

Short-Term Rentals (STR)

Resources:

- [Municipal Regulation of Short-Term Rentals, NH Municipal Association, 2019](#)
- Controlling Short-Term Rentals: What Can Towns Do? NH Office of Planning and Development Spring 2022 Planning Conference, May 7, 2022 [PowerPoint slides](#), view presentation [here](#)
- The NH Office of Planning & Development (OPD) prepared a summary of short-term rental ordinances by municipality adopted through March 22, 2022, which details how different communities have defined short-term rentals (*see attached spreadsheet*). OPD is in the process of updating this now.
- [Map of communities with short-term rental and/or tiny home regulations](#)

Example Ordinances:

Municipality	Notes
Durham	<ul style="list-style-type: none"> • Definition: An accessory use to an owner-occupied single-family residence containing, in addition to living accommodations for the owner and the owner’s family, not more than three sleeping rooms, for the purpose of providing to the general public, for compensation, lodging, with or without breakfast, for less than thirty consecutive days. A short-term rental is not considered a home occupation. • STRs permitted by right and SE depending on zone • Ordinance lists several standards
Newmarket	<ul style="list-style-type: none"> • Ordinance contains a definition: Short-term rental, means the use, control, management or operation of a dwelling unit or accessory dwelling unit, in whole or in part, for dwelling, sleeping, or lodging purposed for periods of 30 consecutive days or less: for compensation, directly or indirectly. • Leasing principal residence of an ADU for a STR is prohibited
Portsmouth (draft)	<ul style="list-style-type: none"> • Definitions: • Short-term rental - rental of an entire dwelling unit for less than 30 consecutive days at a time and for no more than 120 days in any 12-month period. <ul style="list-style-type: none"> ○ Short-term rental does not include boarding houses or homeshares ○ The rental of a dwelling unit to the same household for 30 or more consecutive days is not considered a short-term rental and is allowed to the same extent that the dwelling unit is allowed ○ The rental of a dwelling unit for more than 120 total days in any 12-month period where more than one individual occupancy is for less than 30 consecutive days shall be considered a primary business use of the property rather than an accessory short-term rental use

	<ul style="list-style-type: none"> • STR allowed with criteria by SE • Homeshare <ul style="list-style-type: none"> ○ The rental of up to 5 rooms in any owner-occupied dwelling unit for less than 30 consecutive days <ul style="list-style-type: none"> ▪ The rental of a room to the same individual(s) for 30 or more consecutive days is not considered a homeshare rental and is allowed provided that the total occupancy of the dwelling unit complies with the definition of “family” in this ordinance. • Homeshare allowed with certificate from PB
<p>Canterbury Canterbury’s application</p>	<ul style="list-style-type: none"> • Definition: Short term lodging: A dwelling unit where transient lodging is provided for compensation for stays of between one and 30 consecutive nights, and available for lodging at daily rates, and where the dwelling unit would normally be considered a residential dwelling unit not associated with regulated commercial activities such as a hotel, motel or bed-and breakfast • Allowed as primary or secondary use • Allowed by Special Exception with criteria
<p>Exeter</p>	<ul style="list-style-type: none"> • Amended definition of <i>Bed and Breakfast</i>: The primary dwelling of an owner-operator and/or detached accessory structure on the same property that provides for the lodging of transient guests and whose posted rates shall include breakfast. A Bed and Breakfast shall have not more than four (4) rentable rooms and a dining area capable of accommodating the number of registered guests • One part of the amendment was to allow detached structures to be able to be used. Another aspect of the change was removing the prohibition on commercial use. Initiated through a citizen petition for the Word Barn. • SE required in some districts (rural, Low density residential, Single family residential) • Permitted use in Central area commercial district, highway commercial, etc.).
<p>Meredith</p>	<ul style="list-style-type: none"> • Definition: An accessory use to a single family detached dwelling unit that is offered for a fee for less than 30 consecutive days at a time. The short-term rental must be secondary to the principal residential use of the dwelling • Ordinance contains short term rental criteria • Allowed by special exception in all districts except the Business & Industry District

Relevant Cases:

- [Town of Conway v. Kudrick, New Hampshire Supreme Court Case No. 2022-0098](#)
 Other link: <https://www.nhmunicipal.org/court-updates/under-definitions-provided-conway-zoning-ordinance-short-term-rentals-are-allowed>

[i]t is the occupants' use of the property, however, not the owner's, that dictates how the property is being used." Therefore, the relevant question was not how the owner of the property treated its use, but how the occupants of the property treated its use.

Practice Pointer: Municipalities wishing to regulate STRs should review their zoning ordinances to determine whether the terms used are sufficiently clear that an average person will understand what qualifies as an STR and where STRs are and are not allowed within the municipal boundary. Municipalities should follow the lead of the City of Portsmouth in ***Working Stiff v. Portsmouth***, 172 N.H. 611 (2019) and define "dwelling unit" as "[a] building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as short-term rentals, hotels, motels, rooming or boarding houses." It would also be prudent to define the word transient - here is one example: "A dwelling unit where lodging is provided for compensation for stays of between one and 14 consecutive nights, and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel, rooming/boarding/lodging house, or bed-and-breakfast."

- [Working Stiff Partners v. City of Portsmouth, New Hampshire Supreme Court Case No. 2018-0491](#)

The court ruled that the plaintiff's use of its property for short-term rentals via websites such as Airbnb was not permitted as a principal use in the zoning district in which the property was located, and that the definition of "[d]welling unit" contained in the City's zoning ordinance was not unconstitutionally vague as applied to the plaintiff.