

Background Materials – August 8, 2022– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 8/5/22

Cable Access Channel 15 – 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 posted on the Town of South Hadley Planning and Conservation Department webpage here: [Policy-on-Open-Comment-Period---As-Adopted-2021-03-08 \(southhadley.org\)](https://southhadley.org/DocumentCenter/View/9804/Pearl-Street-ANR-Plan---2022)

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

AGENDA ITEM #2 Minutes

Senior Clerk Colleen Canning will forward minutes separately.

Action Needed: Vote to approve the minutes.

AGENDA ITEM #3 Correspondence

A list of correspondence received is attached.

Action Needed: No action needed.

AGENDA ITEM #4 188X Pearl Street Approval Not Required (ANR) Application

Plan is online here: <https://southhadley.org/DocumentCenter/View/9804/Pearl-Street-ANR-Plan---2022>

The plan is for the creation of a 40,000 SF lot on a portion of Map 56, Parcel 14 at 188 Pearl Street, owned by Henry and Charles Lukasik.

ANR Standards for Approval

1. **Type of Way:** Pearl Street is considered a public way, maintained by the Town, and for which Chapter 91 funds are received.
2. **Minimum frontage requirements for zoning district:** The subject parcel is within the Agricultural Zoning District and the Water Supply Protection District. As such, the minimum frontage requirement is 150'; and minimum lot size is 40,000SF.
3. **Vital access:** As a publicly maintained way, Pearl Street meets the vital access standard. Therefore, the proposed ANR meets the three standards for ANR endorsement.

The proposed Lot 1 is enrolled in Chapter 61A. There is a pending sale with a signed Purchase and Sale Agreement, with the intended use of the new lot to be for the construction of a single-

family residence. The pending sale and conversion of use from agricultural, would require a withdrawal of the acreage from Chapter 61A and trigger notification to the Town to exercise their first right of refusal for acquisition, as well as a number of requirements including payment of back taxes etc. To date, such notification to the Town has not occurred, however the seller's attorney has told me he is working on it. I have consulted with Town Counsel to determine if such lack of notification and compliance with MGL Chapter 61A would allow the Board to file a Decision on the ANR application with the Town Clerk within the required 21-day period as required under MGL Chapter 41, Section 81. Counsel has advised that the lack of notification under MGL Chapter 61A does not prohibit or prevent ANR endorsement. Thus, the Board must either endorse or not endorse the plan. However, lack of compliance with Chapter 61A on the seller's behalf could invalidate the sale down the road and create other problems, all of which are not within the Planning Board's jurisdiction. The Assessor, Building Commissioner, and Board of Health are aware of this situation.



Action Needed: The Board must either endorse the plan or file a notice of denial with the Town Clerk. If the Board votes to endorse the ANR Plan, the Board should also authorize the

Director of Planning & Conservation to sign the plan on the Board's behalf.

Recommended Motion: Move to endorse the Application for Approval not Required for Lot 1 on a portion of Assessor's Map 56, Parcel 14, Pearl Street; and, to authorize the Director of Planning and Conservation to sign the plan on the Board's behalf.

AGENDA ITEM #5 Open Comment Period Policy Proposed Revision

A request to amend the Planning Board's Open Comment Period Policy was submitted by Susan Newton on June 17, 2022 on behalf of the South Hadley Democratic Tow Committee in objection to language in Section 3(h). The comment stated that the language suggest to restrict discussion amount members of the general public outside of a Planning Board meeting on projects before the Board.

"The concern is around language in Section 3(h), specifically the last sentence: "Further the public hearing is the appropriate time in which make [sic] such comments." Some of our members have pointed out that this seems to restrict discussion between and among members of the general public outside a Planning Board meeting. Presumably, of course, it's not the intent of the Board to restrict speech in that way, but rather to ask attendees to hold their remarks about matters pertaining to a public hearing until the public hearing portion of the meeting. Is it possible for that sentence to be modified in some way, perhaps along the lines of "Further, during a Board Meeting, the time set aside on the Agenda for a hearing is the appropriate time to raise any matter concerning the subject of that hearing, rather than during the Open Comment Period." This is only suggested language, of course, but could help resolve some of the concerns among citizens about the circumstances under which they're allowed to discuss matters before the Planning Board."

See the attached proposed amended policy for the Board's consideration.

Action Needed: Review recommended changes to the policy and vote to amend policy.

Recommended Motion: Move to amend the Planning Board's Open Comment Policy as submitted.

AGENDA ITEM #6 Revisions to Guidelines for Virtual Hearings

As we are all aware, the COVID-19 pandemic required a shift to meeting virtually. The Board adopted guideline for virtual public hearings on October 15, 2020. At that time, the Town was using Google Meet as the online meeting platform. Sometime thereafter, the Town switched to the Zoom platform, and these guidelines were updated to recognize the functionality of this platform. As the Board and the public have become more adept at meeting virtually, it seemed appropriate to update these guidelines and protocols for clarity and efficiency, and to keep them consistent with the Board's recent updates the Special Permit and Planning Board Rules and Regulations.

See the attached Guidelines and Protocols for Virtual Hearings for the Board’s consideration.

Action Needed: Review recommended changes to the Guidelines and Protocols for Virtual Hearings, and vote to amend policy.

Recommended Motion: Move to adopt the amended Guidelines and Protocols for Virtual Hearings as presented (or as edited herein).

AGENDA ITEM #7 Discussion on Developing a Short-Term Rentals Bylaw

The recent cease and desist orders issued by the Building Commissioner on short-term rentals advertised on AirBnB has elevated the need for the Town to adopt a bylaw regulated this use. It would be ideal to develop a bylaw that could be sent to the Special Town Meeting in the Fall for adoption. This discussion began at the 5/9/22 meeting when I shared the “Short Term Residential Rentals” presentation by FRCOG which explores how short term rentals fit into state and local regulations (see 5/9/33 Background Materials <https://www.southhadley.org/DocumentCenter/View/9535/Agenda-Items---5922---Background>) Tonight, we will discuss South Hadley’s regulatory context as it relates to short-term rentals, and review short-term rental bylaws from other communities as examples.

The following interpretations of South Hadley’s Zoning Bylaw provide the background for a discussion about regulating short term rentals:

1. Zoning Bylaw Article 5 Chapter 255-16 Use Regulations states “No lot or land shall be used, and no building or structure shall be erected or used except as set forth in the Use Regulations Schedule as an attachment to this chapter.”
<https://ecode360.com/30052991>
Town Counsel has stated that this means any use not explicitly recognized in the Use Regulations Schedule is prohibited.
2. The Zoning Bylaw does not define “short term rental” or “rental” in general.
<https://ecode360.com/30052840>
The Building Commissioner, also identified as the Zoning Code Enforcement Officer, has determined that the only form of short-term rental recognized within the Use Schedule is Bed-and-Breakfast Facilities (Home and Inn). South Hadley Zoning Bylaw Article VII Chapter 255-39.
<https://ecode360.com/30053385>
3. Per the Use Schedule, BnBs are permitted uses within the Residence A-1, Residence A-2 and Agricultural Zoning Districts, by Special Permit. They are prohibited in all other zoning districts.

4. Per the Use Schedule, Motels-Hotels are permitted uses within the Business C and Industrial B Zoning Districts by Special Permit and are prohibited in all other zoning districts.
 - The Zoning Bylaw defines “Motel” as “An establishment providing lodging on a short-term basis, usually less than one week, where access to the individual sleeping rooms is usually directly from parking spaces or by an exterior walkway.”
 - The Zoning Bylaw defines “Hotel” as “An establishment providing lodging on a short-term basis, usually less than one week; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is usually through a lobby and interior corridors.”
5. The Zoning Bylaw defines “Lodging House” as “A residence where lodgings are let to *five or more* persons not within the second degree of kinship to the person conducting the house and which does not contain a public dining room or cooking facilities in any rented sleeping room.” However, there isn’t any specific zoning regulation that addresses Lodging Houses.

Massachusetts Building Code defines “Lodging House” as “A one-family dwelling with *five or fewer guest rooms* where one or more occupants are primarily permanent in nature and compensation is provided for the guest rooms.”

6. The Building Commissioner and the Board of Health consider “short-term rentals” to be “transient lodging”, and as such, need a Lodging Permit from the Board of Health.
7. As “transient lodging” there are building and fire code requirements that the property owner would need to comply with. Such code compliance would be outside of the Planning Board’s jurisdiction, but compliance with such could be a Condition within a Special Permit granted by the Planning Board.
8. Within South Hadley, the Building Commissioner has identified at least 12 short term rentals advertised through the online platform AirBNB. These property owners were issued cease and desist orders that require them to get a Special Permit from the Planning Board as Bed-and-Breakfast. These 12 rentals are within zoning districts that allow for BnB facilities. Apparently, there were several additional short term rental operations that were in zoning districts where BnBs are prohibited. Those property owners were issued cease and desist letters and told the use is not permitted at all within those zoning districts.

Within the existing short term rental operations, there are several types of rental arrangements occurring:

- a. Entire single-family dwelling; not owner occupied
- b. One dwelling unit within a legal multi-family building; one of the dwelling units is owner occupied

- c. Rooms within a single-family dwelling; owner occupied

Of these existing types of short term rentals within South Hadley, only C potentially meets the standards for a BnB facility under South Hadley Zoning Bylaw 255-39. A and B would not meet the standards and thus would not qualify for a Special Permit and would need to cease operations.

- 9. A rental of any dwelling unit, whether short-term or long-term, would require that the dwelling unit was a legal unit under local zoning. For example, renting one unit in a two or three family house would require that the multi-family dwelling is allowed in the zoning district, and any permits required for that multi-family had been acquired, e.g. Special Permit for a two or three-family in the RA1 district. Illegal apartments or multi-family houses would not be eligible for permitting as short-term rental units.

Questions for Consideration in Design of Short Term Rental Bylaw

- 1. What rental term should qualify as short term?
 - Many bylaws define the rental period as thirty days or less.
- 2. Should the Bylaw be a General Bylaw or Zoning Bylaw?
 - Zoning Bylaw – Could allow short term rentals within certain zoning districts by right, special permit, site plan review, and/or prohibit them in certain districts.
 - General Bylaw – Use would be regulated across all districts
- 3. What zoning districts are appropriate for the use?
 - Districts that allow for BnB Facilities, hotels and motels?

A SAMPLE Short Term Rentals General Bylaw is attached for discussion purposes. It seems most communities are adopting General Bylaws. However, I'm not sure that is the best approach for South Hadley and we may want to regulate them under zoning. We will need to engage with other town departments to make a decision on this.

AGENDA ITEM #8 Planning & Conservation Department Report on Planning Projects and Development Updates

Housing Production Plan Update

The first meeting of the Advisory Committee is being set for early September. Consultant June McCartin has begun data collection and things are off to a great start!

AGENDA ITEM #9 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.

**Guidelines/Protocols for Planning Board Virtual Hearings 10-15-2020 Revisions
Proposed Revisions – August 8, 2022**

~~The following are the guidelines and protocols for Planning Board virtual meetings and public hearings using the Zoom Webinar virtual platform. The South Hadley Planning Board resumed public hearings on pending and new applications on June 15, 2020 using Google Meet. To make this new approach proceed as smoothly as reasonably possible, the Planning Board adopted some Guidelines and the Planning & Conservation Department established some new tools to aid the public in participating in the hearings. This approach has worked reasonably well. When the Board adopted Guidelines in June, it indicated that the Board may revisit the guidelines/protocols. Since the Town is changing to using Zoom as its virtual platform and the Planning Board will be using Zoom Webinar for its meetings and public hearings, some tweaks are needed—the Guidelines/Protocols below reflect the proposed tweaks.~~

Helpful Suggestions:

~~A few suggestions before detailing the Formal Guidelines:~~

- ~~○ Try out your device on the platform—Zoom Webinar (there is also a Zoom Meet but that will not be used for the public meetings)—the Town is using prior to the date of the hearing or meeting. You can log on to other posted meetings in the community that use the platform.~~
- ~~○ Know your device and how it displays the settings for the platform—the controls may appear at different places on different devices.~~
- ~~○ Know how to mute your microphone and control what the camera displays—in virtual meetings, people can often see (and hear) you and what is behind/around you.~~
- ~~○ We want everyone to enjoy the experience—part of that is helped by muting any other devices (such as cell phones, televisions, radios, etc.) which could disrupt the hearing.~~

Organization and Procedures of Public Hearings

The following sequential steps are typical of a Planning Board Public Hearing:

- a) Chair recesses the meeting for the public hearing
- b) Chair calls the hearing to order
- c) Clerk reads the public hearing notice (if it is a continuation of a previous hearing, there is not typically a notice read; the Chair will announce that it is a continuation)
- d) Chair allows the applicant to make a presentation
- e) Chair will ask staff or consultants working for the Town to speak or make a presentation
- f) Board members will ask the applicant, staff, and Town consultants questions (~~often this will occur during the presentations as well as after the presentations (staff may also pose questions)~~)
- g) At a point determined by the Chair that the ~~that the Chair determines that the~~ Board members, staff, and Town consultants have no further questions, the Chair will entertain comments/questions from the public (~~see last section for guidelines for submitting/making comments/questions~~)

**Guidelines/Protocols for Planning Board Virtual Hearings 10-15-2020 Revisions
Proposed Revisions – August 8, 2022**

The Hearing Guidelines and Protocols/Protocols—Generally

- 1). Materials Submittal: All materials to be used by the applicant or the Town need to be submitted as a PDF to the Director at least ~~one week~~ **three full business days** prior to the hearing so the documents may be uploaded to the website to enable all parties to view materials, ~~(including, but not limited to, the Board members, Town staff, and the interested members of the public) involved in the hearing to download the documents for use during the hearing.~~
- 2). Time limitations - Meetings: Three-hour limitation on Planning Board meetings including hearings. The Chair may, in exceptional circumstances, at the Chair's discretion, extend this time limit.
- 3). Time limitations – Hearings: Two hour limitation on any hearing with the hearing to be continued to another predetermined date (unless extended at the discretion of the Chair).
- 4). Recording and Posting: Hearings will be recorded and posted ~~(online and possibly, hopefully,~~ on Channel 15). Meetings are also anticipated to be similarly recorded and posted.
- 5). Live Streaming: Hearings will be live streamed on online and Channel 15 when feasible, ~~—if the Selectboard or School Committee is meeting, it will not be feasible.~~
- 6). Virtual Platform: The Town's virtual meeting platform is Zoom. The Planning Board will use the Zoom Webinar platform for all virtual meetings unless/until the Town acquires licenses to utilize an alternative platform.
- 7). How to Join/Speak: Joining and speaking during the hearings may be accomplished either on-line or via phone. Whether participating on-line or by phone, participants must adhere to the guidelines/protocols - particularly relative to being "muted" unless called upon by the Chair.
- 8). To Speak: Zoom Webinar has a "raise your hand" feature which attendees are to use to let the host and co-host know they wish to speak. When the Chair indicates that they are to allow an "attendee" to speak, the host or co-host will change the attendee's status to allow them to be unmuted either as an attendee or change their status temporarily to "panelist". Once the attendee has made their comments or questions, the host or co-host will restore the attendee to their attendee status.

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**Guidelines/Protocols for Planning Board Virtual Hearings 10-15-2020 Revisions
Proposed Revisions – August 8, 2022**

- a. Host/Co-Host: The Director of Planning & Conservation will serve as the “Host” and the Conservation Administrator/Assistant Planner and the Senior Clerk any other Planning & Conservation Department Staff in attendance will serve as “Co-Hosts”.

~~9). Q & A Function: Zoom Webinar has a “Q & A” function.~~

- ~~a. The “Q & A” function is to be used solely to convey questions to the Board or Host/Co Hosts.~~
~~b. All Questions will be sent to all persons as will all Responses.~~
~~c. The Q & A will be transcribed by Zoom Administration and will be made a part of the meeting record.~~

~~10). Chat Function: Zoom Webinar has a “Chat” function. Since this function allows “private chats” and it is not possible to disable the “private chat” function, the “Chat” function will be disabled and unavailable.~~

- 11). Unaddressed Comments/Questions: Any comments/questions submitted at a public hearing but not addressed due to the lack of time, will be the first public comments/questions addressed at the continuation of the hearing - immediately followed by comments/questions submitted following the hearing but no less than ~~4~~ three full business days prior to the date of the hearing’s continuation.

~~12). Staff Monitoring of Emails, Google Form, and Q&A during Hearing: Director of Planning & Conservation Richard Harris, Planning & Conservation Clerk Colleen Canning and Assistant Planner/Conservation Administrator Anne Capra will separately monitor emails, Google Form submittals, Q&A, and “Raised Hands” to make note of persons wishing to make comments or questions. They will maintain the order in which person have requested to speak and let the Chair know who is “next in line” to speak. They will particularly monitor participants to note whether someone is using the “Raise Your Hand” function to request to speak.~~

- 13). Requirement to be Muted: All members of the public and the applicant are to remain “muted” unless the Chair authorizes them to speak. Once they have been recognized, they may unmute themselves and offer their comments/questions and then return themselves to a “muted” status. ~~Persons in “Attendee” mode are muted and their camera turned off unless the Host or Co Host changes their status.~~

- 14). Removal for Disruption: The Chair has authority to have any person failing to adhere to the rules of conduct removed if that failure is disruptive to a meeting or hearing. The Director of Planning & Conservation will remove (“block”) any participant upon instruction to do so

**Guidelines/Protocols for Planning Board Virtual Hearings 10-15-2020 Revisions
Proposed Revisions – August 8, 2022**

by the Chair.

- 15) Reference to Guidelines/Protocols: Posted agendas are to make reference to the Board’s adopted Guidelines/Protocols so prospective participants have an opportunity to review and become familiar with them prior to a meeting.
- 16) Adherence to Guidelines/Protocols: Whether participating on-line or by phone, participants must adhere to the guidelines/protocols - particularly relative to being "muted" unless called upon by the Chair.

The Guidelines/Protocols – Submittal of Comments from the Public

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a. The public is allowed and encouraged to submit their comments/questions via email prior to the scheduled meeting/hearing so that they can be shared with the applicant, Town Counsel, Peer Reviewer (if applicable), and the Board, and any other parties on behalf of the Town.
b. Comments submitted at least 1 CALENDAR three full business days prior to the scheduled public hearing will be the first comments the applicant will be asked to respond to following the Board members questions.
c. Comments may be submitted via a “Google Form” which will be created for each session of a public hearing on each application. This will allow for immediate submittal to the staff and can be shared with the Board members and allows for the form to be differentiated between projects and hearing dates.
d. During a hearing, The public may submit comments/questions via the “Google Form” or a question via the Q&A function.
e. All comments/questions submitted, whether verbally, by “Q&A” function, through Google Form, or written, must include the submitter’s name, street address, and email address – if available.
f. The public may still submit comments/questions via email to SHPlanBoard@southhadleyma.gov . However, such submittals may not be retrievable during the public hearing and could be missed due to the volume of emails received on different topics.

Planning Board Open Comment Period Policy

Proposed Amendments – August 5, 2022

The Planning Board has a long history of accommodating public comment on nearly all agenda items. It has done so while ensuring and protecting the due process rights of applicants and members of the public on matters presently or anticipated to be brought before the Board. The purpose of this policy is to establish some foundational rules for an open comment period regarding matters that are not on the Planning Board agenda while continuing to protect the due process rights of all persons. Nothing in this policy is intended to alter the Board’s long practice of allowing (at the Chair’s discretion) members of the public to comment on posted agenda items.

An open comment period is to encourage the public to offer ideas for future discussions and agenda items. It is not to be used to debate current or past agenda items or items pending for future agendas.

The Board shall have on its agenda a period for public comment regarding items not on the agenda. This open comment period shall operate under the following conditions:

- 1) The open comment period shall be listed at the very beginning of the meeting. ~~To accommodate the Open Comment period at the beginning of the meeting, consideration of minutes and correspondence will be placed later in the agenda—depending on the agenda items, it may be placed immediately prior to the “Development Update” on the agenda or immediately after the “Open Comment” period.~~
- 2) The open comment period shall be limited to 10 minutes in total.
- 3) Persons speaking during the open comment period shall adhere to the following rules:
 - a. Identify themselves and the topic they wish to speak about at the Sign-up at the beginning of the open comment period. meeting and list the topic they wish to speak about
 - b. Persons are not to speak until authorized by the Chair.
 - c. Comments should not be regarding any item which is on the posted agenda. ~~as the Board generally affords the public an opportunity to comment on such posted agenda items.~~ Any such comments under the Open Comment Period will be ruled out of order by the Chair.
 - d. Comments must comply with the “Visitors Code of Conduct” adopted by the Selectboard.
 - e. The comments are limited to 2 minutes per person.
 - f. Location of Speaker
 - i. When meetings are held “in-person”, persons are encouraged to come to the front of the room and speak from the “speakers” chair – not from their chair or position in the audience – as this will better ensure that they can be clearly heard by all present and those who may watch the recording of the meeting. ~~Whether or not persons may address the Board from their~~

Planning Board Open Comment Period Policy

~~position in the audience is at the discretion of the Chair (based on their determination of how it does or does not disrupt the functioning of the Board—whether or not it hinders the Board’s or audience’s ability to hear and understand the speaker, whether or not it disrupts the functioning of the meeting, etc.). This determination will likely be made based on experience the Board has with the Open Comment speakers over time. However, the Chair will make such determination uniformly and announce the determination prior to the beginning of the Open Comment Period.~~

- ii. When meetings are held virtually, ~~p~~Persons wishing to speak need to notify the “host” of the meeting by either using the “raise your hand” feature, ~~making a notation in the “QA” feature,~~ using the “Google Form” to notify the Planning & Conservation Department staff prior to the meeting, or sending an email to the Department staff prior to the meeting. When the Chair authorizes someone to speak, the persons will be moved into the “panelist” position so that the Board members can hear and see directly from the individual.
 - g. The Planning Board has no role in Zoning Bylaw enforcement. Accordingly, the public is expected to refrain from making comments regarding allegations of zoning violations as those should be taken directly to the Building Commissioner who is the Zoning Enforcement Officer.
 - h. Comments must respect applicants’ and abutters’ rights of due process. Therefore, the public is expected to refrain from making comments regarding applications for approvals (Site Plan, Special Permit, Subdivision Definitive Plan, Stormwater Management Permit, or Zoning Map Amendment not requested or proposed by the Planning Board) items which are the subject of an ongoing public hearing or are reasonably expected to be subject to a public hearing and for which an application has already been received. ~~Further, the public hearing is the appropriate time in which make such comments. Further, during a Board meeting, the time set aside on the agenda for a hearing is the appropriate time to raise any matter concerning the subject of that hearing, rather than during the Open Comment Period.~~
- 4) The Board is not anticipated to comment on any of the comments presented under this item. Rather, all members will take the public comments which appropriately conform to the Board’s policy under consideration.
 - 5) Following the meeting, and after making necessary research on the items, the Planning Director will discuss with the Chair as to the appropriate meeting at which to schedule Planning Board discussion of any of the relevant/appropriate items offered in the public comment period. If members believe that they want an item included on a future agenda, they may indicate as such under “Other New Business” later in the meeting; however, it should be noted that no staff research on the matter to better inform members will have

Planning Board Open Comment Period Policy

been conducted.

Short-Term Rental Bylaw

DRAFT

14.1 Purpose and Intent:

The purpose of this chapter is to provide for the administration and enforcement of the [TOWN] Short-Term Rental Bylaw which provides for registration of short-term rental units in order to protect the health, safety, and welfare of both the occupant(s) of those rental housing units and the general public and to maintain the quality of life in residential neighborhoods of the Town.

The intent of permitting short-term rentals is to:

1. Provide for the orderly operation of short-term rentals within the Town and prevent negative impacts on neighborhood character, housing availability, house prices, availability of long-term rental units and impacts on infrastructure services such as sewer, parking, access, fire codes, building code enforcement and snow removal;
2. Assist the Board of Health, the Building Department and the Fire Department in the enforcement of state and local health and safety laws and regulations related to short-term rental units and to provide a method for correcting violations when conditions require immediate attention in situations associated with Short-Term Rentals.

14.2 Definitions:

[Move definitions to Chapter 255 Definitions].

1. Building Inspector: The Building Inspector for the [TOWN] or their designee.
2. Dwelling: A building, a modular unit, or portion thereof designed exclusively for residential occupancy, including single family, two family, and multiple family dwellings, but not including hotels, motels, boarding houses, or structures solely for the use of transient or overnight occupants.
3. Inspectional Departments: Consisting of [TOWN] Building, Health and Fire Departments.
4. Occupancy: The use or possession of or the right to use or possess a short-term rental of not more than 30 consecutive days.
5. Occupant (Guest): Any individual residing overnight in a short-term rental.
6. Operator (Host): Any person or entity operating a short-term rental.

7. 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.
8. 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.
9. 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 as 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 of other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the [TOWN] or any of its agencies.
10. Short-Term Rental: A residential, primary residential, or mixed-use dwelling unit or any bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 30 consecutive calendar days, excluding: (any areas of town or zoning districts to be excluded); 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; bed & breakfast establishments licensed under Chapter 255-39 of the Zoning Bylaws of the Town of South Hadley.

14.3 Short-Term Rental Registration:

Registration is Required. Short-Term Rentals shall only be allowed in one or two family or multifamily dwelling units (excluding accessory buildings).

1. No owner shall rent, or offer to rent, any Short-Term Rental prior to registering with the [TOWN] Building Department. No tenant or lessee of an Owner shall let or sub-let a Short-Term Rental.
2. Limits on total number of registrations within the Town shall be 24 active units or less, until December 31, 2023; thereafter not more than 36 Short-Term Rentals shall be allowed in Town at any one time.
3. Compliance. A dwelling used as a Short-Term Rental shall at all times be in compliance with the provisions of all state and local health and safety laws, bylaws and regulations, including, but not limited to: Section ___ Noise, Section ___ Home Occupations, 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.

4. Application Required. The Owner of the dwelling shall be required to file for a Lodging Permit with the South Hadley Board of Health, a Business License with the Town Clerk, and complete a [TOWN] Short-Term Rental registration application with the [TOWN] Building Department. The Applicant shall also provide proof each Short-Term Rental is registered with the Massachusetts Department of Revenue.
5. Abutter Notification. For an initial application to register a property as a Short-Term Rental, the Applicant is required to send notification informing abutters within 300 feet and provide proof to the Town of the notification using one of the following methods; hand deliver; certified mail, return receipt requested; certified mail. Proof of abutter notification shall be included with the application. *[If short term rental is permitted via Special Permit, this may not be required because abutter notification would have already occurred.]*
6. The [TOWN] Building Department shall, in accordance with the above sections, issue a certificate of registration which shall expire on the following December 31, provided that the certificate may be renewed each year.
7. Registration Renewal. Short-Term Rental registrations shall be renewed annually upon payment of the renewal fee.
8. Fees. The fee for a Short-Term Rental registration or a renewal of a registration shall be \$ ___. *(Fairhaven is \$200)*
9. 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.

14.4 Publication of Registration Number:

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

14.5 Contact Information of Owner, Operator and/or Operator's Agent:

1. An Owner of a Short-Term Rental shall provide the [TOWN] Building 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] has been issued or for which a Short-Term Rental Registration application is pending.
2. 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.
3. The name and contact information of the 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 [TOWN] Building Inspector 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.

14.6 Good Neighbor Information:

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

14.7 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:

1. Provide each occupant a copy of the provided information; and
2. Post the information, along with the Short-Term Rental Registration, in a conspicuous location within the Short-Term Rental; and
3. Post the Short-Term Rental registration number on a placard visible from the street in the dwelling's front yard or front door.

14.8 Specific Standards of Short-Term Rental Properties

1. 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.
2. Parking. On-site parking of one space per Short-Term Rental bedroom.
3. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
4. Commercial meetings and uses are prohibited in Short-Term Rentals.
5. 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.

14.9 Occupancy Requirements:

The maximum number of Occupants in a Short-Term Rental shall be two per each bedroom, plus an additional two total.

14.10 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.

14.11 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 the 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, stop work orders, unsafe orders, or cease and desist orders.
5. Properties designated as Problem Properties.

14.12 Failure to Pay Municipal 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 M.G.L. Chapter 40, Section 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.

14.13 Inspections:

Short-Term Rentals shall be subject to a mandatory initial inspection and thereafter inspections every two (2) years by the [TOWN] Building Inspector, Fire Department, Health Department or other duly authorized authority from the Town.

14.14 Complaint Process, Violations

1. 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 [TOWN] Building Inspector. The complaint must contain the Short-Term Rental address, unit

number, date and nature of the alleged violation(s), and name and contact information of complainant.

2. Written notice of any violations of this chapter shall be treated as a complaint and may also be initiated by the Building Inspector. 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.
3. 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 [TOWN] Building Department. A written change of address notice signed by the Owner(s) and delivered to the [TOWN] Building Department may be filed at any time.
4. Review of Complaint. The Building Inspector 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 Building Inspector shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Building Inspector or designee shall serve notice of the violation upon the Owner of the Short-Term Rental. The Building Inspector shall keep records of all complaints received and determinations made.
5. 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 Building Inspector 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.
6. 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 and 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.
7. 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 Building Inspector 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.

8. 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 [TOWN] Building Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Building Inspector 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 Administrator and shall occur no later than three (3) weeks after the date the [TOWN] Building 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 Office has issued a decision.
9. Decision. Within seven (7) days after the conclusion of the hearing, the Building Inspector 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 [TOWN] Building Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
10. Violations of an unoccupied dwelling unit shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Building Inspector.
11. 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.

14.15 Registration Suspension, Modification and Revocation:

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the [TOWN] Building Inspector, 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 [TOWN] Building Inspector, 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.

14.16 Judicial Appeals:

Any person aggrieved by a final decision of the Hearing Officer and the [TOWN] Building Inspector 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.

14.17 Penalties:

If any Occupant, Operator or Owner violates any provision of this chapter, the Owner may be subject to a fine in accordance with the following: \$150 1st Offense, \$300 2nd Offense and each subsequent offense. Each day that a violation exists constitutes a separate offense.

14.18 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. Chapter 40, Section 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

14.19 Regulations:

The [TOWN] Building Inspector may adopt regulations, policies and procedures for the implementation of this chapter.

14.20 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 of the chapter of the General Bylaws or Zoning Bylaws of [TOWN], this Chapter ____ shall control.

14.21 Annual Reporting:

The Town Administrator shall publish annually in the [TOWN] Annual Report on the statistical data relating to Short-Term Rentals.

14.22 Room Occupancy Excise and Community Fees

Short-Term Rentals subject to the provisions of this bylaw are subject to the Room Occupancy Excise under M.G.L. Chapter 64G and short-term rental community impact surcharge. (if such a fee is adopted by the Town)