



Short-Term Rental Regulation in Connecticut

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Introduction

Short-term rentals, known colloquially by their operator names such as ‘Airbnbs’ and ‘VRBOs,’ have become a significant segment of the travel market. Over the past seven years, Connecticut has seen a significant increase in the number of hosts of short-term rentals. While short-term rentals have proven increasingly popular with the travelling public, this short-term occupancy of a 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 essentially 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 welcomes 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 worrisome to neighbors who are impacted by the transient nature of the visitors, and who may feel that short-term rentals erode the quality of life in their neighborhood.

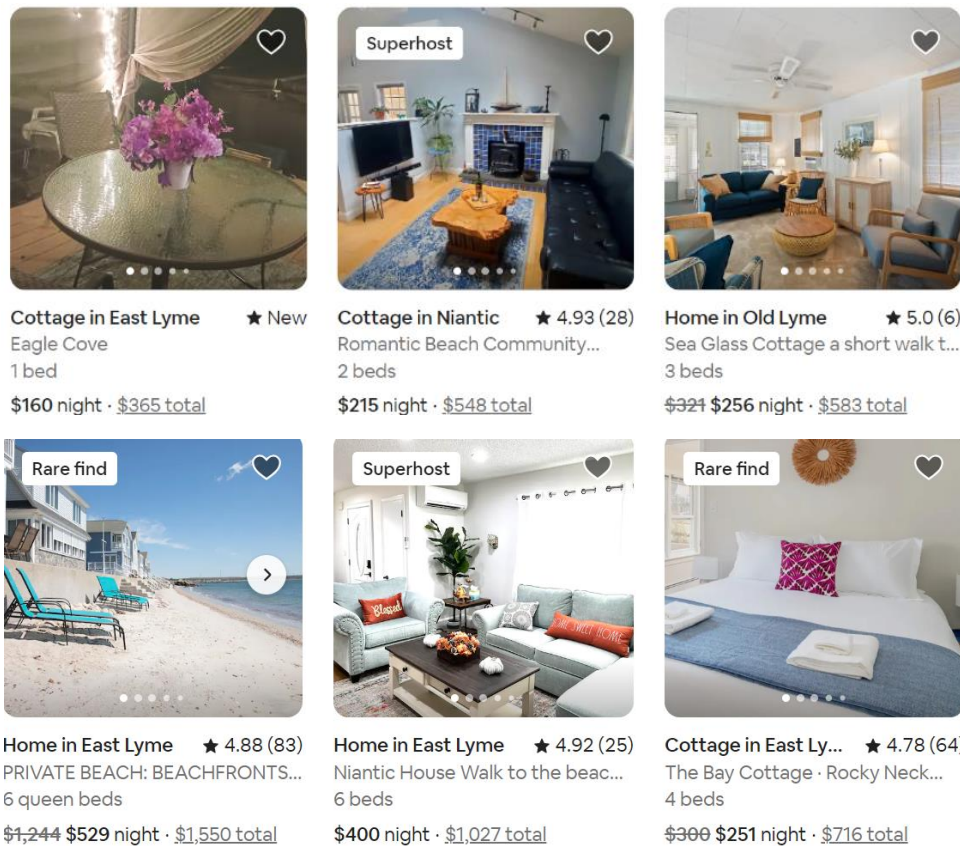
Challenges Associated with Short-Term Rentals

Municipalities face a number of challenges associated with the presence of 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 an increasing issue and 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 (building, health, fire) are all 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.



A search for short term rentals in and around East Lyme, CT reveals numerous houses, apartments, and other accommodations, shown in this Airbnb.com screenshot. Taken on September 6, 2023.

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 long list of 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.

The State of Connecticut currently has no legislation in place regulating short-term rentals, other than charging a room occupancy tax rate of 15%. This tax was first applied to short-term rentals in 2019 with the enactment of 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 recent years, short-term rentals have been the subject of several bills introduced in Connecticut’s legislature, none of which have been passed into law. Three bills were introduced during the 2023 legislation session which would have granted municipalities certain authority concerning short-term rentals. Proposed S.B. 199 would have allowed municipalities to impose a two percent occupancy tax on short-term rentals; Proposed S.B. 517 would have permitted municipalities to hire consultants to license and regulate short-term rentals; and Substitute for Raised S.B. 1137 defined what a short-term rental property was and would have allowed the levying of a tax and the engagement of consultants to assist municipalities in the development of ordinances and regulations of short-term rental properties. Collectively, these bills would have addressed concerns over municipalities’ financial and staff capacities to regulate short-term rentals and monitor enforcement.

Options for Local Regulation

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; 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

Some municipalities have chosen to or are contemplating controlling short-term rentals by municipal ordinance. Municipal ordinances have advantages over zoning regulations in that complaints are addressed by law enforcement who are available on nights and weekends. Additionally, ordinances can require periodic license renewals and new licenses for subsequent property owners along with annual life-safety inspections, as well as requiring a fee, which provides revenue to the municipality that can support the costs of enforcement. However, a municipal ordinance does not provide for site plan approval by the Planning and Zoning Commission, and as discussed further below, at least one Connecticut attorney has recently called into question whether municipalities have the authority to establish a short-term rental licensure program via ordinance.

Maintaining the Status Quo

Some municipalities which currently lack specific zoning regulations or ordinance language addressing short-term rentals may choose to make no changes to their existing regulatory frameworks. Some towns 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. In 2022 the first court case in Connecticut challenging that position, *Wihbey v. Zoning Board of Appeals*, reached the Connecticut Appellate Court, which found in favor of the property owner. This case is further described below. Additionally, although some municipalities might choose to not address the regulation of short-term rentals, they may eventually find that the increasing proliferation of them in their community will call for regulations specific to their use.

Local Regulations in Southeastern Connecticut

A spring 2023 survey of municipalities, conducted by SCCOG, showed that local municipalities are 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?” indicates how the municipality views 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?” shows 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		

Considerations for Regulation and Enforcement

Municipal Authority to Regulate

This survey of southeastern Connecticut municipalities makes it apparent that questions remain about how best to control short-term rentals and would indicate that more State guidance and legislation might assist municipalities toward this end. Two questions that have recently surfaced in southeastern Connecticut municipalities considering short-term regulatory options are:

- 1) Can municipalities regulate short-term rentals by ordinance?
- 2) May municipalities delegate the administration and enforcement of short-term rentals to an outside third party?

As noted in the table above, voters in the Town of Stonington defeated a proposed ordinance regulating short-term rentals in March 2023. In a letter dated January 6, 2023, Attorney Timothy S. Hollister, representing a property owner opposed to the proposed ordinance, wrote: “A principal issue with the proposed ordinance is that the Town of Stonington does not have statutory authority to regulate renting of residential property based on the length of stay of the renters. In general, municipalities in Connecticut have only those powers expressly delegated by the General Assembly and those powers necessarily implied from an express delegation.” Attorney Hollister went on to state that control over property use is reserved in the Connecticut General Statutes to the Planning and Zoning Commission. “Any ordinance that seeks to impose a limit on existing, established land uses will potentially infringe on “vested” property rights in general and nonconforming use rights in particular, and thus can be regulated only through land use powers. And notably, General Statutes §8-2, the Zoning Enabling Act, also does not permit regulation of short-term rentals.” Attorney Hollister’s opinion has not been tested in court.

A second legal question was raised in Norwich, where an attempt to pass an ordinance for short-term rentals lost momentum due to the conflicting statutory requirements that prevent the hiring of a consultant or private organization to enforce and register short-term rentals. With a zoning enforcement staff of one person, there was concern that the Zoning Enforcement Officer would be unable to manage the workload associated with trying to license/register, permit, and regulate all short-term rentals, so the City hoped to outsource this work to a consultant. However, the Norwich City Attorney held that the ability to delegate this activity to a third party is not allowed in Connecticut.

In addition to the two local instances where the legality of regulating short-term rentals has been questioned, 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."

Legal issues like these, along with differing public opinion concerning the desirability of short-term rentals, currently complicate the issue of how to best regulate short-term rentals. Only a small number of municipalities outside of southeastern Connecticut have passed specific short-term rental regulations, including Greenwich, Hartford, and Lyme (all via zoning), and Simsbury (via ordinance).

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, 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. Based on what was learned in the Town of Stonington and the City of Norwich, municipalities contemplating the control of short-term rentals would also be wise to consult with their legal counsel early in the process.