

**RTM RULES & ORDINANCES COMMITTEE**  
**Town of Branford**



Adrian Bonenberger, Dan Adelman, Susan Dahill, Ray Ingraham, Peter Black, Trish Anderson  
Peter Hentschel, Chair

---

**SCHEDULED MEETING**

September 17, 2024, 7:00 PM  
Branford Community Center

1. Call to order

**Meeting was called to order at 7pm. All present other than Rep. Black (absent).**

2. Approval of Meeting Minutes of 6/18/24 & 7/2/24.

**TA moved, AB seconded, unanimous approval.**

3. To consider, and if appropriate, recommend the establishment of a Branford Harbor Management Commission as requested by the First Selectman.

- a. Report from the working group established to research the issues. The working group is representatives Dan Adelman, Chris Hynes, and Peter Hentschel
- b. *Note to the Public – The public is welcome to attend this meeting and make comments on this topic; however, there will be future meetings of the Rules & Ordinances Committee specifically focused on a public discussion of the possible ordinance, and a request for public input will be specifically noticed on that agenda.*
- c. **The Committee agreed to focus public discussion on this topic at the October meeting.**

**TA moved to rerefer, DA seconded. Unanimous approval.**

4. To consider, and if appropriate, recommend the establishment of a Town Ordinance to regulate short-term rentals in Branford.

- a. Report from the working group established to research the issues. The working group is representatives Peter Black, Adrian Bonenberger, and Peter Hentschel.
- b. Note that a Community Survey (Survey Monkey) has been published and can be accessed through the home page of the Town website. The survey will end 10/10/24.
- c. *Note to the Public – The public is welcome to attend this meeting and make comments on this topic; however, there will be future meetings of the Rules & Ordinances Committee specifically focused on a public discussion of the possible ordinance, and a request for public input will be specifically noticed on that agenda. At that time the working group will have received and analyzed the results of the public survey.*
- d. **The Committee agreed to focus public discussion on this topic at the November meeting after the results of the survey have been evaluated.**

**TA moved to rerefer; AB seconded. Unanimous approval.**

*Wai Stephen*  
BRANFORD TOWN CLERK

2024 OCT -9 A 11:03

RECEIVED

5. To consider, and if appropriate, create an ordinance protecting licensed home daycare providers from restrictive HOA bylaws.
  - a. Report on the opinion of the Town Attorney regarding the legality of establishing such a municipal ordinance as requested by the Chair. **(Attorney opined that no action was necessary since State Statute already allows this protection. Copy was attached to the 9/17 agenda and is attached to these minutes)**
  - b. Discussion about proceeding with this referral – **rather than close this topic with a vote to take no action the Committee agreed to keep the issue open while the proponent has a chance to evaluate further the opinion of Town Attorney.**

**RI moved to rerefer; SD seconded. Unanimous approval.**

6. Other Business

**A Branford citizen appeared before the committee to talk about enforcing the blight ordinance.**

7. Adjournment

**DA moved to adjourn the meeting at 7:52pm and AB seconded. Committee voted unanimously to adjourn.**

Respectfully Submitted  
Peter Hentschel  
Chair, RTM Rules & Ordinances Committee

Home Daycare / HOA Bylaws

Email from Town Attorney, William Aniskovich  
9/15/24

Peter:

I have reviewed the email correspondence and links provided. I have also reviewed the Public Act, P.A. 23-142, referenced in the email below.

Section 3 of the Branford Zoning Regulations (the "Regulations") permit, as of right, single and two-family dwellings in residential districts. *Regulation 3.3.A.2. C.G.S. 8-3j*, as amended by Public Act 23-142, states:

**No zoning regulation shall treat any family child care home or group child care home, located in a residence and licensed by the Office of Early Childhood pursuant to chapter 368a, in a manner different from single or multifamily dwellings.**

Our Regulations do not, and cannot be read to, prohibit a properly licensed family or group child care home located in a single or multi-family dwelling under current state law.

In addition, in Connecticut there is clear authority that a homeowners' association is a creature of statute and as such acts subject to state laws. DeBernardo v. Pinewood Lake Ass'n, Inc., 46 Conn. Supp. 265, 747 A.2d 1076 (Super. Ct. 1999).

Therefore, a homeowner association bylaw that prohibits a "properly licensed family or group child care home located in a single or multi-family dwelling" would appear to be unenforceable under state law. However, that is an issue that ought to be raised by the property owner/HOA member.

Based on the above, an ordinance banning a practice that is already not permitted under our Regulations seems unnecessary.

Happy to answer any questions you all may have.

**William A. Aniskovich, Esq.**

Email from R&O Chair, Peter Hentschel to Attorney, William Aniskovich  
9/3/24

Bill:

You may already be aware of this; but a resident of Branford has requested that the RTM develop and approve an ordinance which would allow for the operation of home daycare facilities in Branford neighborhoods subject to HOA bylaws which prohibit such facilities. This request has been referred to the Rules & Ordinances Committee.

The applicant, Michelle Gagliardi, has provided a rationale for such an action, as well as links to several recent relevant State legislative actions ([see the email thread copied below](#)).

As far as I can determine there has been no State enabling legislation signed by the Governor which would allow for a municipal ordinance that supersedes local HOA bylaws prohibiting home daycare facilities. And, I would assume that a municipality could not unilaterally take that step without specific State enabling legislation.

Before the R&O spends any time considering Michelle's request, I would like your opinion on the above (especially my last assumption). The next meeting of the Committee is on September 17. If we could receive your opinion before the 17<sup>th</sup> we will be positioned to determine our next steps.

Let me know if you have any questions and feel free to call if you want to discuss.

Regards, Peter

Peter Hentschel, RTO

Copyright © 2014 by Peter Hentschel. All rights reserved.  
This document is the property of Peter Hentschel. It is not to be  
distributed or used in any way without his written consent.