



Town of Lexington

PLANNING BOARD

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Charles Hornig
Michael Leon, Associate

RECOMMENDATION REPORT OF THE LEXINGTON PLANNING BOARD

ARTICLE 10: AMEND ZONING BYLAW –

SHORT TERM RENTALS

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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 [redacted] in favor, [redacted] in opposition, and [redacted] 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, with a ninety (90) day limitation per calendar year. 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.

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

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

50 The Planning Board during the public hearing process provided comments, in addition
51 to taking public comments. Much of the discussion during the Wednesday, February 26,
52 2020, public hearing was associated with clarifying questions, including short-term vs.
53 long-term rentals, the limitation of ninety (90) calendar days, and payment of
54 commercial property taxes. Staff present during the public hearing process provided
55 answers and clarification to questions asked by both the Planning Board and the public.

56 **PUBLIC HEARING MINUTES**

57 FEBRUARY 26, 2020

58 Present for the public hearing: Jennifer Gingras, Zoning Administrator

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

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

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

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

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

- 81
- 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.
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85 **Fall Special Town Meeting Public Hearing Proceedings (September 2020)**

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

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Deleted: Distance from Basement, Slab or Crawl Space, and Groundwater

92 **PUBLIC HEARING MINUTES**

93 **SEPTEMBER 9, 2020**

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

96 Present for the public hearing: Jennifer Gingras, Zoning Administrator

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

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

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

105 **SEPTEMBER 23, 2020**

106 **INSERT**

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

111 **ARTICLE MOTION & PROPOSED LANGUAGE**

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

116 **6.10.1 PURPOSE.**

117 The purposes of this section are to:

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

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129 6.10.2 DEFINITIONS.

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

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

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

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

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

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146 6.10.3 REQUIREMENTS.

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

- 150 1. No dwelling unit, or bedroom within a dwelling unit, may be used as a short-term
151 rental except in compliance with this bylaw.
- 152 2. The following dwelling units may not be used as short-term rentals:
- 153 i. Dwelling units designated as affordable or otherwise income-restricted,
154 which are subject to affordability covenants or are otherwise subject to
155 housing or rental assistance under local, state, or federal programs or law;
 - 156 ii. Accessory Apartments as defined in Section 6.7; and
 - 157 iii. Any dwelling unit in violation of the State Sanitary Code, 105 CMR 410.
- 158 3. All short-term rental operators shall register with the Building and Zoning Office
159 prior to short-term rental use and occupancy in conformance with Section 6.10.5
160 below.

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- 164 4. A short-term rental operator may make available no more than one (1) dwelling
165 unit for operator-occupied short-term rentals, which may include the separate
166 short-term rental of no more than three (3) individual bedrooms, and one (1)
167 dwelling unit for operator-adjacent short-term rentals, which may be rented only as
168 a whole unit to one (1) party of short-term renters at any one (1) time and may not
169 be rented as separate bedrooms to separate parties.
- 170 5. A short-term rental shall be limited to parking of one (1) vehicle per two (2)
171 occupants in the short-term rental.
- 172 6. The short-term rental operator or their agent shall maintain an up-to-date log of all
173 occupants that occupy the short-term rental, which shall contain the occupants'
174 names, ages, and dates of commencement and expiration of each short-term rental
175 period. The log shall be available for inspection by the Town's Board of Health and
176 Department of Public Safety in case of emergency. The purpose of this requirement
177 is to ensure that the Town shall have basic identifying information of all occupants
178 of the short-term rental at all times.
- 179 7. The short-term rental operator must be current with all town taxes, water, and
180 sewage charges.
- 181 8. All short-term rental operators shall maintain liability insurance appropriate to
182 cover the short-term rental use.
- 183 9. During any period of seven (7) or more consecutive days when the short-term
184 rental operator is away from the dwelling unit, ~~an operator-occupied short-term~~
185 rental may be rented only as a whole unit and not rented as separate ~~bed~~rooms to
186 separate parties.
- 187 10. The number of bedrooms made available for operator-occupied short-term rentals
188 within a dwelling unit shall not be greater than the number of lawful bedrooms in
189 the dwelling unit.
- 190 11. Renting for an hourly rate, or for rental durations of less than ten (10) consecutive
191 hours, shall not be permitted.
- 192 12. Short-term rentals shall not exceed in the aggregate, ninety (90) consecutive or
193 nonconsecutive calendar days per year when the short-term rental operator is not
194 occupying the dwelling unit during the entire term of the short-term rental.

195 6.10.4 REGULATIONS.

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

198 6.10.5 REGISTRATION, INSPECTION AND FEES.

- 199 1. All dwelling units, or bedrooms within a dwelling unit, offered for short-term
200 rentals shall register with the Town, secure a Certificate of Registration according to
201 standards set forth by the Building Commissioner, and pay all associated fees. The
202 Certificate of Registration shall require the short-term rental operator to agree to
203 abide by the requirements of this Section 6.10.

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- 205 2. It is the responsibility of the short-term rental operator to renew its Certificate of
206 Registration on an annual basis or upon change of operator or owner.
- 207 3. Prior to issuing or renewing a certificate of registration, the Building and Zoning
208 Office shall conduct an inspection to verify that each dwelling unit, or bedroom
209 within a dwelling unit, to be rented to short-term renters meets the requirements of
210 this Section 6.10.
- 211 4. Units shall be annually recorded in the Short-Term Rental Registry for a fee set by
212 the Select Board.

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215 **Planning Board Vote**

216 **_____ moved that the Planning Board recommend favorable action for Article 10: Amend**
217 **Zoning Bylaw – Short Term Rentals, as presented. _____ seconded the motion. The**
218 **Planning Board voted in favor of the motion _____. MOTION PASSED**

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219

220 Robert Creech

221 Robert Peters.

222 Ginna Johnson.

223 Richard Canale

224 Charles Hornig

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227 **Record of Vote**

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

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

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237 **Signature of the Planning Board**

238 Signatures of a majority of the Planning Board,

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240 _____

