

Process to consider revising Lenox bylaw to reflect evolving Short Term Rental (STR) industry:

Preliminary:

1. Determine best-practices process
 - a) Host Compliance white paper <http://bit.ly/2su9hFX>

In parallel: Roll out planned communications (as required) for each step in each Phase



Phase 1: Gather available research

1. What do current bylaws allow
2. Identify regulatory issues and risks
 - a) Requirements of Massachusetts building codes
3. Identify financial impacts and risks
4. Identify legal issues and risks
5. How our community is currently affected
6. Research how other communities have been affected
7. Research how other communities have addressed the issues
8. Research what data online lodging reservation sites are able to provide
9. Capture and follow State legislative process on sales taxes

How to pursue: Full committee or subcommittee to run this stage?
a) Should we expand our working subcommittee to include members of other Boards/Committees insofar to facilitate communication/strong input/strong buy-in



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Outreach

Phase 2: Reach out to the community to gather its concerns

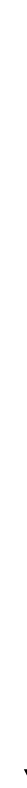
1. Identify all stakeholders to connect with
2. Plan outreach and input required to/from each group
 - a) Identify and create materials to share with each group and to set the stage for productive info gathering
 - b) Identify what we need from each group and plan to gather it in sessions
 - c) Compile findings from each group
 - d) Circle back with each group to share the initial findings reports and to get any additional feedback

Prioritize

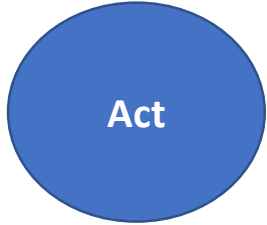
Phase 3: Summarize and prioritize the community's key issues and concerns

1. Outline key issues, concerns, impacts – translate them into key policy goals
 - a) Gather additional data, as required

In parallel: Roll out planned communications (as required) for each step in each Phase



Process to consider revising Lenox bylaw to reflect evolving Short Term Rental industry:



Phase 4: Revise the Bylaws

1. Revisit research into solutions created by other communities including whether they have been successful
2. Create new bylaw and/or revise existing bylaws
 - a) In supporting communications, explain each decision
3. Assess enforceability
4. Assess complexity
5. Legal review
6. Public hearing(s)
7. Town Meeting

In parallel: Roll out planned communications (as required) for each step in each Phase



Short Term Rental (STR) Stakeholders to Connect With

1. **Townspeople** -- Vision for year-round Lenox living
2. **Homeowner Resident STR** – Use their primary residence to make money via occasional STRs.
 - a) Remains in home, rent room(s)
 - b) Leaves home, rents entire home
 - c) Rents during Seasonal Lodging period (Memorial Day though Labor Day)
 - d) Rents throughout the year
3. **Investor Non-Resident STR** – Lives elsewhere, buy one or more properties and converts and them as fulltime STRs
4. **Neighbors**
 - a) Adjacent or near Homeowner Resident STRs
 - b) Adjacent or near Investor Non-Resident STRs
5. **Licensed Lodging Professionals** – Run B&Bs, hotels, motels, inns.
6. **Town:**
 - a) Tax revenues / Select Board, Finance Committee
 - b) Building Department
 - c) Tri-Town Health
 - d) Assessors
7. **STR Travelers** – A new generation of travelers who find benefits in staying at STRs.
8. **Local Retailers** – Benefit from any expansion in tourism made possible by more lodging options including at lower prices
 - Chamber of Commerce
9. **Cultural Anchors** – Tanglewood, theater companies and other cultural institutions that are important drivers of our tourism economy and need to rent housing from local homeowners in the summer
10. **Government Officials**
 - a) Representatives -- state legislation
 - b) Select Board -- overall reach
 - c) School Committee -- housing availability/enrollment
 - d) Affordable Housing Committee – housing availability, affordability
 - e) Financial Committee – financial implications/modeling

Current Lenox bylaw allows:

8.1. BED AND BREAKFAST ESTABLISHMENTS

8.1.1. ***Seasonal rental of rooms:*** Rental of rooms to not more than 3 people in an owner-occupied dwelling between Memorial Day and Labor Day, and weekends only through Columbus Day. The following requirements shall apply:

1. The establishment shall be limited to not more than 3 guests;
2. Rental of rooms shall be limited to Memorial Day and Labor Day, and weekends only through Columbus Day;
3. Parking must be off street, on premises, with 1 space per room rented and 1 per owner.
4. Except for a home occupation that complies with this Bylaw, no other uses shall be permitted on the property;
5. No additions or external modifications may be made to the property for lodging use; and
6. A certificate of occupancy required and premises shall be subject to annual inspection.
7. The home shall be the legal residence of the owner with lodging as an accessory use.
8. Only continental breakfast from the common family kitchen is permitted.

8.1.2. ***Bed & Breakfast Inn***

1. The establishment may provide lodging for 4 to 20 guests.
2. Parking shall be off street, on premises, with one space per room rented and one per owner.
3. Except for a home occupation that complies with this Bylaw, no other uses shall be permitted on the property;
4. There shall be no external additions to the property for lodging use;
5. External modifications for access and safety are permitted, but such modification shall be designed for minimum impact on abutters;
6. A certificate of occupancy is required and is subject to annual inspection;
7. The property must be served by town water and sewer; and
8. Except in the Commercial District, an open space not less than 20 feet wide shall be maintained along each lot line with grass bushes, flowers or trees to provide a buffer.



DEVAL L. PATRICK
GOVERNOR

JOHN W. POLANOWICZ
SECRETARY

CHERYL BARTLETT
COMMISSIONER

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

www.mass.gov/dph

MEMORANDUM

TO: Local Boards of Health and Code Enforcement Agencies

FROM: Paul Halfmann, Assistant Director, Community Sanitation Program

DATE: May 16, 2014

SUBJECT: Licensing of Online Home Rental Services

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

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

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

(if you are serving food as part of your business). In addition, if you are not connected to a municipal water supply, your private well will need to be in compliance with local private well regulations for the town where you live. Being able to state unequivocally that you meet these standards will protect both you and your guests. You should also check with your Town to see if any other licenses are needed based on local zoning requirements. While I am contacting you on behalf of the Board of Health, there are also zoning and building code issues that affect business operations in any town. If you have not checked to make sure that your proposed use is in conformance with local zoning requirements, please contact the local Zoning Enforcement Officer, James Hawkins, at JHawkins@frcog.org. The next step in this process is applying online for an annual Board of Health license. Please follow the instructions located on the Public Health Online Permitting web site: <http://frcog.org/inspections-permits/health/> where you will find instructions as well as the link to apply for a permit. The Board of Health requires that you be licensed either as a "Hotel/Motel/Family-Type Campground/Trailer Park" if you do not serve food to your guests, or as a "Food Establishment"

Lead law found here – need to verify with Town Attorney

<http://www.mass.gov/eohhs/docs/dph/regs/105cmr460.pdf>

(D) Short Term Vacation or Recreational Rental Exemption from the Obligation to Abate and/or Contain Paint, Plaster or Other Accessible Structural Material Containing Dangerous Levels of Lead. (1) The owner(s) of a dwelling unit, including but not limited to a private residence, condominium, hotel, motel or bed and breakfast establishment that is leased, rented or occupied for vacation or recreational purposes for a period of 31 days or less shall not be required to obtain a Letter of Full Compliance or a Letter of Interim Control, when a child under six years of age is an occupant, upon meeting and maintaining the following conditions: (a) The owner or owner's agent shall visually inspect at least annually all of the interior surfaces and the exterior casing, sash and sill of all windows of the particular dwelling unit, but not interior common areas if present, to ensure that there is no cracked or otherwise deteriorated plaster or putty or peeling, chipping or flaking paint. (b) Any peeling, chipping or flaking paint, deteriorated plaster or putty shall be made intact according to the procedures of the Protocol for Maintaining Intact Paint issued by the Director. (c) The owner or owner's agent shall fully complete and provide a copy of the Short Term Vacation Rental Notification issued by the Director to each tenant with a child under six years of age. The owner or owner's agent and the tenant shall sign copies of the Notification and each shall retain a copy. If the owner or owner's agent has provided the Notification, but the tenant refuses to sign it, the owner or owner's agent may attach a statement that the tenant received the Notification but refused to sign. (d) If loose paint, plaster or putty is present on relevant surfaces of the dwelling unit, indicated at 105 CMR 460.100(D)(1)(a), or the owner fails to provide the Vacation Rental Notification in accordance with 105 CMR 460.100(D)(1)(c) through (g), the owner is not exempt from the requirements for abatement or containment at 105 CMR 460.110 or for interim control at 105 CMR 460.105 or liability for damages at 105 CMR 460.180. 105 CMR: DEPARTMENT OF PUBLIC HEALTH 8/30/02 (Effective 9/1/02) 105 CMR - 1931 460.100: continued (2) An owner who complies with 105 CMR 460.100(D)(1) may rent a dwelling unit for as many periods of 31 days or less as he or she chooses, provided that the same tenant with a child under six years of age does not occupy the same dwelling unit for a period of more than 31 days in any 12-month period. (3) An owner who complies with 105 CMR 460.100(D) is exempt from compliance with Tenant Lead Law Notification and Disclosure pursuant to 105 CMR 460.725. (E) The owner of a dwelling unit having fewer than 250 square feet of floor space, calculated on the basis of total habitable room area, or which is used as a rooming house, is exempt from the requirements of M.G.L. c. 111, §§ 189A through 199B and 10