspects of regulating STRs and provide local governments with a better understanding of how to collect the taxes generated by these types of rentals.

### **Our city is considering regulating STRs—now what?**

The regulation of STRs does not have to be an all or nothing proposition, meaning there can be a happy medium between banning all STRs and no regulation whatsoever. A municipality may want to consider allowing STR use subject to some reasonable restrictions and requirements. Importantly, the municipality must understand what it hopes to accomplish through regulation and must ensure that it has a feasible plan (and the requisite funds) to enforce the new regulations.

If you want to move forward with regulation, note that STR ordinances usually define the different types of STRs (e.g. homestays or whole-house) and establish zoning-type regulations and licensing and tax regulations as appropriate. Some considerations include: (1) whether whole-house rentals will be regulated differently than homestays; (2) whether there will be a limit on the number of guests or bedrooms rented in homestays; (3) whether there be a parking space requirement; (4) whether there will an insurance requirement; (5) whether there will be a licensing or registration fee; and (6) how tax collection will be enforced. This is certainly not an exhaustive list. The interesting (and somewhat frustrating) catch about short term rental regulation is that each municipality can (and has) put its own twist on how it defines and regulates these properties.

Remember that enforcement can be time consuming an expensive. It may require additional staffing to be done well. Some cities simply rely on neighbor complaints to identify violations; however, other cities take a more proactive approach (see more on this below). Asheville now outsources its enforcement to an independent company dedicated to catching hosts that are breaking local laws, and it is happy with the results. Outsourcing enforcement may be an option for those municipalities with a large number of STRs, but it may be financially burdensome for those with a smaller STR market.

### **What can our county do to capture lost tax revenue?**

STRs present counties with two kinds of tax revenue possibilities: sales tax and, in many places, occupancy taxes. And one common reason for STR regulation is to create a plan for tax collection. The sales tax applies to everyone throughout

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the state. However, a local act is needed to establish an occupancy tax. For more on the occupancy tax, see this [blog](#).

Airbnb collects the state and local sales tax from all its North Carolina hosts and remits it directly to the appropriate taxing authority. If you're in Wake, Mecklenburg, Buncombe or Durham counties, you're in luck because [Airbnb also collects the occupancy tax](#). Hooray! However, there have been complaints that, while Airbnb remits a monthly check, it does not include sufficient data about who/how many STR stays occurred, which makes it difficult for local governments to keep accurate records. For those counties wishing to be included in the Airbnb tax program, it is necessary to work directly with Airbnb. The other sites, like VRBO, do not yet offer the same tax collection services in our state. I'm guessing that in the future most STR platforms will offer some form of tax collection services, particularly because doing so may help limit local regulation.

Not all hope is lost for those wishing to collect the occupancy tax from local hosts. The Town of Ocean Isle has been extremely resourceful (and successful) in its approach to collecting the occupancy tax, and, according to tax collector Wendy Barbee, all it takes "is a little investigative work."

Barbee explained that the investigative work (which is handled by one customer service representative) includes scrolling through the online booking sites to identify new listings, locating those properties on the Brunswick County GIS, and notifying the homeowners of the requirement to pay the occupancy tax. To help with enforcement, the town sends a letter each December to property owners asking if they plan to rent their property in the following tax year. If so, the homeowner receives an occupancy tax coupon book to use in remitting the tax bill on a monthly basis. New homeowners are automatically sent a letter informing them of the obligation to pay local taxes on STR income. Barbee admits that the task of creating a master list of all STR properties was initially labor intensive. However, now the town primarily focuses on identifying new rentals, which they estimate to be about 40-50 properties per year.

The takeaway here is that local governments may want to get creative in their tax collection efforts, even if they opt out of regulating the overall use of STRs. Educating homeowners on this topic and making compliance easy are ways to ensure that your local government does not miss out on a sizable portion of funding.

### Summary:

For now, it is up to your jurisdiction to determine the benefits and burdens of taking regulatory action. Consider whether you have the resources to enforce total prohibitions or onerous regulations. This industry shows no signs of slowing, so the key is to devise regulations that are clear and easily enforceable. I welcome feedback and comments on this topic. My email is [rbadgett@sog.unc.edu](mailto:rbadgett@sog.unc.edu).

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### Links

- [canons.sog.unc.edu/airbnb-gold-rush-whats-city/](https://canons.sog.unc.edu/airbnb-gold-rush-whats-city/)
- [canons.sog.unc.edu/occupancy-tax-101/](https://canons.sog.unc.edu/occupancy-tax-101/)
- [www.newsobserver.com/news/local/counties/wake-county/article21331905.html](https://www.newsobserver.com/news/local/counties/wake-county/article21331905.html)