



*Making Great Communities Happen*

## **Connecticut Chapter of the American Planning Association**

**Testimony regarding**  
Proposed H.B. No. 6937-- AN ACT REGULATING SHORT TERM RENTALS

In 2017, the Town of Stonington Planning Department prepared a report summarizing options to regulate short-term rentals based on their research of the issues and public outreach to local residents. This report is attached as background information for the Committee's use. In summary, the planning department in that community concluded that a municipal ordinance regulating such rentals would be a more effective mechanism than zoning. The municipal ordinance approach has the following benefits:

- Eliminates potential of existing properties to claim grandfathered rights to operate short term rentals
- License would be granted to operator instead of to property
- Stronger enforcement options (potential for police enforcement instead of relying on availability of zoning enforcement officer).

In addition, we would add that land use regulations regarding short-term rentals are more appropriately determined by individual municipalities rather than the State. As the report notes, towns like Stonington, which are located in tourist destinations, have a history of seasonal, monthly, or weekly rentals that have economic benefits to these communities and to local property owners.

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### **WHO WE ARE**

The Connecticut Chapter of the American Planning Association (CCAPA) has over 420 members who are governmental and consulting planners, land use attorneys, citizen planners, and other professionals engaged in planning and managing land use, economic development, housing, transportation, and conservation for local, regional, and State governments, private businesses and other entities. CCAPA has long been committed to assisting the legislature and State agencies with developing and furthering responsible growth management principles. The APA is an independent, not-for-profit, national educational organization that provides leadership in the development of vital communities.

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# 2017 **Short-term** **Rentals** Report

**STONINGTON**  
Department of Planning



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Report issued to:  
**Stonington Planning and Zoning Commission**

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Report prepared by:  
Stonington Department of Planning

**January 13, 2017**

## **About the Department of Planning**

The Stonington Department of Planning is a Town Charter-established agency that works under the direction of the First Selectman of the Town of Stonington. The team is comprised of land use and community development professionals, that work to implement recommendations in the Town’s Plan of Conservation and Development, review land use applications, and enforce land use regulations.

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# BACKGROUND

Short-term rentals (STR) are dwelling units, or portions thereof, that are temporarily rented. In recent years, technology has made it easier to rent bedrooms and houses. The industry is thriving. Stonington is an attractive place to visit and the demand for rentals is high.

In the summer of 2015, the Stonington Department of Planning received a complaint regarding the activity of an AirBnB operation in the village of Mystic. After reviewing the Town Zoning Regulations, the Department’s enforcement team made a determination that AirBnB is not a permitted use in a residential zoning district because short-term rentals (less than 30 days) are not a permitted use.

Since that time, the Department has continued to approach AirBnb as an activity that is not allowed in the Town. In 2016, a Vacation Rental By Owner (VRBO) complaint was received by the Department. Again, the enforcement team evaluated Town regulations, and past enforcement actions, including the AirBnB issue and determined that this activity was not permitted in the Stonington.

Both the AirBnb and VRBO are activities that can be classified as short-term (transient) rentals. In the past, many short-term rental opportunities that occurred in Stonington were as a result of long-term relationships that renters had with the property owner, or sourced via print media. The advent of the internet has enabled new tools to connect property owners to potential renters.

## TYPES OF SHORT-TERM RENTALS

TYPE	ACCESSORY STR	PRINCIPAL STR
<b>DETAILS</b>	<ul style="list-style-type: none"> <li>• Are owner-occupied or associated with an owner-occupied principal dwelling unit.</li> <li>• Include the rental of an entire dwelling unit, or if only part of the unit, include at a minimum a sleeping room (with shared full bathroom), is limited to a single party of individuals, and the owner is generally present during the rental</li> </ul>	<ul style="list-style-type: none"> <li>• Are not owner-occupied or associated with an owner-occupied principal dwelling unit</li> <li>• Include rental of an entire dwelling unit</li> </ul>
<b>TYPICAL TERMS</b>	<ul style="list-style-type: none"> <li>• Room for rent</li> <li>• AirBnb</li> </ul>	<ul style="list-style-type: none"> <li>• House for rent</li> <li>• Cottage for rent</li> <li>• VRBO</li> <li>• AirBnb</li> <li>• Homeaway</li> </ul>

**AirBnB** - a peer-to-peer online marketplace and homestay network enabling people to list or rent short-term lodging in residential properties, with the cost of such accommodation set by the property owner. The company receives percentage service fees from both guests and hosts in conjunction with every booking.

**VRBO** – Vacation Rental By Owner - short-term and long-term rentals

**Homeaway** - a vacation rental marketplace with more than 1,000,000 vacation (short-term) rentals

### SHORT-TERM RENTAL CONCERNS

- Expansive growth of STRs
- Safety of visitors and neighbors
- Neighborhood character
- Enforcement / regulation
- Problem operators
- Impact to residential areas
- Impact to long-term rental market
- Impact to housing affordability
- Impact on the hospitality industry

## PUBLIC INPUT

In October of 2016, the Stonington Economic Development Commission became aware of the enforcement issue. They worked to evaluate the economic impact of short-term rentals and requested that the Planning and Zoning Commission conduct a forum on the topic. On December 20, 2016, the Planning and Zoning Commission conducted a public hearing. A summary of what we heard during that meeting:

REQUIRES BALANCE			
ECONOMIC VALUE	RISKS	OPPORTUNITIES	MANAGEMENT
<ul style="list-style-type: none"> <li>Enables vibrant villages</li> <li>Visitors are an economic multiplier – bring wealth</li> <li>Tourism is a valuable cluster</li> </ul>	<ul style="list-style-type: none"> <li>Neighborhood quality (e.g., village character, traffic)</li> <li>Adverse property value impact</li> <li>Bad behavior</li> </ul>	<ul style="list-style-type: none"> <li>Visitor experience</li> <li>Technology provides resources</li> <li>National shift towards sharing economy</li> </ul>	<ul style="list-style-type: none"> <li>Need standards (e.g., parking, occupancy)</li> <li>May not fit everywhere, let neighborhoods decide</li> <li>Communication tools are needed</li> </ul>

## ALTERNATIVES ANALYSIS

Moving forward, the Commission has several options when it comes to addressing short-term rentals. They range from a very passive approach, keeping things the same, to more aggressive approaches (e.g., changing regulations, new regulations, no regulations)

This report provides the follow alternatives for the Planning and Zoning Commission to consider:

DO NOTHING	NOT REGULATE	REGULATE
<ul style="list-style-type: none"> <li>Confirm the Department of Planning interpretation that short-term rentals are not allowed in Stonington – continue to prohibit short-term rentals in Stonington</li> </ul>	<ul style="list-style-type: none"> <li>Determine that short-term rentals are not regulated by zoning and are therefore allowed and not regulated</li> </ul>	<ul style="list-style-type: none"> <li>Recognize that short-term rentals are regulated (not allowed), but should be allowed;</li> <li>Establish zoning regulations for the allowance of short-term rentals</li> </ul>

The following pages explore these options in some detail.

<b>DO NOTHING</b>	<b>NOT REGULATE</b>	<b>REGULATE</b>
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Every project includes a “do nothing” option. The status quo is that short-term rentals **are not allowed** in Stonington. However, what is a short-term rental? Since zoning does not concern itself with tenure, and transient is not defined, short-term rentals have been aligned with the Connecticut Building Code occupancy standard, which is 30 days (see “transient” term in sidebar).

The Department of Planning’s interpretation of the zoning regulations is that transient rentals (less than 30 days) are not listed as a permitted use in residential zones; therefore, it is not allowed. This applies to the AirBnb and VRBO-type programs.

Doing nothing will provide the Department of Planning with direction that any future short-term rental violations should be resolved via the zoning enforcement process.

<b>DO NOTHING</b>	<b>NOT REGULATE</b>	<b>REGULATE</b>
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Stonington, like many other communities, has zoning regulations that are not as black and white as they are perceived. The regulations are one-third of any overall regulatory framework which includes the enabling legislation (Connecticut General Statutes Chapter 124) and legal determinations made via the judicial system (i.e., Connecticut and Federal courts). As enforcement agents, it is critical to understand all three of these elements.

Of note is that tenure (see sidebar on page 3) is not regulated by zoning. Who owns, or occupies a particular property is not a factor in the permit or enforcement process.

The question then becomes, does time of occupancy change this fact? Stonington does define a residence (see sidebar on page 4) as “...dwelling units for permanent occupancy...,” which could be interpreted as a statement about the principal land use, rather than any activities conducted on the property.

**TERMS**

TENURE – The financial arrangements under which someone has the right to occupy a dwelling unit (e.g., house, apartment). The most frequent forms are tenancy (rent is paid to a landlord) and owner-occupancy.

TRANSIENT - Occupancy of a dwelling unit or sleeping unit for not more than 30 days. (CT Building Code). Term is used three times in Stonington Zoning Regulations (ZR): 1.2.2 Hotel; 1.2.2 Tourist Home; and 6.6.17 Bed and Breakfast; However, it is not defined

**STONINGTON ZONING DEFINITIONS**

DWELLING UNIT - A structure, or part thereof, containing complete housekeeping facilities limited to use by one (1) family).

FAMILY – One or more persons who live together and maintain a common household, related by blood, marriage, or adoption. A group of not more than four (4) persons who need not be related who are living together in a single dwelling unit and maintaining a household shall also be considered a family. A roomer, boarder or lodger shall not be considered a member of the family, and no roomer, boarder or lodger shall be permitted where the family is defined as a group of unrelated persons.

**TERMS**

TOURIST HOME – A dwelling unit in which sleeping accommodations for more than two (2) but less than five (5) bedrooms are rented out for transient occupancy.

RESIDENCE – One or more dwelling units for permanent occupancy located in a permanent structure or building.

DO NOTHING	NOT REGULATE	REGULATE
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Nationally, municipalities regulate short-term transient rentals in one of two ways: zoning or town ordinance.

ZONING	TOWN ORDINANCE
<ul style="list-style-type: none"> <li>• can specify which zoning districts allow short-term rentals and can require special use permits and site plan review for certain levels of activity (e.g., number of bedrooms)</li> <li>• permit is issued to the property, not the operator</li> <li>• enforcement through zoning official / Department of Planning, at the direction of the Planning and Zoning Commission</li> </ul>	<ul style="list-style-type: none"> <li>• can manage this activity via a licensing process</li> <li>• no vested rights, no non-conformities</li> <li>• license is issued to operator, not the property</li> <li>• enforcement agent(s) designated by ordinance</li> </ul>

Most communities are regulating short-term rentals via ordinance because the approval is issued to the operator, and updates to the law (which occur from time-to-time) and binding on all operators.

Ordinances can only be adopted by the town’s legislative body, the Town Meeting.

## REGULATION OF SHORT-TERM RENTALS MIGHT INCLUDE:

- Posting or availability at the town hall of local contact(s) responsible for handling problems.
- Off-street parking standards.
- Noise and nuisance provisions.
- Garbage collection requirements.
- Spacing requirements between short-term rentals. A distance from one STR to another may be required to assure that an entire block does not turn into a short-term rental district.
- Reinforcement of the normal occupancy limits (i.e., number of persons who may live in the home).
- Proof of code compliance, fire safety measures, adequate water and sewer service, or other utilities or infrastructure that may be of particular concern.
- Requirements for notifying neighbors.
- Limitations on turnover. There may be a minimum stay or a maximum number of days that the STR operates.
- Limitations on particular areas where short-term rentals are not allowed or are not regulated.
- Imposition of a special use permit requirement, allowing for scrutiny of the particular facts of a site before allowing such a use.

## ENFORCEMENT CHALLENGES

- Does zoning regulate whether an occupant is a transient (see sidebar on page 3), or has a long-term interest in the property? The answer, via the zoning regulations, could be interpreted to be “it depends,” with the factor for consideration being the principal use of the property. It could be argued that an owner-occupied dwelling unit, in which one bedroom is rented to a transient occupant, still satisfies the principal use of a dwelling unit. Under the definition of Family (ZR 1.2.2, see sidebar on page 3), one to three unrelated persons can occupy a single dwelling unit with the property owner, and remain in compliance with the Zoning Regulations.
- How can the town enforce a minimum duration requirement when it is not defined in the regulations? It could be argued that the short-term rental of one bedroom is not a regulated activity in any of the commercial and residential zones. The tourist home use involves two to four bedrooms (see sidebar on page 4), Bed and Breakfasts (ZR 6.6.17) involve an intentionally commercial operation.

Some could also argue that the historic precedent of short-term rentals in the community, notably on Lord’s Point and Latimer Point, and lack of enforcement for these activities, resulted from a past interpretation that these activities were not regulated by zoning.

## ZONING IS A BLUNT TOOL

If zoning is the preferred method to regulate this activity, it will do so in a blunt manner:

- It travels with the land, not the operator;
- It creates nonconformities and vested rights; future rule changes will become challenging to enforce;
- It is not highly-valued; there are too few resources to administer compliance

## ENFORCEMENT AVOIDANCE

Enforcement of short-term rentals will prove to be difficult if transient (not more than 30 days) is the factor for enforcement.

A simple method of avoiding a violation would be for both parties to enter into a 31-day lease, and allow that lease to be terminated at the conclusion of the visit.

Documentation of a lease of 31 or more days would satisfy the transient component, and eliminate the zoning violation.

## DIRECTION REQUIRED

**The Department of Planning is seeking direction from the Commission.**

As your administrative agent, responsible for enforcing the zoning regulations, it is important that we are taking an action that is supported by the Commission.

***Are Short-term Rentals Currently Regulated by Zoning?***

CHECK ONE

YES

NO

***Should Short-term Rentals be Regulated via Zoning?***

CHECK ONE

YES

NO

***IF YES, Should the Planning and Zoning Commission work to develop Zoning Regulations for Short-term Rentals?***

CHECK ONE

YES

NO

**The Department of Planning's Role Regarding Short-term Rentals**

- Administer and enforce regulations assigned to the Department via public policy decision-makers (e.g., Planning and Zoning Commission, Board of Selectmen, Town Meeting).
- Provide technical assistance as needed.