



## Town Of Brewster

*Planning Office*

2198 Main Street

Brewster, Massachusetts 02631-1898

(508) 896-3701 ext. 1133

Report: Executive Summary- Chief Recommendations

Brewster Short Term Rental Task Force

Draft 2025.08.04

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- A. Establish a registration, licensing and inspection program for STRs.
  - B. Adopt STR administrative & operational requirements by a general bylaw and, as applicable, regulations:
    - Premises & inspection standards, including as might be required/ desired under building and health codes;
    - Application requirements and information, including proof of insurance & contact person;
    - Enforcement provisions;
    - Fees.
  - C. Refrain from amending zoning in Brewster relative to STRs until Massachusetts law is settled:
    - Once state law is settled, Brewster may have to amend its zoning bylaw or may want to amend its zoning bylaw to promote certain policies, relative to STRs, consistent with state law.
  - D. Consider initial funding in the short term for: additional building inspector and other staff hours necessary to administer and conduct “110” safety inspections for STRs as they are requested; additional costs associated with health department STR inspections and administration, as desired; to seed yej administrative costs of an STR registration program; and for contracting STR host compliance services.
  - E. Work with the existing OpenGov, e-permitting software to investigate and prepare a STR registration and licensing platform along with data import.
  - F. Continue discussions with STR host compliance vendors.



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DRAFT Findings & Recommendations

Short-Term Rental Task Force

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### INTRODUCTION

The seasonal, short term vacation rental of dwellings has long been a customary practice in Brewster and on Cape Cod. The ascent and growing ubiquity of online hosting platforms like AirBnB beginning around 2010 increased the presence of short-term rentals on Cape Cod and beyond. In response, Massachusetts adopted significant amendments to the Room Excise Tax law (MGL Ch. 64G) in 2018 to account for the burgeoning STR market, specifically, to regulate, tax and require insurance for STRs.

In 2020, the world-wide COVID-19 pandemic hit, and drove the demand for STRs and second home purchases even higher on the Cape, as people looked to decamp to a quiet, rural area for social distancing and quality of life. In the aftermath of COVID, those who had purchased second homes on the Cape during COVID looked to short-term rent those homes to help carry the property costs when not using them for personal use, many in anticipation of retirement within the coming decade. Some second homeowners became full-time residents post-COVID. The supply of year-round housing in Brewster has continued to dwindle and prices continue to increase significantly year to year (or month to month).

With the growing presence of STRs in the Town, came some increased local concerns about them prompting Citizen's Petitions at Fall 2023 and Spring 2024 Town Meeting. The petitions sought to establish a local registration program and corresponding requirements for STRs, as well as to limit the number of STRs that one could operate in Brewster, with different limits for residents vs. non-residents. While there was robust discussion and some support on Town Meeting floor, ultimately the petitions were not approved.

Recognizing the growing local interest by the public in matters surrounding STRs, with the Citizen's Petitions serving as a sort of flash point, the Town's major policy plans all contain goals about evaluating the impacts on the community from STRs. The Housing Production Plan (HPP) and the Local Comprehensive Plan (LCP) largely frame the goal in terms of housing impacts. The Select Board's Strategic Plan for FY24-25 casts a wider net and frames the goal in terms of "Community Character:" i.e. *"... the health, safety, and quality of life of our residents, [...] the local economy, and [...] year-round housing availability in our community."*

Action on the Select Board's Strategic Plan goal led directly to the establishment of the Town's Short-Term Rental Task Force (STRTF), an ad hoc, 7-member committee made up of ex officio members from certain boards and committees in the Town (Select Board, Board of Health, Planning Board, Affordable Housing Trust) as well as 3, at-large community members, joined by 2 non-voting liaisons from the Finance Committee and the local real estate community.

In Fall 2024, the Select Board invited residents to apply to serve on the STRTF, and for boards and committees to nominate appointees from among their ranks to serve; the Select Board finalized the committee charge; and the Select Board empaneled the STRTF.

### Membership

Rob Leavell, Chair (at-large)  
John Goff, Vice Chair (at-large)  
Sarah Stranahan, Clerk (at large)  
Amanda Bebrin (Select Board)  
David Bennett (Board of Health)  
Carmel Gilberti, Esq. (Planning Board)  
Maggie Spade-Aguilar (Affordable Housing Trust)  
Blake Decker (Real Estate Liaison)  
William Henchy, Esq. (Finance Committee Liaison)

The Task Force charge expressly sets out in relevant part:

#### *Purpose:*

- a. Evaluate impacts of short-term rentals on the health, safety, and quality of life of our residents, on the local economy, and on year-round housing availability in our community*
  - b. Identify consensus policy goals and outcomes*
  - c. Assess potential policy solutions to achieve goals/outcomes, accounting for operational, staffing, and cost impacts of each proposed approach*
  - d. Develop policy recommendations to present to relevant Town boards and committees, including but not limited to the Select Board, Board of Health, Affordable Housing Trust, and/or Planning Board, for their consideration*
- Office of: Select Board Town Manager*

#### *Strategies:*

- a. Engage key stakeholders across all related policy areas*
- b. Actively communicate with residents, providing information and soliciting public feedback to help inform recommendations*
- c. Deliver status updates to Town Meeting in Fall 2024 and Spring 2025 via committee reports.*

The Task Force began meeting in Fall 2024. Its initial work included business matters like selecting officers, discussing its charge and developing a general work plan. The Chair reported on the committee's status at Fall 2024 Town Meeting.

The Task Force has held monthly meetings throughout 2025, with each meeting devoted to "fact-finding" around a particular topic especially relevant to STRs in Brewster (and in some cases on Cape Cod and in Massachusetts): demographics, data and statistics; law; municipal finance and budgeting; housing;

regulatory matters; registration and host compliance monitoring platforms; and the local economy. Presenters included Town staff and community organizations: the planning, housing, building and health departments; the Town Manager's office and Finance team; Granicus, a host compliance vendor; and the Brewster Chamber of Commerce. The Chair reported on the committee's accomplishments, work and doings at Spring 2025 Town Meeting.

In Summer 2025, the Task Force turned its attention to analyzing the information gathered, and to begin developing draft findings and recommendations. The Task Force's meetings have all be open to the public; it will conduct a public listening session on the draft, when prepared, to elicit feedback from the variety of interested stakeholders in the community.

In its advisory role, the Task Force will ultimately report its consensus findings and recommendations to the Select Board. These findings are intended to assist the Select Board in policymaking, budget development, and in prioritizing potential actions based on the recommendations.

While the Task Force has not aimed to offer definitive answers or solutions—intentionally so—it hopes that its work will nonetheless prove valuable. Its purpose has been directional: to outline the broad issues surrounding STRs that most affect the community; to help frame relevant lines of inquiry; and to highlight key areas for the Select Board and others to address in order to make the most effective use of the Town's resources and efforts.

Throughout its work, the Task Force has developed a deep understanding of the nuances and competing policy concerns associated with STRs—knowledge that few other groups currently possess. As much as the Task Force has learned, there is still more to educe from the information gathered, especially about more granular issues associated with STRs. Further complicating matters is the dynamic nature of STR-related issues, which continue to evolve in real time. While STRs offer clear benefits, there are equally compelling potential drawbacks and areas in need of further study—such as the complex and multi-factored relationship between STRs and the broader housing market.

## **LEGAL FRAMEWORK**

### **Discussion**

The Task Force met with Town Counsel, K-P Law Attorney Amy Kwessel on January 23, 2025, and had a detailed discussion of the legal landscape regarding the regulation and operation of Short-Term Rentals in Massachusetts.

A Town's authority to regulate Short-term Rentals stems from two basic sources: (1) a Town's power to regulate land uses under the Zoning power, all as set forth in G.L. c. 40A and as adopted by Town Meeting as zoning bylaws; and (2) a Town's authority to regulate the operation of a Short-term Rental pursuant to G.L. c. 64G.

These are different authorities, which share a common method of adoption, which is by Town Meeting action to adopt a bylaw.<sup>1</sup> The quantum of vote required for each is different: adoption of a zoning bylaw requires a 2/3 majority vote, while adoption of a bylaw under G.L. c. 64G requires a simple majority vote.<sup>2</sup>

In addition, the 10<sup>th</sup> edition of the Massachusetts Building Code became effective in 2025 and establishes a use category for Short-term Rentals which requires that an owner engaged in certain Short-term Rental use request and submit to an annual safety inspection by the Building Department. The committee met with the Building Commissioner to discuss this process which at the time of our meeting with him, was still under development. The implementation of this inspection requirement will be a concern of the Building Commissioner and the Town, and the Committee has a recommendation with respect to this matter, detailed below.

Section 14 of Chapter 64G expressly reserves to municipalities the authority to regulate STR operators through the adoption of local bylaws or ordinances. It should be confirmed by counsel whether reference to “bylaws and ordinances” in the statute is exclusive or whether a municipality may adopt and promulgate regulations or policies in furtherance of such Section 14 bylaws or ordinances. It is also assumed that the Town maintains its jurisdiction to regulate public health issues related to STRs, like septic systems, habitability, occupancy, and water supply, under MGL Chapter 111 and local regulations adopted pursuant thereto.

Under such Chapter 64G authority, a municipality can establish, administer and enforce licensing, registration, and safety requirements for STR operations.

Chapter 64G authority expressly includes the ability to limit or restrict the total number of STR licenses within the town, classes of operators, total days annually that an STR can operate, or the number of licenses that any single operator can hold. A municipality may assess reasonable fees to cover the costs of STR administration and enforcement, including for inspections.

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<sup>1</sup> The Committee has not explored the question of whether a Town may adopt a bylaw or regulations regulating Short-term Rentals under the Town’s Home Rule Charter Powers, which generally speaking, permits the adoption of any bylaw not inconsistent with, or precluded by, the General Laws adopted by the Legislature. There may be a question of whether any such effort would be precluded by G.L. c. 64G. In any event, the Committee has not considered this question, and if the Select Board wishes to explore this avenue, the Committee recommends seeking the assistance of Town Counsel.

<sup>2</sup> Bylaws and ordinances are distinguished from “policies” and “regulations,” which can be adopted by a public authority without the requirement for Town Meeting approval. Generally, when policies or regulations are adopted to accompany a bylaw, the bylaw authorizes, establishes or reflects a certain subject matter authority, and the regulations or policies implement that authority and control activities within the scope of the authority. The use of regulations and policies can be beneficial and appropriate when regulatory agility is needed to adjust to changing circumstances that come within the jurisdiction of the subject authority rather than within that of Town Meeting as the legislative body. An example is the authorization of fees under a bylaw, with the actual fees set and amended from time to time under companion regulations or a fee schedule/ policy.

Under Chapter 64G, a Town has the authority to limit or prohibit STRs in the context of affordable deed restrictions or similar land use restrictions.

STRs have also been recognized by the Commonwealth's highest court as a distinct type of zoning land use. In general terms, Towns may regulate land uses via the adoption of zoning bylaws, which Brewster has done<sup>3</sup>. There are, however, unsettled questions regarding STRs under Massachusetts zoning law that are currently pending adjudication. These cases involve distinctions between principal and accessory zoning uses, and about when an STR becomes a commercial use distinct from a single-family dwelling, requiring specific authorization under a local zoning bylaw.

State regulations at 760 CMR 71 specifically allow a community to limit or prohibit the short-term rental use of Accessory Dwelling Units under its zoning, which Brewster already does.

The complex legal question arises as to whether or not Short-term Rentals are allowed as residential uses, accessory uses to a residential use, some other kind of use all together, and whether that "other" use is allowed by the Town's zoning bylaw. Short-Term Rentals are not at present expressly permitted under the Brewster zoning bylaw.

There is an answer to at least one of these questions. The Supreme Judicial Court has decided in a case arising from the City of Lynnfield, that Short-term Rentals are of a different character of use than residential single-family uses, being "transient" in nature. Styller v. Board of Appeals of Lynnfield, 487 Mass. 588 (2021).

The issue becomes, then, whether this "different" use is allowed by the Town's Zoning Bylaw. This precise question has not been addressed directly by the Appellate Courts in Massachusetts. One subsidiary, but important issue, is whether a Town's Zoning Bylaw is "permissive," which seems at first to be a misnomer. "Permissive" zoning refers to a zoning bylaw which states that, unless specifically allowed, any particular use is prohibited. Brewster's Zoning Bylaw is generally of such a "permissive"-type.

There are at present two Land Court cases under consideration that have decided that, at least in Nantucket where the zoning bylaw is also of the "permissive" type, Short-Term Rentals are not expressly allowed by the zoning bylaw as a Primary Residential use, Ward v. Town of Nantucket, 2024 WL 1110950 (2024)("Ward I").

Short-Term Rentals were also found not to be a lawful accessory use Ward v. Town of Nantucket, 2025 WL 1684110 (2025)("Ward II") because under that Town's particular bylaw definition of an "accessory use," though a Short-term accessory rental is a "customary" use on Nantucket, and was shown to be also "subordinate," it was not also shown to be "incidental" to the primary residential use. Short-term room rentals in an owner-occupied dwelling were recognized in the case as an expressly allowed uses under Nantucket zoning. These are fine and nuanced distinctions that may or may not be presently applicable to Brewster's Zoning.

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<sup>3</sup> Brewster first adopted zoning in 1960, effective in December 1960.

The Nantucket Select Board has voted to appeal the Land Court decision in Ward II. Over the past several years, Nantucket Town Meeting has failed to adopt by the required super majority a variety of competing short-term rental zoning amendments that have come before it.

The Task Force also learned from Town Counsel that there is another zoning case working its way through the Land Court from Mashpee, where the issue of whether a landowner may rent out rooms in a residential home as a Short-term Rental.

The Task Force believes that, given the cases and circumstances cited above, that the law is not yet settled with respect to the Town's power to regulate Short-Term rentals through the zoning bylaw. Until these cases are decided by the Appeals Court or the Supreme Judicial Court, there is no clear basis upon which the Committee can recommend one way or the other whether any amendments to the zoning bylaw are appropriate for Short-Term Rentals.

It is anticipated that appellate level court decisions will eventually resolve these questions, including the establishment of judicial tests about what constitutes an STR as a "principal" zoning use and alternately, as an "accessory" use. It is likely that owner-occupancy status, whether the STR is an "investment only" use type, and whether an STR is considered a traditional, customary use in the community will factor in the decisions.

### **Recommendations**

The Select Board should refrain from amending zoning to address STRs until appellate courts have resolved and decided Massachusetts zoning law around STRs. At that time, the Town can align Brewster zoning with established case law and the provisions of Chapter 64G, along with whatever other local land use policies are desired with respect to STRs consistent with state law, such as potentially revising the use table and locations/ districts for STRs. Resolution of the zoning issues first may also help inform decisions about adopting operational and licensing regulation under Chapter 64G.

Ultimately, at the time it considers amending zoning to address STRs, the Town should be mindful that existing properties may be "grandfathered" with respect to potential zoning amendments and also be aware of the potential staffing and resourcing implications of new STR zoning requirements and processes for an estimated 1000+ existing STR properties in the town.

The Task Force notes that if the Land Court cases cited above are affirmed, then Brewster's zoning may need to be amended if the Town wishes to expressly allow Short-Term Rentals. Given that a 2/3 vote of the Town Meeting would be necessary in that case, the Select Board and Planning Board may wish to consider some level of planning for that eventuality.

In addition to land use regulation of STRs through zoning, the Town should consider adoption of some commonsense licensing and operational requirements, and life safety and health regulation under Chapter 64G to accompany a registration and inspection program, provided it intends to adopt such a registration and licensing program.

Finally, as with all matters legal, the Committee recommends close coordination with Town Counsel in the creation and adoption of any of the options available to the Town, either under Zoning, pursuant to G.L. c. 64G, or otherwise.

## **LOCAL REGULATION<sup>4</sup>**

### **Discussion**

As referenced above, Massachusetts General Laws Chapter 64G is the source law in the Commonwealth governing the operation of Short-Term Rentals (STRs).

Chapter 64G, Section 1 defines an STR as "an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such."

Relative to STRs, said Section 1 defines "Occupancy" as "... the use or possession or the right to the use or possession of a room in a short-term rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee..."

There are several property types excluded or exempted from this STR definition, such as motels, hotels, timeshares and lodging houses.

Section 6 requires STR registration with the MA Department of Revenue (DOR).

Section 3 requires the withholding and the remitting of rooms taxes for STRs to DOR.

Under Chapter 175 Section 4F, every STR must be covered by a minimum \$1M liability insurance policy. Local bylaws or ordinances adopted under MGL Ch. 64G Section 14 allow a municipality to:

- (i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;*
- (ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local*

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<sup>4</sup> Chapter 64G Section 14 expressly references regulation via local bylaws or ordinance. This paper refers generally and more broadly to local "regulation," where it's assumed that a municipality may promulgate regulations or policies in furtherance of such bylaws or ordinances adopted pursuant to MGL Ch. 64G, and/ or adopt appropriate regulations under existing public health jurisdiction, policies consistent with the state building code, or other appropriate regulation under home rule authority. As used herein, "regulation" is intended to encompass all of the above.



*license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;*

*(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;*

*(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to and solely paid by the operator under this section; provided further, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;*

*(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and*

*(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.*

It is unclear whether this list is intended to be comprehensive and exclusive in terms of a municipality's authority over STR operators. This should be discussed with and confirmed by counsel.

Local regulation adopted under Chapter 64G can address operational requirements such as the identification of an agent physically available to deal with STR operational issues as they might arise, along with the agent's contact information; identification of true "natural person" owners if title to a property is held under an entity; proof of insurance; local registration and licensing; and proof of payment of rooms taxes to DOR. Such regulation can also limit the classes of operators who can hold a license and operate an STR; can limit STRs to certain locations in the town; and can limit the total number of licenses in a town or that can be held by a single operator. Enforcement can include that an STR license or permit may be revoked or withheld for violations of the bylaw or for nonpayment of local property taxes.

Chapter 64G regulation can also include provisions to address health, welfare and safety concerns. Examples of topics that can be and have been addressed by communities are lighting; noise; garbage/recycling; parking; occupancy limitations (number of days per year an STR can be rented; minimum length of rental; number of allowable occupants in the STR; determination of legal bedrooms and habitable areas); necessary facilities and utilities to serve the STR, such as water service, sanitary facilities, septic systems, and electrical service; structural stability of building; fenestration requirements; requirement for working smoke and CO detectors; and minimum access/ egress requirements. Many of these requirements and concerns align with state law: fire, health and building codes.

Once such health, safety and welfare regulation has been introduced, so is the need for regulatory field inspections to assure compliance with such requirements (whereas compliance with operational

requirements, such as providing agent contact information, can largely be self-certified). Chapter 64G allows a municipality to determine the frequency and topics covered by inspections.

Notwithstanding local regulation that might be adopted for STRs, Chapter 64G requires that the location of fire extinguishers, gas shut off valves, and fire exits be posted inside the STR.

In crafting and adopting this regulation, the Town first needs to consider its objectives and identify its primary concerns the regulation is intended to address. Regulation should be tailored to these goals and concerns. As regulation can be accomplished in phases, the Town might consider in a first phase of adoption focusing on basic health and safety requirements and that data is available to compile an accurate list of STRs in the Town. Considerations should also include fairness to property owners, feasibility of administration and enforcement, unintended consequences of regulation, and that the regulation shouldn't substantially interfere with any of the positive impacts of STRs identified, which benefits the Town seeks to retain. Regulation that is too onerous or overly complicated is difficult to administer and enforce on the municipal side and are more likely to be disregarded on the operator side.

Public health concerns can also be addressed through regulation and corresponding inspection requirements: water supply, sanitary facilities, septic system and other matters of habitability. Occupancy limitations for STRs are normally established based on the number of legal bedrooms and allowable occupancy within those bedrooms under state and local health codes.

There has also been discussion of prohibiting or limiting "corporate" ownership of STRs, as a class of operator. This topic requires careful analysis before potentially taking any action. Many properties, including single family homes, are held by entities (trusts, LLCs, corporations, etc.) for estate planning, privacy or liability purposes, sometimes with the "off record" owner being another entity. Towns that have regulated corporate ownership seem to require that the off-record owner be a "natural person." The Town, as stated above, should be clear and intentional about what it is looking to achieve if it regulates in this space, including defining "corporate" ownership.

For instance, if the concern with entity ownership is ensuring a "human" contact and agent in the event of a day-to day management issue, this can be achieved without the need for limiting or restricting corporate ownership. If the issue is perceived as a commercial entity, unaccountable to the community, owning so many units that it weakens the local economy or impacts housing availability, then the town should consider analyzing these issues prior to adopting such regulation (for instance, conducting an ownership study).

It does not appear from testimony educed at the Task Force meetings that "true" corporate ownership is prevalent or an issue in Brewster's STR stock, i.e. a commercial entity, especially a non-local one, controlled by stakeholders, owns a disproportionate number of the STR units in the town and is renting them as investment-only properties.

As discussed in greater detail below, adoption of STR regulation, registration, licensing, fees and inspections are interwoven matters and cannot be discussed individually without considering them all.

For instance, regulation should be accompanied by clear and detailed inspection checklists, and a user-friendly registration platform.

### **Recommendations**

The Task Force was in general agreement about the establishment of a registration, licensing and inspection program for STRs, to ensure public health and safety of renters and the general public, with inspection standards, application requirements, enforcement provisions and fees to cover the program costs set out through adoption of regulation under G. L. c. 64G, Section 14. This would promote, inter alia, (a) the creation of a database of short-term rentals in Brewster, so that Town Boards and Committees can have a clear understanding of the number and extent of Short-Term Rental use in Brewster; (b) implementation of a system of fees to support this of registration program as well as the necessary implementation of inspections by the Building Department and other relevant municipal department; and (c) assurance that all Short-Term Rentals carry appropriate levels of insurance for the protection of users of these rentals.

If a registration/licensing system with health and safety inspections is established, then the Town should consider adopting regulation under Chapter 64G (and/ or relevant public health laws) to set standards for the condition and inspections of the property in its use as an STR, as well as to establish information that must be provided or certified by or on behalf of the operator for the STR license.

The Town might consider including in these bylaws compliance with applicable provisions of state and local health codes, and the building code; providing a physically available local agent and as well as agent's contact information; identification of "natural person" owners; proof of insurance; obtaining annual local registration/ licensing; proof of payment of rooms taxes to DOR; proof of payment of local property taxes; and certification that there are no outstanding enforcement actions against the property under local bylaws and regulations and state laws or regulations under which the relevant town departments have jurisdiction. The local regulation would also include enforcement and penalty provisions for non-compliance.

After the initial adoption of regulation addressing the most immediate and pressing concerns the Town identifies, the Town can consider adopting amendments in the future to limit the classes of operators (including "corporate" ownership), numbers of licenses, etc. As discussed above, it would behoove the Town to wait for resolution of state zoning issues first, not only to allow alignment of the zoning bylaw with state case and statutory zoning law, but also because this zoning resolution (dealing with "investment only," commercial use STRs) may indirectly address operational issues like locations in the Town where STRs may be allowed, allowable classes of operators and limits on the number of STRs/ licenses. Before adopting limits or restrictions on licenses or classes of operators, the Town should agree on the necessity and benefit of doing so. Commissioning additional study prior to such potential amendments might be warranted as well, for instance, about the economic effects of limiting licenses, or about STR ownership in the town.

If there is some desire to regulate STRs in the context of noise, it would be best to first revise the Town's outdated "noise" bylaw as a broad baseline for potential STR noise regulation.

## **INSPECTIONS & COMPLIANCE**

### **Discussion**

Independent of the inspection requirements a Town might establish for STRs under Chapter 64G regulation, Section 110 of the recently amended, 10<sup>th</sup> edition of the state building code requires safety inspections/ certificates of inspection for STRs; in some cases these are annual inspections, and in all cases must first be requested by the owner/ operator/ agent. There are still questions about whether every STR requires a 110 inspection, or just “lodging house”- type STRs and non-owner-occupied STRs. The required frequency of inspections differs based on the categories of STRs established under the building code (1 year vs 5 year).

Another point that will require clarification is that the building code defines an STR differently than MGL Chapter 64G (and a lodging house differently than in MGL Chapter 140 or the Brewster Zoning Bylaw).

At this time, there is not a specific list of inspection items for STRs formalized by the Commonwealth for STRs, though it appears “lodging house” -type STRs have different inspection requirements, based on the commercial building code vs. STRs that essentially remain single family dwellings. Inspection requirements normally relate back to the building code version that was in place when the STR building/ unit was constructed or substantially altered; not necessarily the most current code. However, this depends on whether new construction or alterations might accompany the STR use, and whether the establishment of the STR changes the use and occupancy group of the building. Basic inspection items normally include among other things determining the presence of functional smoke and CO detectors; and safe access/ egress.

So-called “110” inspections must be conducted by a certified building official, cannot be privatized, and thus as a practical matter must be conducted by and through the Town’s building department. The most recent guidance from the Massachusetts Office of Public Safety & Inspections (7/1/25) leaves significant discretion to the local building officials as to these STR 110 inspection requirements.

It also appears that some STRs will be required under the state building code and/ or fire code to be outfitted with automatic sprinkler system (though the building and fire code sprinklering requirements or thresholds do not exactly align).

There is also a bill pending before the MA legislature, “Maggie’s Law,” that would require compliant smoke and CO detectors for STRs, including annual inspections by the town and the requirement for hosting platforms and agents to obtain a detector certificate or compliance; identifying the local inspection authority is one of the current discussion points in the legislative process. As currently pending, the Fire Department would be the responsible authority for inspections and certification.

Some more unique items Brewster might potentially consider including in health regulations and inspections for STRs are private wells, swimming pools and hot tubs, none of which are annually inspected when used solely for single family residential purposes. If private wells and septic systems are to be inspected under STR regulation, the Town would have to consider the frequency of such inspections (these inspections are normally privatized, and the results furnished to the health department). Pools and hot tubs are normally inspected if they are public/ commercial, and they have different construction and

permitting requirements. If there is a desire to inspect pools and hot tubs associated with STRs, then the STR regulation and corresponding forms would have to identify the specific inspection requirements involved (i.e. fencing? water testing? pool operator certification?). However, applying all the construction and inspection requirements for public or quasi-public pools might be infeasible.

It has also been suggested that insurance carriers in the Commonwealth might have inspection “checklists” for STRs coverage, which could serve as a basis for municipal inspections, or at the least, municipal and insurance checklists should not conflict.

Local regulation will also have to assign responsibility for enforcement, which will presumably involve the relevant inspection authority(ies) designated by the regulation. Related to enforcement, re-inspection may be required to confirm compliance after an order and remedial action taken. There are companies that specialize in assisting towns with STR operator/ host compliance (see Registration and Licensing discussion, below).

### **Recommendations**

If the town adopts STR regulation to accompany a registration program, the town will need to develop an inspection process to assess and determine compliance.

Massachusetts law already requires a town building department to conduct a safety inspection for a certain STRs if requested by the owner/ operator. Brewster will have to establish what inspection subjects and requirements over and above those in a “110” safety inspection it might adopt through regulation.

The inspection process should be coordinated across all responsible departments, including the building department inspections required under Section 110 of the state building code.

Balanced against health and safety concerns, the availability of staff resources and budget will likely influence the scope and type of inspections. Compliance review, inspections and enforcement will require additional staff time, including potentially new inspector and administrative positions, as well as associated costs and resources like office space, supplies and potentially vehicles. The Town should consider what departments other than the building department would be involved (the health department, perhaps the Town Manager’s office, or fire department as well). The Town might also investigate whether inspectors can be shared by towns regionally or whether some inspections can be done by private contractors, given the number of STRs that would require inspections relative to the number of municipal inspection staff.

The inspection provisions of the bylaws and corresponding guidance documents should expressly state whether STRs are required to meet current codes, portions thereof, or codes that might have existed at the time of their construction. It may be unfair and impractical to require all construction to meet current codes. To augment the bylaws, the Town should develop a clear checklist of inspection requirements and tasks.

In deciding what elements to include in an STR inspection, the Town should consult with counsel to confirm that it is not creating legal liability in the Town for doing so, e.g. residential pools associated with STRs.

It would make sense to require annual inspections, to align with annual licensing and registration. If the Town ultimately requires septic system and/ or private well inspections as part of STR licensing, then it might be appropriate and fairer to require this type of inspection less frequently.

The Town should consider appropriating funds as soon as possible for additional building inspector and other staff hours to administer and conduct 110 safety inspections as they are requested. The building commissioner can provide guidance about how many additional hours might be necessary, given the estimated number of STRs in Brewster.

If the Town adopts regulation with some level of STR health inspections required, the Town should estimate the additional health department staffing needs and consider an appropriation in 2026 (when it's assumed the regulation and registration system will have been adopted).

## **REGISTRATION & LICENSING**

### **Discussion**

The principal purpose of a local STR registration program would be to establish a master list of all STRs in town. As the state building code already requires a safety inspection for at least some STRs (inasmuch as the owner/ operator needs to request the inspection), it is important that the Town have such a registry so that the building department is aware of the scope of its inspection responsibilities. MA DORs registry cannot be used for this purpose, among other reasons, because it may not be an accurate snapshot of current STRs in Brewster (the DOR Registry includes all STRs that have been registered over time, not just those currently operating). A licensing component would serve to certify that an STR has not only been registered but complies with all administrative, inspection and other regulatory requirements the Town has established. Registration and licensing would be required annually.

The Town already uses an e-permitting platform, OpenGov, for building and health permits, which it could use for STR registration and licensing. Additionally, there are companies that can assist municipalities with STR administration, compliance and enforcement. Specifically, as part of host compliance support, these companies research online listings from the major STR hosting platforms like Air BnB, VRBO, etc., which can be cross-referenced against the Town's registry to reveal unregistered STRs. These companies can then assist the town with bringing the units into compliance through auto-generating letters, etc. The host compliance vendor's data can be integrated into the town's registration and licensing platform through an application programming interface (API). One of the leading host compliance vendors has estimated such service for Brewster at around \$50K/ yr.

MGL Chapter 64G allows a municipality to publish a public registry of all short-term rentals registered with DOR. Further, a municipality may determine what information may be listed in the registry, including where the accommodation is located.

The Town will also have to decide what information and documentation to require and collect from applicants in its registration platform, which should be geared towards facilitating and assisting with STR administration, inspections and potential enforcement as necessary. Information collected may also serve general data gathering purposes on which to base future decisions and policy-making. Basic information to be collected include things like proof of insurance and DOR registration, and identifying a physically available local agent as well as their contact information.

Granicus, a host compliance company that presented and provided testimony to the task force during its fact-finding process, suggested that in its experience it is not uncommon for a municipality to request identification, as applicable, of the “natural person” beneficial owners underlying a property holding or management entity like an LLC. As state laws and codes seem to be heading in this direction, it may also be helpful to require information to determine “owner-occupied” vs. “non-owner-occupied” STRs.

There was not consensus on the Task Force about the benefit, utility or practicality about collecting ownership data. There was consensus that, if ownership data is collected, these efforts should be pursuant to and for the purposes of an identified, valid public purpose.

### **Recommendations**

Town staff should start working with OpenGov to create and test an STR registration and licensing portal. It appears that this may already be included in the Town’s OpenGov contract (exclusive of any consulting services that might be required).

The Town might consider an appropriation to contract for host compliance support and an API to integrate the selected vendor’s data with OpenGov software.

In its regulation, the Town should consider what department will have primary responsibility over registration and licensing, and what information or documentation will be required to provide for registration within the online platform. The additional administrative responsibilities associated with registration and licensing (and follow-up) may require funding and hiring additional permitting staff.

The Town should also consider whether the registration and licensing would just be for STRs or would include long-term rentals as well. From a health and safety perspective, it’s as if not more important to include long-term rentals in registration, compliance and inspection requirements. Because there are no state requirements to register or inspect long-term rentals, the Town would have more latitude in determining local requirements and standards for them. The Town would have to consider what associated costs and resources might be required to include long-term rentals in addition to STRs.

### **FEES**

The building department currently collects a \$50 fee to undertake 110 safety inspections, which would not be sufficient to cover all costs attendant to STR administration. Chapter 64G authorizes a town to collect fees to cover costs associated with STR administration and enforcement. A survey of such fees around Cape Cod varies between \$50 and \$750 a year (both of which seem like outliers- the mean for an all-inclusive STR annual fee is around \$350). In some cases, inspection fees are included (especially with the higher fee towns), in others, they are assessed separately. Charging a single, all-inclusive fee for

annual registration, licensing and inspections seems to be the simplest approach for both town staff and operators.

Towns that have registration and inspection programs that include all rental units (STRs and long-term rentals) generally have a lower annual fee for long term rentals, presumably so as not to discourage year-round housing opportunities. Fees should be reasonable, matched to the town's actual administrative and enforcement costs associated with the STR program, and ultimately the program should be self-sustaining.

A revolving fund or similar mechanism could be employed to hold the annual fees collected in order to fund the program over time. The program would need to be funded with a new appropriation at its inception.

## **HOUSING**

### **Discussion**

Housing in Brewster continues to become less affordable, and less available. The Brewster median home sales price increased 68% from 2019 (\$415,000) to 2023 (\$699,000). The link between housing and short-term rentals is unclear: more specifically, the relationship between housing stock, prices and STRs.

On one hand, what is relatively clear is that second/vacation homes reduce year-round housing stock, both as ownership units and likely as rental units given the recognized paucity of long-term rentals in Brewster learned from testimony and information received by the Task Force. What's less clear is the relationship between second homes and STRs, i.e. how many such homes are used as STRs, to what degree and extent owners employ such homes as STRs, so as to assess STR influence on home prices and demand.

It is a seductively simple, but unsupported, proposition that if STRs were limited in number or restricted in ownership, housing would be more available and more affordable. This does not necessarily follow, where there is such high demand for seasonally used and/or second homes in Brewster, and a large gap between wages and housing affordability.

Rather than focusing on STR limits, it may be more productive from a housing perspective to create incentives and facilitate ready opportunities for second homeowners to use their properties for year-round or longer term rentals, which might require or benefit from efforts, funding and legislative action beyond the Town's jurisdiction.

To this end, a housing initiative recently pursued by other Lower and Outer Cape communities that could be further explored by Brewster is a "Lease to Locals" Program. This program offers incentive payments to property owners who agree to convert their housing units into year-round rentals and then lease to qualified local tenants. Funded with local Town/ Housing Trust funds, both Provincetown and Nantucket have both partnered with Placemate to manage their "Lease to Locals" program. Housing Assistance Corporation has a similar financial incentive-based rental program, Rent 365.

The primary solution is to keep doing what the Brewster Housing Office, Housing Trust and others have been doing in Brewster: continuing to tackle year-round housing and affordability issues, including



production and preservation of such housing, and advocating for housing choice to meet community needs.

The Town could conduct a study much like Provincetown did with UMass-Amherst (and that Yarmouth intends to do) analyzing the relationship of STRs on housing stock and affordability. In Provincetown's case, their study concluded that STR restrictions would not materially impact house prices, and would not necessarily lead to greater housing availability or affordability. The study did recognize a lack of certain potentially important data sets, such as whether second homeowners that rent necessarily need the STR income to carry the property.

The Town could also study the direct relationship between second homes and STRs which may provide valuable information on which to base future policy decision, i.e. determine how many second homes are being used for STR use.

Brewster has been recognized as a Seasonal Community under the MA Affordable Homes Act adopted last year. As such, it has certain statutory tools available to incentivize year-round housing (such as year-round deed restrictions) and the production of attainable housing, which may be a more productive focus than efforts to restrict STRs for housing purposes.

## **LOCAL ECONOMY**

### **Discussion**

The Task Force received testimony from the Brewster Chamber of Commerce that STRs have not interfered with traditional accommodations and that they help drive the economy and support local businesses like restaurants by introducing customers. There is a history and tradition of seasonal rentals in the Town of Brewster as a cornerstone of what had long been primarily a tourist economy on the Cape. STRs continue to play a role as Brewster transitions to a "second home" and retiree economy, with real estate as a driver. Brewster's draw is its natural beauty, amenities, local commerce and small-town residential character. Many renters return year or year, decade after decade and have become part of the local fabric, invested in the community as seasonal visitors. Though the core summer months remain peak season for STRs, there is now a longer shoulder season and vacation rentals are not limited to the summer in Brewster. Neighborhood complaints to Town departments about STRs are rare in Brewster. Brewster STRs tend to be compatible with their neighborhoods, quiet, upscale and well maintained and managed.

Testimony from the Task Force's Real Estate Liaison, based on his professional observations and experience, show that most STR operators in Towns use professional management, and still occupy the property for part of the year: they are not "investment only" properties, and not corporately owned but owned by "real" people. The typical situation in Brewster is that people in their 50's who are planning retirement purchase a second home in anticipation of retirement and full-time residency in the coming decade. STRs are an interim use for them to help defray acquisition and carrying costs, not the exclusive use of the property. These people still use the property themselves seasonally, which is another reason they don't rent to someone long term. Owner revenues for STRs are lower than sometimes assumed, given high acquisition costs, taxes and operating expenses: rentals are more a way to help carry the property as second homeowners transition to year-round residency and retirement. The companies that do

manage and own STR units tend to be local companies, not a Berkshire Hathaway, etc. STR rental rates have stabilized since the COVID peak.

Another common Brewster fact pattern cited in the Task Force presentations and discussions is that of year-round residents vacating their houses seasonally to short term rent them, in order to afford year-round housing and other living expenses. The Task Force is particularly sympathetic to these circumstances and have referred to them as the primary traditional and historic pattern of vacation rentals in the Town.

### **Recommendation**

It is recommended that if the Town intends to limit or restrict STR licenses or classes of operators through local regulation, that it first have listening sessions, including with the Brewster Chamber and local businesses to discuss the potential effects of such regulation on the local economy.

### **MUNICIPAL FINANCES AND BUDGET**

The Task Force received testimony from the Town that it receives about \$1.5M/ yr from STR rooms taxes.

The Select Board has a policy that 50% of forecasted STR revenue is earmarked for the Town's Affordable Housing Trust ("AHT") (\$600k in FY26, based on a conservative estimate of \$1.2M). STR revenues are thus one of if not the primary funding sources for the AHT to use for various affordable housing initiatives in Brewster. The AHT has committed \$1.8M to date which will lead directly to the creation of affordable housing in Brewster: \$1M for 45 units of rental housing at Spring Rock Village (off Millstone Road); \$100K for two, Habitat for Humanity ownership units on Mackie Drive, East Brewster (former Washington Chase Bog property, Rte. 6A); and eight additional affordable units at the age 55+ Serenity Apartments, which would result in 39 total affordable units in the development. In addition to the AHT, the 50% remainder of the forecasted balance goes to the water quality stabilization fund (15%), capital stabilization fund (25%), and operating expenses related to Select Board Strategic Plan (10% - Sea Camps).

Actual receipts over and above the forecasted amount go to free cash and have been used for a variety of municipal purposes over the past few years such as helping to pay down the Sea Camps Pond Property acquisition costs and covering a portion of the Millstone Road improvement project expenses.

The Town's AHT and Finance Team have developed a 5-Year Financing Plan for the Trust which is annually updated and relies heavily on the projected STR revenues that are transferred to the Trust through the Town's annual operating budget. Reduction of these revenues would be disruptive to the Town's robust housing program and would likely lead to reductions in financial support and continued investments in these critical services and projects.

On Cape Cod, a portion of STR rooms taxes also funds the Cape Cod and Islands Water Protection Fund (CCIWPF) at the county level, which subsidizes eligible wastewater and water quality projects around Cape Cod. Brewster contributes approximately \$1M/year to the CCIWPF through STR taxes.