The Office of The Attorney General of Massachusetts

Municipal Law Unit (MLU) Decision Lookup

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Browse by Year

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From Date [month/day/year] To Date [month/day/year]

Full Text Search

Search Text

(Combine keywords with operators - AND, NOT, OR - and use quotations for an exact phrase)

Case Number

City/Town

Topic

Clear Form | Search
August 27, 2018

Marie Y. Ryan, Town Clerk
Town of Richmond
529 State Road
Richmond, MA 01254

Re: Richmond Annual Town Meeting of May 16, 2018 -- Case # 8975
    Warrant Article #27 (Zoning)
    Warrant Articles #2, 3, 25 and 26 (General)

Dear Ms. Ryan:

Articles 2, 3, 26 and 27 - We approve Articles 2, 3, 26 and 27 from the May 16, 2018 Richmond Annual Town Meeting. Our comments regarding Articles 2 and 27 are provided below.

Article 25 - We take no action on Article 25 because it was a vote to accept G.L. c. 59, § 5 (54), and was not a vote to adopt or amend a by-law. As such, Article 25 does not require the review or approval of the Attorney General pursuant to G.L. c. 40, § 32. However, the Town may wish to consult with Town Counsel regarding whether the acceptance of the statute needs to be filed with the Secretary of State's office and/or the Department of Revenue.

Article 2 - Article 2 amends the Town's general by-law pertaining to Revolving Funds, by inserting in Section 5 a new Table establishing several revolving funds. The Table provides information regarding the authorized user, revenue source, allowed expenses, restrictions/conditions and applicable fiscal years for the following five revolving funds: (1) Inspectional Services; (2) Council on Aging; (3) Board of Health; (4) Wetland Protection and (5) Municipal Building or Property Rental.

At the Town Meeting, there was a motion to amend the Table in Section 5 to “include the Scenic Mountain Act” revolving fund. Although the Scenic Mountain Act revolving fund was added to the Table in Section 5, the amendment did not include any of the statutorily required text regarding the authorized user, revenue source, allowed expenses, restrictions/conditions and applicable fiscal years for the Scenic Mountain Act revolving fund. General Laws Chapter 44, Section 53E ½, requires the by-law to specify: “(1) the program or activities for which the revolving fund may be expended; (2) the departmental receipts in connection with those programs or activities that shall be credited to the revolving fund; (3) the board, department or
officer authorized to expend from such fund; and (4) any reporting or other requirements the...town may impose.” The Town may wish to amend the Table in Section 5 at a future Town Meeting to include this required information for the Scenic Mountain Act revolving fund. The Town should consult with Town Counsel with any questions on this issue.

Lastly, we note that the Council on Aging revolving fund includes as its revenue source “program participation fees received and other donations.” The by-law provides that receipts from donations will be deposited into this revolving fund. However, it is unclear whether the “donations” referred to are actually fees for programs and services, or if the donations are true gifts. General Laws Chapter 44, Section 53A, pertains to the acceptance and expenditure of grants and gifts, and requires:

An officer or department of any...town, or of any regional school or other district, may accept grants or gifts of funds from the federal government and from a charitable foundation, a private corporation, or an individual, or from the commonwealth, a county or municipality or an agency thereof, and in the case of any grant or gift given for educational purposes may expend said funds for the purposes of such grant or gift with the approval of the school committee, and in the case of any other grant or gift may expend such funds for the purposes of such grant or gift...in towns with the approval of the board of selectmen...

Further, Section 53A provides that “[n]otwithstanding the provisions of section fifty-three, any amounts so received by an officer or department of a city, town or district shall be deposited with the treasurer of such city, town or district and held as a separate account and may be expended as aforesaid by such officer or department receiving the grant or gift without further appropriation.” The Town should ensure that any donations deposited in the Council on Aging revolving fund comply with the requirements of G.L. c. 44, § 53A and § 53E ½, and consult with Town Counsel with any questions on this issue.

**Article 27** - Article 27 amends the Town’s zoning by-laws to add a new definition for “short-term room rental business” and amends the Table of Use Regulations to add a new Section 4.8 A (13), “Short-Term Room Rental Business.” Section 4.8 A (13) allows the use of “short-term room rental business,” as defined in the by-law, in all districts by special permit from the Zoning Board of Appeals. Specifically, a special permit is required for the rental of any dwelling or accessory structure or rooms within a dwelling or accessory structure, for a rental period of 1 to 30 nights, when the owner of the dwelling or accessory structure is also not dwelling on the site.

In order to obtain a special permit, the new by-law requires that this use: (1) pass an annual safety inspection by the Inspector of Buildings; (2) comply with all Town regulations and bylaws and laws of the Commonwealth, including all health and safety regulations; and (3) that the lot size, building structures, off-street parking, number of occupants, and other facilities and equipment are adequate for the proposed use and will not be detrimental to the neighborhood.

We approve Article 27; however, the Massachusetts Department of Public Health (“DPH”) has issued a Memorandum that explains the licensing requirements for certain home rental services:
As provided in the Memorandum, DPH has determined that short term lodging offered for rent, including when offered through online services, is subject to local licensure and permitting in the same way that traditional lodging houses and bed and breakfast establishments are licensed and permitted. The Town may wish to discuss this Memorandum with Town Counsel.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Nicole B. Caprioli
By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418
nicole.caprioli@state.ma.us

cc: Town Counsel Elisabeth Goodman
Article 27- To see if the Town will vote to amend the Town of Richmond’s Zoning By-Laws by adding a new section 4.8, SHORT-TERM RENTAL BUSINESS, as proposed below and further amend the Table of Contents to add Section 4.8, “SHORT-TERM RENTAL BUSINESS”:

Motion made by Roger Manzolini and seconded by Robert Gniadek.

Definitions:

Short-Term Room Rental Business: The rental of a dwelling, or rooms within a dwelling, or the rental of an accessory structure, or rooms within an accessory structure, by an absentee owner or investor-owner where the rental period is 1 to 30 nights and while the owner is also not dwelling on site.

Add a new section as follows:

SECTION 4.8 TABLE OF USE REGULATIONS

SECTION 4.8 A. PERMITTED PRINCIPAL USES

<table>
<thead>
<tr>
<th>DISTRICTS</th>
<th>RA-A</th>
<th>RA-C</th>
<th>SR</th>
<th>COMM</th>
<th>SPA</th>
<th>SPA</th>
<th>SPA</th>
</tr>
</thead>
</table>

13. Short-Term Room Rental Business
provided that:

a. The business passes an annual safety inspection by the Inspector of Buildings
b. The business shall comply with all Town regulations and bylaws and Commonwealth of Massachusetts law, including all health and safety regulations

(2/3 vote required)

Motion was made to amend this article by John Hanson of the Planning Board. The amendment was to use the language as shown in the handout that was given with the warrant when entering the Town Meeting (amendment below). Roger Manzolini seconded the motion to amend. It was noted by the Moderator that this amendment was recommended and approved by the Planning Board which also held a hearing on this amendment.
The Amendment reads as follows;

Short-Term Room Rental (Article #27) PROPOSED AMENDMENT

Vote of the Planning Board, April 17, 2018

The Planning Board approves the proposed zoning change entitled Short-Term Room Rental as amended and requests that it be voted on at the Annual Town Meeting of May 16, 2018.

Proposed Zoning Change:
Add definition:

Short-Term Room Rental Business: The rental of a dwelling, or rooms within a dwelling, or the rental of an accessory structure, or rooms within an accessory structure, by an absentee owner or investor-owner where the rental period is 1 to 30 nights and while the owner is also not dwelling on site. This definition shall not apply to an owner-occupied single-family dwelling temporarily vacated, for a total of 30 days or less, during a calendar year.

Add a new section as follows:

SECTION 4.8 TABLE OF USE REGULATIONS

Section 4.8 A. PERMITTED PRINCIPAL USES

Continued:

<table>
<thead>
<tr>
<th>DISTRICTS</th>
<th>RA-A</th>
<th>RA-C SR COMM</th>
</tr>
</thead>
</table>

13. Short-Term Room Rental Business provided that:

a) The business passes an annual Safety inspection by the Inspector of Buildings.

b) The business shall comply with all Town regulations and bylaws and Commonwealth of Massachusetts law, including all health and safety regulations.
c) The Board of Appeals finds that the lot size, buildings, structures, off-street parking, number of occupants, and other facilities and equipment are adequate for the proposed use and that the operation of the business will not be detrimental to the neighborhood.

The Moderator then asked for a vote for the amendment.

Amendment Approved at 8:21 PM

The Moderator then stated this article had to be voted by 2/3rds majority vote. He then asked for the vote on the amended article, which he then needed a hand count by the counters.

Article 27 as Amended Declared 2/3rds Majority Approved at 8:54 PM
Yes – 63  No - 4

A TRUE COPY ATTEST:

[Signature]
MARIE Y. RYAN, MMC
TOWN CLERK
March 26, 2018

Paul M. Gallagher, Town Clerk
Town of Kingston
26 Evergreen Street
Kingston, MA 02364

RE: Kingston Special Town Meeting of November 14, 2017 -- Case # 8748
Warrant Articles #4, 5, 11, 12, and 13 (Zoning)

Dear Mr. Gallagher:

**Articles 4, 5, 11, 12, and 13** - We approve Articles 4, 5, 11, 12, and 13, and the maps pertaining to Articles 4 and 13, adopted at the Kingston November 14, 2017, Special Town Meeting. Our comments on Article 12 are provided below.

**Article 12** - Article 12 amends the Town’s zoning by-laws to add a definition for “Short term rental,” and to allow short-term rentals for private homes. We approve Article 12. However, the Massachusetts Department of Public Health (“DPH”) has issued a Memorandum that explains the licensing requirements for certain home rental services. The Memorandum can be found here:

[http://www.mass.gov/ephhs/docs/dph/environmental/sanitation/hsg-licensing-online-home-rental-services.pdf](http://www.mass.gov/ephhs/docs/dph/environmental/sanitation/hsg-licensing-online-home-rental-services.pdf)

As provided in the Memorandum, DPH has determined that short term lodging offered for rent through online services is subject to local licensure and permitting in the same way that traditional lodging houses and bed and breakfast establishments are licensed and permitted. The Town may wish to discuss this Memorandum with Town Counsel as it may be helpful in ensuring that the by-law is applied consistent with existing state and local licensing requirements for short term residential rentals.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.
Very truly yours,
MAURA HEALEY
ATTORNEY GENERAL

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Jason Talerman
I, PAUL M. GALLAGHER, Town Clerk of Kingston, do hereby certify that the following is a true and exact copy of the final vote on Article 50 of the Minutes for Annual Town Meeting duly called and held on May 23, 2017, and reconvened on May 24, again on May 31, again on June 5 and again on June 15, 2017 which vote was taken on June 05, 2017:

**ARTICLE 50 – Amendment to the Zoning By-Laws; Short Term Rental**

2/3 Vote: Quorum 100

Motion By: Susan Boyer, Planning Board

**Move:** that the Town amend various zoning bylaws regarding “short term rentals”, as printed in the warrant.

**Board of Selectmen – 4-0-1 [Favorable]**

**Finance Committee – N/A**

**Planning Board 5-0-0 [Favorable]**

To see if the Town will vote to Amend the Kingston Zoning By-Laws, by amending Section 2.0. “Definitions” adding a new use “Short Term Rental”

2.1.1.78. Short term rental: a housing unit, an accessory dwelling unit, or a room (or rooms) within a housing unit that is rented out for lodging for a period of less than 30 days in length. A short-term rental is an accessory use to a primary residence and allowed by Special Permit as a home occupation where the residence must be occupied by the owner or operator for no less than 270 days per year. A short-term rental may be hosted (where the primary occupants are present on-site during the rental) or unhosted (where the primary occupants vacate the unit or site during the rental period). For hosted rentals, occupancy is limited to no more than 2 different parties per site at a time. For unhosted rentals, occupancy is limited to 1 rental party per site at a time. Short-term rental operators may offer meals to lodgers.

AND FURTHER, vote to Amend the Kingston Zoning By-Laws, by amending Section 4.3.3. Residential -40 District (R-40) Uses Permitted by Special Permit by the Planning Board; Section 4.4.3. Residential -20 District (R-20) Uses Permitted on A Special Permit Granted by the Planning Board; Section 4.6.3. Town Center District Uses Allowed by Special Permit Granted by the Planning Board; Section 4.7.3. 3A Design District (3ADD) Uses Allowed by Special Permit Granted by the Planning Board Subject to the Conditions of Section 4.7.4.; Section 4.14. Residential -80 District (R-80) Uses Permitted by Special Permit Granted by the Planning Board; to include Short Term Rental within the named Zoning Districts
AND FURTHER, adding this use to each section of the By-Law
4.3.3.7. Short term rental
4.4.3.7. Short term rental
4.6.3.6. Short term rental
4.7.3.7. Short term rental
4.14.3.6. Short term rental

or take any other action relative thereto.

Description: This amendment adds a use allowing short-term rental for private homes.

Ms. Boyer explained that this article was brought on by the newly created rental opportunities created by Air BnB. There was a great deal of debate in the late hour regarding an invasion of home owners rights and the requirement by the government to require permitting regarding renting ones property. There was confusion regarding certain sections and a challenge to the requirement of homeowner being on premises for 270 days. Jay Talerman, Town Counsel inferred that without a by-law the practice would not be permitted.

A Motion to Call the Question by David Kennedy carried with minimal opposition.

The Motion on Article 50 carried on the Moderators call of 2/3rd Voice Majority.

A Challenge by 7 registered voters was called and there being 83 in favor and only 29 opposed the motion carried with a 2/3rds majority Hand Count.

A Motion to Reconsider by Andy Davis failed on a Majority Voice Vote.

Certified true and exact, as written in Minutes of June 5, 2017, Adjourned Session of Annual Town Meeting.

20 June 2017

Paul M. Gallagher
Town Clerk
Michael P. McCarron, Town Clerk
Town of West Newbury
1910 Building, 381 Main Street
West Newbury, MA 01985

RE: West Newbury Special Town Meeting of October 24, 2016 - Case #8498
Warrant Articles #11, 12, 13, 14 and 16 (General)

Dear Mr. McCarron:

Articles 12, 13 and 14 - We approve Articles 12, 13 and 14 from the October 24, 2016 West Newbury Special Town Meeting.¹

Articles 12, 13 and 14 amend the Town’s general by-laws pertaining to lodging houses and short term rentals. Article 12 adds a new Section XXXVIII, “Lodging House License,” that requires all lodging houses to obtain a license from the Board of Selectmen. Article 13 amends Section XXVIII, “Enforcement,” to add the Lodging House License by-law to the list of non-criminal disposition fines. Article 14 adds a new Section XXXIX, “Short Term Rentals,” that requires anyone renting a residential premise to short term paying guests to obtain an annual license from the Board of Selectmen.

During the course of our review of Article 12, 13 and 14, we received correspondence from a resident urging us to disapprove these Articles because among other reasons, the by-laws confer too much discretion on the Board of Selectmen to approve or deny the licenses. We appreciate this correspondence as it has aided us in our review. Under our standard of review, as explained below, we approve Articles 12, 13 and 14.

Pursuant to G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” Amherst v. Attorney General, 398 Mass. 793, 796 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. Id. at 796. “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have

¹ In a decision issued September 7, 2017, we approved Articles 11 and 16.
July 8, 2016

C. Denise Samolchuk, Town Clerk
Town of Manchester-by-the-Sea
10 Central Street
Manchester-by-the-Sea, MA 01944

RE: Manchester-by-the-Sea Annual Town Meeting of April 4, 2016 - Case # 7905
Warrant Articles # 18 and 20 (General)

Dear Ms. Samolchuk:

Articles 18 and 20 - We approve Articles 18 and 20 from the Manchester-by-the-Sea April 4, 2016, Annual Town Meeting. Our comments on Articles 18 and 20 are provided below.

Article 18 - Article 18 was a vote to: (1) accept the provisions of G.L. c. 44, § 55C; (2) establish a trust to be known as the Manchester-by-the-Sea Affordable Housing Trust Fund; and (3) add to the Town's general by-laws a new Article XXI, pertaining to the Town's Affordable Housing Trust and its Board of Trustees.

We approve the vote adding the new Article XXI to the Town's general by-laws. However, we take no action on those portions of the vote under Article 18 to accept the provisions of G.L. c. 44, § 55C and to establish the Manchester-by-the-Sea Affordable Housing Trust Fund. Those votes are not by-law amendments and are not subject to review and approval by the Attorney General. See G.L. c. 40, § 32. We suggest that the Town discuss with Town Counsel whether state law requires those votes to be filed with the Secretary of State and the Department of Revenue, Division of Local Services.

Article 20 - Article 20 adds a new Article X, Section 20C, "Short Term Paying Guest in Homes," to the Town's general by-laws. The new Section 20C requires a license for owner-occupied residential premises rented to short term paying guests. Short term paying guests are defined in the by-law as "those who are staying in a dwelling unit for less than 6 consecutive nights." See Section 20C "Applicability." The purpose of the by-law is to license short term rentals not otherwise licensed by the Town or other entity, for example, the Commonwealth. See Section 20C, "Purpose." Based on materials submitted to this Office, the new by-law is apparently intended to address concerns over the increase in online home rental services for transient occupancy, such as "Airbnb."

The new by-law requires the license applicant to file an application with the Board of Selectmen. By submitting a completed application, the applicant warrants that the "property complies
with applicable Board of Health regulations and Fire Department safety measures (fire/smoke alarms and CO monitors)." The Town may wish to discuss with Town Counsel a possible future amendment to also require compliance with the State Sanitary Code, 105 C.M.R. § 410.00. The Town's enforcement powers could be significantly strengthened if it also requires compliance with the State Sanitary Codes as a condition of the license.

Finally, the Massachusetts Department of Public Health ("DPH") has issued a Memorandum that explains the licensing requirements for certain home rental services. The Memorandum can be found here:

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

As provided in the Memorandum, DPH has determined that short term lodging offered for rent through online services is subject to local licensure and permitting in the same way that traditional lodging houses and bed and breakfast establishments are licensed and permitted. The Town may wish to discuss this Memorandum with Town Counsel as it may be helpful in ensuring that the by-law is applied consistent with existing state and local licensing requirements for short term residential rentals.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Michele E. Randazzo
VOTE CERTIFICATE

At the Annual Town Meeting of the registered voters of the Town of Manchester-by-the-Sea, held April 4, 2016 and dissolved on April 5, 2016, the following action was taken under this article:

ARTICLE 20 VOTED: That the Town amend the Manchester by the Sea General By-laws by adding a new Section 20C to Article X: Short Term Paying Guests in Homes.

Town By-law Article X Section 20C: Short Term Paying Guest in Homes

Purpose: The rental of residential premises to short term paying guests, not otherwise expressly licensed for such purpose by the Town of Manchester by the Sea or other proper authority, shall be allowed only in properties whose owners have obtained an annual license in accordance with the requirements of this by-law from the Board of Selectmen. The licensing process is designed to protect the health and welfare of the short term paying guests, to ensure an orderly and transparent process for operating small-scale rental services, and to protect the tranquility of residential neighborhoods.

Applicability: The rental of residential premises to short term paying guests is allowed in owner-occupied residential premises pursuant to being licensed in accordance with this by-law and consistent with the Town’s Zoning By-law. Short term paying guests are those who are staying in a dwelling unit for less than 6 consecutive nights. The Board may allow short term paying guests provided suitable accommodations exist as determined by the Board in accordance with this by-law.

Process: Every owner of residential premises who offers rentals to short term paying guests must first obtain a license to do so from the Board of Selectmen. Licenses are valid for a calendar year and must be renewed annually. Application for a license can be made at any time but the license shall expire December 31 of the subject year. A completed application will be reviewed and a decision rendered at a public meeting of the Board of Selectmen.

Applications: Application shall be made on a form approved by the Board of Selectmen and shall contain sufficient information to determine the scope of the proposed short term rental operation, including location, number of rooms to be rented and whether meals prepared at the house will be served. Completed applications will be reviewed and acted upon within 3 weeks of submittal.
By completing the application form, applicants shall be confirming the following:

1. The property complies with applicable Board of Health regulations and Fire Department safety measures (fire/smoke alarms and CO monitors).
2. Name of a local authorized agent who can act on behalf of the owner in the absence of the owner in the case of any problems, violations or emergencies should they arise while the owner is not present.
3. Agreement to maintain a guest registry showing the name of each guest and the night(s) of their stay. The registry shall be made available for review at any time at the request of the Enforcement Agent and/or Board of Selectmen.

Application Fee: The Board of Selectmen annually shall set a fee for applying for a Short Term Guest Rental Home License. Said fee initially shall be set at $100.

The Board of Selectmen shall grant licenses to those persons submitting applications in compliance with the requirements of this by-law. A license issued under this by-law shall not be deemed to supersede the application of any other lawful requirements applicable to the use authorized therein, including the necessity of obtaining other licenses or permits.

Owners are encouraged to adhere to guidelines for the short term rental of rooms that the Selectmen shall promulgate from time to time.

Complaints and Enforcement:
1. The Board of Selectmen may designate such Town officials as they deem appropriate to carry out the enforcement duties under this by-law. The Town Administrator shall supervise enforcement actions.
2. If the Enforcement Agent, as designated by the Board of Selectmen, concludes that there has been a violation of this by-law or of the conditions of any license issued hereunder, the agent shall send notice ordering cessation of the improper activities to the license holder, by registered mail to the address stated on the initial Application.
3. If a license holder persists in such violation, the Enforcement Agent may seek enforcement of this by-law through the mechanisms set forth in Article I, Section 4 of the General By-laws, and the penalty for violations of this by-law shall be a fine of $300 for each day an offense occurs.
4. In the event that a license holder persists in such violations, the Board may notify the license holder by mail, as above, of a hearing to be held not less than four (4) days thereafter to show cause why said license should not be revoked, and following said hearing, may in its discretion, modify, revoke or amend the license.
5. Upon petition of the property owner and/or license holder, abutters, or upon its own initiative, the Board of Selectmen may hold a hearing to determine whether or not the terms of this by-law, any other applicable state, federal or local law, or the license itself are being complied with, and/or whether or not activities conducted pursuant to a license issued under this by-law constitute a nuisance or adversely impact the public health, safety or welfare.
6. The Board of Selectmen may, after hearing, mandate licensure, or modify, revoke or suspend a license issued hereunder. In addition, should the Board of Selectmen, after conducting a hearing, determine that a violation has occurred; it may direct the Enforcement Agent to seek enforcement of this by-law as set forth in paragraph 3, above.
Validity: The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof. This bylaw shall go into effect January 1, 2017.

ARTICLE 20, MOTION BY SUSAN BECKMANN, SECONDED BY MARGARET DRISCOLL, APPROVED, THE MOTION PREVAILED BY 148 YES VOTES AND 80 NO VOTES.

A True Copy, Attest:

C. Denise Samolchuk
Town Clerk
ORDINANCE NUMBER 1397


City of Cambridge

In the Year Two Thousand and Seventeen

AN ORDINANCE

In amendment to the Ordinance entitled “Zoning Ordinance of the City of Cambridge” be amended by adding a new Section 4.60 entitled Short-Term Rentals which reads as follows:

Zoning Ordinance Section 4.60—Short-Term Rentals

4.60 Short-Term Rentals

4.61 Purpose. This Section 4.60 “Short-Term Rentals” is intended to make the operation of short-term rentals legal for Cambridge residents, protect the safety of renters and residents, ensure that the primary use remains residential, and ensure that short-term rentals will not be a detriment to the character and livability of the surrounding residential neighborhood.

4.62 Definitions

a. 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.

b. Short-term renter. Any person or persons occupying a dwelling unit, or a bedroom within a dwelling unit, as a short-term rental for a duration of less than thirty (30) consecutive days.

c. Short-term rental operator. The person or persons offering a dwelling unit or bedroom for short-term rental, who may be either the owner or the primary leaseholder of the dwelling unit with the written permission of the property owner and the condominium association if applicable.

d. Operator-occupied short-term rental. The short-term rental of a dwelling unit, or of no more than three (3) individual bedrooms within such dwelling unit, that is the primary residence of its operator.

e. Owner-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 residential building with a total of four or fewer dwelling units where all dwelling units in the building are owned by the operator, and one of the dwelling units in the building is the primary residence of the operator.

4.63 Applicability. The requirements of this Section 4.60 shall apply to all districts where residential uses are allowed, but shall not apply to principal transient accommodations.
4.64 **Requirements.** Short-term rentals are permitted as an accessory residential use in existing dwellings in all districts where residential use is permitted, subject to the following requirements:


2. All short-term rental operators shall register with the Inspectional Services Department prior to short-term rental use and occupancy in conformance with Section 4.67 below.

3. A dwelling unit or bedroom offered for short-term rentals shall comply with building code requirements for occupancy.

4. A dwelling unit or bedroom offered for short-term rentals shall comply with all standards and regulations promulgated by the Commissioner of Inspectional Services.

5. 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 owner-adjacent short-term rentals.

6. Operators of short-term rentals shall remit to the appropriate body all fees and taxes as required by the City and/or State authorities.

7. Short-term rental operators shall maintain liability insurance appropriate to cover the short-term rental use.

8. An owner-adjacent short-term rental may be rented only as a whole unit to one party of short-term renters at any one time and not rented as separate bedrooms to separate parties.

9. An operator-occupied short-term rental during which the operator is away from the dwelling unit for more than seven (7) consecutive days may be rented only as a whole unit to one party of short-term renters at any one time and not rented as separate bedrooms to separate parties.

10. The number of individual 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. Commercial meetings and uses are prohibited in short-term rentals.

4.65 **Procedural Requirements.**
1. The following information shall be provided to all short-term renters and posted in all owner-adjacent short-term rentals in a manner to be determined by the Inspectional Services Department:

   a. Instructions for disposal of waste per the City’s recycling and composting programs.

   b. An emergency-exit diagram in all bedrooms used for owner-adjacent short-term rentals and on all egresses from the dwelling unit.

   c. Contact information for the short-term rental operator, or when the operator is not present, the contact information for a locally available contact designated to respond to all emergencies and problems that may arise during the rental period, whether from renters, neighbors or municipal authorities.

   d. The certificate of registration for the short-term rental.

2. The operator of an owner-adjacent short-term rental shall keep accurate books and records, make them available upon request of the Inspectional Services Department, and maintain such books and records for a period of three years.

4.66 Regulations. The Commissioner of Inspectional Services shall have the authority to promulgate regulations to carry out and enforce the provisions of this Section 4.60 “Short-Term Rentals.”

4.67 Registration.

1. All dwelling units offered for short-term rentals shall register with the City and secure a certificate of registration according to standards set forth by the Commissioner of Inspectional Services, and pay all associated fees. The certificate of registration shall require the operator to agree to abide by the requirements of this Section 4.60. If the operator is not the owner of the property, the operator shall provide written evidence that the owner and the condominium association if applicable has consented to the short-term rental use of the property. All operators shall provide the City with proof that one of the units in the structure is used as the operator’s primary residence, either by: 1) providing proof of enrollment in the Cambridge residential tax exemption program, or 2) providing an affidavit, signed under the pains and penalties of perjury, stating that the dwelling being used for short-term rental is the operator’s primary residence, a property title or tenancy agreement along with a photo ID, and a government or utility correspondence with operator’s name and address issued within the last three (3) months.

2. Prior to issuing or renewing a certificate of registration, the Inspectional Services Department shall conduct an inspection to verify that each dwelling unit and bedroom to be rented to short-term renters:

   a. Meets all building code requirements for occupancy.

   b. Meets all other requirements of this Section 4.60 “Short-Term Rentals” and regulations promulgated by the Commissioner of Inspectional Services.
3. It is the responsibility of the short-term rental operator to renew its certificate of registration every five years or upon change of operator or owner.

4.68 Effective Date. The provisions of this Section 4.60 “Short-Term Rentals” shall take effect on April 1, 2018. Beginning on October 1, 2017, or on an earlier date as may be determined by the Commissioner of Inspectional Services, the City may receive applications for registration, conduct inspections, and issue certificates of registration for short-term rentals to operators who apply before the effective date.

In City Council August 7, 2017.
Passed to be ordained as amended by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0; Present 0.
Attest:- Donna P. Lopez, City Clerk.

A true copy;

ATTEST:-
Donna P. Lopez
City Clerk