

# TOWN OF LENOX 2018 SPECIALTOWN MEETING

**Date:** Thursday, November 1st, 2018

**Location:** Duffin Theater, Lenox Middle/High School, 197 East St.

**Time:** 7:00 PM

## IMPORTANT INFORMATION FOR:

ARTICLE 12. To see if Town will vote to adopt a general bylaw requiring the inspection and registration of all Short-Term Rentals in Lenox, as exhibited through the proposed bylaw on file with the Lenox Town Clerk; or take any other action in relation thereto.

APPROVED BY PLANNING BOARD

ARTICLE 13. To see if the Town will vote to amend the Zoning Bylaw as to regulate the Short-Term Rental of Rooms and the Short Term Rental of Entire Dwellings by deleting existing Section 8.8.1, inserting new definitions in alphabetical order into Section 4, "Definitions" of the existing Zoning Bylaw, and inserting two new subsections into Section 9, "Special Residential Regulations" of the existing Zoning Bylaw, as exhibited through the proposed bylaw on file with the Lenox Town Clerk; or take any other action in relation thereto. (2/3 vote required)

APPROVED BY PLANNING BOARD

<b>QUESTIONS:</b>	<b>IMPORTANT FACTS:</b>
<p><i>What is the purpose of zoning regulations?</i></p>	<p>Zoning regulations in all communities regulate and dictate the usage of various property types. In a “commercial” zone, for example, owners are free to engage in a variety of commercial activities – by right. Building and life safety rules may still apply but these are determined separately from zoning.</p> <p>In residential areas, business usages are limited, or allowed by “special permit” a process where neighbors have an opportunity for input on a case-by-case basis.</p> <p>Zoning regulations also determine what uses are never allowed. Stringent zoning regulations protect property values, because no one wants to risk buying a home, and ending up next to a casino or noisy industrial use.</p>
<p><i>When people say “Short Term Rentals” what do they mean?</i></p>	<p>“Short term Rentals” aren’t anything new. The Mass Dept of Revenue defines <i>lodging</i> as:</p> <ul style="list-style-type: none"> <li>▪ Providing sleeping accommodations for the lodging of paying guests</li> <li>▪ That the typical occupant is a transient or public traveler</li> <li>▪ Generally, the stay is less than one week</li> <li>▪ The relationship between operator and occupant is not that of landlord and tenant (that is defined as stays of more than 30 days)</li> </ul> <p>Therefore, providing “lodging” is the commercial activity of providing sleeping accommodations for paying guests. Lodging is provided at “bed and breakfasts” at “inns” at “hotels” at “motels” and “resorts” – but the underlying commercial activity is the same. “Short Term Rentals” is another name for providing lodging – and it’s nothing new.</p>
<p><i>What do the zoning regulations say today about transient lodging or Short-Term Rentals?</i></p>	<p>Lodging is defined in several areas of the Lenox Zoning Regulations. Section 8.8.1 – Seasonal Rental of Rooms, Section 8.1 – Motels, Inns, Hotels, Section 8.5 – Resorts, Section 8.8.2 – Bed &amp; Breakfast Inn See for yourself here on the Town of Lenox web site.  <a href="http://www.townoflenox.com/sites/lenoxma/files/uploads/zoning_by-law_2017.pdf">http://www.townoflenox.com/sites/lenoxma/files/uploads/zoning_by-law_2017.pdf</a></p>

<p><i>How does the proposed Short-Term Rental zoning bylaw differ from what we have today?</i></p>	<p>The current bylaws address the “Seasonal Rental of Rooms” and other uses for bed and breakfasts, inns, hotels and motels. The new bylaw clarifies that “Short Term Rentals” are, in fact, a commercial activity and just another name for “transient lodging”.</p> <p>The proposed bylaws are more expansive – instead of limiting rentals to just “the season”, homeowners renting a few rooms will be allowed to rent throughout the year. Those renting whole houses will have to show that they are Lenox residents and these rentals will be allowed during “the season.” The current town bylaws call for permits and inspections, but many home owners are not obtaining the permits they should from the town.</p> <p>Transient lodging is <b><u>already allowed by special permit</u></b> in all zones.</p> <p>The new bylaw simply clarifies that just because you apply a new name (Short Term Rentals) to the same underlying commercial activity (transient lodging) a home owner is not allowed to avoid the rules or claim a special exception to the rules that have been followed by everyone else, <i>for the same commercial activity</i>.</p>
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FROM BYLAW SUPPORTERS:	YOU SHOULD CONSIDER:
<p><i>When approved, the Short-Term Rental bylaw will “level the playing field” among Short Term Rentals (Airbnb, VRBO, Home Away, Etc.) and the town-permitted, and inspected lodging (B&amp;B’s, Inns, Hotels, Motels, Resorts)</i></p>	<p>Providing overnight sleeping accommodation to paying guests, is a business activity. <b>Transient lodging</b> -- by all names -- is the same commercial endeavor. Approving and enforcing this Short-Term Rental bylaw means that properties large and small will be registered and inspected. Allowing some people who provide transient lodging to bypass these rules is fundamentally unfair.</p> <p>Did you know that the smallest hotel in Lenox has just two rooms? The owner of that property obtained a special permit from the Lenox Zoning Board in mid-June 2018, collects rooms taxes, and pays commercial property taxes.</p>
<p><i>When approved, the Short-Term Rental bylaw will protect the character and charm of existing residential neighborhoods</i></p>	<p>It’s true. Zoning regulations of all sorts protect the character of neighborhoods and regulate where and how commercial activity can occur. No one wants to buy a residential house only to have an adult entertainment parlor spring up beside them. Or a meat processing plant? These are extreme examples, but the reason these things don’t happen is because of zoning regulations.</p> <p>If the bylaw is passed, Short-Term Rentals will still be allowed to continue <i>if the property owner obtains a special permit</i>, which involves neighbors in the decision. If neighbors support the proposal, the permit will be approved. If they disagree – it won’t. For many of us, buying a house on a quiet residential street is the largest investment of our lifetimes – shouldn’t we have the chance to voice our opinion before a short-term rental, inn, hotel or motel opens beside us or across the street from us?</p> <p><b>Fact:</b> It is zoning regulations that prevent food trucks from parking on Church street all summer.</p> <p><b>Fact:</b> It is zoning regulations that ensure that our retailers aren’t faced with vans parked outside their stores selling wares.</p> <p>Approving the Short-Term Rental bylaw strengthens the Lenox zoning bylaws to protect the character and charm of our neighborhoods</p>

<p><i>That if approved, the Short-Term Rental bylaw will help to ensure the availability of housing for people who may wish to relocate to Lenox on a permanent, year-round basis</i></p>	<p>Currently, aging Lenox residents who would like to downsize and stay in Lenox are unable to find housing. Young families are having difficulty finding affordable housing because so many of the available houses are purchased by investors for short-term rental purposes.</p>
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<p><b>FROM THOSE OPPOSED:</b></p>	<p><b>YOU SHOULD CONSIDER:</b></p>
<p><i>Voting against the Short-Term rental zoning bylaw will keep property taxes low, property values high and protect the economy in Lenox</i></p>	<p>Short-term rental properties pay only residential property taxes, while the town-permitted B&amp;Bs, inns, hotels, motels and resorts pay commercial property taxes and collect room tax on behalf of the town</p> <p>Estimates show that Lenox would be able to collect room taxes on \$2M - \$3M unreported sales during July and August alone.</p> <p>When the quality of life in Lenox’s neighborhoods is preserved by preventing uncontrolled commercial activities, property values are preserved. Illegal commercial activities in residential neighborhoods detract from the neighborhood’s appeal and drive property values down.</p> <p>Everyone’s property taxes could go down, if rooms tax and fair property taxes are consistently collected.</p>
<p><i>That the Town Planning Board is seeking to severely restrict short term rentals of homes to just summer, totally ban investor owned non-resident whole homes, and infringe on property rights</i></p>	<p>The proposed by-law is <b>AN EXPANSION</b> and more permissive of Short-Term rentals of rooms in owner-occupied homes from just during “the season” to throughout the year.</p> <p>Currently, whole house rentals for under 30 days is not allowed in the bylaw we have today, but it is allowed in the new bylaw for Lenox residents whose homes are registered and inspected. Some people have ignored these bylaws and operate outside of what is permitted, so they view the proposed bylaw as severely restrictive.</p> <p>Renting your residential home - for more than 30 days- constitutes a landlord tenant arrangement is explicitly allowed today; it is not affected at all by this proposed bylaw.</p> <p>No one, in Lenox, or any town, has unfettered permission to engage in whatever commercial activity they seek. Zoning regulations, which exist everywhere allow, or allow by Special Permit specific uses.</p> <p>The Short-Term Rental bylaw provides further clarification on this activity, and through a special permit process, enables transparent and uniform oversight.</p>

<p><i>Property taxes in Lenox will rise over time</i></p>	<p>In fact – those currently engaged in “Short Term Rentals” illegally - will have the option of obtaining a special permit to come out of the shadows. In doing so, they will be acting as good citizens.</p> <p>Short-Term Rentals should be required to pay commercial property taxes, not residential, just like every other transient lodging business. They will also be required to collect Rooms Occupancy taxes which are paid for by visitors and shared with the state and the Town of Lenox.</p> <p>Approving the short-term rental bylaw will increase revenues to the Town, possibly to the point that everyone’s property taxes could decrease.</p>
<p><i>Lenox will lose property owners, taxes, and jobs; businesses will suffer.</i></p>	<p>None of these statements are true as local real estate agents will attest.</p> <p>The illegal “Short Term Rental” activity occurring today, outside of the town’s zoning regulations brings in no extra tax revenues. They collect no room taxes, while the town-permitted lodging does. They pay residential taxes at lower rate; the permitted and legal lodging properties pay commercial property tax at a higher rate.</p> <p>It is true that some real estate speculators, who don’t live in Lenox, may opt to sell their Short-Term Rental properties as opposed to implement the required and consistently applied safety codes. Those houses will become available for sale, or for year-round rental – and that will benefit the Town.</p> <p>Visitors are not going to stop coming to Lenox because they can’t stay in an AirBnb. Many of the town-permitted properties are making multi-million-dollar renovations to their properties to stay current and cater to the needs of the modern traveler.</p> <p>Permitted lodging properties must show proof of worker’s compensation insurance to receive a permit to operate so workers are protected. This is not true for unpermitted and unregistered properties. .</p>

<p><i>The Commonwealth of Massachusetts is working on statewide legislation, so why is the planning board rushing?</i></p>	<p>A group of Lenox residents approached the Lenox Selectmen in 2014, concerned with the growth of short-term rentals that were not inspected for life safety, not collecting rooms taxes, and playing by a different set of rules than the town-permitted lodging properties. Those concerned residents have already waited almost 5 years.</p> <p>Further, the Planning Board engaged in nearly a year and a half long process conducting over 30 public input sessions to weigh the concerns of residents, and to make their informed recommendation. This proposed Short-Term Rental bylaw is the product of careful study and consideration by the Planning Board which recommends approval at the Town Meeting.</p>
<p><i>It makes sense to wait for the state to act first</i></p>	<p>The state has jurisdiction over rooms taxation and life safety inspections. All draft versions of the state legislation include both taxation and mandatory life safety inspections.</p> <p>The Town will always have to consider and determine, through the application of Zoning bylaws - where the commercial activity of transient lodging may occur, not the State of Massachusetts.</p> <p>In considering different aspects of Short-Term Rentals, both the Town and the State need to weigh in.</p>
<p><i>That “short term rentals” are better suited to younger family travelers with children and pets</i></p>	<p>This simply is unrelated to the issues being considered. It is not for the town to decide what the market offers.</p> <p>The town-permitted and safety inspection transient lodging provided by the B&amp;Bs, inns, hotels, motels and resorts already offer options for young families, children and pets. Anyone engaged in “Air BnBing” their house now, will be allowed to continue once they obtain their special permit and undergo life safety inspections – the same as all other transient lodging in Lenox.</p> <p>The town shouldn’t be trying to choose winners and losers: if the types of transient lodging customers are looking for is evolving, suppliers of that lodging will adapt. Those who don’t adapt won’t survive. What is unfair is to have two different sets of rules regarding taxes, and inspections, licenses, and permits for certain owners of lodging properties and not others.</p> <p>The rules must be the same for everyone, regardless of the profile or demographic of the customer.</p>

<p><i>That staying in a “short term rental” is a gateway for people to relocate and move to Lenox.</i></p>	<p>It is true, that visitors to Lenox sometimes become permanent residents and this can be a great source of new year-round residents. Many full-time residents of Lenox have stayed in Lenox inns. It’s a stretch though to believe that only people who stay in an “Air Bnb” or other “Short -erm Rental” might relocate, and not anyone who stays in a B&amp;B, Inn, Hotel, Motel or Resort.</p>
<p><i>“Short term rentals” are necessary for Lenox residents to “make ends” meet</i></p>	<p>All zoning bylaws define acceptable uses of properties. These bylaws protect property values by providing some level of certainty about what is allowed in the area people make the largest investment of their lives: their home.</p> <p>Ask yourself if, in your residential neighborhood, your neighbor needs to open an all-night dance club to “make ends meet” - is that OK?</p> <p>Ask yourself, if some of the inns or hotels must hold loud weddings every weekend from June 1 to October 31 to “make ends meet” with no approvals, no consideration, are we, as a Town, OK with that? The economic reality of fixed incomes and rising costs are a real issue, but unfortunately this is not a reason to turn a blind eye to commercial activity in residential parts of Lenox not permitted by zoning bylaws.</p> <p>Remember too, for those who want to provide transient lodging to help bridge the gap between income and expenses, this bylaw will allow them to rent rooms in their owner-occupied home throughout the year instead of just during the summer, or their whole house if they obtain a special permit – this bylaw does not take away this option from anyone.</p>
<p><i>The “innkeepers lobby” is just trying to avoid competition from Short-Term Rentals</i></p>	<p>Most innkeepers in Lenox have second jobs and their properties are underperforming compared to similar areas in other regions yet continue to pay high property taxes and collect room tax.</p> <p>As a group, the existing innkeepers welcome high-quality, insured, properties which are registered and inspected and are held to the same rules for life safety, insurance, property taxation and contribution to the town of Lenox through collection of rooms taxes.</p>