



TOWN OF WATERTOWN

Department of Community Development and Planning

Staff Report

This Report provides the Department of Community Development and Planning's staff recommendation to the Planning Board for the public hearing on a Zoning Text Amendment for regulating short-term rentals.

ZONING AMENDMENT:	Article II, Definitions; Article V, §5.02, Table of Accessory Use Regulations; §5.03, Notes to Table of Uses; NEW §5.19 Short-Term Rentals
TOWN COUNCIL COMMITTEE REPORT	March 29, 2021 Committee Report
DATE OF FIRST READING:	June 22, 2021
STAFF RECOMMENDATION:	Adopt Zoning Amendment
DATE OF PLANNING BOARD HEARING:	Scheduled November 10, 2021

I. PUBLIC NOTICE

A. Procedural Summary:

As required by the Watertown Zoning Ordinance § 9.22, notice was given as follows:

- Published in the newspaper of record (Watertown Tab) on October 22 and 29, 2021;
- Posted at the Town Administration Building on October 22, 2021; and,
- Mailed to parties of interest on October 27, 2021

B. Planning Board Public Notice:

"The Town of Watertown Planning Board will hold a public hearing on Wednesday, November 10, 2021 with the meeting starting at 7:00 pm in the Town Council Chamber, Administration Building, 149 Main Street, Watertown, Massachusetts, to consider amendments to the Watertown Zoning Ordinance. Pursuant to Chapter 20 of the Acts of 2021, the meeting and public hearing will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be at the meeting location listed above. Remote participation and access methods include: 1. Televised on Watertown Cable Access Television: <https://cloud.castus.tv/vod/#/watertown/?page=HOME> 2. Join the virtual meeting online: <https://watertown-ma.zoom.us/j/92709029148> 3. Join the virtual meeting audio only by phone: (877) 853-5257 or (888) 475-4499 (Toll Free) and enter Meeting ID#: 92709029148 4. There is also an opportunity to email comments to imarchesano@watertown-ma.gov prior to or during the meeting.

Short-Term Rentals as a Use Category (replacing a previous renting of rooms use category) with supporting language, definitions, and a section for the requirements to operate short-term rentals as an accessory use within certain residential dwelling units."

II. DESCRIPTION

A. Nature of the Request

The Department of Community Development and Planning, at the request of the Honorable Town Council, proposed zoning amendments to regulate Short-Term Rentals within the Zoning Ordinance summarized below:

1. **Define Short-Term Rentals** – rental of a dwelling unit, or bedroom of not more than 31 days in a row
2. **Table of Accessory Uses** – Strike out a previous category for renting up to two rooms and replace. Short-Term Rentals to be allowed in all districts with a new note restricting them to be an accessory use to residential dwelling units, as allowed within a new Section
3. **New Section for Short-Term Rentals** – Identifies the intent/purpose to legalize short-term rentals while ensuring safety, primary residential use, and protecting the character and livability of residential neighborhoods. With this in mind, the amendment proposes three types of operations. The section authorizes the Department to issue regulations that ensure compliance and allow for updates to address issues as they arise.
 - a. **Limited Share Unit:** a **private bedroom or shared space** at the primary residence of the Operator while the Operator is **present** with occupancy limited to **three bedrooms or six guests**, whichever is fewer. One bedroom must be reserved for the Operator.
 - b. **Home Share Unit:** a **whole unit** available for a short-term rental which is the primary residence of the Operator with occupancy limited to **five bedrooms or 10 guests**, whichever is fewer.
 - c. **Owner Adjacent Unit:** one whole unit offered as a Short-Term Rental by an Operator that is not the Operator's primary residence, but that is located within the **same** residential building as the **owner's primary residence** and where all dwelling units in the building are owned by the Operator. An Operator of an Owner-Adjacent Unit may only register and use one Owner Adjacent Unit as a Short-Term Rental.

The Town Council also requested that the Planning Board consider concerns raised at the First Reading, including two main points:

- a. Allowing Lessee as Operator (i.e., the current draft allows a renter to use their unit for short-term rentals with the owner's permission); and
- b. Maximum Number of Guests (the current draft is based on the building and health code with a maximum)

B. Background and Findings

The Department of Community Development and Planning held a community meeting on February 21, 2018 and created a questionnaire at the same time (which was open for comments over the entire year) to gather general concerns and comments in regard to short-term rentals. Subsequently, Spring Semester of 2019, the Town worked with Boston University Initiative on

Cities - Metrobridge to review the public comments from 2018 and consider implications and aspects for short-term rentals in partnership with Town staff and Town Councilors.

The Metrobridge study suggested some key points to consider, including:

- limit to owner occupied and adjacent properties,
- do not create an arbitrary cap on the number of days,
- require the additional tax,
- consider creating a violation process, and
- consider additional staffing or third-party support for implementation/enforcement.

Subsequent to this, the Town Council Committee on Rules and Ordinances held meetings to discuss options with DCDP staff in attendance. Meetings were held on August 7, 2019, September 23, 2019, November 25, 2019, February 18, 2020, and March 29, 2021. At the initial August 7, 2019 Town Council Committee meeting, DCDP Staff presented Cambridge, Newton, and Salem as examples of how other communities structured their short-term rental policy. The Committee considered a Town Ordinance and Regulations as an option but decided to focus on a Zoning Amendment with Regulations by the Department(s), as this would allow a quicker and more flexible response to changing conditions.

Comments were incorporated from the November 25, 2019 Committee meeting to clarify the length of stay to be consistent with State Law and add definitions and regulations consistent with language developed by the City of Boston for different types of short-term rentals. The next draft also incorporated comments about creating a fee structure, considering consultant services for monitoring and enforcement, and having an implementation timeframe for the regulations. As part of this, short-term rental properties would be required to register and renew with the Town. DCDP noted that staffing capacity will be an important aspect of successful implementation of regulation and registration.

The Town Council Committee provided a report to the Town Council (March 29, 2021 [Committee Report](#)) recommending a proposed ordinance language and draft regulations to start the Zoning Amendment hearing process. The Committee suggested further discussion on allowing a lessee to operate a short-term rental and on the maximum number of guests.

III. STAFF RECOMMENDATIONS

The proposed language has been reviewed by the Town Council Committee and relevant Departments and provides a comprehensive approach to regulating short-term rentals. The Planning Board can assist the Town Council in finalizing a new short-term rental policy by addressing the two questions the Council posed:

Owner or Owner and Renters: Staff is neutral. Staff does not believe that allowing a renter to operate a short-term rental with owner approval is problematic. There are situations where this flexibility would be beneficial, such as if a long-term renter takes a one-month vacation every year and uses a short-term platform to rent the space to a visiting family. On the other hand, limiting short-term rentals to owner occupied units would be reasonable and easily implemented. This would not be a hardship to tenants, as short-term rental is accessory to the

unit's primary use. Either way, it is likely that most owners would not consent to a tenant operating a short-term rental.

If the Board wishes to recommend limiting short-term rentals to owner occupied units, the proposed language below highlights an amendment that would address this change and is also added to the draft amendment attached to this report. The definition of Operator would read as follows:

Operator: The person or persons offering a dwelling unit or bedroom for short-term rental, who ~~may be either~~ **shall** be the owner ~~or the primary leaseholder~~ of the dwelling unit with the written permission of ~~the property owner and~~ the condominium association if applicable.

Number of Guests: Staff believes that the short-term rental ordinance/regulations should include a maximum number of guests to minimize overly intensive use of the space.

State codes define the maximum capacity of residential units. The amendment requires that only legally created and code compliant units and bedrooms can be used for short-term rentals. The following table provides a summary of the type of units, threshold requirements, and the additional up limits:

Type	Unit Use Summary	Threshold Requirement	Max # of Bedrooms/Guests
Limited Share Unit	Bedroom(s)	One bedroom for occupant/resident Total not to exceed max # of legal bedrooms	Up to 3 bedrooms or 6 people
Home Share Unit	Whole House or Unit	Primary Residence Total not to exceed max # of legal bedrooms	Up to 5 bedrooms or 10 people
Owner Adjacent Unit	Whole Unit	Primary Residence	Max based on Occupancy Permit/MA Sanitary Code*
* 105 CMR 410 – In summary, a dwelling unit must have 150 s.f for first occupant and 100 s.f. for each additional occupant. Bedrooms must have 70 s.f. minimum and must have 50 s.f. per occupant.			

Staff previously presented scenarios to show common and worst-case situations:

- a. A two person household lives in a six bedroom single-family house. There are five extra bedrooms but only three can be rented out short-term. The rooms can be rented individually or together for up to 6 people but with only 3 reservations at one time. They enjoy meeting new people and like the eclectic mix when several reservations overlap. They could have one or two smaller families, a mix of professionals visiting for

-
- work, or vacationers looking for local experiences. In this case the rooms are integrated into the home and facilities are shared.
- b. A one-person household has a larger house with three bedrooms. There is a partially separated area with a large primary bedroom and attached bathroom. Adjacent to the bedroom is a family room with a wet bar. In this scenario a rental would be limited to two people maximum.
 - c. A Watertown family has a planned one-month vacation every year and want to use their six-bedroom house for people visiting Watertown while they are away. The house has easily accommodated them and their multigenerational family, with up to 14 people living there. As noted, in renting it, it can only be rented as one single unit. The following are two scenarios for this house:
 1. Two sibling and one friend with their families (2 spouses and 7 children) are looking for a single house to rent in Watertown so they can be near their family. The Home Share is capped at 10 so they couldn't use the house that meets the code and could accommodate 12 people.
 2. A group of friends want to meet up in Watertown to go to a reunion. There are 10 friends. They decide to have a huge party in the large yard. They forget about the garbage, parking, and other rules. The neighbors call the police and the owner gets a fine and warning that any further infraction will eliminate the ability to have a short-term rental.

Limiting the maximum number of guests is necessary to minimize overly intensive use of the space. During the Town Council process, the proposed language has been strengthened to address the potential that a particular rental will cause a nuisance. Staff suggests a further change (discussed below). On balance, the proposed cap is reasonable and provides enough flexibility for most units while limiting large gatherings.

The proposed Owner Adjacent Unit definition should be strengthened by including a maximum capacity limit; unlike the other definitions, this category is only limited by code requirements. For clarity and consistency, Staff suggests that the language in the Home Share Unit definition and section (e) Requirements be updated to be consistent with the Operator - Home Share, as follows (new language in red):

“Operator - Owner Adjacent Unit: consists of one whole unit offered as a Short-Term Rental by an Operator that is not the Operator’s primary residence, but that is located within the same residential building as the owner’s primary residence and where all dwelling units in the building are owned by the Operator with occupancy limited to five bedrooms or 10 guests, whichever is fewer, but the number of rooms may not exceed the lawful number of bedrooms in the unit. An Operator of an Owner-Adjacent Unit may only register and use one Owner Adjacent Unit as a Short-Term Rental.”

Staff recommends **approval** of the proposed Zoning Amendments to define and regulate Short-Term Rentals, based on the findings, with such changes necessary to address the questions posed by Town Council. Further, Staff recommends that the Board endorse the draft regulations, with changes to conform to the final ordinance on adoption of the Zoning Amendments.

Staff’s suggested language for changes to the ordinance are highlighted below in red.

Attachment 1. Proposed Zoning Amendments:

- I. Article II – Insert a new Section alphabetically (after Section 2.74 Setback) to define short-term rental for zoning regulation. Subsequent sections would be renumbered.

Proposed Language:

Section 2.75 Short-Term Rental

Any rental of a residential dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of not more than thirty-one (31) consecutive days.

- II. Article V – Strike out Section 5.02(a) and replace with NEW Section 5.02(a) Short-Term Rental. Add a note to reference the proposed Ordinance. This removes an unused section and replaces it with an allowance for short-term rentals. This amendment does not have a requirement for a Special Permit for any scenario, and only requires registration and compliance with new regulations.

Proposed Language:

SECTION 5.02 TABLE OF ACCESSORY USE REGULATIONS

	Accessory Use Only	<u>S</u> <u>-</u> <u>6</u>	<u>S-</u> <u>10</u>	<u>C</u> <u>R</u>	<u>S</u> <u>C</u>	<u>T</u>	<u>R.</u> <u>75</u>	<u>R1</u> <u>.2</u>	<u>N</u> <u>B</u>	<u>L</u> <u>B</u>	<u>C</u> <u>B</u>	<u>I-</u> <u>1</u>	<u>I-</u> <u>2</u>	<u>I-</u> <u>3</u>	<u>PS</u> <u>CD</u>	<u>O</u> <u>SC</u>	<u>R</u> <u>M</u> <u>UD</u>
<u>a</u> <u>:</u>	<u>Within a dwelling unit that is owner occupied, renting of not more than two rooms as a lodging without separate cooking facilities and for not more than two lodgers</u>	<u>S</u> <u>P</u>	<u>SP</u>	<u>S</u> <u>P</u>	<u>S</u> <u>P</u>	<u>S</u> <u>P</u>	<u>SP</u>	<u>SP</u>	<u>S</u> <u>P</u>	<u>S</u> <u>P</u>	<u>S</u> <u>P</u>	<u>N</u>	<u>S</u> <u>P</u>	<u>S</u> <u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>a</u> <u>:</u>	<u>Short-Term Rental (18)</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>

- III. Add a new note within SECTION 5.03 NOTES TO TABLE OF USE REGULATIONS, referencing that Short-Term rentals are only allowed as specified in the new Short-Term Rentals Section within the ordinance.

Proposed Language:

(18) Short-term rentals may be allowed as an accessory use within residential dwelling units in all districts, as specified in Section 5.19.

- IV. Add a new Section 5.19 with the zoning requirements for Short-Term Rentals, as follows.

Proposed Language:
SECTION 5.19 SHORT-TERM RENTALS

(a) Intent and Purpose

This Section is intended to make the operation of short-term rentals legal for residents, protect the safety of renters and residents, ensure that the primary use remains residential, and ensure that short-term rentals will not be a detriment to the character and livability of the surrounding residential neighborhood.

(b) Definitions

- (1) Booking Agent: Any person or entity that facilitates reservations or collects payment for a Short-Term Rental on behalf of or for an Operator.
- (2) Short-Term Rental: Any rental of a residential dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of not more than thirty-one (31) consecutive days.
- (3) Short-Term Renter: Any person or persons occupying a dwelling unit, or a bedroom within a dwelling unit, as a short-term rental for a duration of not more than thirty-one (31) consecutive days.
- (4) Operator: The person or persons offering a dwelling unit or bedroom for short-term rental, who ~~may be either~~ shall be the owner ~~or the primary leaseholder~~ of the dwelling unit with the written permission of ~~the property owner and~~ the condominium association if applicable.
- (5) Operator - Limited Share Unit: consists of a private bedroom or shared space at the primary residence of the Operator while the Operator is present with occupancy limited to three bedrooms or six guests, whichever is fewer. One bedroom must be reserved for the Operator.
- (6) Operator - Home Share Unit: consists of a whole unit available for a short-term rental which is the primary residence of the Operator with occupancy limited to five bedrooms or 10 guests, whichever is fewer.
- (7) Operator - Owner Adjacent Unit: consists of one whole unit offered as a Short-Term Rental by an Operator that is not the Operator's primary residence, but that is located within the same residential building as the owner's primary residence and where all dwelling units in the building are owned by the Operator with occupancy limited to five bedrooms or 10 guests, whichever is fewer, but the number of rooms may not exceed the lawful number of bedrooms in the unit. An Operator of an Owner-Adjacent Unit may only register and use one Owner Adjacent Unit as a Short-Term Rental.

(c) Applicability

The requirements of this Section shall apply to all short-term rentals in all districts where residential uses are located, but shall not apply to principal transient accommodations including Hotels.

(d) Regulations

The Director of the Department of Community Development and Planning, or their designee, shall have the authority to promulgate regulations to carry out and enforce the provisions of this Section.

(e) Requirements: Only operator-occupied short-term rentals and owner-adjacent short-term rentals are permitted as follows:

- (1) A short-term rental operator may make available:
 - a. **Limited Share Unit:** a private bedroom or shared space at the primary residence of the Operator while the Operator is present with occupancy limited to three bedrooms or six guests, whichever is fewer, but the number of rooms may not exceed the lawful number of bedrooms in the unit. One bedroom must be reserved for the Operator.
 - b. **Home Share Unit:** one whole unit available for a short-term rental which is the primary residence of the Operator with occupancy limited to five bedrooms or 10 guests, whichever is fewer, but the number of rooms may not exceed the lawful number of bedrooms in the unit.
 - c. **Owner Adjacent Unit:** one whole unit offered as a Short-Term Rental by an Operator that is not the Operator's primary residence, but that is located within the same residential building as the owner's primary residence and where all dwelling units in the building are owned by the Operator **with occupancy limited to five bedrooms or 10 guests, whichever is fewer, but the number of rooms may not exceed the lawful number of bedrooms in the unit.** An Operator of an Owner-Adjacent Unit may only register and use one Owner Adjacent Unit as a Short-Term Rental.
- (2) A dwelling unit or bedroom offered for short-term rentals shall comply with all standards and regulations promulgated by DCDP.
- (3) All short-term rental operators shall register with the State and the Department of Community Development and Planning (DCDP) prior to short-term rental use and occupancy, showing conformance with regulations in place.
- (4) A dwelling unit or bedroom offered for short-term rentals shall comply with building and health code requirements for occupancy.
- (5) Operators of short-term rentals shall remit to the appropriate body all fees and taxes as required by the Town and/or State authorities.
- (6) Short-term rental operators shall maintain liability insurance appropriate to cover the short-term rental use.

-
- (7) Renting for an hourly rate, or for rental durations of less than one day, shall not be permitted.
 - (8) Commercial meetings and uses are prohibited in short-term rentals.

Attachment 2. Proposed Short-Term Rental Regulations:



Town of Watertown
Department of Community Development and Planning
149 Main Street
Watertown, MA 02472

SHORT TERM RENTAL REGULATIONS

These regulations are developed pursuant to the Watertown Zoning Ordinance, Section 5.19 Short-Term Rentals, to carry out and provide enforcement requirements for operation of short-term rentals within Watertown. The regulations are intended to provide clear guidance and requirements for short-term rentals to be legal for residents, protect the safety of renters and residents, ensure that the primary use remains residential, and ensure that short-term rentals will not be a detriment to the character and livability of the surrounding residential neighborhoods.

The regulations shall be in effect at the time of passing of the Zoning Ordinance Amendment, with the understanding that there will be a three-month initial timeframe for existing sites to become compliant and properly permitted. This timeframe may be extended by the Director upon a written request by a pre-existing operator explaining the need for an extension.

I. Procedural Requirements

The following information shall be provided to all short-term renters and posted in all owner-adjacent short-term rentals in a manner to be determined by the Department of Community Development and Planning:

- a. Instructions for disposal of waste per the Town of Watertown's rules and the conditions of the particular residence.
- b. An emergency-exit diagram in all bedrooms used for owner-adjacent short-term rentals and on all egresses from the dwelling unit.
- c. Instructions for parking rules and limitations for off-site public parking (including the rules about no parking on sidewalk or planter strips, and the winter parking ban).
- d. Contact information for the short-term rental operator, or when the operator is not present, the contact information for a locally available contact designated to respond to all emergencies and problems that may arise during the rental period, whether from renters, neighbors or municipal authorities.

- e. The Certificate of Registration for the short-term rental.
- 2. The operator of an owner-adjacent short-term rental shall keep accurate books and records, make them available upon request of the Department, and maintain such books and records for a three year period.

II. Registration and Eligibility

All dwelling units offered for short-term rental shall first register with the municipality and secure a Certificate of Registration according to standards set forth by the Building Inspector/Inspectional Services Division, and pay all associated fees. The Certificate of Registration shall require the operator to agree to abide by the requirements of these Regulations.

- ☐ **Owner Consent:** If the operator is not the owner of the property, the operator shall provide written evidence that the owner, and the condominium association if applicable, has consented to the short-term rental use of the property.
- ☐ **Proof of Residency:** All operators shall provide the municipality with proof that one of the units in the structure is used as the operator's primary residence, either by:
 - ☐ Providing proof of enrollment in the municipality's residential tax exemption program, or
 - ☐ Providing an affidavit, signed under the pains and penalties of perjury, stating that the dwelling being used for short-term rental is the operator's primary residence, a property title or tenancy agreement along with a photo ID, and a government or utility correspondence with operator's name and address issued within the last three (3) months.
- ☐ **Ineligibility:** The following residential units are not eligible to be offered as Short-Term Rentals:
 - ☐ Residential Units designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law.
- ☐ **Inspection:** Prior to issuing or renewing a Certificate of Registration, the Department must conduct an inspection to verify that each dwelling unit and bedroom to be rented to short-term renters:
 - ☐ Meets all Building/Health/Fire Code requirements for occupancy.
 - ☐ Meets all other requirements of this Section and regulations promulgated by the Commissioner of Inspectional Services.

-
- ☐ It is the responsibility of the short-term rental operator to renew its certificate of registration every five years or upon change of operator or owner.
 - ☐ Is an eligible unit, including not having affordability restrictions.
 - ☐ **Proof of Insurance** – Proof of liability insurance shall be required. You should confirm with your insurance company on what level of insurance you will be required to have. If you have a house loan, also make sure to check with your mortgage company to confirm that they allow short-term rental.
 - ☐ **Listing Information:** The Operator, upon listing a Short-Term Rental or modifying an existing listing, shall file with the municipality an exact duplicate of the listing, including property address. Listings must specify the quantity of off-street parking, if any, and include language relative to Watertown parking regulations.
 - ☐ **Agent Updates:** A Booking Agent with any listings in Watertown shall provide to the municipality on a quarterly basis an electronic report, in a format to be determined by Watertown. The report shall include a breakdown of where the listings are located, whether the listing is for a room or a whole unit, the number of nights each unit was reported as occupied during the applicable reporting period, and the Operator's name and full contact information.

III. Registry

The Town will keep a public registry of approved sites.

IV. Complaint Process and Violations

Complaints shall be made to the Department, unless it is an emergency in which case it should be reported to emergency services, and an investigation shall commence within 30 days. Violations may, at the Director's discretion, result in a warning or a ticket and the maximum fine appropriate per the Zoning Ordinance.

One (1) or more such tickets within a six (6) month period will result in the unit no longer being eligible to that Operator for use as a short-term rental for a period of six (6) months following the most recent violation.

Violations may also include any failure to abide by these Regulations, including, but not limited to:

- Offering an ineligible unit,
- Excessive noise, improper trash disposal, disorderly conduct,

-
- Failure to furnish a copy of a Booking Agent listing or include required parking information in such listing, or
 - Failure to remit any required excise tax or surcharge as required by law