

ARTICLE 9

Submitted by: Select Board

To see if the Town will amend the Zoning By-law as follows:

1. By amending §2.19, “S” Definitions, as follows:

Inserting the following:

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

~~a.1. Room Share Units—At the Dwelling Unit is the Short-Term Rental Operator’s Primary Residence of the operator, the operator is physically present in the Dwelling Unitunit during the rental, and occupancy is limited to a maximum of two rooms and four guests.~~

~~b. 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.~~

~~c. 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. 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.

2. Short-Term Rental Operator – Any person operating a Short-Term Rental. An operator Operator may must be the owner ~~or leaseholder~~ of the Short-Term Rental Unit ~~with the written permission from the lessor~~.

3. Short-Term Rental Unit – A whole or portion of a whole Dwelling Unit that is

being offered as a Short-Term Rental.

And increasing each subsequent section number by 3.

2. By amending §2.16, “P” Definitions, as follows:

Renumbering the five existing sections titled “PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL”, “PARKING GARAGE OR PARKING AREA, RESIDENTIAL”, “PORCH, ENCLOSED AND UNENCLOSED”, “PRIVATE CLUB OR LODGE”, and “PROFESSION, RECOGNIZED” as sections 1, 2, 3, 5, 6 respectively and inserting the following after “3. PORCH, ENCLOSED AND UNENCLOSED”:

4. Primary Residence – Any property at which a resident resides for at least 183 days of the calendar year.

3. By amending §4.07, Table of Use Regulations, as follows:

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
<u>51C. Short-Term Rentals in possession of a valid Town Certificate of Registration and in accordance with §4.14 only.</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>

4. By amending the Use Regulations by adding the following section, §4.14, Short-Term Rentals:

§4.14 – SHORT-TERM RENTALS

1. Purpose

This section is intended to protect the health and safety of visitors and residents, ensure that the primary use of these properties remains as a residence, and to minimize the effect Short-Term Rentals have on the character and livability of residential neighborhoods and the well-being of surrounding residents.

2. Applicability

- a. The requirements of this section shall apply to any Short-Term Rental. No property shall be offered as a Short-Term Rental except in compliance with each of the provisions of this By-Law.

- b. Except as may be provided in Section 5.11.4 with respect to condominium associations of four (4) or less units, ~~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.

3. Requirements

Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes, including, but not limited to, Town's General By-law entitled "Short-Term Rentals".

These amendments to the Zoning By-law shall go into effect on January 1, 2021.

Or act on anything relative thereto.

ARTICLE 10

Submitted by: Select Board

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 Unit ~~dwelling~~ for not more than 31 consecutive calendar days, ~~and a) As~~ defined by M.G.L. Chapter 64G, Sec. 1, subject to the following limitations: the Dwelling Unit 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 is the Short-Term Rental Operator's Primary Residence of the operator, ~~the operator is~~ physically present in the Dwelling Unit unit during the rental and occupancy is limited to a maximum of two rooms and 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~~ Operator may must 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. Except as may be provided in Section 5.11.4 with respect to condominium associations of four (4) or less units, ~~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; or 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.~~
 - c. 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.
 - d. Where a Short-Term Rental Unit is part of a four (4) unit or less condominium association, certification by all unit owners in the Short-Term Rental Operator's condominium association that they consent to the operation of a Short-Term Rental.
 - 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.

g.h. Within 14 days of the issuance of a Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to abutters (property owners, residents and tenants) within 300 feet of the Short-Term Rental Unit.

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.

~~6.—Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions.~~

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~~ Short-Term Rental 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 REPORTING

1. A list of Short-Term Rental Units with active Certificate of Registrations will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, approved number of rooms and guests and any other restrictions.
2. A list of Short-Term Rental Unit violations will be published on the Town website and updated at least monthly. Information must include Certificate of Registration number, address, date of violation, type of violation, and dollar amount of fine.

Section 5.11.910 EFFECTIVE DATE

This By-law shall take effect on January 1,
2021~~2022~~. Or act on anything relative thereto.

ARTICLE 11

Submitted by: Select Board

To see if the Town will amend Article 10.2 (Prosecutions and Enforcement) of the General By-Laws as follows (additions are in bold underlining):

ARTICLE 10.2
PROSECUTIONS AND ENFORCEMENT

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

<u>DEPARTMENT HEAD</u>	<u>ARTICLE</u>
BUILDING COMMISSIONER	

Part V – Private Property	Articles	5.2, 5.3, 5.4 5.6, 5.7, 5.8, <u>5.11</u>
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DIRECTOR OF HEALTH & HUMAN SERVICES

Part V – Private Property	Articles	5.1, 5.2, 5.4, 5.5, 5.7, <u>5.11</u>
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FIRE CHIEF

Part V – Private Property	Articles	5.11
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TOWN ADMINISTRATOR

Part V – Private Property	Articles	5.11
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Or act on anything relative thereto.

ARTICLE 12

Submitted by: Land Bank Study Committee, Heather Hamilton, Chair

Enable the Town to Accept the Community Preservation Act

To see if the Town will enact the following:

The Town hereby accepts Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitted by said Act, including the acquisition, creation and preservation of open space, the acquisition, preservation, rehabilitation and restoration of historic resources, the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use, the acquisition, creation, preservation and support of community housing, and the rehabilitation and restoration of such open space and community housing that is acquired or created as provided under said Act; that the amount of such surcharge on real property shall be 1.0% of the annual real estate tax levy against real property commencing in fiscal year 2022; and that the Town hereby accepts the following exemption from such surcharge permitted under Section 3(e) of said Act: property owned and occupied as a domicile by any person who would qualify for low income housing or low or moderate income senior housing in the Town, as defined in Section 2 of said Act.

Or act on anything thereto.