

Petitioner: Select Board or Planning Department

Article X

To see if the Town will amend the General By-laws by adding the following article:

**ARTICLE 5.11
Short-Term Rentals**

Section 5.11.1 PURPOSE

The Town of Brookline adopts this Bylaw for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

Section 5.11.2 DEFINITIONS

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a dwelling for not more than 31 consecutive calendar days, and a) As defined by M.G.L. Chapter 64G, Sec. 1, and b) whose operations meets one of three category types as specified in the operator’s Certificate of Registration:

- i. Room Share Units - At a Short-Term Rental Operator’s Primary Residence, the operator is present in the unit during the rental and occupancy is limited to four guests.
- ii. Home Share Units – At a Short-Term Rental Operator’s Primary Residence, the whole unit is available for a Short-Term Rental and no Short-Term Rental Operator(s) is/are present while the unit is being rented. Occupancy is limited to a single contract at a time and no more than six guests, to the extent permitted by State and local law, including this By-law.
- iii. Owner Adjacent Units - The Short-Term Rental Operator’s Primary Residence is within a two-family building as defined by Principle Uses 2, 3, 4, or 4A in the Table of Use Regulations of the Town of Brookline Zoning By-law. The Short-Term Rental Operator owns or has legal control over the Short-Term Rental Unit and at least 1 other unit within the building. The Short-Term Rental Operator is present on the property during the rental. Occupancy is limited to a single contract at a time and no more than six guests, to the extent permitted by State and local law, including this By-law.

In accordance with M.G.L. Chapter 64G, Sec. 1, the term excludes properties that are, or that are required to be, licensed as a lodging house because lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An operator may be the owner or leaseholder of the Short-Term Rental Unit with the written permission from the lessor.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

Section 5.11.3 ELIGIBILITY/APPLICABILITY

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:
 - a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
 - b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
 - c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town’s General By-laws.
 - d. The number of rooms offered as sleeping accommodations must be code compliant.
2. This By-law does not supersede any lease or condominium association’s by-laws. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

Section 5.11.4 REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board’s Office all documentation that the Office shall require, which may include, but not be limited to:
 - a. Any application fee, as may be determined by the Select Board.
 - b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; 2) an income tax return for the current year and a

recent utility bill both showing the current address of the operator as the address of the Short-Term Rental Unit; or 3) a tenancy agreement along with a photo ID.

- c. If the Short-Term Rental Operator is not the owner of the property, written evidence that the owner of the property has consented to the operator's use of the property as a Short-Term Rental Unit.
 - d. Where a Short-Term Rental Unit is part of a condominium association, certification by the Short-Term Rental Operator's condominium association board that the operation of the Short-Term Rental complies with all applicable leases and/or condominium documents, bylaws, or other governing documents.
 - e. Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.
 - f. Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.
 - g. Such other information and documentation as the Select Board's Office may determine.
2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.
 3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.
 4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such

documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.

5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or STR operator or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.
6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.
7. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

Section 5.11.5 INSPECTIONS

Prior to approving an initial or renewed Certificate of Registration, and in connection with an annual or other inspectional schedule to be determined by the Town, the Health, Building and Fire Departments may conduct a health and safety inspection. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

Section 5.11.6 OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.

2. Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes.
3. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law, a Short-Term Rental Operator may offer his or her Room Share Unit or Home Share Unit for up to 90 days per year. A Short-Term Rental Operator may offer his or her Owner-Adjacent Unit for up to 180 days per year.
4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
 - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted i) in each bedroom used as a Short-Term Rental, ii) on all egresses from the Short-Term Rental Unit, and iii) in common areas accessible to the Short-Term Rental Unit;
 - b. A conspicuously placed binder with, at a minimum, the following information:
 - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
 - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
 - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
 - iv. Copy of Certificate of Registration from the Select Board's Office;
 - c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
 - d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and

- e. Any other documentation required by the Select Board's Office to be distributed inside Units.
6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on-line or other listings of the Short-Term Rental Unit.
7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.
9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
10. Commercial meetings and uses are prohibited in Short-Term Rental Units.

Section 5.11.7 REGULATIONS

The Select Board may issue regulations for the implementation of this By-law, including for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued (including numerical caps by type of Certificate of Registration and by Zoning District).

Section 5.11.8 FINES

Any person violating this By-law shall be fined in the amount of \$300 for each violation. Each day of a continuing violation shall count as a separate violation.

Section 5.11.9 EFFECTIVE DATE

This By-law shall take effect on January 1, 2021.

Or act on anything relative thereto.

EXPLANATION

The purpose of Article X is to create regulations allowing for Short-Term Rentals in Brookline under a specific set of circumstances and to establish policies and procedures that operators of Short-Term Rentals must follow. These regulations also provide a basis on which health and safety rules can be enforced.

What are Short-Term Rentals and why are they relevant to Brookline?

Short-Term Rentals are a relatively new concept that has emerged from the convenience of online booking platforms. The most well-known of these platforms is AirBnB, though many others exist including VRBO, booking.com, and Homeaway. Although there is no exact data on the number of Short-Term Rentals being offered currently in Brookline (online platforms display listings in various formats that make this data very difficult to retrieve), data estimates show that the number could range between 300 to 400 units at any given time. The term “Short-Term Rental” can have numerous interpretations, but the Commonwealth of Massachusetts has defined it as an occupied property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least 1 room or unit is rented out by an operator through the use of advance reservations. A Short-Term Rental may include an apartment, house, cottage, or condominium. It does not include property that is rented out through tenancies at will or month-to-month leases. It also does not include time-share property. A Short-Term Rental is a rental that is not for more than 31 consecutive calendar days.

Brookline’s geographic location close to Boston leads to a high demand for visitors seeking Short-Term Rental accommodations and visitors have ranged from patients seeking medical visits and treatment at Longwood Medical Area, medical professionals coming to do research or residency programs at area hospitals, families coming to tour local colleges, business professionals attending work conferences, tourists, etc., as described by current Brookline hosts. The demand for Short-Term Rentals in Brookline appears to be very high and this demand has been met by many Brookline residents who have interest in renting out their homes, or portions of their homes, as Short-Term Rental units.

What is the status of Short-Term Rentals in Brookline today?

As Short-Term Rental units have begun to proliferate in Brookline, it has become apparent that the Town currently has no regulations covering this topic. A lack of regulations has led to uncertainty surrounding this subject and a lack of clarity for Short-Term Rental hosts, Brookline residents who are not hosts, guests, and Town officials and staff. The Zoning By-law has no reference at all to Short-Term Rentals because Short-Term Rentals are a relatively new concept; as of yet, very few municipalities have made changes to their bylaws/ordinances to account for this recent trend. Brookline’s Zoning By-law contains Table 4.07, Table of Use Regulations, which outlines all allowed uses. This table is inclusive only, meaning that only the uses explicitly listed in the table are allowed and any use not explicitly allowed in the table is not allowed. This interpretation of the use table is currently used by the Building Commissioner when he makes interpretations of allowed uses in Brookline.

Because the Zoning By-law is silent on the topic of Short-Term Rentals, they are currently considered prohibited in Brookline. However, the Town’s ability to enforce this has been limited because there is no written explanation of the Town’s stance towards Short-Term Rentals. The Zoning By-law’s silence on this topic has made enforcement and regulation very difficult. Currently, the Building Department is

handling enforcement on a complaint-driven basis. In speaking to current Short-Term Rental hosts, nearly all were unaware that Brookline prohibited such a use because there is no written language codifying this stance and information regarding this prohibition is not searchable or findable.

Despite the recent trend and shift towards short-term renting, the renting of rooms within units is not actually a new concept in Brookline. Use #51 has long appeared in the Zoning By-law's Table of Use Regulations. Use #51 allows residents to rent up to two bedrooms within their home for up to two lodgers (one per room) for single-occupancy stays. The language of Use #51 does not specify how long these lodgers may rent these rooms for. However, as Short-Term Rentals have gained popularity, the Building Commissioner has made the interpretation that Use #51 is intended for long-term lodgers rather than Short-Term Rental guests. Therefore, currently, a resident who may be renting out up to two bedrooms within their home may do so but only for long-term tenants which would be a tenant staying longer than 31 consecutive days. Any resident who may be allowing lodgers to stay in bedrooms within their unit for 31 days or less would currently be in violation of the Zoning By-law, although it does not state in writing anywhere that this distinction exists.

The Town is therefore aware that the renting of rooms within one's unit exists in Brookline and has been practiced by some residents for many decades. The ease with which residents can now connect with interested short-term guests has only continued to gain popularity due to the ease of popular platforms such as AirBnB. As stated above, data estimates show that as many as 400 units may be currently offered for short-term rent, though this number would include people renting out entire units and not solely bedrooms within units.

What will these regulations allow or not allow?

Creating Short-Term Rental regulations will set forth policies covering a few main areas: 1) the types of units eligible to be listed as Short-Term Rentals (any unit type that does not follow under one of the types listed cannot be registered as a Short-Term Rental), 2) a registration process for Short-Term Rental operators to provide information to the Town, proof of compliance, a fee and a required in-unit inspection, 3) requirements hosts (aka "operators) of Short-Term Rentals must follow in the operation of their units and 4) policies for complaints, enforcement and violations.

The proposed amendments to the General By-law and Zoning By-law will allow three types of Short-Term Rentals. The first type is the renting of a room within the operator's primary residence (defined as the dwelling unit where the operator resides for at least 183 days per year) while the operator is present in the unit. The second type is the renting of an entire dwelling unit while the operator is not present in the unit. The third type is the renting of an entire unit in a 2- or 3-family building where the operator resides in one of the other units and is present during the rental. There are additional restrictions on these types including limits on the number of guests at any given time. A fourth type of Short-Term Rental was explicitly left out of the proposed regulations (and would therefore remain prohibited): professionally-managed units. Professionally-managed units are units that are not the primary residence of the operator nor does the operator live in the building. Typically, operators of professionally-managed units manage a portfolio of units in several different buildings. These types of Short-Term Rentals would be prohibited primarily because of their negative impact on the availability of year-round housing units if they were permitted.

Any operator who wishes to engage in one of the three allowed types of Short-Term Rentals described above would be required to file for a Certificate of Registration. Along with an application for the Certificate, any operator would be required to submit a variety of documents, including but not limited to, a proof of primary residence, floor plans, contact information, and proof of compliance with applicable leases and/or condominium documents. The registration process would be handled by the Select Board's Office and prior to the issuance of any Certificate for a Short-Term Rental, inspections would be conducted by the Health Department, Fire Department, and Building Department. These inspections would confirm the eligibility of the unit for the operation of a Short-Term Rental and inform any additional conditions the Select Board Office might see fit to attach to the Certificate. The proposed regulations require that all Short-Term Rentals include a variety of safety-related items, including fire extinguishers, diagrams showing the location of safety equipment, and information on trash disposal and parking regulations. The proposed regulations also allow for the revocation of Certificates if violations are found or for other good causes, and allow for the Select Board to issue further regulations for the implementation of the By-law, including for the establishment of any appeal process.

It is important to note that the Town would like to ensure that only operators of Short-Term Rentals who have permission to operate are able to do so. Without any current regulations, the Town has very little control over who operates a Short-Term Rental. It is also important to note that even with the proposed Short-Term Rental regulations in place, the requirements of a condominium association through its by-laws or condo documents and the provisions of a rental lease always supersede these regulations.

In listening to public feedback, Town staff and officials have heard that many condominiums in Brookline, for example, do not have condominium documents that address the topic of Short-Term Rentals and therefore cannot be used to prevent such activity within the building. Many condo documents and by-laws were drafted prior to the popularity of Short-Term Rentals. The Town would recommend to any condominium association that is concerned with how it will regulate Short-Term Rentals review its condo documents and update them to explicitly reflect its desired policy on how it will treat individual unit owners who may wish to register a Short-Term Rental unit.

What about the negative impacts of Short-Term Rentals?

In Spring 2018, the Planning Department worked with AirBnB to create a survey available to Brookline AirBnB hosts asking to collect information on hosts' experiences. The survey sought to better understand why hosts are renting out their units (or parts of their units), how they benefit from being a host, how they operate their Short-Term Rental, any concerns or negative experiences they have had and any thoughts they had on potential regulations. A total of 46 Short-Term Rental Operators responded to the survey, which was linked to the AirBnB host platform website as well as on the Planning Department's website. The results provided insight into the landscape of existing Short-Term Rentals in Brookline. The Town did not use any information collected from operators to issue violations or enact enforcement against operators. 76% of respondents stated that they use the extra income from short-term renting to pay their mortgage/rent and 43% responded that they use it to pay student loans or save for education. 41% responded that they use the income for repairs to their home.

Currently, any Short-Term Rental operating in Brookline is operating in violation of zoning, despite the fact that most hosts are unaware of this. The Building Commissioner is handling violations on a complaint-driven basis and the number of overall complaints has been relatively low. Since 2015, the

total number of complaints submitted against a Short-Term Rental operator has been approximately 30. The nature of these complaints has included the operation of a business, violation of condo rules and regulations, and questions about whether Short-Term Rentals are legal in Brookline.

The number of overall complaints against Short-Term Rentals has been low (particularly compared to the overall estimate of total units) but has allowed the Town to gain an understanding of the most common complaints and negative impacts arising from Short-Term Rentals. The Town recognizes that the operation of Short-Term Rentals, particularly in large quantities, is not without negative impacts on neighbors and neighborhoods. The most common issues that have been brought to the attention of Town staff and officials have included late-night and early-morning arrivals, trash disposal, knocking on the wrong door, car doors slamming at odd hours, and noises in halls and corridors.

Staff has also recognized that without any regulations in place, it's not possible to set out specific requirements for rules and guidelines that all Short-Term Rentals hosts must follow and to enforce such rules accordingly. A benefit of setting up regulations is that it allows the Town to establish robust requirements for Short-Term Rental operators which it currently lacks in any form.

Why change the status quo?

Although Short-Term Rentals have been operating in Brookline for some time without regulation and with a relatively low number of official complaints, the Town has numerous reasons for enacting regulations in a timely manner.

The first and most important reason is in response to action at the State level. On December 28, 2018, the legislature approved 2018 Mass. Acts Ch. 337, "An Act Regulating and Insuring Short-Term Rentals" (the "Act"). The Act (which took effect on July 1, 2019) provides for the creation of a State registry of "operators" of certain types of lodging accommodations, including Short-Term Rentals. The Act amended the local option room tax to include Short-Term Rentals as among the lodging accommodations that are subject to the room tax. Municipalities such as the Town of Brookline that previously accepted the local option room tax do not need to take any additional steps to recoup the room tax from Short-Term Rentals. The Act also established certain safety and insurance requirements, while enabling Cities and Towns to enact local regulations, license/registration requirements, and health and safety inspections.

As a result of this new legislation, the State is now collecting a state excise tax of 5.7% as well as a local option room tax of 6.0% from all operators of Short-Term Rentals. This tax will then be remitted to the municipality in the same way the current room tax is collected and remitted for hotels, bed and breakfasts, etc. Effective July 1st, 2019, Brookline Short-Term Rental hosts must register with the State and begin reporting and submitting this tax to the Department of Revenue (platforms such as AirBnB will do this for the operator) and shortly thereafter, Brookline will begin receiving the collected taxes. Town staff believes that it is undesirable for the Town to be collecting tax on a use that is currently prohibited in Brookline and that in order to reasonably justify the benefits being received from this tax collection, the Town should put in place regulations to allow Short-Term Rentals in a way that will encourage operators to register their units with the State and submit the proper taxes accordingly.

Second, surrounding communities have adopted regulations for Short-Term Rentals. Cambridge adopted regulations in Spring 2017, Boston adopted their own set of regulations in Summer 2018, Somerville

passed regulations in Spring 2019, and Newton has passed regulations in September 2019. With all surrounding communities having either established or considering establishing regulations, Brookline has numerous models to look to for precedent on what has been successful in communities that have similar landscapes, as well as similar challenges when it comes to the popularity of Short-Term Rentals. With many Short-Term Rental options in the region, Brookline should seek to remain competitive in this market, while maintaining a balance of strict regulation, as other communities have. Another benefit to the town from Short-Term Rentals is likely the impact on business and retail – many Short-Term Rental guests eat and shop in our business districts during their stays in Brookline. 87% of hosts who responded to the survey stated that they provide their guests with a local business guide to shops and restaurants that direct guests to get out and explore everything Brookline has to offer.

Third, by regulating the landscape of Short-Term Rentals, Brookline will be able to control numerous aspects of the Short-Term Rental market that it currently is unable to. There are some types of Short-Term Rentals that are less desirable and that the Town would not like to see continue to operate within Brookline. Currently, without regulations, any type of Short-Term Rental is able to operate unless a formal complaint has been filed against the operator. Specifically, Brookline would like to insure that Short-Term Rentals do not have any negative impacts on the housing stock and the rental market. These negative market impacts take place when Short-Term Rental operators who are not the primary resident purchase units that they do not reside in for the sole purpose of renting them out as Short-Term Rentals. These types of units are often referred to as “professionally managed,” which means an off-site manager manages the unit and the bookings but does not reside within the unit or the building. Investors can purchase numerous units across Brookline for this purpose, or even an entire building. This type of Short-Term Rental results in apartment units that would otherwise be available for long-term leases being removed from the rental market and makes them unavailable to people looking for permanent housing in Brookline. This type of unit model would be prohibited under these regulations.

Lastly, regulations will allow the Town to set up a mechanism to monitor, track and enforce against both units that have not followed the required registration process AND units who have registered but are not following the required provisions. Currently, due to the unclear nature of the Town’s regulations, enforcement against Short-Term Rental options has been challenging. There are no specifications on what Short-Term Rental hosts can and cannot do and there are no specific penalties in place, because Brookline is currently silent on the topic overall. By explicitly setting forth rules and regulations pertaining solely to this use, the Town will be in a much stronger position to take action against any operators that are not following protocol.

What kind of outreach has the Town done to create these regulations in a way that is fair to all stakeholders?

Town staff has made strong efforts to learn about the existing practice of (usually illegal) short-term rentals in Brookline by reaching out to a wide group of stakeholders to gain feedback and a nuanced understanding on the various positions towards Short-Term Rentals.

Whether there is a need to legalize and regulate STRs has been an intermittent discussion over five years with the Liquor License Review Committee, the Zoning By-Law Committee, and other Boards and Commissions in Town. Following meetings with the Zoning By-Law Committee in Fall 2018, most Committee members stated they thought that Town Meeting would favor legalizing some manner of Short-Term Rentals. However, they agreed with the staff’s suggestion that further outreach should be

done with a variety of voices, including property managers, condo associations, neighborhood associations, Short-Term Rental operators, hotels and inns, etc.

When the state law passed regarding rooms tax for short-term rentals in Winter 2018, the Select Board Chair requested staff immediately work on a zoning by-law that would legalize short-term rentals on an interim basis. However, we did not move forward submitting a by-law to Town Meeting for two reasons: doing so could create “grandfathered” nonconforming uses if and when additional study and analysis led to a Town Meeting vote that restricted or banned some types of short-term rentals in Brookline. Additionally, the state legislation did not require municipalities to legalize the use prior to collecting tax revenue from those operators that self-registered with the state.

Focus groups included two sessions with Short-Term Rental operators (Summer 2019), a Brookline Neighborhood Alliance Public forum (October 2019), and a meeting with condo associations and property managers (November 2019).

Additionally, one-on-one meetings in Fall of 2019 included a conversation with MASCO, two meetings with three of our bed and breakfast operators, and multiple meetings with STARS of Boston. Below are summaries of those discussions and the positions of those stakeholders:

Short-Term Rental Operators: Most hosts have been interested in speaking with staff and are in support of regulations because they would like to be able to operate legally and do not want to be in fear of shutting down. Some hosts have already been shut down and would like to be able to operate in the future. Some hosts only host guests for greater than 30 days and would therefore not be subject to these regulations. However, those that host guests for shorter amounts of time have seemed generally receptive of regulations including the proposed fees, inspection and registration process. They would like as few limitations as possible. Many operators are seniors or empty nesters who rely on this income to stay in their homes.

Innkeepers: Three innkeepers stated that AirBnB/other platforms are not their competition and not a main concern. Some of these inns use AirBnB to advertise their own rooms. Larger concerns for their businesses are the online comparison booking sites like Expedia or Hotels.com where prices are compared between various accommodations and they are rarely the least expensive and thus lose business. Additionally, they are very interested in pursuing with the Town ways that they could be regulated more like Short-Term Rentals than lodging houses – especially their current requirement to have a room dedicated for an “on-site manager” 24 hours/day. If Short-Term Rentals were legalized, they thought that the Town would likely have more resources and prioritization to regulate these operations. They would like for smaller inns to be regulated and taxed at the same rate as short-term rentals.

Brookline Neighborhood Association: The BNA did not make any specific comments or input on the regulations.

STARs: STARs is a business operating in Brookline and surrounding areas that manages numerous units and connects STR guests with units for stays often relating to medical treatment at local hospitals. STARs manages these units and provides cleaning, servicing, etc. (including the new jobs created that came with this business model). However, because STARs professionally manages these unit and is NOT the primary resident or owner of any of them, they would not be allowed to operate under the proposed

regulations. Due to their close network with many property managers in Town, staff has suggested numerous ways that STARs could adjust their business model to identify a primary resident AND still charge an operating/permitting/cleaning/advertising fee to rent the space out when the primary resident is not using the space. Alternatively, STARs could help broker and manage apartments that are leased to a corporate entity (such as traveling nurses' associations). Additionally, STARs has told us they are working with an individual Council members in Cambridge and Boston to provide an exemption for uses associated and supporting medical patients and the Longwood Medical Area; no specific legislation has yet been proposed that we are aware of. Staff is concerned about the practical ability for Town enforcement operations to discern Short-Term Rental operators that are servicing medical patients.

Condo Owners and Property Managers: Numerous residents expressed concern with how property managers who oversee condo associations would deal with Short-Term Rentals. Short-Term Rental regulations will NOT supersede condo by-laws/policies. The informational meeting was helpful to those condo owners and property managers, and a local attorney offered some specific suggestions for how condo associations could handle STRs (whether or not they are legalized in Brookline). Additionally, the group suggested that the language should not rely on definitions such as "primary residence" and instead include the number of days/year that a rental can occur.

From this outreach, the proposed draft legislation changed primarily in the following three ways:

- Creation of specific public health and fire safety regulations within the registration process beyond those otherwise necessarily required in the Building Code
- Allowance for renters to also be able to host short-term rentals (not just property owners)