

Background Materials – February 6, 2023– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 2/3/23

Cable Access Channel 15 –The Cable Studio has indicated that this meeting will be live streamed on Channel 15.

AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 8/8/22, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://southhadley.org/DocumentCenter/View/9842/Open-Comment-Period-Policy---As-Adopted-2022-08-08>

Action Needed: Allow members of the public to offer comments to the Board.

AGENDA ITEM #2 Minutes

Planning and Conservation Coordinator Colleen Canning will forward minutes separately.

Action Needed: Vote to approve the minutes.

AGENDA ITEM #3 Correspondence

A list of correspondence received will be sent prior to the meeting and/or is attached.

Action Needed: No action needed.

Due to the advertised time of the public hearing beginning at 7pm. I recommend the Board take up Agenda Item #5 Planning and Conservation Department Report.

7:00 PM - AGENDA ITEM #4

Short Term Rental Zoning Bylaw and General Bylaw Public Hearing

Draft bylaws are online here: <https://www.southhadley.org/1318/ProposedDraft-Bylaws>

Short Term Rentals (STR) in South Hadley are considered any rental of all or part of a dwelling unit for 28 consecutive days or less, including home sharing and vacation rentals. Other communities may define them for greater or fewer number of days. STRs are sometimes referred to as AirBNB or VRBO, however both are rather companies that provide an online reservation platform for short term rentals. Thus, throughout the bylaws and this discussion, the term “short term rental” is used as defined above.

Why Regulate Now?

Municipal staff for the Town of South Hadley have been tracking regulation of short term rentals at the state and local level for several years. Massachusetts adopted legislation on December 28, 2018 regulating the short term rental industry via "An Act Regulating and Insuring Short Term Rentals", which became effective on March 28, 2019. The Act amends MGL c.64G to provide regulation of the short term rental industry, which includes hosting platforms such as Airbnb. In summary, this legislation requires short term rentals to register with the Commonwealth and are subject to state excise tax. In response to the new law, Massachusetts towns and cities began adopting bylaws to regulating short term rentals within their communities.

Thereafter, South Hadley Inspection Services/Building Department began looking into the presence of short term rentals within South Hadley and to what extent they were regulated. South Hadley Zoning Bylaw Chapter 255-16 states that any use not identified within the bylaw is prohibited. Short term rental use was not identified in Chapter 255 and therefore determined to be prohibited. Thus, in April 2022, former Building Commissioner David Gardner issued cease and desist orders to the operators of twelve short term rental operations he had identified. Of those twelve, two were able to obtain Special Permits to operate Bed and Breakfast facilities because they met the conditions of the zoning bylaw for that use. Mr. Gardner informed the Board that he was not aware of any complaints filed against these operations but rather it was a matter of zoning compliance that he was seeking to enforce.

At that time, the Planning Board chose to develop bylaws to regulate short term rentals, knowing that they were existing in town and were growing in popularity regionally and nationally. By adopting regulations, the community has the ability to dictate where and under what conditions these rentals can operate to ensure that they provide only benefits to the community and not nuisance.

As part of that process, research was done to understand how short term rentals were regulated in other communities including reviewing bylaws from 18 other towns and cities in Massachusetts, review of materials produced by Franklin Regional Council of Governments and the American Planning Association, and guidance from Town Counsel Mead, Talerman, and Costa. In addition, there was coordination between the Board of Health, Building Commissioner, and Planning Director to determine how a rental registration and short term rental license process would be developed. Out of that research, templates for a general and zoning bylaw were brought before the Planning Board for discussion. The draft bylaws subject to the Public Hearing on 2/6 are the outcome of those discussions and research.

Zoning Bylaw – PROPOSED

The purpose of a Zoning Bylaw is to regulate the use (activity on a specific parcel of land) within each of the twelve zoning districts in South Hadley. Such regulation includes whether or not the use is allowed, by what form of zoning permit, if any, and the standards that the use must comply with. Zoning permits for STRs are proposed to be either by Site Plan Review or Special

Permit. Issuance of a zoning permit in no way waives any rental operation from complying with all applicable local, state and federal building, fire and other codes and regulations.

Within the proposed zoning bylaw, STRs are classified as either Owner Occupied or Non-Owner Occupied.

Owner Occupied STRs are proposed to be allowed as follows:

- by Site Plan Review in the four Residential zoning districts (RA1, RA2, RB, RC) and the Agricultural zoning district;
- by-right in the four Business zoning districts (BA1, BA, BB, BC); and,
- prohibited in the Industrial zoning districts.

Non-Owner Occupied STRs are proposed to be allowed as follows:

- by Special Permit in the Residential, Agricultural and Business Zoning Districts
- prohibited in the Industrial zoning districts

General Bylaw – PROPOSED

The purpose of a General Bylaw is to establish regulations that are not legally permitted within zoning, and apply generally townwide irrespective of zoning. The primary purpose of the General Bylaw is to create a licensing and registration process for all STRs, and a process for inspections and complaints. Non-compliance with the stated requirements and standards for operation as defined within the General Bylaw will result in suspension or termination of the STR license.

The General Bylaw designates the Building Commissioner as both the licensing agent and enforcement officer. The limit on the total number of STR licenses in South Hadley shall be twenty-five (25). Of the total number of licenses, no more than five (5) shall be non-owner occupied.

Action Needed: The Board needs to conduct the public hearing. Depending on how long the public hearing is, the Board may choose to close the hearing and begin deliberations on potential changes to the draft bylaws. Revised draft bylaws will then need to be reviewed by the Board at a future meeting (March 20th) and a vote taken to request the bylaws be put on the Annual Town Meeting Warrant.

AGENDA ITEM #5 Planning & Conservation Department Report on Planning Projects and Development Updates

Next Meetings and Posted/Pending Agendas

2/27	<ul style="list-style-type: none"> Rocky's Ace Hardware, 501 Newton Street – Site Plan Review Extension Gulf Gas Station, 72 Lamb Street – Illuminated Sign Permit Request Accessory Dwelling Unit Bylaw Public Hearing
3/6	<ul style="list-style-type: none"> 460 Amherst Road – Citizen's Petition for a Zone Change - Public Hearing White Wing Gas Station, 568 Newton Street – Illuminated Sign Permit Request Accessory Dwelling Unit Bylaw Public Hearing Continuation/Board Deliberations
3/13	<ul style="list-style-type: none"> 280 and 286 Granby Road– Landowner Petition for a Zone Change - Public Hearing
3/20	<ul style="list-style-type: none"> MPIC Bylaw Revisions Review Short Term Rental Bylaws Public Hearing Continuation/Board Deliberation
3/27	<p>No items scheduled at this time. This meeting will likely need to be devoted to unfinished deliberations on proposed bylaws or zone change requests. The Selectboard will set the warrant for Annual Town Meeting the first week in April so this is the Board's last meeting to finish work on items to send to Town Meeting.</p>

In addition to what is already scheduled, I am aware of several pending permit applications for new development projects. Given the full agenda thru March, I will attempt to schedule any new permit applications for April, as long as statutory timeframes for permit review under MGL c.40A and/or Chapter 255 allow.

Housing Production Plan

The next Housing Plan Advisory Committee meeting will be on 2/23/23. The Committee is currently reviewing the draft Housing Needs Assessment section of the plan and will offer comment at that meeting. They will also be reviewing plan goals and strategies, and site selection for affordable housing project concepts that will be the subject properties for Utile to do conceptual layout plans.

Park at Woodlawn Housing Development Project Update – 501 Newton Street

South Hadley Plaza LLC received Plan Approval and a Stormwater Management Permit for the development of a 60-unit mixed income affordable housing apartment building called the Park at Woodlawn. In spring 2022, through their housing partner WayFinders, they informed the Town that they were attempting to address a \$5.8 million funding gap. The project was

originally estimated at \$23M, was now just over \$29M, which had stalled initiation of construction. The applicant informed the Town this week that they have applied for funding from the State to bridge the gap (MassHousing Workforce Funding and State ARPA funds through DHCD). They anticipate a response in May 2023. Assuming they do receive the funds, they would close on the project in October 2023, begin construction in November 2023, and begin lease up with tenants in January/February 2025.

Due to the delay in the Park at Woodlawn housing project, Rocky's Ace Hardware also delayed initiating construction of the approved Rocky's Hardware and Garden Center, also planned for a portion of the site at 501 Newton Street. In May 2021, the project received Site Plan Review approval. That permit expired on June 15, 2022. The applicant, South Hadley Plaza LLC has submitted a request for an extension, and is scheduled for the Board's 2/27/23 meeting. The applicant has stated that the commercial project was dependent on the housing project moving forward.

Accessory Dwelling Unit Draft Bylaw - Public hearing scheduled for 3/6/23 at 6:30PM

Public comment on the draft bylaw is open and welcome! If you cannot attend the public hearing, comments may be submitted via email or hardcopy as follows:

SHPlanBoard@southhadleyma.gov

Planning and Conservation Department 116 Main Street, South Hadley, MA 0107

The draft bylaw is online here:

<https://southhadley.org/DocumentCenter/View/10679/Accessory-Dwelling-Unit-Bylaw---Working-Draft---January-20-2023>

AGENDA ITEM #8 Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

No new business had been submitted to me as of today.

Short Term Rental Zoning Bylaw - DRAFT
October 7, 2022

Chapter 255. Zoning

Article VII. Supplemental District Regulations

§255-X. Short Term Rentals

A. Purpose and Intent. The operation of short term rentals within residential properties shall be permitted under the provisions of this section. It is the intent of this section to:

1. Ensure the compatibility of the short term rental with the social, cultural, and physical characteristics of the neighborhood;
2. To protect and enhance the essential characteristics and quality of life within existing residential neighborhoods for all residents; and,
3. Allow residents to engage in generation of revenue from their properties while avoiding excessive noise, traffic, and other possible adverse effects of transient populations in residential areas.

B. Special Permit required per Article IX of the Zoning Bylaw.

[Zoning Districts where use is allowed by Special Permit to be noted in Use Regulations Schedule]

The Planning Board, acting as the Special Permit Granting Authority, may approve a special permit allowing for a short term rental in such zoning districts where permitted under the Use Regulations Schedule.

C. A short term rental is defined as all or part of a legally established Dwelling Unit for no more than twenty-eight (28) consecutive days or less, including home-sharing and vacation rentals.

D. Application Requirements. Plans for short term rental need only comply with the following requirements, and not those of Article XII:

1. Plan Requirements: A parcel map showing the following, at a scale determined sufficient by the SPGA:
 - a. Parcel boundaries;
 - b. Location of all structures within the parcel, including the dwelling proposed for the short term rental;
 - c. Location of parking for maximum number of potential occupants in the short term rental, as well as any other occupants of all dwelling units on the parcel.
 - d. Floor plan of the dwelling indicating entrance(s) and layout of the short term rental and all other dwelling units.

2. A list of each room, including bedrooms, offices, dens, living rooms, kitchen and sunroom in the Dwelling Unit. The list shall include for each room: (i) whether or not the room will be rented; (ii) the maximum number of overnight guests that will be allowed.
3. Contact Information. Name(s) and current contact information for the owner-occupant of the property subject to the short term rental, including but not limited to mailing address, telephone number and email address.
4. Trash Collection. Narrative detailing how trash will be stored and removed from the property.
5. Snow Removal. Narrative detailing how and where snow will be removed and stored on site while STR is occupied.

E. General Criteria and Standards.

1. Applicant must be the owner-occupant of the dwelling unit.
2. The dwelling unit must have been legally established under the Town of South Hadley Zoning Bylaws Chapter 255.
3. The tax parcel(s) subject to the location of the dwelling unit to be used as the short term rental must be in compliance with the Zoning Bylaw Dimensional Schedule.
4. The tax parcel(s) for the dwelling unit designated for the short term rental must be current on all local taxes and fees.
5. Deed restricted units for affordable housing are not eligible.
6. Owner-Occupied Short Term Rentals
 - a. Owner-Occupied Short Term Rentals – The owner-occupant or their representative must reside on the property during the rental period to satisfy the owner occupancy requirement.
 - b. In the event the property is owned by multiple persons, related or unrelated, only one of the persons having an ownership interest in the property must reside on the property to be owner-occupied.
7. Non-Owner Occupied Short Term Rentals
 - a. The owner-occupant must be the license applicant.
 - b. The owner-occupant does not reside on the property during the rental period, however they assume all responsibility for the operation and maintenance of the property, including but not limited to any complaints.

F. Conditions and Restrictions. The following conditions and restrictions shall apply to each parcel on which one or more short term rental Special Permits are approved under these provisions:

- a. All applicable building and fire codes must be complied with.
- b. Adequate onsite parking, as determined by the SPGA, shall be provided, to be determined by the number of bedrooms within the short term rental.
- c. No exterior signage is permitted.
- d. There shall be no exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the short term rental business.

- e. A Business License from the Town Clerk must be obtained.
- f. A Lodging Permit from the Board of Health must be obtained.
- g. An annual Rental Registration License must be obtained through the Building Commissioner.
- h. The Planning Board may waive any of these conditions as deemed appropriate to the specific conditions of the site.
- i. The Building Commissioner may adopt regulations for the administration of this bylaw and short term rental special permits.
- j. No more than one short term rentals are permissible on any one tax parcel.
- k. Any approved Special Permit shall expire with a lapse or revocation of the annual Rental Registration License, and/or a change in ownership of the property. The Special Permit is non-transferable.

DRAFT

CHAPTER 255 USE REGULATIONS SCHEDULE
DRAFT
October 7, 2022

Use Classification	Zoning Districts											
	Residence				AGR	Business				Industrial		
	A-1	A-2	B	C		A-1	A	B	C	A	B	Garden
Bed-and-Breakfasts	SP	SP	N	N	SP	N	N	N	N	N	N	N
Home Occupation I	Y	Y	Y	N	Y	N	Y	Y	N	N	N	N
Home Occupation II	SPR	SPR	SPR	N	SPR	N	SPR	SPR	N	N	N	N
Motels-Hotels	N	N	N	N	N	N	N	N	SP	N	SP	N
PROPOSED Short Term Rental – Owner Occupied	SPR	SPR	SPR	SPR	SPR	Y	Y	Y	Y	N	N	N
PROPOSED Short Term Rental – Non-Owner Occupied	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N

General Bylaw – Chapter 136 - Residential Short-Term Rental Units

October 18, 2022

§ 136-1 Purpose.

This bylaw is adopted in accordance with the Town of South Hadley's Home Rule Authority, in furtherance of the following public purposes:

- A. To protect the health, safety, and welfare of tenants and other citizens of the Town of South Hadley by monitoring and enhancing compliance with basic life safety and sanitary codes through the registration and licensing of residential Short-Term Rental Units.
- B. To ensure safe and sanitary conditions in South Hadley's rental housing stock.
- C. To provide clear and accessible guidelines for the operation of residential Short-Term Rental Units for tenants, owners, landlords, and neighbors, and to extend awareness of related Town bylaws and health regulations related to operation of a rental property and those regulations related to noise, alcohol and nuisance behaviors.
- D. To establish and expand awareness of the requirements for use and maintenance of rental housing exteriors and grounds, including parking requirements.
- E. To ensure awareness of and responsibility for occupancy limits in rental units on the part of property owners, managers, tenants, and neighbors.
- F. To help to stabilize, protect, and enhance the essential characteristics of and quality of life within existing residential neighborhoods for all residents.

§ 136-2 Registration & License Required.

Except as provided in § 136-4 below, no person, firm, trust, partnership, corporation or other legal entity may rent, or offer to rent, to individuals or households any Short-Term Rental Unit without a license issued by the Building Commissioner.

§ 136-3 Enabling Legislation & Regulations.

All Short-Term Rental Units regulated hereunder shall comply with all applicable local bylaws and regulations, as well as all state laws and health, building and fire codes. All inspections, enforcement, and other actions taken under these regulations are authorized under those applicable local and state laws and regulations, as amended.

§ 136-4 Applicability & Exemptions.

Licenses shall be required of all residential properties containing Short-Term Rental Units, or offered for that purpose, except for the following:

- A. Lodging Facilities. Hotels, motels, inns, hostels, or bed and breakfasts.
- B. Halfway Houses & Group Homes. Residential facilities authorized and operated under state and federal law, congregate or similar group housing for the elderly or disabled, half-way houses for persons with substance abuse problems, congregate living arrangements for persons with disabilities, or other similar housing facilities operated under license by the Commonwealth of Massachusetts.
- C. Short-Term Rental Exception. This bylaw shall not apply to the Short-Term Rental of a Dwelling Unit during a pending sale of the property by the Owner-Occupant.

§ 136-5 Definitions.

Under these regulations, the following terms have the meanings indicated:

AFFORDABLE HOUSING UNIT

Dwelling units restricted to rental or purchase by households with an annual income no greater than 80% of the median income for South Hadley, as calculated by the U.S. Department of Housing and Urban Development or any successor agency, adjusted for family size. Such units must be countable under MGL c. 40B as part of the Town's subsidized housing inventory.

CODE OFFICIAL

The Building Commissioner/Zoning Enforcement Officer of the Town of South Hadley, the Health Director, the Police Chief, Fire Chief, or their designees and/or any of the inspectors or officers authorized to enforce the law, regulations and codes listed under Section 3 of this bylaw. The specific Code Official in each instance will be the official duly designated under the relevant statute, bylaw, or regulation.

DWELLING UNIT

The room or group of rooms within a dwelling used or intended for use by one family, or household for living, sleeping, cooking and eating. Dwelling unit shall also mean a condominium unit.

EMERGENCY

Events or conditions involving natural disasters, fire, or other threats to the health and safety of the residents of a rental property.

OWNER

Every person who alone or jointly or severally with others: (1) has legal title to any building, structure, or property subject to this bylaw, or; (2) has care, charge, or control of any such building, structure, or property in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or (3) is a lessor under written agreement; or (4) is the mortgagee in possession; or (5) is the recognized agent, trustee or other person with care, charge, or control appointed by the courts.

OWNER-OCCUPANT(S)

One or more natural persons who, in their individual capacity as distinct from any representative capacity, own(s) a whole or undivided interest in fee simple of certain real property and at least one of whom occupies a dwelling unit thereon as his or her principal residence (see definition).

PERSON

An individual, corporation, trust, partnership (including general partnership, limited partnership, and limited liability partnership), and a limited liability company. In addition, any similar entity licensed by law to hold title to real estate shall for the purpose of this by-law be deemed a “person.”

PRINCIPAL RESIDENCE

The primary residence of an individual, family (as defined in the Zoning Bylaw), or property owner, i.e., the home where an owner, and the owner’s family if applicable, resides as their primary dwelling; provided however, that no person shall hold concurrent rights in more than one (1) principal residence, as set forth under MGL Ch. 188, Section 1, as amended. Regular or periodic interruptions in residency shall not be considered to change the status of principal residency where such interruptions are the result of illness, catastrophe, professional or academic scheduling, or other temporary reasons for absence which do not affect basic indices of residency. For the purposes of this Bylaw, principal residency shall be determined by the Code Official based upon a preponderance of evidence, including but not limited to the following indicia of residency and address, as applicable: declaration of homestead, filing of state and federal income taxes, voter registration, annual street list, driver's license, motor vehicle registration, mortgage, mailing address, and telephone listing (if any).

SHORT TERM RENTAL

Any rental of all or part of a Dwelling Unit for 28 consecutive days or less, including home-sharing and vacation rentals.

§ 136-6 Conditions

Licenses for Short-Term Rental use are conditioned upon the following:

- A. Only spaces intended for human habitation may be offered for rent as Short-Term Rentals. For example, the applicant cannot offer for rent an accessory structure such as a shed or garage.

- B.** Only legally established Dwelling Units may be offered for rent as Short-Term Rentals. Structures including but not limited to campers, mobile homes, RVs, tents/tent platforms, yurts, and any other temporary structure or mobile vehicle do not qualify as Dwelling Units for the purpose of short term rental lodging.
- C.** Short-Term Rentals may not be advertised using any exterior signs or displays.
- D.** All Short-Term Rental advertisements must include the license number issued by the Town.
- E.** Only Owner-Occupants may offer all or part of their Principal Residence as a Short-Term Rental.
 - 1. Owner Occupied
 - a. The owner-occupant or their representative must reside on the property during the rental period to satisfy the owner occupancy requirement.
 - b. In the event the property is owned by multiple persons, related or unrelated, only one of the persons having an ownership interest in the property must reside on the property to be owner-occupied.
 - c. In the event the property is owned by a business entity, a designated owner representative must reside on the property in a permanent or ongoing basis to carry out the functions as if they were the owner of the property.
 - 2. Non- Owner Occupied
 - a. The owner-occupant must be the license applicant.
 - b. The owner-occupant does not reside on the property during the rental period, however they assume all responsibility for the operation and maintenance of the property, including but not limited to any complaints as herein defined.
 - c. In the event the property is owned by a business entity, a designated owner representative must be identified including their name and contact information.
- F.** Licensees shall maintain liability insurance appropriate to cover Short-Term Rental use.
- G.** Short-Term Rentals may only be rented to one party or group at a time, individual rooms may not be rented to separate, unrelated parties or groups at the same time.
- H.** The number of individual bedrooms made available for Short-Term Rentals within a Dwelling Unit shall not be greater than the number of lawful bedrooms in the Dwelling Unit.
- I.** Renting for less than Twenty-Four (24) hours is prohibited.
- J.** Commercial meetings and uses are prohibited.

- K.** Affordable Housing Units, or units otherwise rent controlled, are not eligible for Short-Term Rental Licensing.

§ 136-7 Licensing.

A. Application Process and Requirements.

License applications shall be made on forms approved by the Town, and shall provide such information as the Building Commissioner shall deem reasonable and appropriate. Completed applications shall be submitted to the appropriate Building Department. Complete license applications shall be reviewed, and licenses shall be issued within fourteen (14) working days from the date of submission. A license application shall identify the total number of rental units on the property.

Information required as part of a license application shall include:

- (1)** Contact Information. Name(s) and current contact information, including but not limited to mailing address, telephone number and email address, for all owners, or agent of the owner, and person who can be contacted 24 hours a day/ 7 days a week in case of Emergency.
- (2)** A list of each room, including bedrooms, offices, dens, living rooms, kitchen, sunroom, in the Dwelling Unit. The list shall include for each room: (i) whether or not the room will be rented; (ii) the maximum number of overnight guests that will be allowed.
- (3)** An affidavit certifying that the Owner will comply with all of the provisions of the Residential Short-Term Rental Property Bylaw.
- (4)** Compliance Through Self-Certification. Evidence of current compliance with all applicable local zoning and regulations, as well as state health, fire and building codes, shall be provided through submission of an Owner's Self-Inspection and Certification Checklist provided by the Town.
- (5)** Complete & Accurate Information Required. No incomplete application will be accepted. It shall be a violation of this Bylaw for anyone to knowingly provide false or misleading information on an application, and may constitute grounds for fines and other penalties hereunder.
- (6)** Certification by the Applicant that the Applicant is the Owner Occupant of the Principal Residence which is the subject matter of the Application.

B. Renewal.

Licenses shall be valid for a period to begin on July 1 and shall end on June 30, regardless of when a license is applied for or approved and issued. Completed applications for license renewals shall be submitted and received by June 15th of each calendar year.

C. License Posted.

A license shall be conspicuously posted and maintained within the premises in a common area or area as is necessary to be visible to tenants and inspectors.

D. Transferability.

Licenses shall not be transferable upon a change of ownership.

E. Limits on Number of Licenses.

Limits on the total number of licenses within South Hadley shall be twenty-five (25) total active units or less at any one time. Of the total number of active units, no more than five (5) shall be non-owner occupied.

§ 136-8 Inspections & Complaints.

- A. Self-Certification Program.** Owners of Short-Term Rental property governed by this bylaw shall self-inspect and certify their properties as required under this section. Nothing in the Self-Certification program shall limit the Town's authority or the authority and/or discretion of the Code Official to investigate and inspect a property in response to a complaint or for other good cause, or to compel abatement of any violation under this bylaw in a manner consistent with or required by the laws of the Commonwealth.

Owner Self-Inspection & Certification. Unless inspected by local, state or federal government officials, an owner or local agent shall conduct an annual inspection of the property, using a Self-Certification Checklist provided by the Town. The owner or agent shall sign the Checklist indicating, that the information contained therein is complete and accurate as of the date of said annual inspection, and shall submit the Checklist and any required materials along with the application for annual renewal of the license for the property in question. Any false statements or information provided on the Checklist shall constitute a violation of this bylaw for which the Owner shall be responsible.

B. Complaints & Response Process.

Upon receipt of a complaint or notice from any person alleging that the condition, operation, or use of a rental unit or property is in violation of any law or State or local requirement, including but not limited to South Hadley General Bylaw Chapter 179 Nuisances, or of any violation of this Bylaw, the Code Official shall conduct an inspection of a premise within a reasonable amount of time. Inspections shall be as scheduled by the Code Official. Inspections shall be conducted in accordance with all applicable local and state laws, regulations and codes, in a manner consistent with the laws of the Commonwealth. Subject to the above limitation, all rental units are subject to inspection upon complaint or request by a tenant. Issuance of a license to an owner does not preclude tenants' right to file a complaint with the Town, to which the Town must respond with an inspection in compliance with the provisions of state law and regulations.

The licensee shall make a good faith effort to arrange access by authorized Town personnel to any licensed rental property for the purpose of conducting inspections within twenty-four (24) hours of receiving a request.

§ 136-9 Tenant Information.

The Owner shall be required to distribute to tenants, or maintain documents on the premises for use by the tenants, the following information: (1) instructions for disposal of trash/waste per the Town's rules and regulations; (2) an emergency-exit diagram; (3) contact information for the Owner or Agent who is available to respond to all emergencies and problems which may arise during the rental period; and (4) a copy of the license.

§ 136-10 Records.

The Licensee shall keep accurate books and records of all rentals, including the name and address of the tenant based on a legal form of identification, the length of stay and the rent charged. Said records must be made available to the Town upon request and shall be retained for a period of three years from the date of the transaction.

§ 136-11 Occupancy Limits.

The maximum number of adult persons who may occupy a dwelling unit shall be determined by State standards for fitness for habitation, the State Building Code and fire regulations.

§ 136-12 Parking.

All existing parking and any new or expanded parking on residential rental properties within the Town of South Hadley shall comply with the South Hadley Zoning Bylaw.

A. Parking Site Plan. A Basic Parking Site Plan, as described below, meeting the requirements of this section shall be developed and submitted as part of any license application. Submission of an existing site plan approved under a land use (zoning) license and which accurately represents current on-site parking shall meet the requirements of this section.

(1) Basic Parking Site Plan Requirements. The parking site plan shall be drawn to scale (1"=20' preferred), as appropriate to the site. Except as may otherwise be required by the Code Official or under the provisions of South Hadley's Zoning Bylaw, Town of South Hadley GIS mapping, available through the Town of South Hadley website, may be used as the base for a site plan developed under this section.

(2) The Basic Parking Site Plan shall accurately depict the area within which parking is proposed, including:

- i. Property boundaries
- ii. Existing driveways and pedestrian walks
- iii. Dwellings and structures
- iv. All existing and proposed on-site parking spaces
- v. Existing and proposed landscaped areas

- vi. Fencing or other barriers or screening
 - vii. Site features such as trees over 12 inches in diameter (as measured five feet above grade), bedrock outcroppings, steep slopes, and such other site features as may affect parking locations.
- (3) Any provision of this section with regard to Basic Parking Site Plan Requirements may be waived or modified by the Building Commissioner.
- (4) Review. Existing on-site parking and circulation shall be reviewed by Building Commissioner for conformance with existing zoning requirements, including but not limited to parking layout and circulation, paving, parking space dimensions, screening, and, in consultation with the Fire Chief, the sufficiency of circulation and vehicular access for public safety and emergency vehicles.

§ 136-13 Fees.

The Selectmen or designee may set, and periodically revise, a schedule of fees for license applications.

§ 136-14 Enforcement.

- A. Enforcement Personnel. The Building Commissioner and Code Officials.
- B. Enforcement Options. This Bylaw shall be enforced by criminal complaint through a court of competent jurisdiction. In addition, any person committing a violation under this section may be subject to a fine or issued a citation under the noncriminal disposition process of M.G.L. c. 40 section 21D. Furthermore, in appropriate circumstances, a license may be modified, suspended or revoked, or a civil action may be initiated to compel compliance herewith.
- C. Fines. The fine for any violation shall be one hundred dollars (\$100.00) for each offense. Each day such violation continues shall be deemed a separate offense. Fines for other applicable local and state laws, regulations and codes, shall be set and assessed in a manner consistent with those laws, regulations, and codes, and the laws of the Commonwealth.
- D. Suspension. The Building Commissioner is authorized to suspend a license. A suspension shall take effect immediately upon the day following the end of the current lease, or upon any termination of the lease prior to that date. Licenses may be suspended if:
- (1) An Owner or Agent has knowingly allowed or assisted in allowing violations of this Bylaw.
 - (2) An Owner or Agent repeatedly refuses or neglects to comply with an order of the Code Official. The Code Official must find that the Owner or Agent has not taken action to achieve compliance of the property and that at least 90 days have expired without compliance since the date of receipt of the Enforcement Order. During this time the Code Official shall inform the Owner or Agent in writing that the license is subject to suspension.

Suspensions shall be as follows:

First Offense – 90 days

Second Offense in a twelve-month period – 180 days

Third Offense in a twelve-month period – 3 years

- E. Immediate Suspension. In those instances where a rental unit has been condemned or deemed an unsafe structure pursuant to health, building and fire regulations, the license shall be immediately suspended and shall remain suspended until as such time the property is found to be habitable and in compliance by the appropriate Code Official.
- F. Owner Responsibility. The Owner shall be responsible for any violations of this Bylaw, including acts or omissions of his/her Agent.

§ 136-15 Appeals.

All appeals must be filed with the Board of Selectmen within 14 days of the decision or enforcement action and shall be heard within 30 days of filing. All appeals shall be heard at a duly noticed public hearing and any party filing such an appeal shall have the right to be represented by counsel.

A decision of the Selectmen shall be final. Further relief of a decision by the Selectmen made under this Bylaw shall be reviewable in a court of competent jurisdiction.