

ARTICLE 7

Gordon Bailey moved that the town vote to amend the zoning bylaw in Article IX (Supplemental Use Regulations) by adding a new Section 199-9.13, as published in the

warrant, relating to “Short Term Rentals.” The motion was seconded by Bob Jones. Peter Bluhm presented a description of the bylaw.

Peter Bluhm moved to AMEND the proposed section (199-9.13, subsection D.1), as follows:

1. In the first line, after “Nevertheless,” by striking “a” and adding instead “any revocable trust or”;
2. In the second line, by striking “principal” and inserting instead “sole real estate asset”; and
3. In the third line, after “entity’s” by inserting the word “trustee,”.

So that if adopted the motion would read:

1. Property owned by a corporation, trust, or partnership. Nevertheless, any revocable trust or corporation may operate an STR if its sole real estate asset is a single residential property in Lee; that property contains one or two dwelling units; and that property is the primary residence of the entity's trustee, majority stockholder(s), beneficiary, or partner.

Gordon Bailey seconded the amendment. Peter Bluhm explained in detail what the amendment meant. Judith Ambry asked if this would affect all land including conservation land and Peter responded that it cannot affect the restriction of conservation land, yet it does apply to all zones. The AMENDMENT TO ARTICLE 7 PASSED.

Hyden Kuhn spoke and asked how many single-family houses there are. Peter Bluhm responded that he did not know that number. Hyden Kuhn stated that he is against short term rental as there is a housing shortage here in Lee. He went on to say that young people and couples can’t afford to buy property, and allowing short term rentals is hurting our community and our housing crisis. He would like the town to do more to prevent that. Jessica Gaherity asked if it was written in the deed, would this still have an effect. Gordon Bailey said it would not. Peter Bluhm spoke that housing issues are regional and not just unique to Lee. He goes on to say that family corporations can have short term rentals, such as in a trust. Josh Bloom asked if the town has looked at the different forms of enforcement for short term rentals, as perhaps some people in those towns have been able to skirt around the laws as pertaining to their taxes. He suggested that maybe an enforcement study could be done in the future. Peter spoke to using a registration system at town hall for short term rentals. Chris Brittain mentioned they have looked into software to use that tracks the rentals and can be used for registration and for payment if this passes. Rachael Armstong asked who would be responsible for maintaining the registration and Chris Brittain responded that the town clerk would. Peter Bluhm noted that it would be the select board in charge of registration. Alex Hedding asked why there would not be an annual inspection. Peter Bluhm says that they would

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subject to inspection at any time via or Tri Town Health. ARTICLE 7 PASSED via voice vote.

Article 7 – Zoning Bylaws – Short Term Rentals (2/3 Vote)

Shall the town amend the zoning bylaw in Article IX (Supplemental Use Regulations) by adding new Section 199-.13, as follows, relating to “Short Term Rentals”, or take any other action relative thereto,

§ 199-9.13 SHORT-TERM RENTALS

A. Purpose

This section regulates Short-Term Rentals (STRs) of residential properties in a way that clarifies the extent those uses are allowed and that also preserves and promotes the character, history, health, and safety of the community and of individual neighborhoods.

B. Definitions. As used in this section:

1. “Short-Term Rental” or “STR” means an owner-occupied, tenant-occupied or non-owner-occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such. This definition is intended to be identical to that used for state tax law under MGL Chapter 64G or its successor.
2. “STR Landlord” means the person, trust or other entity who offers the use of a property as an STR and who has a right of occupancy to the premises after the rental concludes.
3. “Booking Agent” means the person or business entity that makes decisions to grant or deny permission to rent an STR property, facilitates reservations for an STR property or collects payments for rentals of an STR property. Where an automated system makes decisions about rentals, the registration shall identify an individual person within this state who has access to that system and who shall be deemed to be the booking agent.

4. “Property Manager” means the person or business entity who is obligated to respond to all problems, complaints, or emergencies relating to an STR that are reported by an STR guest, other Lee residents, or town government.

C. Exempted Accommodations

The following accommodations are not Short-Term Rentals as used in this section:

1. Hotels, motels, lodging houses, and licensed bed and breakfast establishments.
2. Tenancies at will or month-to-month leases.
3. Time-shares.
4. Any federal, state, or municipal institution.
5. Lodging accommodations, including dormitories at religious, charitable, educational, and philanthropic institutions that are not a hotel or motel or generally open to the public and operated by the institution.
6. Privately-owned and operated convalescent homes or homes for the aged, infirm, indigent, or chronically ill.
7. Religious or charitable homes for the aged, infirm, indigent, or chronically ill.
8. Summer camps for children up to 18 years of age or developmentally disabled individuals.
9. Lodging accommodations provided to seasonal employees by employers.
10. Alcohol and drug-free housing that is certified by the state.

D. Prohibited STR Properties. The following properties are not eligible for STR use:

1. Property owned by a corporation, trust, or partnership. Nevertheless, a corporation may operate an STR if: its principal asset is a single residential property in Lee; that property contains one or two dwelling units; and that property is the primary residence of the entity’s majority stockholder(s), beneficiary or partner.
2. Property occupied by a tenant acting as STR Landlord unless the tenant’s lease from the fee owner explicitly authorizes the tenant in writing to use the property for STR purposes.
3. Residential property designated as “affordable” or otherwise income-restricted and which is subject to affordability covenants or is otherwise subject to housing or rental assistance under local, state, or federal programs or law.
4. Property with current violations of the Building Code, the Fire Code, the town zoning regulations, or an order of the Tri-Town Board of Health/ Lee Board of Health.

E. Prohibited STR Agreements. The following STR rental agreements are prohibited:

1. Renting an STR for use by more persons than the registered maximum STR occupancy.
2. Renting an STR for commercial use, such as for business or sales meetings.
3. Renting an STR to a person under the age of 18.

F. Operation of Short-Term Rentals.

1. An STR tenant shall not conduct an event or gathering on an STR property where attendance is more than twice the advertised maximum STR occupancy or the occupancy in the STR rental agreement.
2. An STR tenant shall not conduct an event or gathering on an STR property that includes tents or outdoor amplified music.
3. Each Booking Agent shall keep either paper or electronic records on rental activity that include the name and address of each tenant and the maximum occupancy for that rental period. Those records shall be available within Berkshire County either physically or through the

Internet. Records of each rental shall be maintained for at least two years after that rental concludes. A paper copy of any record shall be produced upon written demand by the Tri-Town Board of Health/Lee Board of Health or the Select Board.

4. Each STR property shall have a Property Manager who shall maintain a 24-hour telephone number and shall respond within two hours to any problem or complaint reported by a tenant.

5. Each STR property relying on a septic system shall comply with the requirements regarding septic systems under "Title 5" and associated state regulations (310 CMR 15.00).

6. Each STR property shall comply with all standards and regulations of the Board of Health. STRs are subject to inspection by the board of health, the fire department, and town building officials.

7. Each STR shall have residential smoke and CO detectors installed and maintained in compliance with state statute law and regulations. A fire extinguisher shall be mounted in a clearly visible and easily accessible location and in or near any kitchen. If there is more than one habitable level, a fire extinguisher shall be mounted on each level in an easily accessible location.

8. Each STR property shall have off-street parking spaces on or adjacent to the property at least equal to the number of STR bedrooms, plus one space.

9. Trash shall be removed from each STR property at least weekly.

10. Each STR shall post, in a conspicuous place:

- a. The identity, telephone number and other contact information of the Property Manager;
- b. A property map that clearly depicts the boundaries of the STR property; and
- c. Instructions to operate any wood-burning fireplace or any wood or pellet stove.

11. Any advertisement offering the STR shall include the Lee STR Registration Number and shall state the maximum allowable STR occupancy. No advertising shall offer to exceed the maximum allowable occupancy registered under the following subsection.

12. Each STR Landlord shall ensure that its registration data at all times accurately describe the current names and contact information for the STR Landlord, Booking Agent, and Property Manager.

G. Registration

1. Each STR Landlord shall register each STR unit with the Lee Select Board. The registration form shall include the following information and statements:

- a. The street address of the property.
- b. A description of the STR property and the rooms or areas offered for short-term rental.
- c. The maximum allowable occupancy of each rental unit.
- d. The STR Landlord's name and contact information.
- e. The Booking Agent's name and contact information.
- f. The Property Manager's name, telephone number and any other contact information.
- g. A copy of a currently valid STR Certificate of Registration with the Massachusetts Department of Revenue.
- h. A statement that residential smoke and Carbon Monoxide detectors are installed and maintained in compliance with state statute law and regulations.
- i. A statement that a fire extinguisher is mounted in a clearly visible and easily accessible location on each habitable level of the STR building and in or near any kitchen.

j. A statement describing whether the STR building is served by a septic tank or municipal sewer.

(1) If served by a municipal sewer, the statement shall describe the number of bedrooms.

(2) If served by a septic system, the statement shall describe the number of bedrooms rated under its septic permit and the date that the septic tank was last pumped.

(3) If served by a composting or innovative or alternative system, the statement shall include a currently valid maintenance agreement for that system.

k. A statement of whether the property is served by municipal water supply or a well. If a well, the statement shall state that the well has been tested within the preceding five years and was found to be potable and safe for personal consumption.

1. A statement and diagram showing the number and location of off-street parking spaces.

2. Each STR registration received by the Town Clerk in proper form and accompanied by the required fee shall be assigned a Lee STR Registration Number, which shall be consistent from year to year.

3. Registrations of STRs shall expire every year on December 31. Renewal registrations may be filed during each December for the following year. The annual registration fee shall be \$100 per rental unit or as otherwise set by the Select Board.

H. Enforcement. Operating an STR without a currently valid registration or in violation of any regulation under subsection F above is a violation of the Lee zoning bylaw, chapter 199. In addition to the penalties otherwise provided for zoning violations, the Select Board, after notice and hearing, may revoke an STR Landlord's registration, for up to twelve months, if it finds that the STR Landlord:

1. Has accrued three or more violations of this section within a 12-month period;

2. Has failed to update all required contact information and has not responded to an inquiry after 20 days; or

3. Has failed to provide access to STR properties for authorized inspection or has failed to comply with orders to correct STR deficiencies.