



Town Council Meeting
October 1, 2020



The October 1, 2020 meeting of the Barnstable Town Council was physically closed to the public to avoid group congregation.

A quorum being duly present, President Paul Hebert called the October 1, 2020 Town Council meeting to order at 7:04 p.m. from a remote location

An announcement was made by President Hebert regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: (On Zoom) David Bogan, Kristine Clark (7:06 pm), Jennifer Cullum, Debra Dagwan, Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber.

The Pledge of Allegiance was led by Vice President Rapp Grasseti. Mark Ells asked to keep Bob O'Brien and his family in our thoughts and prayers; followed by a moment of silence

PUBLIC COMMENT:

Steve Sigamore questioned the legal process regarding the large water wells in West Barnstable and felt there should be no hunting signage to ensure safety in the area near his home.

Joe Rozell had concerns regarding well water drilling and the aquifers issues.

Stephanie Hinckley had apprehension regarding the fragile aquifer, the proposed well sites and the hunting situation near her home.

Diane Siegel supported increasing the minimum stay at a Short-Term Rental (STR) to three days.

Michelle Lumbar opposed STR regulations.

Ryan Castle felt STRs were needed for the future long-term solution regarding the Comprehensive Waste Water Management plans.

Greg Kiely asked for a delay action on the STR ordinance and supported a number cap on ownership of rental homes.

Sue Phelan said there was no abutter notification on Milken Road regarding the transfer of property. She opposed allowing hunting in the area and feared expansion of the Town's water supply in the area as it may drain the current wells dry.

Nikolas Atsalis mentioned Principal Patrick Clark was on administrative leave from school.

Ted Lowman felt all STRs needed to be in compliance with the American with Disability Act.

Kristen Siminski feared hunting behind her home due to the Town purchasing the property out there.

Kristen Bishop opposed the STR regulations.

Victor Dubinsky opposed STR regulations.

Laura Cronin felt Civic Associations were grass root organizations and their opinions were needed in the STR discussions.

Tina Carey opposed the STR and hoped the item would be tabled.

Sharon Christensen opposed STR regulations.

Debra Krau supported STR Ordinance and suggested a review within one year but opposed the zoning amendment.

Ellen Nozzle supported STR regulations and a cap on registered STRs in Barnstable.

Close Public Comment

TOWN MANAGER COMMUNICATIONS: (Exhibit A)

Mark Ells explained there were no specific water supply areas chosen; any and all lands would be considered. The review for new water supply areas will encompass years of public input and analysis. We are testing the well sites to look at quantity and quality of water. Mark Ells said he would speak with the individual who was commenting on hunting on the private and public properties.

Dan Santos, Public Works Director, discussed test wells and noted there were no test wells in West Barnstable. He noted clean water is very important for all Barnstable residents.

Councilor questions and comments:

Thank you to the Civic Associations for their input.

Close Councilors comments

TOWN MANAGER COMMUNICATIONS Continued

Ann Quirk, Town Clerk gave an update on the upcoming November 3rd election. She noted there were presently 13,196 requests for absentee and vote by mail ballots. She added

some of the ballots for the election were received but Barnstable had not received all the ballots. She explained October 28th was the last day to request mail in ballots and the last day to make changes and/or register to vote was October 24th. She discussed early voting which would take place at the Barnstable Adult Community Center located at 825 Falmouth Road, Hyannis. Early voting would start on October 17th and run through October 30th weekends will be open from 8:00 am to 1:00 pm with weekdays open from 8:30 am to 4:30 pm.

Councilors Questions and Comments:

Please explain voting options on Election Day. [One can drop off the ballots at Town Hall but all vote by mailed ballots must be time stamp by the Post Office prior to or on the election day]

Katie Service, Barnstable Airport Manager gave an update on the Airport Master Plan. She discussed the master plan: business goals, regulatory requirements, and strategic goals of Barnstable. She spoke about work in process and what was completed so far. Katie Service spoke about the public meetings and the online workshops. She gave a timeline for future events and ideas.

TOWN MANAGER COMMUNICATIONS Continued

- Fiscal Year 2021
- Special Town Council Workshop – October 23rd

Mark Milne, Finance Director gave update on Comprehensive Waste Water Project. He explained Governor Baker's next step for Phase III Step II for the Commonwealth. He mentioned Housing and Urban Development Assistance programs to help residents with rent or mortgage issues due to the Coronavirus.

Councilors Questions and Comments:

- September 17th workshop Green Communities need a November date [set a date will discuss with leadership]

Laurel Schaidler, PHD and Cheryl Osimo, Executive Director from Silent Spring Institute Laura Schrader spoke about the Per- and polyfluoroalkyl substances (PFAS) which were man made chemical which now 100 million Americans have in their drinking water. She discussed the Massachusetts PFAS Health Study, where 1000 adults and 300 children were being studied. She mentioned there were 101 wells in 12 Cape towns which had been tested but currently the study was on hold.

ACT ON MINUTES:

Upon a motion duly made and seconded it was to approve the minutes of the September 17, 2020 as written.

VOTE: PASSES 12 YES

COMMUNICATIONS- from elected officials, boards, committees, staff commission reports, correspondence and announcements:

- Farm to Family Cape Cod Community College Family Table – food to feed needy families 35 pounds of food in each bag food is handed out once a week for the month of October 2020
- October 10, 2020 in Marstons Mills Revolutionary War Patrons Cemetery

- Fall Fest - Week of October 10th celebrating the beautiful fall season throughout Osterville village at local retailers and businesses

Jump to 2021-018

2021-018 ORDER TO ACCEPT TOWN OF BARNSTABLE'S AMENDED APPLICATION AND THE COMMUNITY PRESERVATION COMMITTEE'S VOTE TO APPROVE THE AMOUNT OF \$320,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR FALCON ROAD CONSERVATION RESTRICTION TO BE HELD BY BARNSTABLE LAND TRUST INTRO: 09/17/2020, 10/01/2020

Upon a motion duly made and seconded it was to withdraw agenda item 2021- 018.

VOTE: PASSES 12 YES

Jump to 2021-019

2021-019 ORDER TO ACCEPT TOWN OF BARNSTABLE'S AMENDED APPLICATION AND THE COMMUNITY PRESERVATION COMMITTEE'S VOTE TO APPROVE THE AMOUNT OF \$500,000 IN COMMUNITY PRESERVATION OPEN SPACE/RECREATION FUNDS FOR 830 WAKEBY ROAD CONSERVATION RESTRICTION TO BE HELD BY BARNSTABLE LAND TRUST INTRO: 09/17/2020, 10/01/2020

Upon a motion duly made and seconded it was to withdraw agenda item 2021- 019

VOTE: PASSES 12 YES

President Hebert inquired if Council should be looking at the next new business items? Charlie McLaughlin, Senior Town Attorney advised the second item can be acted on and the third item could be ready for next session.

2021-020 RESOLVED THAT THE TOWN MANAGER PETITION BARNSTABLE COUNTY PURSUANT TO GENERAL LAWS CH. 82 TO ABANDON ALL ITS INTEREST IN CRAIGVILLE BEACH ROAD AND UPON ABANDONMENT THE TOWN OF BARNSTABLE THE TOWN WILL CONTINUE TO MAINTAIN THE ROAD AS A PUBLIC WAY INTRO: 10/01/2021

Charlie McLaughlin, Senior Town Attorney gave the rationale. He explained the Town had entered into a host community agreement with Vineyard Wind to support Phase 1. He discussed the Vineyard Wind project which will install cable underground and allow the Public Works Department to install sewer lines for cost savings of 3 million dollars. Charlie McLaughlin said the Town will need to certify ownership "easement for all purposes" send legal title to State and Vineyard Wind and their creditors.

Charlie McLaughlin suggested reposting item 2021-020 and take action on October 15, 2020. He explained take all three items as first reading. Karen Nober, Town Attorney added the items should be changed to orders on October 15th.

Upon a motion duly made and seconded it was

VOTE: REFER TO A SECOND READING ON 10/15/2020 PASSES 12 YES

2021-021 RESOLVE THAT THE TOWN PETITION BARNSTABLE COUNTY TO GRANT AN EASEMENT WITHIN THE FULL LENGTH OF CRAIGVILLE BEACH ROAD IN ACCORDANCE WITH A SKETCH ATTACHED HERETO FOR ALL PURPOSES FOR WHICH PUBLIC WAYS ARE UTILIZED IN THE TOWN OF BARNSTABLE INTRO: 10/01/2021

Upon a motion duly made and seconded it was

VOTE: REFER TO A SECOND READING ON 10/15/2020 PASSES 12 YES

2021- 022 RESOLVE THAT THE TOWN OF BARNSTABLE GRANT TO VINEYARD WIND LLC AN EASEMENT EXTENDING FROM COVELLS BEACH TO INDEPENDENCE PARK ALONG THE ROUTE SHOWN IN THE SKETCH ATTACHED HERETO AS PREPARED BY THE ENGINEERING DEPARTMENT FOR UTILITY PURPOSES ONLY. THIS EASEMENT SHALL TERMINATE AS SUCH TIME AS A PERMIT GRANTED TO VW LLC BY THE UNITED STATES GOVERNMENT BUREAU OF OCEAN MANAGEMENT SHALL CEASE TO BE IN FULL FORCE AND EFFECT. THE FINAL FORM OF THE EASEMENT SHALL BE APPROVED BY THE TOWN ATTORNEY INTRO: 10/01/2021

Upon a motion duly made and seconded it was

VOTE: REFER TO A SECOND READING ON 10/15/2020 PASSES 12 YES

Break 9:56 pm to 10:02 pm

2020-193 ORDER AMENDING CHAPTER 240 ZONING, ARTICLE II, SECTION 7 ADDING CERTAIN PROVISIONS PERTAINING TO SHORT TERM RENTALS INTRO: 06/18/2020, 10/01/2020

Upon a motion duly made and seconded it was

ORDERED that the Code of the Town of Barnstable, Chapter 240 Zoning, Article II, Section 7, be amended by adding the following subparagraph (J) to Section 240-7:

“J. Short term rentals. Notwithstanding any provisions to the contrary in this Chapter 240, short term rentals shall be permitted within lawful dwelling units in all zoning districts. A short term rental shall be defined as a residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506. Cottage Colony shall be defined as a group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis. When a property is in use as a short term rental, on-site parking shall not be in any cultivated or landscaped area between a roadway and the part of the principal structure nearest to the roadway.”

VOTE: REFER TO OCTOBER 15th, 2020 MEETING PASSES 10 YES 2 NO (NEARY AND STEINHILER)

Karen Nober, Town Attorney explained at the last meeting Councilor Cullum amendment had a 3 night minimum but Councilor Levesque made a suggestion to remove the 3 night minimum if the owner was present during the rental.

Councilor Cullum reiterated the amendment included 3 night minimum.

Karen Nober, Town Attorney discussed the Town Council Rule number # 5 of the Mason Rules. It stated that after a motion to amend one can only amend once and after the amendment has been approved it cannot be amended. She added Councilors can suspend the rule for further motions to amend. Language to be utilized is “Rule #5

suspending ...Councilor” President then states if there are no objections then rules are suspended.

Councilor Bogan suggested regarding STR in peak season June 21st to October 15th it should have a seven night minimum stay and a minimum two night stay from October 1st to May 30th and cap number of times to 120 days or 40 instances. Councilor Cullum asked if there were other amendments.

Councilor Steinhilber said the language regarding in season and out season was not supportive to families. He suggested two nights minimum and the cap number of leases to two separate parties. Councilor Bogan questioned the maximum number of caps per calendar year. Councilor Steinhilber suggested two nights minimum with two- lease max for the week. Vice President Rapp Grassetti asked about how would the rentals be regulated and enforced? Councilor Bogan suggested record keeping of a register. Councilor Cullum added complaint driven issues was the enforcement piece along with the journal.

Councilor Shaughnessy felt the agenda item should be continued due to the pandemic and would make public demand more meaningful if heard by public. This is merit reconsideration due to public concerns. President Hebert noted a continuation was a good idea point well taken another meeting just on STR. Councilor Bogan felt the agenda item needed to be finished and there was STR fatigue but added the idea to continue for public had merit. Councilor Schnepp question whether the delay would for a month or so? She mentioned this was being deliberated at 10:00 pm maybe it was best to continue to another meeting. Councilor Dagwan felt the item should move forward within the next month and not prolonged to first of year. Councilor Steinhilber reiterated two nights stay and asked if there was an objection to this? Councilor Cullum withdrew her amendment. Councilor Steinhilber withdrew his amendment with no objection.

Councilor Steinhilber made a motion for two nights minimum stay two-lease max within a seven day period seconded by Councilor Cullum.

Councilor Starr asked for Elizabeth Jenkins' input. Elizabeth Jenkins, Planning and Development Director explained the State did not get in to that level of length of stay or number of bookings. Councilor Neary felt they were making assumptions without the data. He suggested agenda item 2020-193 continued to September 16, 2021. He felt then the ordinance language could be worked out; there would be time for public comment and there would be one year's worth of data. Karen Nober, Town Attorney offered motion to reconsider. Councilor Cullum felt it was irresponsible to walk away from the item and added there needed to be zoning to go with the general ordinance.

Vice President Rapp Grassetti moved to vote on the amendment on the table. Councilor Steinhilber restated the amendment: add two night minimum stay and two-lease maximum in a seven day week.

VOTE: FAILS 5 YES 7 NO (BOGAN, CLARK, DAGWAN, RAPP GRASSETTI, HEBERT, SHAUGHNESSY, STARR)

A motion duly made and seconded to extend the meeting past 11 o'clock.

VOTE: PASSES 11 YES 1 NO (CULLUM)

Councilors discussed possible language changes and revisions. President Hebert said it was not critical to go in to the Executive Session. Councilor Levesque suggested minimum two night stay with a limit number of lease per year with a suggested starting place of minimum of 60 leases. Councilor Clark asked about frequency of trash removal. Councilor Dagwan added parking issues.

Councilors spoke about: possible line by line discussions regarding the ordinance language; with no public hearing during November 5th meeting.

Councilors talked about moving the executive session. Karen Nober said the discussion can wait as conservation law suit could file next week. Discussion was about postponing the Executive Session until next meeting Mark Ells felt there was no problem.

A motion was duly made and seconded to move Executive Session to October 15th meeting

VOTE: PASSES 12 YES

Jump to 2020-192

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES INTRO: 06/18/2020, 07/16/2020, 08/20/2020, 09/17/2020 , 10/01/2020
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Upon a motion duly made and seconded it was move agenda item 2020-192 to September 1, 2021.

VOTE: FAILS 3 YES 9 NO (BOGAN, CLARK, CULLUM, DAGWAN, RAPP GRASETTI, HEBERT, LEVESQUE, SCHNEPP, STARR)

Upon a motion duly made and seconded it was

SECTION 1. ORDERED that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

“CHAPTER 190 SHORT TERM RENTAL PROPERTIES

§ 190-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

§ 190-2 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING COMMISSIONER

The Building Commissioner of the Town of Barnstable or his designee.

COTTAGE COLONY

A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

DWELLING

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

INSPECTIONAL SERVICES DEPARTMENT

Consisting of Town Building and Health Divisions.

OCCUPANCY

The use or possession of or the right to use or possess a short term rental.

OCCUPANT (GUEST)

Any individual residing overnight in a short term rental.

OPERATOR (HOST)

Any person as defined below operating a short term rental.

OPERATOR'S AGENT

A person who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER

Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

SHORT TERM RENTAL

A residential dwelling or remove any portion of bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of

Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

§ 190-3 Short Term Rental Registration

A. Registration Required

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

B. Limits on Number of Registrations per Owner

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

C. Compliance

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

D. Application Required

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

E. Registration Renewal

Short term rental registrations shall be renewed “every year” (annually) after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

F. Fees

The fee for a short term rental registration or a renewal of a registration shall be initially set at “(\$90)” and thereafter may be modified by the Town Manager at a fee hearing.

G. Non-Transferability

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

§ 190-4 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent

- A. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

§ 190-6 Good Neighbor Information

Short term rental registrations will be published to the Inspectional Services page of the Town's website and shall include the contact information required in section 190-5(C) above. The website shall also include information about these short term rental regulations, and instructions and contact information to file a complaint.

§ 190-7 Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- A. Provide occupants a copy of the provided information; and
- B. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

§ 190-8 Trash Removal

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week,

whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

§ 190-9 Occupancy Requirements

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

§ 190-10 Smoke Detectors and Carbon Monoxide Alarms

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

§ 190-11 Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

§ 190-12 Ineligible Units

The following are not eligible to be rented or offered to rent as Short Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental;
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders;
5. Properties designated as Problem Properties under Chapter 160.

§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 190-14 Inspections

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff ("Inspectors").

§ 190-15 Complaint Process, Violations

- A. Complaint. A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department. A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- D. Review of Complaint. The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.
- E. Offering an Ineligible Unit as a Short Term Rental. Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.
- F. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner

or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

§ 190-16 Registration Suspension, Modification and Revocation

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

§ 190-17 Judicial Appeals

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

§ 190-18 Penalties

A. Any person who violates any provision of this chapter may be subject to a fine in accordance with the following:

- Warning 1st Offense
- \$100 2nd Offense
- \$200 3rd Offense
- \$300 4th Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.

§ 190-19 Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

§ 190-20 Regulations

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

§ 190-21 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- A. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- B. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

VOTE: REFER TO THE NOVEMBER 5th, 2020 MEETING PASSES 12 YES

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

Adjourned at 12 :10 AM

Respectfully submitted,

Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: October 15, 2020

EXHIBITS:

- A. Town Manager’s Report