

Background Materials – September 19, 2022– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 9/13/22

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, 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

Senior Clerk 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.

Action Needed: No action needed.

6:30PM AGENDA ITEM #4

23 Leahey Ave – Hair Salon Home Occupation II – Site Plan Review

Project application is online here: [SKM_C450i22082910300 \(southhadley.org\)](https://southhadley.org/SKM_C450i22082910300)

255-22 Home Occupation: [Town of South Hadley, MA Supplemental District Regulations \(ecode360.com\)](https://ecode360.com/Town-of-South-Hadley-MA-Supplemental-District-Regulations)

Site Plan Review Criteria: [Town of South Hadley, MA Zoning \(ecode360.com\)](https://ecode360.com/Town-of-South-Hadley-MA-Zoning)

The application is for a hair salon under 255-22(B)(2) Home Occupation II, which is allowed by Site Plan Review within the RA1 zoning district. The parcel is a single-family ranch style home on a 0.36 acre parcel. The applicant states that the salon will be located in her basement, and has provided a map of the salon layout within that location. She states that the salong will be open 3-4 times per week to 2-3 clients per day, by appointment only. Parking for clients appears to be within the existing driveway and the entrance through the main door, however this needs clarification. Such use will also require permitting by the Board of Health.

Per the standards in 255-22(E), the maximum area that may be occupied shall be the lesser of 20% of the floor area of the primary dwelling unit or 500 sq.ft. Per the Assessor's Property Card, the effective floor area is 1,559 SF. The dimensions provided in the applicants map total 290 SF, which is 18.6%.



Per 255-22 (C), the home occupation is incidental to the use of the dwelling for residential purposes and is conducted by the resident of the dwelling.

Questions for clarification:

- The application makes no mention of signage.
- Business hours – day or evening
- Deliveries and associated truck traffic

Action Needed: Hold the Public Hearing. Assuming the above questions are answered to the satisfaction of the Board, the Board should vote on whether or not to approve Site Plan Review.

Recommended Motion: Move to issue approve Site Plan Review for Home Occupation II, with the Condition that all applicable Building, Board of Health and any other needed permits are acquired.

AGENDA ITEM #5 Discussion of Short Term Rental Bylaw

Please refer to the attached summary research report.

AGENDA ITEM #6 Planning & Conservation Department Report on Planning Projects and Development Updates

Housing DLTA Assistance – PVPC

The Town received a District Local Technical Assistance Grant (DLTA) from the Pioneer Valley Planning Commission (PVPC) to coordinate a series of public education forums on affordable

housing related topics, to occur in tandem to the update of the Housing Production Plan. Thus, PVPC has begun to coordinate three *virtual* public forums on the following topics:

Forum #1: What is affordable housing? "Affordable" versus "affordable? Who qualifies? How is it created? What partners are involved?

Forum #2: What is the difference between middle income housing, workforce housing, and affordable housing?

Forum #3: Housing as a human right. The role of social and racial justice in housing production. This forum would include the Donahue Institute Study report.

Report links here:

Phase I Report - [UMass Donahue Institute | Greater Springfield, MA Housing Report: The first in-depth scan of the region in the COVID era](#)

Phase 2 Report - [Greater Springfield Housing Report Releases Second Study : UMass Amherst](#)

Each forum would include 2-3 case studies of housing projects. Case studies should demonstrate a range of housing types: apartment buildings, detached units, clustered courtyards, etc. and a representative to speak to their project. For each case study, include visuals showing the architectural style and site layout, zoning/regulatory environment at the local level that permitted it, how it is financed, and the target population (people of 80%, 60%, 30% AMI etc.).

Master Plan Annual Forum – Friday, 11/4 @ 8:30am – 1pm

A "Save-the-Date" has been sent out to Town departments, boards, committees and commissions. The event will be held at the South Hadley Public Library. Space is limited so registration will be restricted to 60 people. One representative from each board, committee, commission and department is asked to attend. Registration will open in early October, and a link for registration will be emailed at that time.

Planning and Conservation Department Webpage Redesign

Colleen has been working on the update to the webpage. We anticipate a launch next week for the Board's 9/19 meeting. Hoorry!!!!

Next Meetings

10/3

10/17

11/7

11/21

12/5

12/19

AGENDA ITEM #10 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.

SAVE THE DATE

Master Plan Implementation Annual Forum

Friday, November 4, 2022

8:30 am – 1:00 pm

Location: South Hadley Public Library

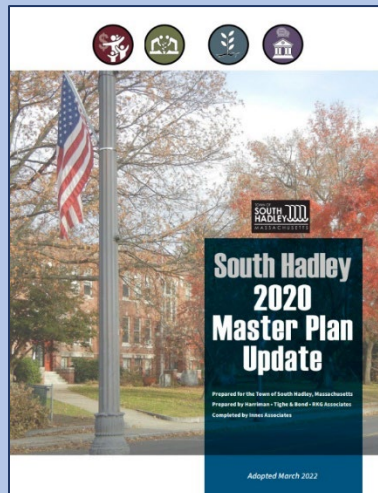
Online registration will open in early October.

One member from each Town department, board, committee and commission tasked with Master Plan Implementation should attend this annual workshop.

Lunch will be served.

2020 Master Plan:

<https://www.southhadley.org/1277/2020-Master-Plan>



Short Term Rentals – Summary Research
Anne Capra, Director of Planning and Conservation
September 13, 2022

This document is an update to the August 26, 2022 summary on Short Term Rental regulations. Updates are in RED.

There are two ways by which a community can regulate Short Term Rentals (STR): a zoning bylaw, and/or a general bylaw. Below is a discussion about the type of regulation each bylaw could offer, as well as additional considerations for implementation of a comprehensive STR regulation program in South Hadley.

Zoning Bylaw versus General Bylaw

Zoning Bylaw

A Zoning Bylaw can identify whether STRs are:

- a. Allowed “by-right” in certain zoning districts.
- b. Allowed by Special Permit (SP) in certain zoning districts, if a SP is granted.
- c. Allowed by Site Plan Review (SPR) in certain zoning districts.
- d. Prohibited in certain zoning districts.

The Zoning Bylaw can identify specific criteria that must be met in order for the use to be allowed, whether by SPR or SP, for example:

- a. The dwelling subject to the STR must be a legal dwelling unit.
- b. The property subject to the STR must be owner-occupied.
- c. All parking for the STR must be on site, no on street parking permitted.*
- d. STR may only be for a period of 31 days or less.*
- e. Must comply with all other local bylaws and regulations governing STR and/or transient lodging.

*These criteria could also be identified in a General Bylaw as well.

Next Steps for adopting a STR Zoning Bylaw:

- 1. Identify zoning districts where STR will be allowed.
- 2. Identify whether STR will be allowed in these districts by-right, by Special Permit, or by Site Plan Review.
- 3. Draft Zoning Bylaw for Public Hearing.
- 4. Zoning Bylaw 255-10 “Definitions” to be amended. – new definition of “Short Term Rental”
- 5. Zoning Bylaw Attachment 1 Use Regulations Schedule to be amended.
- 6. Zoning Bylaw Chapter 255 to be amended with new Short Term Rental Bylaw.

See sample STR Zoning Bylaw Outline – Attachment B.

Attachment 1 Use Regulations Schedule – Current allowed uses

Use Classification	Res A-1	Res A-2	Agric.	Bus C	Ind. B
Bed-and-Breakfast	SP	SP	SP	N	N
Motels-Hotels	N	N	N	SP	SP

Short-Term Rental Definition

The use of a Residential Unit for residential occupancy by a person or persons for a period of fewer than thirty-one consecutive calendar days for a fee. A Short Term Rental may or may not be facilitated through a Booking Agent. A short-term rental is an occupied property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least one room or unit is rented out by an operator through the use of advance reservations. A short-term rental includes an apartment, house, cottage, and condominium.

Note – Definition provided by Town Counsel. May need to change depending upon the type of units intended to regulate. “Residential Unit” would need to be added to 255-10 for definition.

General Bylaw

Town Counsel has provided a DRAFT General Bylaw. See Attachment A.

A general bylaw would be a non-zoning bylaw that would provide for the administration and enforcement of the STR licensing and registration. A General Bylaw could do the following:

- a. Establish the process for obtaining a STR License and Registration. [See coordination with Town departments below. This would refer to the Rental Registry Program under development between the BOH and Building Department.]
- b. Provide a cap on the number of STR licenses. *Town Counsel has advised this can also be done through Zoning.*
- c. Identify other conditions that must be met, such as parking, signage, trash removal, septic/sewer, etc. In general, these conditions should be either in the general bylaw solely, or if duplicated in the zoning bylaw (which is NOT recommended) are the same as what is in zoning.
- d. Identify terms for license compliance.
- e. Identify what types of units are ineligible.
- f. Establish inspection requirements
- g. Establish complaint process and violations.
- h. Establish process for suspension, modification and revocation of STR license.
- i. Establish fines and enforcement.
- j. Identify an entity that may adopt regulations for the implementation of the STR bylaw.

See Attachment A – Model General Bylaw (provided by Town Counsel)

Coordination of Short Term Rental Oversight with Other Town Departments – Rental Registration Program.

Regulating STRs in South Hadley needs to be coordinated with other Town departments due to the authorities and responsibilities designated to each under local and state laws. Thus, on August 22, 2022 I met with Sharon Hart, Public Health Director and Dave Gardner, Building Commissioner to share feedback from the Planning Board’s discussion on this topic at their last meeting. Currently, the Building Commissioner/Inspection Services and the Health Director/Department of Public Health are developing a “Rental Registration Program”. The objective of this program would be to create an annual registry for all rental properties in South Hadley, both long term, and short term rentals. [Currently, Bed and Breakfast Facilities are the only type of STR allowed.]. The program requirements would reinforce the regulations outlines in the MA State Sanitary Code for the protection of health, safety and well-being of occupants and the general public. The program would also improve awareness and education for rental property owners, property managers, landlords and tenants about suitable living conditions.

If STRs are to be allowed and regulated within South Hadley, they would be required to seek annual registration under the Rental Registration Program. Such registration would be the form of the annual license/permit.

Potential Permit Path for Short Term Rentals

1. Applicant applies for Special Permit/SPR from Planning Board.
2. Special Permit issued with Conditions stating:
 - a. Obtain Annual STR License through Rental Registry Program (issued through Board of Health/Public Health Department)
 - b. Obtain Business License from Town Clerk
 - c. Obtain Lodging Permit from Board of Health
 - d. Obtain Building Permit from Building Commissioner/Inspectional Services Department (Permit will determine if Fire Code Regulations are met.)

Examples from Other Communities

In response to a post on MassPlanners listserv inquiring about how communities are regulating short term rentals, the following information was provided from other communities. For communities that do not want to allow STRs in all zoning districts by-right, they are adopting both a Zoning Bylaw, to regulate location by district, and a general bylaw to provide for administration and enforcement. Communities that are allowing STRs by-right in all districts, are only adopting a general bylaw that establishes permitting administration and enforcement. Northampton adopted only a zoning bylaw, which explicitly allows STR by-right in all districts, and requires annual Short Term Rental Registration, which is operated through one of the City departments.

The discussions thus far with the Planning Board suggest that it is preferred that certain zoning districts be identified where the use is allowed, an annual licensing program is adopted, and there are provisions under which the license can be revoked. The administration and enforcement of the licensing program would be through another Town department such as Public Health or Inspectional Services.

Table 1 Short Term Rental Bylaws in Other Municipalities

Town/City	General Bylaw	Zoning Bylaw	Other
Northampton (2019)	NO	Chapter 350 – Allowed in all zoning districts by-right through annual Short Term Rental Registration	Short Term Rental Registration – annual Accepted MGL Chapter 64G to adopt Community Impact Fee on STR
Great Barrington (June 2022)	YES (not yet approved by Attorney General)	NO	Requires annual registration; revokable after 3 violations; issue fines in accordance with MGL c40, s21D
Amesbury (Fall 2021)	YES – for licensing process, fines	YES – allowed by right in all districts	
Whately (June 2022)	NO	Yes – SP in owner occupied residential dwellings	

Killington, VT (2020)	NO	YES	Cannot assess fees as zoning so considering adopting a general bylaw.
-----------------------	----	-----	---

Town Counsel Guidance

Outstanding questions for Town Counsel guidance:

- a. Can the number of STR Special Permits be capped?
- b. Can the number of STR Licenses under the Rental Registration Program be capped?

Room Occupancy Tax Option

Under MGL 64G, Massachusetts has a state room occupancy excise tax rate of 5.7%. The property owner is responsible to pay DOR directly for that. The room occupancy excise tax applies to room rentals of 90 days or less in hotels, motels, bed and breakfast establishments, and lodging houses. Beginning July 1, 2019, the room occupancy excise also applies to short-term rentals of property for 31 days or less. Towns may also adopt a local option room occupancy tax. A local room occupancy tax would be something for the Selectboard to consider and put forth for adoption.

Room Occupancy Tax on Short Term Rentals

<https://www.mass.gov/info-details/room-occupancy-excise-tax>

DLS Short Term Rentals FAQs

<https://www.northamptonma.gov/DocumentCenter/View/12893/Room-Occupancy-Excise-FAQs-Short-term-Rentals>

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

§ 136-1 Purpose.

This bylaw is adopted in accordance with the Town of Marblehead'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 Marblehead 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 Marblehead's rental housing stock, preventing degradation and helping to promote preservation of important historic residential buildings and neighborhoods.
- 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 diverse, multi-generational 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:

CODE OFFICIAL

The Building Commissioner/Zoning Enforcement Officer of the Town of Marblehead, 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 30 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.** Short-Term Rentals may not be advertised using any exterior signs or displays.
- C.** All Short-Term Rental advertisements must include the license number issued by the Town.
- D.** Only Owner-Occupants may offer all or part of their Principal Residence as a Short-Term Rental.

- E. Licensees shall maintain liability insurance appropriate to cover Short-Term Rental use.
- F. 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.
- G. 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.
- H. Renting for less than Twenty-Four (24) hours is prohibited.
- I. Commercial meetings and uses are prohibited.
- J. If the Dwelling Unit is an Affordable Housing Unit or otherwise rent controlled, Short-Term Rental rates must comply with affordability limitations.

§ 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.

§ 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 of a rental unit or property is in violation of any law or State or local requirement, 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, the length of stay and the rent charged. Said records must be made available to the Town upon request and shall be maintained for a period of three years.

§ 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 Marblehead shall comply with the Marblehead 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 Marblehead's Zoning Bylaw, Town of Marblehead GIS mapping 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.

Short Term Rental Zoning Bylaw Outline
August 26, 2022
Anne Capra, Director of Planning and Conservation

Draft Zoning Bylaw Outline

- A. Purpose
 - a. Compatibility with neighborhood.
 - b. Allow residents to engage in generation of revenue from their properties while avoiding excessive noise, traffic nuisance 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 a legally located dwelling unit in which overnight lodging to paying guests is provided for no more than thirty (31) consecutive days.

- D. Applicant must be the owner of the dwelling unit, legally established in the Town of South Hadley Zoning Bylaws Chapter 255.
 - a. Definition of a dwelling unit.
 - b. Compliance of all structures on the property with the Zoning Bylaw Dimensional Schedule.
 - c. The property for which the dwelling unit designated for the short term rental must be current on all local taxes and fees.
 - d. Deed restricted units for affordable housing are not eligible.

- E. The following additional 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. Parking
 - c. Signage
 - d. Septic/Sewer
 - e. Trash collection
 - f. Exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the short term rental business.
 - g. Business License from the Town Clerk must be obtained.
 - h. Lodging Permit from the Board of Health must be obtained.

ATTACHMENT B

- i. Annual Rental Registration must be obtained (Department through which this would be required TBD)
- j. Planning Board may waive any of these conditions as deemed appropriate to the specific conditions of the site.
- k. The Building Commissioner may adopt regulations for the administration of this bylaw and short term rental special permits.
- l. No more than ____ short term rentals are permissible on any one tax parcel.

References:

255-39 Bed and Breakfast Facilities <https://ecode360.com/30053385>

255-22 Home Occupations <https://ecode360.com/30053001>

255-34 Professional Business Uses <https://ecode360.com/30053205>