



Town of Lexington

PLANNING BOARD

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RECOMMENDATION REPORT OF THE LEXINGTON PLANNING BOARD ARTICLE 10: AMEND ZONING BYLAW – SHORT TERM RENTALS

RECOMMENDATION

The Planning Board unanimously recommends that Town Meeting APPROVE the motion under Article 10, Short Term Rentals. On Wednesday, September 23, 2020, after a series of public hearings, the Planning Board voted to recommend favorable action with a vote of five (5) in favor, zero (0) in opposition, and zero (0) in abstention for Article 10, Short Term Rentals.

BACKGROUND

Lexington's historic roots attract many visitors throughout the year who rely on overnight accommodations. The Town of Lexington has both hotel and bed & breakfast options for visitors. In recent years the use of Short Term Rentals has increased. With the increased popularity of Short Term Rentals, the Land Use, Health & Development Department has received concerns from residents within neighborhoods that experience impacts associated with the operation of such uses.

To alleviate the impacts to neighborhoods, the Planning Board and Select Board asked the Land Use, Health & Development Department (Public Health, Economic Development, and Planning Divisions) to prepare the proposed Short Term Rental Bylaw. This proposal will provide public safety and health standards, ensure orderly operation, and maintain quality of life for neighbors of the Short Term Rental, while still allowing these operations to exist in Lexington.

The proposed Short Term Rental Bylaw sets reasonable limitations and expectations for this use. A resident, either classified as an Operator-Occupied or Operator-Adjacent, will be allowed to rent certain types of dwelling/bedroom options for no longer than thirty (30) consecutive days at a time, with a one hundred twenty (120) day per calendar year limitation on rentals during the absence of the operator. Additionally, property owners will be subject to annual registration and an inspection by the Building Department before issuing a Certificate of Use.

PUBLIC HEARING PROCESS

Due to COVID-19, all of the zoning articles initially scheduled for the 2020 Annual Town Meeting were postponed to a Fall 2020 Special Town Meeting. Due to the length of time between the Annual and Fall Special Town Meetings, the Planning Board was required to hold new public hearings. To ensure all information heard during the public hearings has been communicated, this section of this report provides a review of the public hearings held for the 2020 Annual Town Meeting and Fall 2020 Special Town Meeting.

Annual Town Meeting Public Hearing Proceedings (February – March 2020)

On Wednesday, February 26, 2020, after the publication of the legal advertisement in the Boston Globe Newspaper on February 11, 2020, and February 18, 2020, and notification sent to parties of interest, the Planning Board opened its public hearing for Article 36: Short Term Rentals. The Planning Board voted to close the public hearing on February 26, 2020, and voted to make a favorable recommendation to the Annual Town Meeting of 2020 on Thursday, March 5, 2020.

The Planning Board during the public hearing process provided comments, in addition to taking public comments. Much of the discussion during the Wednesday, February 26, 2020, public hearing was associated with clarifying questions, including short-term vs. long-term rentals, the limitation of ninety (90) calendar days, and payment of commercial property taxes. Staff present during the public hearing process provided answers and clarification to questions asked by both the Planning Board and the public.

PUBLIC HEARING MINUTES

FEBRUARY 26, 2020

Present for the public hearing: Jennifer Gingras, Zoning Administrator

Charles Hornig, Vice-Chair, opened the public hearing and requested a presentation relative to Article 36, Short Term Rentals.

Jennifer Gingras presented a PowerPoint entitled Article 36: Amend Zoning Bylaw – Short Term Rentals (Article 36). The presentation identified the problem that Article 36 intends to address; the potential solution to the problem; an overview of the Short-Term Rental program and the requirement for registration; the identification and differences in Operator-Occupied and Operator-Adjacent; requirements for Short-Term Rental operations; and a review of what cannot be a Short-Term rental.

Mr. Hornig requested comments from members of the Planning Board. The members of the Planning Board stated that they did not have any comments at this time.

Mr. Hornig opened the floor for public comment. The following comments were provided.

- A request for clarification regarding the renting of the entire dwelling
- A request for clarification regarding a short term rental vs. a long term rental
- A request for clarification regarding the consideration of allowing ninety (90) days rental of an entire dwelling in a year
- A statement of opposition for the proposed article
- A statement of an example of an existing rental that appears to be short term but operated as a long term rental
- A request for clarification as to who will enforce this regulation

- A statement that a property that operates as a business should pay commercial property tax and not a residential rate. The water and sewer rate should also be classified as a business and not residential use.

Fall Special Town Meeting Public Hearing Proceedings (September 2020)

On Wednesday, September 9, 2020, after the publication of the legal advertisement in the Minuteman Newspaper on August 20, 2020, and August 27, 2020, and notification sent to parties of interest. The Planning Board opened its public hearing for Article 10: Amend Zoning Bylaw – Short Term Rentals. A continued public hearing was held on Wednesday, September 23, 2020. At such time the Planning Board closed the public hearing and made a favorable recommendation to the Annual Town Meeting of 2020.

PUBLIC HEARING MINUTES

SEPTEMBER 9, 2020

Robert Creech, Chair, opened the public hearing for the Short Term Rentals Town Meeting Article.

Present for the public hearing: Jennifer Gingras, Zoning Administrator

Ms. Gingras presented a PowerPoint presentation entitled Amend Zoning Bylaw – Short Term Rentals (STR). The presentation highlighted the proposed regulations relative to Short Term Rentals.

Mr. Creech requested clarification regarding the regulations relative to the renting of a unit no more than 90 days.

The Planning Board discussed three potential amendments presented by a member of the public relative to noise, number of guests, and use of the property for commercial uses.

SEPTEMBER 23, 2020

Robert Creech, Chair, opened the public hearing for Article 10 and requested a presentation from Ms. Gingras.

Ms. Gingras provided a brief review of amendments made to Article 10, Short Term Rentals, since the last public hearing on September 9, 2020. Ms. Gingras lead a discussion regarding the 90-day limitation and if such a number should be amended.

Mr. Creech requested comments from the Planning Board. The following comments were provided.

- Charles Hornig, Richard Canale, and Ginna Johnson stated that they did not have any questions and agreed with the amendments.
- Robert Peters requested clarification regarding the difference between Short Term Rentals as defined and a tenant at will.
- Mr. Creech presented a presentation on the screen.

Mr. Creech opened the floor for public comments. The following comments were provided.

- A member of the public stated his concerns regarding the allowance of Short Term Rentals and the need for tighter regulations.
- A member of the public provided reasoning for not allowing Short Term Rentals in residential neighborhoods.
- A member of the public provided an example of his current use of his property and the leasing of his home as a Short Term Rental.

Mr. Creech requested additional comments from the Planning Board. The following other comments were provided.

- The Planning Board and Ms. Gingras discussed the provision to limit properties up to 90 days for Short Term Rentals. The Planning Board concurred that 90 days should be extended to 120 days.

On September 9 and 23, 2020, the Planning Board opened the floor for public comments. Public comments were received on September 9 and 23, 2020. All comments can be reviewed on the video stream capture of the public hearing and the associated meeting minutes.

ARTICLE MOTION & PROPOSED LANGUAGE

That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended by adding a new Section 6.10 as follows, and further that non-substantive changes to the numbering of this bylaw be permitted so that it complies with the numbering format of the Code of the Town of Lexington:

6.10.1 PURPOSE.

The purposes of this section are to:

1. Provide a process through which certain residential dwelling units and bedrooms within dwelling units may be registered with the Town of Lexington for use as “short-term rentals”;
2. Provide health and safety standards for short-term rentals; and
3. Provide for the orderly operation of short-term rentals within the Town’s residential neighborhoods.

6.10.2 DEFINITIONS.

Short-term rental: Any rental of a residential dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of less than thirty (30) consecutive days, but not a bed-and-breakfast home, hotel, or motel.

Short-term renter: Any person or persons occupying a dwelling unit, or a bedroom within a dwelling unit, as a short-term rental.

Short-term rental operator: The person or persons offering a dwelling unit or bedroom within a dwelling unit, for short-term rental, with the written permission of the owner, condominium association, and homeowners association where applicable.

Operator-occupied short-term rental: The short-term rental of a dwelling unit, or of individual bedrooms within a dwelling unit, that is the primary residence of its operator.

Operator-adjacent short-term rental: The short-term rental of a dwelling unit that is not the primary residence of the operator, but is located within a dwelling with a total of four or fewer dwelling units where one of the dwelling units in the building is the primary residence of the operator.

6.10.3 REQUIREMENTS.

Operator-occupied, and operator-adjacent short-term rentals are permitted as an accessory use to a permitted principal residential use, subject to the following requirements:

1. No dwelling unit, or bedroom within a dwelling unit, may be used as a short-term rental except in compliance with this bylaw.
2. The following dwelling units may not be used as short-term rentals:
 - i. Dwelling units designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law;
 - ii. Accessory Apartments as defined in Section 6.7; and
 - iii. Any dwelling unit in violation of the State Sanitary Code, 105 CMR 410.
3. All short-term rental operators shall register with the Building and Zoning Office prior to short-term rental use and occupancy in conformance with Section 6.10.5 below.
4. A short-term rental operator may make available no more than one (1) dwelling unit for operator-occupied short-term rentals, which may include the separate short-term rental of no more than three (3) individual bedrooms, and one (1) dwelling unit for operator-adjacent short-term rentals, which may be rented only as a whole unit to one (1) party of short-term renters at any one (1) time and may not be rented as separate bedrooms to separate parties.
5. A short-term rental shall be limited to parking of one (1) vehicle per two (2) occupants in the short-term rental.
6. The short-term rental operator or their agent shall maintain an up-to-date log of all occupants that occupy the short-term rental, which shall contain the occupants' names, ages, and dates of commencement and expiration of each short-term rental period. The log shall be available for inspection by the Town's Board of Health and Department of Public Safety in case of emergency. The purpose of this requirement is to ensure that the Town shall have basic identifying information of all occupants of the short-term rental at all times.
7. The short-term rental operator must be current with all town taxes, water, and sewage charges.

8. All short-term rental operators shall maintain liability insurance appropriate to cover the short-term rental use.
9. During any period of seven (7) or more consecutive days when the short-term rental operator is away from the dwelling unit, an operator-occupied short-term rental may be rented only as a whole unit and not rented as separate bedrooms to separate parties.
10. The number of bedrooms made available for operator-occupied short-term rentals within a dwelling unit shall not be greater than the number of lawful bedrooms in the dwelling unit.
11. Renting for an hourly rate, or for rental durations of less than ten (10) consecutive hours, shall not be permitted.
12. Short-term rentals shall not exceed in the aggregate, ninety (120) consecutive or nonconsecutive calendar days per year when the short-term rental operator is not occupying the dwelling unit during the entire term of the short-term rental.

6.10.4 REGULATIONS.

The Building Commissioner shall have the authority to promulgate regulations to carry out and enforce the provisions of this Section 6.10 "Short-Term Rentals."

6.10.5 REGISTRATION, INSPECTION AND FEES.

1. All dwelling units, or bedrooms within a dwelling unit, offered for short-term rentals shall register with the Town, secure a Certificate of Registration according to standards set forth by the Building Commissioner, and pay all associated fees. The Certificate of Registration shall require the short-term rental operator to agree to abide by the requirements of this Section 6.10.
2. It is the responsibility of the short-term rental operator to renew its Certificate of Registration on an annual basis or upon change of operator or owner.
3. Prior to issuing or renewing a certificate of registration, the Building and Zoning Office shall conduct an inspection to verify that each dwelling unit, or bedroom within a dwelling unit, to be rented to short-term renters meets the requirements of this Section 6.10.
4. Units shall be annually recorded in the Short-Term Rental Registry for a fee set by the Select Board.

Planning Board Vote

Charles Hornig moved that the Planning Board recommend favorable action for Article 10: Amend Zoning Bylaw – Short Term Rentals, as presented. Richard Canale seconded the motion. The Planning Board voted in favor of the motion 5-0-0. MOTION PASSED

- Robert Creech yes
- Robert Peters..... yes
- Ginna Johnson..... yes
- Richard Canaleyes
- Charles Hornig..... yes

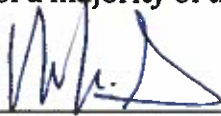
Record of Vote

On May 13, 2020, the Planning Board voted to allow the Planning Board Chair to sign documents on behalf of the Planning Board.

Charles Hornig moved that the Planning Board vote to allow the Chair of the Planning Board to sign all documents for the Planning Board during the COVID-19 State of Emergency. Robert Peters seconded the motion. The Planning Board voted in favor of the motion 5-0-0 (Roll Call: Robert Peters – yes; Charles Hornig – yes; Richard Canale – yes; Ginna Johnson – yes; and Robert Creech – yes). MOTION PASSED

Signature of the Planning Board

Signatures of a majority of the Planning Board,



Robert Creech, Chair