



**Coastal and tourist-friendly communities  
across the U.S. have said “no” to investors  
who flip homes into hotels.**

**Will we?**

*On the following pages: facts and information all Cape Cod residents should know*

## TONIGHT WAS A VERY LONG TIME COMING

Recently, Barnstable's Zoning & Regulatory Committee asked for Village Association engagement in the short-term rental debate. The committee was reconstituted this past summer with new leadership, new members. Prior to that, Town Hall wanted to meet and strategize with commercial interests before talking to homeowners.

Read for yourself: the emails below were obtained with hundreds of others through an Open Records request. First, look at the only "stakeholders" the Town believed merited early input on short-term rental regulations.

**Anderson, Robin**

**From:** Florence, Brian  
**Sent:** Tuesday, May 21, 2019 8:25 AM  
**To:** Building Dept  
**Subject:** FW: Short-Term Rental Interviews

Hi Team... can you look below and make recommendations? It's ok if you do not know someone for a category and it doesn't matter if you have more than one in a particular category. Any suggestions would be helpful.

Thanks,  
-Brian

**Subject:** Short-Term Rental Ordinance Planning

I am looking for your assistance with identifying community members to speak with about short-term rentals. If you have any recommendations in the following categories, I'd appreciate your thoughts:

- Realtor who handles traditional summer rentals
- Realtor who handles residential sales
- Local attorney who does rental/zoning work
- Major landlord – year round
- Major landlord – seasonal
- Minor landlord – Rental "hobbyist"
- Local business owner dependent on tourist trade

The second email, heavily redacted, is characteristic of how Town Hall has dealt with homeowners. Under the amateur marker, you can see the Town employee responsible for zoning enforcement says he's "reticent" to respond to a homeowner requesting it "without a legal strategy."

**From:** Florence, Brian [mailto:Brian.Florence@town.barnstable.ma.us]  
**Sent:** Monday, May 13, 2019 1:46 PM  
**To:** Weil, Ruth  
**Cc:** Ellis, Mark; Clyburn, Andy; Jenkins, Elizabeth

As I assumed it would, this is escalating. Mrs. Hunt is pushing recommendations for the zoning and planning board to build a case, a case that I presume will hit the books well before summer is over. I am reticent to respond to a homeowner without a plan that involves a legal strategy and input from you and Mark. When we last spoke we decided to wait until our meeting with the consultant before proceeding. However, after that meeting I don't think we have any more direction in this particular case except to prepare for the worst.

I will make appointments and draft a response but it is my hope that we can meet this week to come up with a plan in anticipation of a ZBA hearing and possible court action.

★ But change is in the air. **READ ON, GET THE FACTS, BE HEARD.**

## FIRST THINGS FIRST: WHO WE ARE

We are Barnstable homeowners living near short-term rentals (STRs) or worried we will be. We don't object to the tradition of Cape Cod families renting their homes from time to time. **We object to investors turning single-family homes into transient lodging.**

## HOW CAN WE NOT START WITH THE NEWS?

**October 31:** the 42<sup>nd</sup> shooting at a short-term rental in the U.S. since May



In a quiet, posh suburb of San Francisco, there was a mass shooting at an Airbnb-rented house. Five people died, 17 were seriously injured. Days later, the first-ever wrongful death lawsuit was filed against Airbnb and a homeowner, citing negligence.

Airbnb got good press for its quick decision to ban “party houses.” But there have been more #AirbnbShootings — *yes, it has a hashtag* — at smaller gatherings of people who know each other: three birthday parties, two graduations, many arguments mixed with alcohol and drugs, even a dispute over a parking spot.

**November 5:** voters in New Jersey told investor-operators to cease and desist

After New York City put strict regulations on STRs, they moved into Jersey City, which gave tourists fast, easy access to Manhattan. Most “hosts” were not home-sharers, but investor-operators buying up houses and pushing tourists into residential neighborhoods.

An overwhelming 70% of voters revolted. Now, owners can rent their actual, lived-in residences only, and must be physically present with their guests.

## AFTER A VERY BAD WEEK, AIRBNB AGREED: INVESTOR BANS ARE INEVITABLE

Airbnb's founder and CEO Brian Chesky fought investor bans and lost in New Jersey, Santa Monica, and elsewhere. He has now accepted them, pointing to Airbnb's headquarters city:

“Settled law is that every host in San Francisco has to register. They have to go to city hall, and get a registration. In the registration process, **all they're looking to do is make sure you rent the home that you live in, that it's not an investment property.** So, they provide documentation it's not an investment property.”

*Listen to the whole Recode/Decode episode 433 with Airbnb CEO Brian Chesky and Silicon Valley's leading journalist Kara Swisher wherever you get your podcasts.*



## **OTHER COASTAL COMMUNITIES PROTECT RESIDENTIAL AREAS**

### **The Hamptons**

New York's summer haven bans investor-owned transient rentals. Primary residences only, no rentals under 2 weeks, 4 unrelated adults occupancy max.

### **Newport**

This 15-beach community bans short-term home rentals without the owner present in the home unless it's in a district zoned for business, never residential.

### **Portsmouth**

This quintessential New England town has 18 miles of coast, lots of beaches. The NH Supreme Court ruled transient rentals are, like hotels, not allowed in residential areas.

### **Hilton Head**

With 12 miles of white sand beaches, tough regulation was inevitable. Among other things, 5 gated communities voted to ban short-term rentals entirely.

### **Virginia Beach**

No offsite STR "home" investors. There are strict occupancy limits, and owners not physically present with "guests" must get a conditional use permit.

### **Sanibel & Captiva**

These gorgeous Florida barrier islands protect residential areas. Home rentals require a minimum 28-day stay unless the property is in a tourist district.

### **Miami Beach**

Strict regulations include a mandatory sex offender registry check for "guests." Airbnb filed and settled a federal lawsuit, and paid Miami's \$380,000 in attorney fees.

### **Daytona Beach**

Transient home rentals are banned except for districts where hotels, motels, and bed and breakfasts are allowed. After lawsuits and appeals, the ban was upheld.

### **San Diego**

5 great beach communities make it a popular destination. San Diego cracked down. Assembly Bill 1731 says share your actual home only. It's expected to pass.

### **Santa Monica**

In this iconic coastal destination outside of LA, you rent your actual home only. Airbnb and Expedia sued. The U.S. Court of Appeals just upheld the investor ban.

### **Big Sur & Monterey**

Permits cost \$10,000. No transient rentals in Big Sur & Pebble Beach, very limited in Carmel Valley. Local enforcement is serious and scour sites like airbnb.com for violators.

### **Hawaii**

So many beaches, travel experts just rank the 25 best. Hawaii has some of the strictest STR regulations: specific short-term rental zones, and residential areas are protected.

## **GREAT TOURIST DESTINATIONS PROTECT RESIDENTS**

### **New York**

State law makes real estate investor-owned "home" rentals illegal. Rental sites must delete "hosts" with multiple properties. Airbnb sued twice and lost.

### **Boston**

Investor-owned Airbnbs are banned, you can only share a home you live in. Airbnb sued, then dropped the case, now abiding by what it called "heavy-handed" regulations.

### **Tahoe**

*Forbes* says it's a top place to buy a second home. Enjoy skiing, swimming, and golf, but no rentals in residential zones: transient rentals are banned in Tahoe's neighborhoods.

### **Denver**

With 31 million visitors a year, Denver bans profiteer Airbnbs. Rental licenses may be denied, suspended, or revoked if it's found the activity hurts the neighborhood.

### **Palm Desert**

This second home haven in California's Coachella Valley is home to golf courses, country clubs, and great shops. It forbids short-term rentals in residential zones R-1 and R-2.

### **Palm Springs**

A tourist favorite with over \$7 billion in annual spending, Palm Springs is meticulous about occupancy in short-term rentals. Two bedrooms, four adults max. Just like real life.

### **San Francisco**

Airbnb HQ city forbids real estate investors: you must live in the home at least 275 nights a year, be physically present with renters, and rent only 90 days a year.

### **New Orleans**

This tourist-dependent destination, from the French Quarter to the moss-draped Garden District, bans investor-owned "homes" turned into makeshift transient lodging.

## **ALL OVER THE WORLD, DESTINATIONS PROTECT LOCAL COMMUNITIES**

### **London**

Seeing "hollowed out communities," London enforces a 90-day-per-year limit on home rentals. Real estate investor Airbnb operators are not welcome.

### Paris

You can rent your own home, but investors and multiple properties are banned. There are limits on the number of days a home can be rented to tourists. Airbnb is suing.

### Amsterdam

Ah, those Dutch! You must stick to the original "homesharing" idea advertised by Airbnb: rent a spare room in your primary residence, while you're there, 30 days a year max.

### Spain

With tourists flooding neighborhoods, the beautiful cities Madrid, Barcelona, and Valencia were uninhabitable. No "professional" investor-owners, rentals in commercial areas only.

### So many more...

From Reykjavik, Iceland to Key West, zoning officials, town councils, and citizens are preserving quality of life. If Barnstable doesn't, it will be quite alone.

## THE MYTH OF SHORT-TERM RENTALS AND THE TOURIST ECONOMY

All these great destinations wouldn't restrict people from pushing transients into residential areas if it hurt their economies, would they? Here are some facts.



A Morgan Stanley study of Airbnb found it doesn't affect tourism at all. It simply shifts tourists from hotels to residential zones.

**98% of Airbnb users say they wouldn't change travel plans if they couldn't get a STR, they'd stay at a hotel, motel, or bed & breakfast.**

This nonpartisan think tank concluded Airbnb (and other STR platforms) bring costs to local jurisdictions that outweigh the benefits. Housing problems are exacerbated. And local revenues could be harmed if the apparatus for collecting STR taxes is less developed than the apparatus for collecting taxes from hotels.

**Economic  
Policy  
Institute**

The Economic Policy Institute also reports that the benefits of investor-owned rentals accrue disproportionately to the wealthy that buy houses to create income streams.

## **FACT: STRs IN RESIDENTIAL ZONES BURDEN-SHIFT TO NEIGHBORS**

**Did you know?** Barnstable requires all places that provide overnight lodging to transient guests — hotels, motels, bed & breakfasts, inns — to have on-site management at all times. If you currently live next to an investor-operated STR, you know why. Neighbors are the closest things to on-site management.



Town employees have talked about creating a “please behave” flyer to be posted in all residential zone STRs, and info packets for neighbors.

**If you suddenly need a special info packet from the Town of Barnstable to live peacefully in your home, trouble is on the way.**

Any enforcement of regulations will be complaint-driven: it will be your job to police and report occupancy and use violations that disrupt quiet enjoyment of your homes and put septs, abutting land, and property values at risk. (Ever tried to get enforcement around an overstuffed STR? It doesn’t happen.)

## **FACT: AIRBNB AND OTHER STRs PUSH GROUPS, AGES 18-34, INTO RESIDENTIAL ZONES**

Statista collects data from market research firms and the economic sector. It reports that over 60% of Airbnb users are groups of Gen Z and Millennials.

**While we all have birthday and bachelorette parties in our backyards, the home next door to you should not be a venue for everyone’s planned or spontaneous gathering, all summer.**

If you have the time and inclination, check out the “host” and “guest” reviews on the major STR websites. It’s indisputable.

## **FACT: THE TOWN’S OPINION SURVEY IS FLAWED**

The survey was marketed to and by the 2,700-member Cape Cod & Islands Association of Realtors (CCIAOR). Minimally, it was posted on the CCIAOR website and Facebook page. The Cape and Islands STR giant weneedavacation.com, with over 175,000 vacationers and 4,000 property owners, also distributed the survey. Worse, the survey was “open access,” allowing anyone to take it, anywhere, any number of times. No matter what the results, it’s unsound and should not be used as a basis for public policy.

## **“I CAN’T CONTROL WHAT THESE PEOPLE DO WHILE THEY’RE HERE”**

So said an investor-owner about the transient lodgers in his pay-per-night de facto hotels in Centerville and Osterville residential zones. He was speaking to a local investigative reporter in October 2019.



The investor is shown here in one of two illegally constructed attic bedrooms with no safe fire egress. It was reported to the Town in February. Five months later, the Town finally sent a Cease & Desist.

Are the unsafe, Cease & Desist bedrooms still being used? When the reporter asked the question, the investor replied: “They probably shouldn’t be...not technically.”

## **AT LONG LAST, IT’S YOUR TURN TO SPEAK**

The Town is concealing a number of internal emails about STRs back to August 2018, when it stated, in writing, that it began legally protected deliberations about new regulations. This means they’ve been working on zoning and regulations for fifteen months and counting.

Why so complicated? **Barnstable regulations should align with 2017 and 2018 Massachusetts Land Court rulings, which said** “Homes are expected to be used as residences, not for profit...From the neighbors' perspective, it is all downside: a constantly-changing cast of strangers in the building or neighborhood, unknown cars on the street, and the traffic and noise...”

## **THANK YOU**

Thank you to Barnstable Village Associations for your leadership.

Thank you to the new Zoning & Regulatory Committee for wanting to hear us.

And most of all, thank YOU for being here tonight. Check <https://town.barnstable.ma.us> for public Town meetings. Try to attend. Bring a friend. And stay up to date at BarnstableWatch.com, just send a message. We don’t spam.