

TO: Ad Hoc Committee on Zoning and Regulations
 FROM: BarnstableWatch.com
(contact: Heather Hunt, Kathy Holcombe at BarnstableWatch@gmail.com)
 DATE: December 5, 2019
 RE: **Short-term rentals and nuisance ordinances**

**Nuisance ordinances place the burden on residents to report problems.
 But these problems are not inevitable; the Town can prevent many of them by enforcing existing regulations.**

In our experience, many short-term rental nuisances — like noise and parking — are the result of overstuffing single-family homes. Groups of transient lodgers and multiple families use single family homes and exceed Town of Barnstable occupancy limits all the time. In our experience the Town does not enforce its own occupancy rules even when asked; correcting that is a good place to start.

**Occupancy violations are part of the short-term rental business model,
 and a routine practice of investors running makeshift hotels.**

To the right, you’ll see icons that “hosts” use to advertise their short-term rentals on Airbnb.com. ***The icons show prospective renters how many friends can pile in to a house and divide costs.***



Common spaces
 12 air mattresses,
 2 couches

Overstuffing homes gives Airbnb its pricing advantage over hotels, motels, and bed-and-breakfasts where such occupancy violations are not allowed. Investors routinely welcome it. Were they to not engage in occupancy violations, their properties would not be as popular and produce the income they expect.

We’re aware of at least one local investor who advertises in excess of occupancy limits and overstuffs with two illegal attic “bedrooms” and no safe egress. Since that was reported in February 2019, and a Cease and Desist order was issued many months later, there was constant use of those rooms - lights on, drapes up and down - throughout summer 2019, consistent with continued advertisements showing those illegal rooms.



**Police use nuisance laws to shut down problem properties.
Makeshift hotels proliferating in Barnstable residential neighborhoods aren't that.**

Nuisance ordinances can eliminate certain problem properties efficiently. They can force disruptive tenants to leave and, sometimes, landlords to sell. But it's no solution for year-round residents living next to revolving door transient lodgers with bags that are never really unpacked.

And, at least in Barnstable, they would place burdens and risks on residents.

Residents who have complained of occupancy violations have been asked by Town officials to produce evidence - photographs and documentary proof. In fact, one of us was asked by a Town official to produce evidence of septic system compromise after expressing concern about chronic occupancy violations.

Photographing lodgers next door is no way to live. For the Town to encourage residents to use our electronic devices to produce evidence of transient lodgers' behaviors and violations is also risky. The Commonwealth of Massachusetts laws on audio recording are strict and, we believe, have both civil and criminal consequences. Please do not put in a place a system that depends on residents to gather evidence to get the protection of laws.

**Barnstable is spending \$1.06 billion on a long-term wastewater management plan
while it ignores threats to the system we'll still depend on for decades.**

As you know, excess nitrogen leaching from septic systems causes 80% of the nutrient pollution in our estuaries. Last year, scientists found chemicals in our drinking water linked to cancer, immune disorders, and liver disease. Residents were urged to keep their dogs away from lakes and ponds because the toxic algae could kill them.

Until the \$1.06 billion project is completed decades from now, we need to manage the problem.

We urge the Town to stop providing a safe harbor to operators of short-term rental properties that invite occupancy in excess of septic system design. If the Town believes our occupancy limits are wrong, it should:

1. Explain the policy objective it seeks to achieve that trumps the public health and environmental protections occupancy limits provide
2. Adjust all occupancy limits so that residents and those considering buying a home here understand what is allowed

Let's prevent nuisances: as a condition of short-term rental permit, require advertisements that identify the legally permitted number of adults.

Preliminary recommendation

As a condition to obtaining a short-term rental registration from the Town of Barnstable, applicants should be required to state the number of adult occupants permitted by the Town's occupancy regulation in all rental advertisements.¹ The application should also state that the rental permit will be revoked if an ad does not comply.

Other jurisdictions have ordered short-term rental advertisements to accurately represent occupancy. For example, Boulder, Colorado provides that all advertisements for rentals should list a maximum occupancy no greater than the city's maximum unrelated occupants (the advertised limit can be smaller than that allowed by law).² Rancho Mirage, California requires the maximum overnight occupancy to be disclosed in all advertisements.³ New York's summer haven — the Hamptons — has special, tightened occupancy limits, regardless of the size of the home, when it's not rented to a family.

Rationale

Advertisements for short-term rental units across Barnstable invite illegal occupancy levels in plain sight. This includes investors using on-line platforms like Airbnb, professional rental companies, and Realtors. (*See illustrations in the Appendix to this document.*)

Expected sources of support

- *Homeowners* who purchased dwellings in residential neighborhoods with occupancy limits designed to protect public health, safety, and quality of life.
- *Municipal enforcement staff*, who in our experience and a review of Town records, ask residents that request occupancy enforcement at nearby STRs for photographic or other evidence of violations. Enforcement staff appears to be unable to gather evidence or enforce laws: one officer described evidence-gathering as “driving by” an investor-operated Airbnb.
- *State and local health and environmental officials* who at least on paper administer laws to align septic system capacity to bedroom and occupancy levels.
- *Environmental advocates*, including those that have taken steps to ensure concrete action to protect the Cape's water and ultimately, its economy.

¹ The Town currently requires a sign to be posted in short-term rental units indicating the occupancy limits. Short-term rental advertisements, publicly available “guest” reviews and neighbor experiences show this is wholly ineffective in achieving occupancy limit compliance.

² <https://bouldercolorado.gov/plan-develop/occupancy-limits>

³ <https://ranchomirageca.gov/residents/short-term-rental-information/>

- *Cape Cod & Island Association of Realtors (CCIAOR)* given their professional obligation to integrity in advertising.⁴ Additionally, the CCIAOR has publicly expressed concern about Barnstable’s wastewater challenges, which is directly linked to the septic design, capacity, and use that aligns with legal occupancy limits.

Expected sources of opposition

- *Property owners Interested in maximizing STR revenue* by exceeding occupancy limits to reduce cost per person and/or to attract groups or multi-family use.
- *Transient lodgers* who seek to exceed occupancy limits to reduce cost per person and/or to use single-family homes as venues for groups and multi-families.

Fiscal impact

- Reduce the costs of enforcement staff required to deal with occupancy violations at short-term rentals *in real time* that occur when advertisements invite transient occupants in excess of permitted levels.
- While there are data services, we respectfully suggest that identifying advertisements in excess of occupancy limits and the associated street address is not hard. We did it. High school interns working for academic credit could do it at no cost.

**The Town already has most of what it needs to regulate STRs:
occupancy limits and zoning, which we all relied on when we bought our homes.**

At a recent civic association meeting, a resident stated “*the Town of Barnstable has lost its way in terms of respecting what zoning is. You really just have to respect zoning, and you have to enforce it. An investor in a residential neighborhood is a blatant violation of occupancy. That is a change of use.*”

⁴ **Article 12** REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations.

Standard of Practice 12-10 REALTORS®’ obligation to present a true picture in their advertising and representations to the public includes Internet content, images, and the URLs and domain names they use, and prohibits REALTORS® from:

1. engaging in deceptive or unauthorized framing of real estate brokerage websites;
2. manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
3. deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or
4. presenting content developed by others without either attribution or without permission, or
5. otherwise misleading consumers, including use of misleading images. (*Adopted 1/07, Amended 1/18*)
See, <https://www.nar.realtor/about-nar/governing-documents/code-of-ethics/2019-code-of-ethics-standards-of-practice#DutiestothePublic>

BarnstableWatch is comprised of residents who live in single-family homes located in zoning districts where the permitted land use is single-family residential dwellings. We relied on that zoning designation when we purchased our homes. Many of us chose to purchase homes in zone RC, where we knew zoning laws did not allow rental of even one room.

We now find ourselves living next door to homes that investor-operators have flipped into makeshift hotels. Unlike traditional Cape family rentals, these properties are investor profit centers that are home to no one, ever.

One difference between this new type of transient lodging accommodation and traditional accommodations — inns, motels, hotels, and bed-and-breakfasts — is that the Town requires the latter to have on-site management, which controls many things, including occupancy.

Residents in Barnstable deserve what residents in every other municipality across the Commonwealth have: protection of zoning laws.

The Town of Barnstable wrote that it has been deliberating short-term rental regulations since August 2018. It took more than a year for the Town to ask for citizen input and the views of village associations. That is critically important and requires time. That said, we are barreling toward a year-and-a-half of deliberations and in the intervening period, Barnstable's response to requests for the protection of existing, longtime zoning laws has been to advise homeowners to "wait" for new zoning laws.

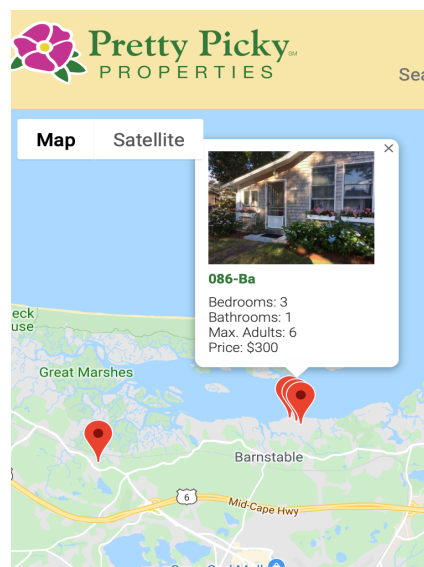
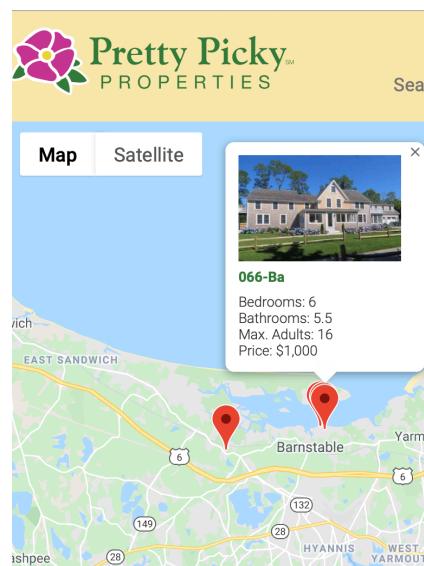
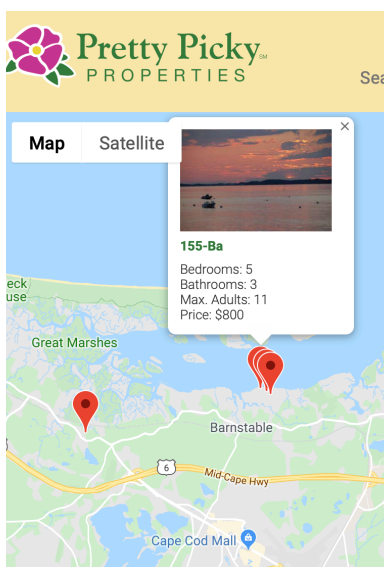
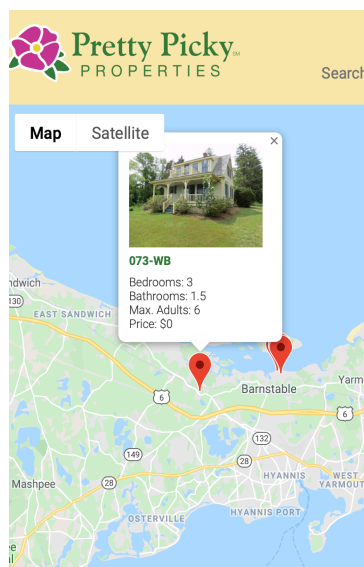
We urge the Town to provide homeowners who bought homes in single-family residential dwelling districts to enforce zoning and occupancy laws and return our residential neighborhoods to what they have always been while it continues its important public input process and deliberations.

APPENDIX

Professional rental companies openly advertise to exceed occupancy limits

A professional rental company stated at a village association citizen input session on short-term rentals that landlords of long-term rental units are more likely to violate Town codes.

The company's short-term rental advertisements for *all* of its properties in Barnstable as of December 1, 2019 exceed maximum adult occupancy per regulatory limits.



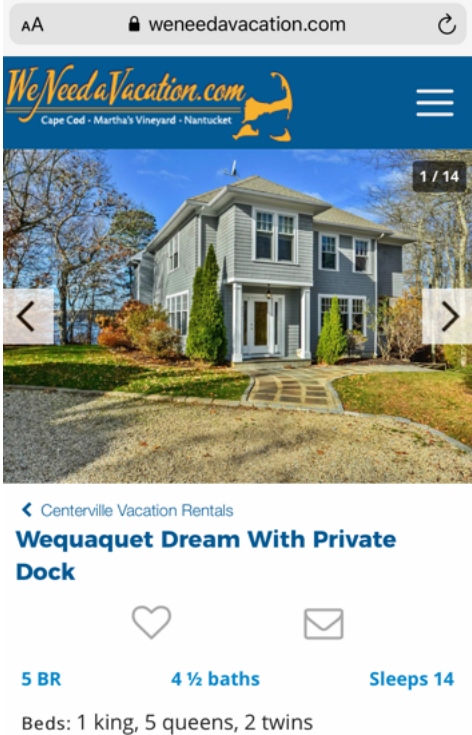
Source 12/1/2019,
<https://www.prettypicky.com/mid-cape-vacation-rentals-map/>

BarnstableWatch

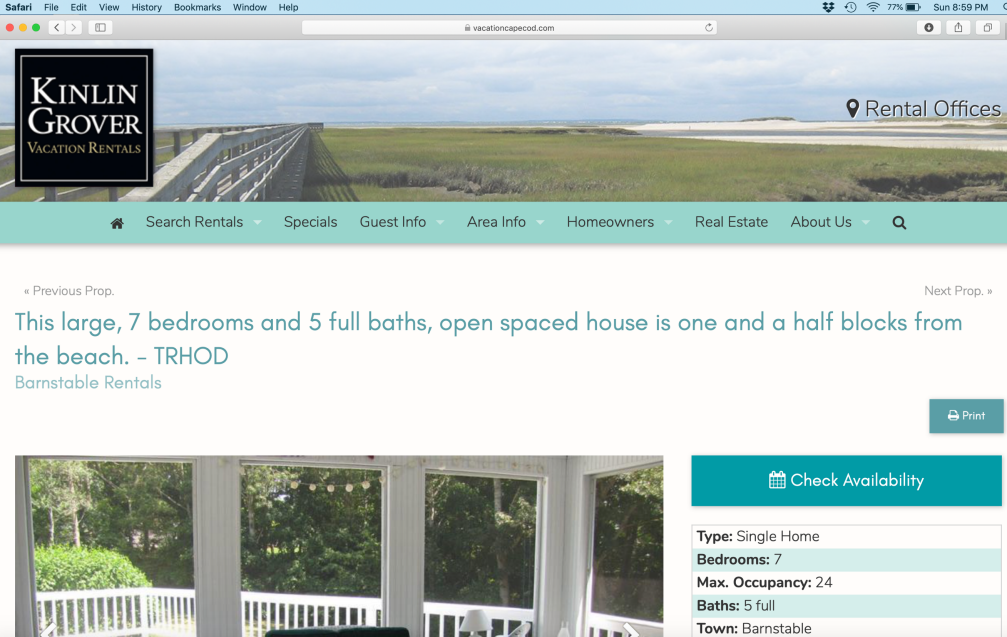
www.BarnstableWatch.com

This ad invites 14 to occupy a 5-bedroom home, with a septic system designed accordingly, in an environmentally challenged area.

To the extent Town officials conclude other policy objective are more important than the environmental protections that sizing septic systems to bedrooms and limiting occupancy accordingly, it should identify those objectives publicly.



The screenshot shows a web browser window with the URL weneedavacation.com. The page features the logo for "We Need a Vacation.com" with the tagline "Cape Cod - Martha's Vineyard - Nantucket". Below the logo is a large photograph of a two-story, light-colored house with a prominent front porch and a private dock. The photo is labeled "1 / 14". Below the photo, the text reads "Centerville Vacation Rentals" and "Wequaquet Dream With Private Dock". There are icons for a heart and an envelope. The listing details are: "5 BR", "4 1/2 baths", and "Sleeps 14". Below these details, it says "Beds: 1 king, 5 queens, 2 twins".



The screenshot shows a web browser window with the URL vacationcapecod.com. The page features the logo for "KINLIN GROVER VACATION RENTALS". Below the logo is a large photograph of a long wooden pier extending into a body of water. The text "Rental Offices" is visible in the top right corner of the image. Below the image is a navigation menu with items: "Search Rentals", "Specials", "Guest Info", "Area Info", "Homeowners", "Real Estate", and "About Us". Below the menu, there are links for "« Previous Prop." and "Next Prop. »". The main text reads: "This large, 7 bedrooms and 5 full baths, open spaced house is one and a half blocks from the beach. - TRHOD" and "Barnstable Rentals". There is a "Print" button. Below the text is a photograph of a white porch with a railing. To the right of the photo is a "Check Availability" button. Below the button is a table with the following information:

Type:	Single Home
Bedrooms:	7
Max. Occupancy:	24
Baths:	5 full
Town:	Barnstable

This ad identifies 24 persons may occupy at a 7-bedroom home.

<https://www.vacationcapecod.com/rental/house/122?User=KGR444413&Avail=&Stay=>

Calendar Key Reset Dates

Description

This large, open spaced house is one and a half blocks from the beach. The house Sleeps 24 people, with 7 bedrooms and 5 full baths. The compound consists of a Large main house, with a gourmet kitchen, family room, living room with fireplace, 6 bedrooms, 4 full baths. The lower level has a full laundry area, sauna and shower. A huge wrap around deck overlooks a large, landscaped yard, with a 400 square foot, screened in, wicker decorated porch. There is a Guest House, which sleeps nine, has a large family room, and has a new Kitchen and full bath. The house comes complete with linens, towels, beach towels and beach chairs. The house is also ideal for family reunions, and Wedding parties and is available year round. First Floor: Bedroom #1 2 7 2 Twins, Bedroom #2 7 1 Queen, Bedroom #3 7 1 Queen size sleep sofa; Second Floor: Bedroom #4 7 5 Twins, Bedroom #5 7 3 Twins, Bedroom #6 7 1 King ***SATURDAY TO SATURDAY ONLY *** ADDITIONAL LINEN CLEANING FEE OF \$350.00***Non-Refundable \$125 booking fee not included in rental rate.

Bed Sizes

- Bedroom 1 - 2 Twins
- Bedroom 2 - Queen
- Bedroom 4 - 5 Twins
- Bedroom 5 - 3 Twins
- Bedroom 6 - King
- Additional Sleeping 3 - 1 Queen sleep sofa

marks Window Help

vacationcapecod.com

Go

Mashpee

130 149 26

63 Nickerson Rd, Cotuit, MA 02635, USA

A

B

Short-term rentals operators advertise common space as bedrooms

Short-term rental ads for properties across Barnstable offer common space as sleeping quarters.

These representations are common and are in plain sight. Identifying the address is simple.

To the extent Barnstable has a policy reason for putting aside the determination about the legal number of bedrooms in residential dwellings, it should identify that policy and not spend taxpayer dollars sending Town employees to properties to inspect and identify the permitted number of bedrooms and occupants.




Picturesque, completely renovated 8 room seaside home is surrounded by stunning hydrangeas & roses. Just 15 blocks to Osterville center & walk/bike to harbor & beach; Light and airy with a nautical theme & open floor plan. Gourmet kitchen. Tennis nearby. Bikes & kayaks provided.

SPECIAL MIDWEEK PRICING - this summer save up to 40% off... [read more](#)

Any questions for the host?

Contact host

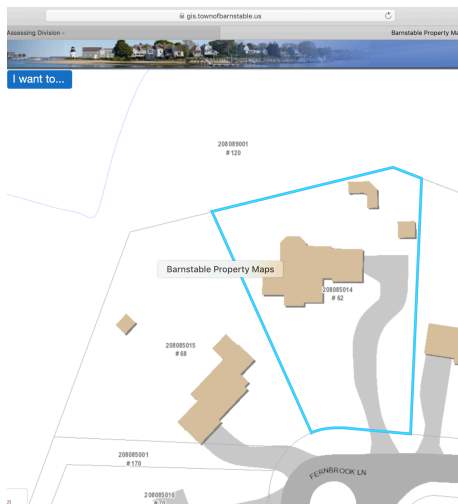
Sleeping arrangements

 Bedroom 2 1 queen bed, 1 crib	 Bedroom 3 2 single beds	 Common spaces 1 single bed, 1 sofa bed, 1 air mattress
--	--	---

Short-term rental ads conflict with Assessor records

On-line short-term rental advertisements often represent a number of bedrooms that departs from Barnstable Assessor records. In the ad below, for example, a 4-bedroom served by septic system is advertised as a 5-bedroom that sleeps 18.

Assessor Records



208 / 085/ 014 - Use Code: 1010

Owner Information

Map/Block/Lot: 208 / 085/ 014
 Property Address: 82 FERRISBROOK LANE
 Village: Centerville
 Town Sewer At Address: No
 GIS Zoning Value: RC-2

Owner Name as of 1/1/18: 375 FOXGROVE DRIVE
 IVYLAND, PA 18974
 Co-Owner Name

Assessed Values

Tax Information

Sales History

Photos

Sketches

Construction Details

Building	Details	Land
Building value	\$ 379,000	Bedrooms
Replacement Cost	\$467,842	Bathrooms
Model	Residential	Total Rooms
Style	Cape Cod	Heat Fuel
Grade	Average Plus	Heat Type
Year Built	1963	AC Type
Effective depreciation	19	Interior Floors
Stories	2 Stories	Interior Walls
Living Area sq/ft	3,587	Exterior Walls
Gross Area sq/ft	7,831	Roof Structure
		Roof Cover
		USE CODE
		Lot Size (Acres)
		Appraised Value
		Assessed Value

Short-term rental ad

Overview Amenities Reviews Map Rates & Availability

Bedrooms

5 Bedrooms 18 Sleeps

Bedroom 1, Located on Lower Level
 queen (2) twin single

Bedroom 2
 queen twin (2)

Master Bedroom Suite, Second Floor
 queen

Master Bedroom First Floor
 queen double

Bedroom 2
 double

2 full master bedrooms with full baths and fireplaces. 1st master bedroom has 2 beds located on 1st floor with a full bath. 2nd master bedroom has 1 queen bed located on 2nd floor with a full bath, separate entry area. Also, gas door to balcony overlooking the pool. There is also 3 additional bedrooms. On Second Floor: 1st bedroom has 1 queen and 2 twin beds and connects to 2nd bedroom which has 1 full bath. Located on bottom level 3rd bedroom has 2 queen beds and 1 twin with French doors with beautiful view overlooking the bedrooms.

\$750/night
 7 Reviews
 Excellent 4.7/5 Good for families

Enter dates for accurate pricing

Check In Check Out

16 guests

Request to Book

Maureen Ham
 Ask owner a question

For booking assistance, call Vtbo at 888-640-7627
 Property # 9012749

RESORT LIKE HOME SLEEPS 18, WITH POOL AND HOT TUB NEAR CRAIGVILLE BEACH WALK TO

- House - 5000 sq. ft.
- Sleeps 18
- Bedrooms: 5
- Bathrooms: 3
- Half Baths: 1
- Min Stay: 3 nights



Good for families Hot Tub Pool Air Conditioning No Smoking Internet

5000 Sq ft home, sleeps 18, 2 master bdr, 5 total bedrooms, 3.5 baths, pool bar

Large family home on private cul-de-sac with 5 bedrooms, 3.5 baths plus an outside shower. Sleeps 18 comfortably! One Master bedroom suite is on the first floor and the second Master Bedroom Suite is on the second floor. This home is a custom built house with 3 stunning levels. The deck and pool area is fabulous when having bbq's or entertaining.

First Floor: Walk in the front door to a beautiful sun room. Next you will see a stunning Dining Room with a bay window with 2 wing back chairs with a small table. The dining room has gleaming hardwood floors with an open floor plan. Dining room has a cherry wood table that seats 12, with beautiful glass built in cabinets. The dining room opens to our Family room, which is a massive great room opening to the kitchen area. Living Room and kitchen have amazing views overlooking the entire pool area and backyard. Our Family room has a built in bar, bookcase, wide screen TV with cable and a floor to

7 Reviews
 Excellent 4.7/5 Good for families

Enter dates for accurate pricing

Check In Check Out

18 guests

Request to Book

Ask owner a question

For booking assistance, call Vtbo at 888-640-7627
 Property # 9012749