



Franklin Regional Council of Governments

Franklin County Cooperative Public Health Service

TO: Short-term On-Line Home Rental Owners and Hosts

FROM: Glen A. Ayers, R.S., CPHS Regional Health Agent

DATE: 3/16/2015

RE: Licensing of temporary housing/lodging such as Airbnb, HomeAway, VRBO, FlipKey, etc.

I am contacting you on behalf of the Boards of Health (BOH) of the Massachusetts Towns of Buckland, Charlemont, Gill, Hawley, Heath, Leyden, and Monroe. I serve these towns as their Health Agent, working with businesses and residents to protect and improve public health, as part of the Cooperative Public Health Service (CPHS). As you may be aware, the Massachusetts Department of Public Health recently ruled that Airbnb operations (and similar online rental services) qualify as bed and breakfasts or lodging houses under current state regulations. ** As the owner of an operation that offers temporary housing to the public, you are legally required to be licensed by the local Board of Health. This licensure serves two purposes: first, to ensure that the public are assured of a safe place to stay when they are in our community, and second, to help protect you from liability and lawsuits from tenants.

For instance, on the popular listing site, HomeAway, their [Terms and Conditions](#) specify: <http://www.homeaway.com/info/about-us/legal/terms-conditions> "Members further **agree that they are responsible for and agree to abide by all laws, rules and regulations** applicable to the listing of their rental property and the conduct of their rental business, including but not limited to any and **all laws, rules, regulations or other requirements** relating to taxes, credit cards, data and privacy, taxes, **permits or license requirements, zoning ordinances**, safety compliance and compliance with all anti-discrimination and fair housing laws, as applicable." HomeAway includes VRBO, VacationRentals.com, and other listing services. By accepting the Airbnb [Terms of Service](#) "and activating a listing on that web service, **you certify that you will follow your local laws and regulations.**" (see <https://www.airbnb.com/help/article/376>). TripAdvisor specifies that you "are responsible for **compliance with local laws**" and on one of the TripAdvisor listing sites, FlipKey, their [Terms of Service](#) requires that "You represent and warrant that your use of the Website and any content herein will be consistent with this license and will not infringe or violate the rights of any other party or **breach any contract or legal duty** to any other parties, or **violate any applicable law.**" (see <http://secure2.flipkey.com/content/terms>). (emphasis above added)

If you have received this letter, your local Board of Health has determined that you will need to be properly licensed to continue operating your short-term rental business in 2015. If you do not get licensed, you must cease operation, which

means also ceasing to advertise your property as a rental unit, if it is located in one of the seven CPHS towns. Please note that this requirement applies to all “rental” periods of 29 or fewer consecutive days.

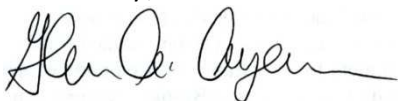
A licensing inspection will ensure that your operation meets the State Minimum Standards for Human Habitation (the Housing Code, [105 CMR 410](#)) and the State Food Code (if you are serving food as part of your business). In addition, if you are not connected to a municipal water supply, your private well will need to be in compliance with local private well regulations for the town where you live. Being able to state unequivocally that you meet these standards will protect both you and your guests. You should also check with your Town to see if any other licenses are needed based on local zoning requirements. While I am contacting you on behalf of the Board of Health, there are also zoning and building code issues that affect business operations in any town. If you have not checked to make sure that your proposed use is in conformance with local zoning requirements, please contact the local Zoning Enforcement Officer, James Hawkins, at JHawkins@frcog.org

The next step in this process is applying on-line for an annual Board of Health license. Please follow the instructions located on the Public Health Online Permitting web site: <http://frcog.org/inspections-permits/health/> where you will find instructions as well as the link to apply for a permit. The Board of Health requires that you be licensed either as a “*Hotel/Motel/Family-Type Campground/Trailer Park*” if you do not serve food to your guests, or as a “*Food Establishment (B&B/Residential Kitchen)*” if you serve any prepared food to your guests. There is a \$75 annual fee for this license that can be paid securely using the on-line system.

Please heed this warning- If you remain unlicensed by the local Board of Health you will have absolutely no legal defense against any alleged code violations claimed by your guests. If you are not properly licensed, the Board of Health also may request that Airbnb remove your listing from their website.

Should you have any questions, please feel free to call or email. I look forward to working with you to bring your operation into full compliance with Board of Health requirements.

Sincerely,

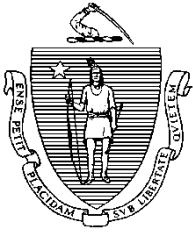


Glen A. Ayers, R.S., C.H.O., CPHS Regional Health Agent

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The link below is to the Massachusetts Department of Public Health ruling that Airbnb (and similar) operations qualify as bed and breakfasts or lodging houses under current state regulations-

**<http://www.mass.gov/eohhs/docs/dph/environmental/sanitation/hsg-licensing-online-home-rental-services.pdf>



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Environmental Health
Community Sanitation Program
250 Washington Street, Boston, MA 02108-4619

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CHERYL BARTLETT
COMMISSIONER

www.mass.gov/dph

MEMORANDUM

TO: Local Boards of Health and Code Enforcement Agencies

FROM: Paul Halfmann, Assistant Director, Community Sanitation Program

DATE: May 16, 2014

SUBJECT: Licensing of Online Home Rental Services

The Department of Public Health, Bureau of Environmental Health, Community Sanitation Program (hereafter, "DPH") has been asked to clarify whether online home rental services for transient occupancy, such as Airbnb (www.airbnb.com), are subject to licensure or permitting as a lodging house or bed and breakfast establishment/home or whether rooms rented through such services are not subject to licensure because they are dwelling units under Chapter II of the State Housing Code (105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation, State Sanitary Code, Chapter II*).

Airbnb and similar services facilitate a connection between individuals who wish to rent out a room, several rooms, or a whole house with individuals who seek out such a rental, typically on a short term basis. The rentals are similar to traditional lodging houses or bed and breakfast establishments except that owners may only promote themselves as providing lodging through a website listing, often have not applied for or been granted a license or permit by the municipality to operate a lodging house or bed and breakfast, and may not be collecting occupancy taxes. Also, since payment is arranged through a website service, such as Airbnb, the transaction differs from the traditional innkeeper/guest relationship where payment is made directly by guests for lodging.

DPH has determined that lodging provided through Airbnb or similar online services is subject to local licensure or permitting as a lodging house or bed and breakfast in the same manner as traditional lodging houses and bed and breakfast establishments are licensed or permitted. Airbnb specifically states that: "In many cities, you must register, get a permit, or obtain a license before you list your property or accept guests." It further states that: "By accepting our Terms of Service and activating a listing, you certify that you will follow your local laws and regulations."