



Short-Term Rental Regulation in Connecticut

Originally Prepared by Justin LaFountain, AICP, CZEO, Planner II, September, 2019; December, 2021. Updated by Jennifer Lindo, AZT, Municipal Land Use Specialist and James S. Butler, AICP, Senior Advisor, October, 2023. Updated by Jennifer Lindo, CZEO and Nicole Haggerty, AICP October 16, 2024.

Introduction

Short-term rentals, known collectively as ‘Airbnbs’ and ‘VRBOs,’ have become a significant segment of the travel market. The short-term occupancy of a single-family-family dwelling unit has proven to be a challenge to the cities and towns in which they are located. Municipalities are grappling with regulation, registration, monitoring, and enforcement issues to protect the public interest, health and safety, while considering whether to provide property owners the ability to operate what are often considered businesses typically located in residential neighborhoods.

Short-term rentals are commonly defined as rentals for thirty days or less. This popular form of travel accommodation started as home-sharing, where a host welcomed a guest to rent a room or spare area of their home and has now evolved into full-house rentals without the homeowner being present. The first form of stay may be more appropriate in a residential neighborhood, where the property owner, or host, is likely invested in the well-being of the neighborhood and community; it also supplements the incomes of owner occupants and maintains the single-family dwelling market. The second form of stay, where the property is leased short-term without an owner/operator on-site, can be attractive to property owners in high-tourism areas, but may erode the availability of housing or generate nuisance activities near other residences.

Challenges Associated with Short-Term Rentals

Municipalities face a number of challenges associated with short-term rentals within their boundaries. Local governments and residents are often concerned that the character of residential neighborhoods will change dramatically with the spread of short-term rentals, due to an increase in traffic and parking issues. Noise concerns are also common, as neighbors can become anxious that short-term rentals will turn into party houses. Residents may fear that a proliferation of short-term rentals in the area will shift a neighborhood from one in which owner occupants have a vested interest in the community where they reside, and in building equity in their homes, to one in which investors’ main concern is in generating income.

Safety aspects of short-term rentals are a concern for municipal officials, as the number of guests staying in a single-family dwelling can far exceed the legal limit defined in zoning and building codes. There are concerns that short-term rentals may not be safe for visitors if the renters are crowded into homes that would not otherwise be suitable for overnight habitation by a large number of people, especially since they lack the safety features required of hotels and motels and are not regularly inspected. Requirements for compliance with municipal regulations, occupancy limits, and the need for inspections by local officials

(zoning, building, health, fire) are being considered by municipalities in addressing short-term rentals. Occupants of short-term rentals should have a reasonable expectation of safety and cleanliness as they would in a hotel; however, without any local regulation they must rely solely on the owner/host of the short-term rental to ensure safe and sanitary conditions of the unit in which they are staying.

Another challenge to municipalities posed by short-term rentals is their impact on the local housing stock. The conversion of owner occupied and long-term rental housing to short-term rentals reduces the number of available housing units in a community for permanent residents, potentially worsening existing affordability issues. To address this, municipalities across the United States and in Connecticut have created/are creating various policies, regulations, and ordinances regarding short-term rentals.

Benefits of Short-Term Rentals

The regulation of short-term rentals must be weighed against the demand for this type of vacation accommodation and the desire by property owners to benefit from the revenue that can be derived from short-term rentals. Despite the concerns cited above, short-term rentals can provide economic benefits to communities, especially if there are controls in place to mitigate their potential negative impacts. By permitting short-term rentals, communities that have little traditional lodging can open themselves up to tourism spending that would not otherwise be available. Municipalities with traditional lodging options might stand to gain from visitors who are looking for more personalized travel experiences. Homeowners who host short-term renters can supplement their income and consequently be in a better position to pay their property taxes and maintain and improve their home.

Industry and State Regulations

In the past, short-term rentals were largely unregulated by their parent companies, which relied on hosts to self-certify their compliance with any local regulation. In 2020, Airbnb created rules which banned party houses, defined as homes being rented by more than 16 people. In 2021, Airbnb and VRBO partnered to create the “Community Integrity Program,” with the further intent of eliminating party houses by sharing information regarding problem rentals with competing rental sites.

Connecticut legislation related to short-term rentals includes a room occupancy tax of 15%, enacted by PA 19-117, which requires short-term rental facilitators (e.g., VRBO) to collect and remit room occupancy taxes on the short-term rentals they facilitate in the state. In 2024, PA 24-143 was passed, explicitly authorizing municipalities to adopt local ordinances to regulate short-term rentals and hire consultants to help draft such regulations. Unfortunately, it doesn’t go far enough, in that it fails to provide for municipalities to hire third parties to help monitor and regulate the use of the short-term rentals.

Considerations for Regulations and Enforcement

Without a unifying state regulatory framework, it continues to be up to individual municipalities in Connecticut to decide if and how to regulate short-term rentals. Municipalities can and should tailor short-term rental regulations to their own unique community needs. There are three approaches available to Connecticut municipalities: (1) regulate through zoning regulations; (2) regulate through a municipal ordinance (now provided for by the legislature in PA 24-143); or (3) maintain status quo (do nothing).

Zoning

Regulation of short-term rentals through zoning regulations can establish a process for local staff or a Planning and Zoning Commission to review plans to ensure neighborhood concerns are addressed. Approvals through zoning run with the property, as opposed to the owner, and are valid unless and until the permitted use is expressly discontinued by the property owner. A distinct disadvantage of regulating short-term regulations by zoning is that zoning regulations are enforced by Zoning Enforcement Officers, who typically work a Monday through Friday daytime schedule and are not available at night and on weekends, when most noise and parking complaints occur.

Municipal Ordinance and Municipal Authority to Regulate

Some municipalities have considered controlling short-term rentals by municipal ordinance. The advantage over zoning regulations is that complaints are handled by law enforcement, who are available nights and weekends. Ordinances may also require license renewals, new license for new owners, annual inspections, fees, etc. To that end, the 2024 legislative action has answered the question many municipalities have been asking in prior editions of this paper. It allows municipalities through local ordinance to regulate short-term rentals and hire consultants to help draft such regulations. Unfortunately, it doesn't go far enough, in that it fails to provide for municipalities to hire third parties to help regular the use of the short-term rentals. However, a municipal ordinance does not provide for site plan approval by the Planning and Zoning Commission.

Case Update: *Wihbey v. Zoning Board of Appeals*

A case concerning the regulation of this type of use was heard by a Connecticut Appellate Court for the first time in October, 2022. In *Wihbey v. Zoning Board of Appeals (AC 45283)*, the defendants (which included Branford's Pine Orchard Association Zoning Board of Appeals), appealed the decision of the trial court reversing the decision of the ZBA in upholding the issuance of Zoning Enforcement Officer's order to plaintiff Frances Wihbey to cease and desist from using his property in the Pine Orchard section of Branford for short-term rentals. The defendants argued that the court improperly found that the plaintiff's use of the property was lawful under the Association's 1994 Zoning Regulations (the regulations in effect at the time he purchased the property and began using it as a short-term rental in 2005) because the court found that a single-family house used for rental purposes was consistent with the definition of single-family dwelling, and was therefore a protected nonconforming use. The Appellate Court largely agreed with the trial court, and in their opinion released on March 28, 2023, found that the trial court was correct in determining that short-term rentals were permitted in the Association's 1994 regulations, noting that the 1994 zoning regulations recognized the renting of property as a permissible use of residential

property, and “did not clearly impose a minimum temporal occupancy requirement for use of a single-family dwelling.”

The Defendants then appealed to Connecticut’s Supreme Court. The question specifically considered was, “Did the Appellate Court correctly conclude that short-term rentals of a single-family dwelling constituted a permissible use of the subject property under the 1994 Pine Orchard Association Zoning Regulations?” The Defendants claimed that the Appellate Court (1) incorrectly determined that the 1994 regulations permitted short-term rental of the property, and that the Appellate Court made several other various errors in interpreting the 1994 regulations. The Supreme Court disagreed with the Defendants and affirmed the Appellate Court decision.

Potential Implications

In a recent article in the *Hartford Courant*, reporter Edmund H. Mahoney expressed that, “The decision, touching on the increasingly fraught issue of possible obnoxious short-term, luxury renters, focused on very specific zoning rules adopted by the Pine Orchard Association, located on the Branford shore, just inland of the Thimble Islands.” The article goes on to state that the decision may have “wider implications on rentals because of definitions the court arrived at for such concepts as ‘home,’ ‘residence’ and ‘single-family dwelling’ and how they apply to zoning laws elsewhere.”²

The Supreme Court identified that the terms “home,” “residence” and “family” were subject to a range of definitions as they were ambiguous in the 1994 POA zoning regulations. Furthermore, the court concluded that, regarding “home” and “residence,” such ambiguity did not provide for any particular length of time. The majority opinion was that “in the absence of clear language in the original zoning regulations restricting the duration of rentals, the court cannot impose a restriction.”³ The decision implies that “home” and “residence” in the POA regulations meant two different things: “home” being a permanent domicile of a person, and “residence” being a place where someone lives for a period of time with no inherent permanence.

Based on the *Wihbey v. Zoning Board of Appeals* case and its interpretations, it is highly unlikely that there will have wider implications beyond the definitions for “home,” “residence” and “single-family dwelling.” It is strongly recommended that municipalities review the following definitions in their zoning regulations, and consult with their attorney prior to making any amendments:

- Home – a permanent domicile of a person (as to length of stay)
- Residence – place where someone lives for a period of time without permanence (as to length of stay)
- Single-family dwelling (as to use, number of unrelated persons, length of stay, etc.)
- Family (number of people and whether related or not and how)
- Transient Guest or Traveler (renter – paid and how long)
- Short-term rental (as to the use and the length of time and number of occupants, etc.)

Maintaining the Status Quo

Municipalities which lack specific zoning regulations or ordinance language addressing short-term rentals may choose to make no changes to their existing regulatory frameworks; some may consider short-term

rentals equivalent to Bed & Breakfasts or boarding houses, or as hotels if they are located in commercial zones. Still other municipalities have taken the position that short-term rentals are prohibited, if they are not expressly permitted in their zoning regulations.

Local Regulations in Southeastern Connecticut

A spring 2023 survey of municipalities, conducted by SCCOG, showed that local municipalities were beginning to address the control of short-term rentals, as presented in the following table. The response to the first question “Does your municipality allow STRs?” indicated how the municipality viewed the legality of short-term rentals (regardless of their adoption of zoning regulations or an ordinance); the second/third question “Does your municipality regulate STRs; if yes how?” showed which municipalities in the region have taken action to address the impacts of short-term rentals.

Municipality	Does municipality allow STRs?	Does municipality regulate STRs?	If yes, how?
Bozrah	Yes	Yes	Town Ordinance
Colchester	No	No	
East Lyme	No	No	Committee appointed 8/23 by BOS to study
Franklin	No	No	
Griswold	No	No	
Groton City	Yes	No	
Groton Town	Yes	No	Town Ordinance/Zoning Regulation being considered
Jewett City	No Response		
Lebanon	No	No	
Ledyard	Yes	Yes	Zoning Regulation (<i>Note: The P&Z Commission rescinded STR Regulations in September 2023</i>)
Lisbon	Yes	Yes	Zoning Regulation (B&B)
Montville	Yes	No	
New London	Yes	No	
No. Stonington	Yes	No	
Norwich	No	No	City Ordinance considered, not enacted
Preston	Yes	Yes	Zoning Regulation
Salem	No	No	
Sprague	No	No	
Stonington Borough	Yes	No	Zoning Regulation being considered
Town of Stonington	No	No	Town Ordinance defeated 3/23
Waterford	No	No	Beginning public outreach
Windham	No Response		

Additional Issues

In addition to the legal questions raised above, there are a number of issues that municipalities must take into consideration when pursuing the control of short-term rentals. In writing regulations or ordinances to control short-term rentals, municipalities must make clear the intention or goal of the law; whether it is to prohibit short-term rentals, or to regulate them to provide for a safe and inoffensive operation. Enforcement considerations include where short-term rentals are permitted; parking requirements; noise and use restrictions; the prohibition of certain events; buffer requirements; occupancy limit (# of bedrooms); cap on number of short-term rentals in the municipality; time period approval is valid for and requirements for renewal; primary point of contact and requirements for response to complaints; location of trash receptacles; type of dwelling (i.e. allowed in single family dwelling but not multi-family, condo, apartment); prohibition of unaccompanied minors; provision of advertising and rental agreements; required inspections by Building Official, Zoning Official, Fire Marshal, Health Department; etc.

Ordinances typically require registration with the municipality and the provision of an accompanying fee, and identification of a contact person who can address issues quickly. This type of control allows for revocation of any permit issued if the short-term rental is non-compliant. Zoning regulations may require the submission of a site plan for the property and make short-term rentals subject to a zoning permit or special exception, which might include conditions for the short-term rental to operate.

Whatever approach a municipality takes in regulating short-term rentals, and whatever impacts are proposed to be addressed, experience in southeastern Connecticut municipalities suggests that to be successful, broad public outreach and engagement is critical in seeing the regulation of short-term rentals through to adoption. Municipalities should consult with legal counsel on an ongoing basis as legislation and case law develops.