

TOWN OF CHATHAM FREQUENTLY ASKED QUESTIONS ABOUT NEW SHORT-TERM RENTAL ZONING REGULATIONS

The Town of Chatham recognizes the economic benefits of short-term rentals that include allowing home owners to supplement household income to help defray the costs of owning a home and that short-term rentals contribute to the economy of the area by providing lodging for tourists and other visitors to Town. At the same time, the Town also recognizes the potential adverse impacts short-term rentals can cause to neighbors, neighborhood character, and housing affordability, among other concerns. As such, the Town of Chatham has developed new zoning provisions to govern short term rental uses that seek to strike a balance between those potential benefits and adverse impacts.

The Town of Chatham Comprehensive Plan discusses, among other topics, how businesses are to be planned for in Town. The Plan establishes a policy that directs business uses primarily to hamlet and business districts. At the same time, the Plan recognizes the benefit of and need for allowing home occupations in residential districts. Home occupations allow residential homeowners to conduct small-scale commercial activities on their properties so long as those activities are secondary and incidental to the primary residential use of the property.

The updated zoning regulations now make a distinction between four classes of short-term rentals that represent the different types of rental activities that could take place in Chatham. The classes are distinguished from each other by differences in the number of bedrooms, the number of days rented to short-term tenants, and whether the dwelling is the domicile of the owner. Some classes are allowed through a permit from the Code Enforcement Officer while others are considered more intensive uses and require a special use permit from the Planning Board.

The Town has sought a balance between allowing for short-term rental uses while maintaining the essential character and purposes of the residential districts. The Town Board, for several months, has been continually working to refine the regulatory language to address concerns that have arisen and to strike a balance between competing interests while meeting the vision of the Comprehensive Plan.

Class 1 short-term rental is a category that allows all homeowners, whether they consider that structure their domicile or not to conduct short-term rental activities for 30 days or less in a calendar year. Class 2 and 3 short-term rentals are essentially home occupations. Treating short term rentals as home occupations is an approach that allows homeowners to attain economic benefit from a commercial activity in their home with regulations that temper the nature and scale of those activities so they can be consistent with residential land uses and character. The Town Board feels it is of vital interest to the community to ensure that land uses do not negatively impact neighbors. Class 4 short-term rentals are investment properties used for business purposes and are allowed in the Business and Industrial zoning districts in Chatham. In all classes occupancy is limited to no more than 10.

This FAQ was developed to assist Town of Chatham landowners and residents understand these new zoning regulations related to short-term rentals.

Question #1 – How does the zoning define a Short-Term Rental?

Answer #1: A short-term rental is when all or part of a residential home is rented out for less than 30 consecutive days. All short-term rental uses must comply with the requirements of Zoning Chapter 180-58 (Z). Question 2, below, describes the different classes of short-term rental.

Question #2 –What are the different types of short-term rentals?

Answer #2: The zoning defines four types of short-term rentals (STRs). These reflect the variety of rentals likely to take place in Chatham. These are:

1. Class 1: A non-home-occupation STR of 30 days or less in a particular calendar year. A dwelling used as a Class 1 STR does not need to be a property owner's domicile. It may use no more than five bedrooms for short-term rental use, may have employees or independent contractors of the property owner providing services to that rental, and require a permit from the Building Department in order to operate. Class 1 STRs are permitted in all districts in Town.
2. Class 2: A minor home occupation STR used for more than 30 days in a particular calendar year and where the dwelling is the property owner's domicile. Class 2 STRs may not have more than two bedrooms rented for short-term rental use and may have no more than 1 employee or independent contractor servicing that rental. Class 2 STRs also require a permit from the Building Department and are permitted in all districts in Town.
3. Class 3: A short-term rental that is a major home occupation used for more than 30 days in a particular calendar year, the dwelling is the property owner's domicile and may have up to five bedrooms rented. Class 3 STRs may use more than one employee or independent contractors of the property owner providing services to that rental. As a more intensive type of activity, Class 3 STRs require both a permit from the Building Department and a Special Use Permit from the Planning Board. They are allowed in all zoning districts in Town.
4. Class 4: A short-term rental that is an investment property, used for more than 30 days in a particular calendar year, and where the residential home is not the property owner's domicile. Class 4 STRs are allowed with both a permit from the Building Department and a Special Use Permit from the Planning Board and in the Business and Industrial districts in the Town. No more than five bedrooms may be used for a Class 4 STR and there may or may not be employees or independent contractors of the property owner providing services to that rental.

Question #3: What is a 'domicile'?

Answer #3: A domicile refers to a person's fixed, permanent, and principal home for legal purposes and which is occupied by the owner for at least 160 days per calendar year.

Question #4: Why is it necessary to have a law regulating short-term rentals?

Answer #4: Under current zoning (prior to May 2019), no short-term rentals are legal, allowed uses in the Town of Chatham. That means that these uses are currently prohibited and illegal uses, according to the zoning. To rectify that and to allow for homeowners to benefit from renting their homes, the new zoning law now makes it legal for short-term rental activity under the standards established in the new law.

Question #5 – How can short-term rentals impact the Town of Chatham?

Answer #5: Based on public input and research, the Town recognizes that short-term rentals could have both positive and negative impacts. Benefits include positive economic impact and increased tourism activity. Negatives include a distortion of the housing market by converting long-term rentals to short-term ones that could reduce the availability of long-term rental housing and potentially an increase in rental prices so that the area becomes less affordable for year-round residents. This conversion reduces the Town's already-limited supply of affordable housing and can spur displacement, gentrification, and segregation [cited from Harvard Law & Policy Review].

Short-term rentals also can change the character of a residential area. With visitors renting an accommodation only for a couple of days, neighbors see unfamiliar people coming and going every few days, especially when the density of short-term vacation rentals in the area is high. Issues can also arise related to trash, parking issues and noise disturbances.

Fewer year-round residents also translates into fewer volunteers in the community (e.g. firefighters), fewer members in community-based civic organizations, fewer children in the public schools, and fewer routine shoppers at markets, home & garden supply stores, or other stores and businesses that serve our long-term residents.

Given the strong emphasis on maintaining our rural community character in Chatham's Comprehensive Plan, the Town is concerned that the introduction of short-term rentals in our residential areas will change the character and transform the quality of life of the area.

Question #6: Where are short-term rentals going to be allowed in the Town of Chatham?

Answer #6: Class 1 STRs are allowed as a permitted use in all zoning districts in the Town. Like all other home occupations, Class 2 short-term rentals/minor home occupations are also allowed as a permitted use in all districts in Town. And, like all other major home occupations, Class 3 short-term rentals/major home occupations are allowed in all residential districts with a special use permit, and in all business districts with site plan review. Finally, like other businesses, Class 4 investment property STRs are allowed in business and industrial districts with a special use permit. Permitted uses (for Class 1 and 2 STR) do not need Planning Board review, but all short-term rentals do require a permit from the Town Code Enforcement Officer.

Question #7: What is a short-term rental permit and why are they needed?

Answer #7: The new zoning requires a short-term rental to be permitted with the Town and to receive an operating permit from the Code Enforcement Officer regardless of the type of rental, or where. The permit system has been established to ensure that the Town has owner contact information for all short-term rentals, that basic safety inspections are conducted to ensure the general health and welfare of tenants, and that these land uses are operated in a way that ensures compatibility with neighbors, the neighborhood, and the Town. For those short-term rentals that require either site plan or special use approval from the Planning Board, the permitting will be done at the same time as the other review processes for efficiency.

Question #8 - Can a homeowner rent all or part of their house if that structure is not their domicile?

Answer #8: Yes, up to five bedrooms in a residential dwelling may be rented for short-term use regardless of whether the property is the domicile of the owner or not but only for 30 days or less. This is considered a Class 1 short-term rental. A "Short-Term Rental Permit" from the Town's Code Enforcement Officer and all requirements for Class 1 short-term rentals of Section 180-58 (Z) must be met. If a homeowner desires to rent their residence for more than 30 days and that structure is not their domicile, they would be allowed as a Class 4 rental.

Question #9 - Can a homeowner rent out their house if that structure is their primary domicile?

Answer #9: Yes, a structure that is the domicile of the property owner can be rented as a Class 2 or 3 STR. A Class 2 STR allows up to 2 bedrooms to be rented. A Class 3 STR allows up to a maximum of 5 bedrooms in the owner's domicile. Both Class 2 and 3 STRs can allow for renting for more than 30 days in a particular year. Class 2 STRs are allowed in all districts with a permit. Because a Class 3 STR is a more intensive use, this will require a Special Use Permit approved by the Planning Board if located in a residential district in the Town (Hamlet 1 and 2, and RL 1 – 3), or a site plan review approval from the Planning Board if located in the Business or Industrial District.

Question #10 – Does an owner need to occupy a home for 160 consecutive days?

Answer #10 – No, not 160 consecutive days. The owner can occupy the home sporadically, but they must be living there at least a total of 160 days in any calendar year and must consider that dwelling their domicile.

Question #11 - Can a property owner rent out all or part of their house if the owner does not reside on the property for at least 160 days of the calendar year?

Answer #11: Yes. If it is for 30 days or less, in the aggregate throughout a particular calendar year, they are permitted in all zoning districts. If the rental use is for more than a total of 30 days in a particular calendar year, they are allowed in certain locations in Chatham. That type of rental would be considered a Class 4 investment short-term rental, and they are allowed with a special use permit in the Business and Industrial districts in Town. This type of STR is not allowed in other zoning districts because those are considered a different type and scale of business use more like an inn or hotel and are not considered a home occupation.

Question #12 - Why limit short-term rentals of non-owner-occupied units?

Answer #12: Investment properties (Class 4), where a residential dwelling is used solely as a rental property for short-term stays and is **not** a primary domicile of the owner, are commercial uses and neither home occupations, nor small-scale uses. Those types of businesses are non-owner-occupied investment properties used for short-term rental, are like inns or small hotels, and are considered to be inconsistent with the use of a residence for residential dwelling purposes and inconsistent with single-family neighborhoods. The Town allows for non-owner-occupied short-term rentals two ways: as a Class 1 rental for 30 days or less in the aggregate throughout a particular calendar year, or as a Class 4 rental for more than 30 days.

Question #13 - Can a homeowner rent out a second house or unattached apartment that is separate from their primary residential structure as a short-term rental?

Answer #13: Yes, but with conditions. An accessory dwelling (guest cottage or apartment in a garage, for example) that is located on the same tax parcel as the owner's primary domicile or property may be rented for short-term. However, only one structure, per parcel is allowed to be used for short-term rental use.

Question #14 – Can a whole house be rented out for more than 30 consecutive days?

Answer #14: Yes, whole houses may be rented out for long-term rentals (more than 30 consecutive days) as a permitted use (no planning board review needed) in all hamlet and residential districts.

Question #15 - What is the difference between a Bed and Breakfast and a Short-Term Rental?

Answer #15: A Bed and Breakfast is defined in the Town Code and by the State of New York as being an owner-occupied business that can provide up to 5 rooms and occupancy for up to 10 people and that also serve a breakfast to the clients using the facility. They have been allowed in the Town with both past and present zoning laws. The standards required by NYS to operate a Bed and Breakfast are much more stringent. The Class 3 STR major home occupation is comparable, thus the zoning code requires a Special Use Permit, as would a new Bed and Breakfast not located as part of a farm operation.

Question #16 – What information do I need to submit to the Town to get a permit for short-term rental use and what requirements are there?

Answer #16 – The permit will include but is not limited to information on the dwelling and number of bedrooms to be rented, a certification that the property is the owner's' domicile (for Class 1 and 2 STRs), a certificate of insurance, local contact information, a safety inspection, and a fee as set by the Town Board. Requirements address, but are not limited to parking, trash, noise, and property maintenance. Owners will also be required to provide information about the Towns' rules to renters.

Question #17 - When does the new zoning law go into effect and how does it affect existing short-term rentals?

Answer #17: Any short-term rental in existence prior to adoption of this Local Law shall have a period of 6 months, beginning on the effective date of the new zoning law, in which to file a permit application with the Town's Code Enforcement Officer to seek issuance of the appropriate permits and approvals.

Question #18 – Where do I learn more about the specific requirements for a short-term rental?

Answer #18 – See section 180-58 (Z) for all those details.

The chart on the next page summarizes the zoning requirements discussed in this FAQ.

Summary of Short-Term Rental Requirements

| | Structure is Owners' Domicile | Structure is Not Owners' Domicile | # Days Allowed to be Rented for STR | # Bedrooms Allowed to be Rented for STR | # Employees or Contractors Allowed to Support STR | Zoning District | Type of Approval Required |
|----------------|-------------------------------|-----------------------------------|-------------------------------------|---|---|--------------------------------|--|
| Class 1 | Yes | Yes | < 30 | No more than 5 | None or 1 | All | Permit from Building Department |
| Class 2 | Yes | No | >30 | No more than 2 | None or 1 | All | Permit from Building Department |
| Class 3 | Yes | No | >30 | No more than 5 | 1 or more | All | Permit from Building Department and Special Use Permit except site plan review only in Business (B) and Industrial (I) Districts |
| Class 4 | No | Yes | >30 | No more than 5 | 1 or more | Business (B) or Industrial (I) | Permit from Building Department and Special Use Permit |