

APPENDIX 7

Short-Term Rental General By-Law

Following is the language of the proposed amendment to the General By-Laws regarding short-term rentals.

GENERAL GOVERNMENT BY-LAWS

Short-Term Rentals ARTICLE XIX

ARTICLE XIX

SHORT-TERM RENTALS

Section 1. Purpose

"Short-Term Rentals" is intended to make the operation of short-term rentals legal for Nahant residents, protect the safety of renters, residents, and first responders, ensure that the primary use of the property remains residential, and ensure that short-term rentals will not be a detriment to the character and livability of the surrounding residential neighborhood.

Section 2. Definitions

Short-term rental - an owner-occupied, tenant-occupied or non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house, or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant for a duration of less than twenty-eight (28) consecutive days; and (ii) all accommodations are reserved in advance; provided however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Short-Term Renter - Any person or persons occupying a dwelling unit, or a bedroom within a dwelling unit, as a short-term rental for a duration of less than twenty-eight (28) consecutive days.

Short-Term Rental Operator - The person or persons offering a dwelling unit or bedroom for short-term rental, who may be either the owner or the primary leaseholder of the dwelling unit with the written permission of the property owner and the condominium association if applicable.

Owner Occupied Short-Term Rental - The Short-Term Rental of a dwelling unit, of no more than the number of lawful bedrooms within such dwelling unit that is the principal residence of its operator.

Owner Adjacent Unit — A residential unit offered as a Short-Term Rental which is not the owner's Principal Residence but which is located within the same dwelling and/or parcel as the Principal Residence.

Non-Owner Occupied Short-Term Rental - A dwelling unit made available for short-term rental that is neither the Principal Residence of the owner nor is located within the same residential building as the owner's Principal Residence.

Section 3. Requirements

1. The total number of annual Short-Term Rental licenses in the Town of Nahant is limited to four percent (4%) of the total number of legal dwelling units in the Town of Nahant as determined by the Assessors' Office.

2. All Short-Term Rental Operators shall submit a copy of its local registration with the Board of Selectmen prior to Short-Term Rental use and occupancy in conformance with this by-law.
3. A dwelling unit or bedroom offered for Short-Term Rentals shall comply with: i) 105 CMR 410.000 (Minimum Standards of Fitness for Human Habitation); and ii) 780 CMR Massachusetts State Building Code).
4. Short-Term Rental operators shall maintain state mandated liability insurance to cover the short-term rental use.
5. An Owner Adjacent or Non-Owner Occupied Short-Term Rental may be rented only as a whole unit to one party of short-term renters at any one time and not rented as separate bedrooms to separate parties.
6. 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.
7. Renting for an hourly rate, or for rental durations of less than twenty-four (24) consecutive hours shall not be permitted.
8. A Short-Term Rental property shall not be used for a commercial event during its occupancy as a Short-Term Rental. Commercial events include but are not limited to luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings.
9. Short-Term Rental Operator must submit off-street parking plan for guests in accordance with these Nahant Zoning By-Laws: i) Section 4.08.B; and ii) Table 6-1 (Required Off-Street Parking).
10. When a swimming pool or hot-tub or special purpose pool is included in the short-term rental determination of compliance with 105 CMR 435 Sanitary Standards for Swimming Pools must be documented by the Board of Health or its designee.

Section 4. Information to be Shared with Short-Term Renters.

The Short-Term Rental Operators shall provide all Short-Term Renters and post in all Short-Term Rentals in a manner to be determined by the Board of Selectmen:

- a. Instructions for disposal of waste per the Town's recycling and composting programs.
- b. An emergency-exit diagram in all bedrooms used for Short-Term Rentals and on all egresses from the dwelling unit.
- c. Contact information for the Short-Term Rental Operator, or when the Operator is not present, the contact information for a locally available contact designated to respond to all emergencies and problems that

may arise during the rental period, whether from renters, neighbors or municipal authorities.

Section 5. Registration - Rules and Regulations.

1. The Nahant Board of Selectmen shall have the authority to promulgate rules and regulations with regard to the Short-Term Rental Registration process that shall include, but not be limited to, the requirements of this Article XIX.
2. The Operator must, within thirty (30) days after its initial Short-Term Rental local registration (or its renewal), provide a copy of such registration to all abutters, owners of land directly opposite any public or private street or way, and abutters to the abutters. Such notification shall include the contact information of the Operator and the local contact, the Operator's state registration number, and a reference to this Article XIX.

Section 6. No Nuisance.

Short Terms Rentals shall not result in the disruption of the peace, tranquility, or safety of the immediate residential neighborhood through the production of noise, vibration, light, glare, trash, fumes, odors, traffic, parking congestion, or any other nuisance beyond that which normally occurs in the immediate residential area

Section 7. Cooperation.

Operators must cooperate with any enforcement or investigation proceedings under this Article XIX.

Section 8. Enforcement.

The Board of Selectmen or their designee(s) shall be responsible for enforcement of this Article XIX, including any rule or regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance, inclusive of any initial qualifying inspection. Any enforcement action taken shall follow the procedures outlined in Article XIII of Nahant Police By-Laws (Non-Criminal Disposition of Violations).

Section 9. Effective Date.

This Article XIX will become effective one-hundred and twenty (120) days after the Town of Nahant has satisfied its duty to publish and post these by-laws after they have been approved by the Office of the Massachusetts Attorney General.

APPENDIX8

Planning Board Comments on Short-Term Rental Zoning By-Law

Following are comments from the Planning Board regarding the proposed amendment to the Town's Zoning By-Law for short-term rentals.

**Review of Zoning By-Laws of the Short-Term Rental By-Law
Advisory Committee**

Nahant Planning Board

Approved by Motion: March 27, 2023

Recommendation with respect to the Zoning By-Laws of the Short-Term Rental By-Law
Advisory Committee: Accepted.

The general framework established by the Short-Term Rental By-Law Advisory Committee ("STRC") can work to meet the key objectives that the Planning Board believes the Town should seek to achieve in its short-term housing by-laws and regulations.

The Planning Board believes regulation of short-term housing is a priority for our community, and we must balance the right of the homeowner to make reasonable use of their property while establishing rules that mitigate the risk of negative impact on neighbors and neighborhoods. The by-laws and regulations should allow persons who can effectively manage short-term housing to be permitted to rent their homes on a short-term basis to help pay property taxes or other expenses (up to a predetermined cap). These restrictions must address genuine health and safety concerns as well as zoning limitations so that we minimize the risk of disruptions that can be caused by short-term rentals. When coupled with more detailed regulations, we believe that the STRC proposed amendments to the bylaws fulfill these twin objectives.

The Planning Board, offers the following comments on the STRC proposal:

1. Consistent with its mandate, the STRC is proposing amendments to the zoning by-laws, but has left it to the Board of Selectmen ("BOS") to issue more detailed regulatory restrictions. The Planning Board notes that this approach is consistent with how governments ordinarily address permitting programs, providing general guidance on the basis of a vote, and then leaving the details of the permit process, enforcement, and other program restrictions to an administrative agency or, in this case, local elected officials. While the Planning Board urged the STRC to provide some critical core regulations in the proposed by-law, the Planning Board intends to hold a hearing approximately 6 months after the Massachusetts Attorney General's ("AG") approval of any zoning bylaw amendment related to short-term housing to discuss any further proposals or changes with respect to any amended bylaws or to Nahant's approach to any regulations promulgated for short-term rentals. In short, the Town can take corrective action to the extent the program needs refinement after any amended by-law passes and regulations are issued.
2. We believe that most short-term rental hosts seeking authorization for short-term rentals will be nonowner-occupied and, as such, under the STRC proposal would be required to seek a "Special Permit" from the Zoning Board of Appeals ("ZBA"). It may not be possible for the ZBA to consider all such applicants for short-term rentals within the 120-day period following AG approval of the proposed by-law. As a policy, we believe the

that homeowners and others who have engaged in short-term rentals should not be asked to cease and desist after the 120-day period as long as they have submitted an application and made a good faith effort to obtain approval on a timely basis.

3. It is critical that the ZBA set up efficient processes and procedures to consider short-term rental applications, so that the special permitting process is not overly burdensome or time-consuming to applicants or to the ZBA.
4. In balancing the adverse effect of the proposed use with the beneficial impact to the Town or the neighborhood, the Planning Board, as a general matter, has concluded that there are overall benefits to the community from limited short-term housing, such as assisting certain residents in being able to continue to have access to housing in the community near family members (given the difficulty of longer term rentals in the off-season only), supporting local business, enhancing tax revenue, and adding lodging given Nahant's lack of proximity to available hotels. At the same time, it is important to consider proposals on a case-by-case basis because of congestion that may be created by lack of sufficient oversight by the owner/operator, off-street parking, or a negative prior experience managing short-term rentals as well as a lack of commitment and connection to the overall well-being of Nahant.
5. The Planning Board is recommending this proposal on the basis that the ZBA has the right to place conditions on the special permits to be issued, including limiting the duration of such permits, and that the Planning Board expects that ZBA will expressly assert the right to suspend or terminate Special Permits if the owner/operator is deemed not to be a competent host or the short-term rental at a particular location is problematic based on disruptions to the community and other factors. The Planning Board recommends that the ZBA note in Special permits grants that the holder of such permits is subject to, and must comply with, all regulations and registration requirements of the Town of Nahant.
6. The Planning Board believes it is important to recognize the fact that current owner or operators of short-term rentals relied on a general acceptance of such rentals in the Town. As such, the Planning Board strongly recommends that the ZBA, in such instances, give significant weight to their experience and success in managing such rentals in granting Special Permits in the interest of fairness.
7. An objection was raised to the STRC not requiring special permits for owner occupied units and adjacent units in which the owner may spend almost 6 months a year outside Nahant yet engage in short-term rentals while they are gone. The Planning Board notes that such units will still be subject to registration (a process in which the Planning Board expects that licenses and renewals will not be granted to those who have inadequately managed short-term rentals) and typically the short-term rental will occur in these instances at a time of year when rental levels are lower.
8. With respect to a detailed regulatory framework, the Planning Board strongly encourages rapid action to promulgate short-term regulations, including the creation of permitting

and enforcement processes and dispute resolution procedures to address short-term rental issues. The Planning Board expects that the Board of Selectmen will have regulations for short-term housing completed and ready to approve by no later than November 1, 2023 . The Planning Board strongly supports an annual registration process for both owner-occupied and nonowner occupied short-term rentals which we recommend the Board of Selectmen to make part of regulatory requirements. The Planning Board also believes the permitting process should include application and renewal fees to off-set administrative costs to the extent practicable. The Citizen's petition and the Planning Board Preliminary Determination provide a good starting point for development of detailed regulations for short-term housing.

9. The Planning Board views enforcement of short-term housing regulations and, in particular, the cap limitation, as extremely critical, and expects the Town will take necessary steps to ensure compliance.

Our summary of the STRC proposal compared to the Citizen's Petition proposal accompanies this document.

Respectfully Submitted,

Robert Steinberg, Planning Board Chairman On behalf of the Nahant Planning Board
Dated: March 27, 2023

APPENDIX9

Short-Term Rental Zoning By-Law

Following is the language of the proposed amendment to the Zoning By-Laws regarding short-term rentals.

ZONING BYLAW

TOWN OF NAHANT

MASSACHUSETTS

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ZONING BYLAW Town of
Nahant

SECTION 2

DEFINITIONS

SECTION 2.02– DEFINITIONS

Non-Owner Occupied Short-Term Rental: A dwelling unit made available for Short-Term Rental that is neither the **Principal** Residence of the owner, nor is located within the same residential building as the owners **Principal** Residence.

Owner Occupied Short-Term Rental: The Short-Term Rental of a dwelling unit of no more than the number of lawful bedrooms within such dwelling unit that is the **Principal** Residence of its operator.

Owner Adjacent Short-Term Rental: A residential unit offered as a Short-Term Rental which is not the owner's **Principal** Residence but which is located within the same dwelling and/or parcel as the **Principal** Residence.

Short-Term Rental Operator - The person or persons offering a dwelling unit or bedroom for short-term rental, who may be either the owner or the primary leaseholder of the dwelling unit with the written permission of the property owner and the condominium association if applicable.

SECTION N4

USE REGULATIONS

SECTION 4.06 – RENTING OF ROOMS TO ROOMERS OR LODGERS

Renting of rooms (lodging units) in a dwelling unit for the use of not more than two roomers or lodgers, who do not constitute a housekeeping unit separate from that of the resident family, is permitted in a residential or business district provided that at least one off-street parking space is provided for each such roomer. Rooms rented to roomers or lodgers shall not have private outside entryways or separate cooking facilities. Roomers must use cooking facilities of resident family. No such rentals shall be for a period of 28 days or less.

SECTION 4.06A – SHORT TERM RENTALS

Notwithstanding Section 9.08, the Board of Appeals shall be the exclusive special permit granting authority with respect to Non-Owner Occupied Short Term Rentals. Once issued, the Special Permit shall be exclusive to the applicant and shall not be transferable without written consent from the Board of Appeals unless the transfer is between current spouses or where the original applicant transfers the special permit to a revocable or irrevocable trust where at least one of the designated beneficiaries is of the first degree relationship to the original applicant.

Special permits shall be granted by the Board of Appeals for non-owner-occupied short-term rentals, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site or parcel, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this by-law, the determination shall include consideration of each of the following:

1. Specific factors that are set forth in Section 9 of these by-laws;
2. Compliance with all Town regulations and bylaws and laws of the Commonwealth, including all health and safety regulations;
3. The ability of the property owner, or agent/property manager to respond to complaints within a timely manner;
4. Prior experience managing a short-term rental property;
5. Sufficient off-street parking;
6. Appearance of property in comparison to the neighborhood;
7. Host-guest agreement requiring compliance with all Nahant Short-Term Rental by-laws and regulations; and
8. Prior and/or current experience with the Town including, but not limited to:
 - a. Previous or temporary residency;
 - b. Family residency;
 - c. Business properties or services; and
 - d. Other community involvement.

SECTION 41.3 – TABLE OF USE REGULATIONS

See Table 1 on accompanying pages, which is declared to be a part of this bylaw.

In the following Table of Use Regulations, uses designated by the letter “P” are permitted in the districts shown, subject to the provisions of this bylaw and other applicable laws. Uses designated by the letter “S” are prohibited in the districts shown, except to the extent they are allowed by a valid special permit issued under this bylaw. Uses designated by the letter “N” are not permitted in the districts shown. Uses not listed in Table 1 are not permitted in any district.

TABLE 1

“It is the intention of the committee to require a Special Permit for”

TABLE OF USE REGULATIONS

<u>Description of Use</u>	<u>Zoning Districts:</u>					
	<u>R-1</u>	<u>R-2</u>	<u>B-1</u>	<u>B-2</u>	<u>NR</u>	<u>P</u>
Short-Term Rental - Non-Owner Occupied¹	N	N	SP	SP	N	N
Short-Term Rental- Owner Adjacent¹	P	P	P	P	N	N
Short-Term Rental - Owner Occupied¹	P	P	P	P	N	N
Single-family detached dwelling	P	P	P	P	N	P
Non-profit religious or educational purposes (see definition and Note 3 below) (STM 2019)	P	P	P	P	P	P
Municipal buildings & other public uses	P	P	P	S	N	P
Non-profit outdoor recreational uses	P	P	P	S	P	P
Golf Course	N	S	N	N	S	S
Agriculture, horticulture, floriculture, or viticulture (on site of 5 acres or more)	P	P	P	P	P	P

¹ A Short-Term Rental property shall not be used for a commercial event during its occupancy as a Short-Term Rental. Commercial events include but are not limited to luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings.

Neighborhood convenience retail store not exceeding 2,500 square feet or employing more than 3 persons	N	N	P	N	N	N
Other retail stores	N	N	S	N	N	N
Professional offices not exceeding 2,500 square feet or employing more than 5 persons	N	N	P	S	N	N
Other professional offices	N	N	S	S	N	N
General office use	N	N	S	S	N	N
Banks and automated teller machines	N	N	S	N	N	N
Restaurants	N	N	S	N	N	N
Catering establishment	N	N	S	N	N	N
Fast-order food establishment	N	N	N	N	N	N
Consumer service establishment	N	N	S	N	N	N
Theatre uses or places of assembly	N	N	S	S	N	S
Offices or meeting place for non-profit civic or historic organization	N	N	P	S	N	P
Bowling alley or other enclosed place of amusement or assembly	N	N	S	N	N	N
Membership Club (see definition)	N	N	P	N	N	N
Gasoline Station	N	N	S	N	N	N
Automobile repair garage	N	N	S	N	N	N
Commercial parking lot	N	N	S	N	N	N
Non-hazardous research (see definition)	N	N	S	S	S	N
Computer facilities (such as a computer service bureau or training center)	N	N	S	S	N	N

Arts & crafts studios	N	N	P	S	N	N
Music Studios	N	N	P	S	N	N
Video studios	N	N	P	S	N	N
Exercise & dance studios	N	N	P	S	N	N
Day care center	N	N	S	S	N	S
Family day care home (Continued)	P	P	P	P	N	N
Boathouse or structure for golf club, public skating or swimming, or other recreational structures	S	S	S	S	S	S
Hotel or motel	N	N	N	N	N	N
Auto rental or sales	N	N	N	N	N	N
Junkyard or used auto parts yard	N	N	N	N	N	N
Conservation uses related to water, plants & wildlife	P	P	P	P	P	P
Environmental monitoring	P	P	P	P	P	P
Accessory decorative gardens or vegetable gardens	P	P	P	P	P	P
Accessory uses incidental to the above permitted uses, subject to the limitations of Section 4.12	(See Section 4.12)					
Marijuana Establishments	N	N	S	N	N	N
Marijuana Treatment Centers	N	N	S	N	N	N

Zoning Districts:

R-1 Residential R-1
R-2 Residential R-2
B-1 Business B-1
B-2 Business B-2
NR Natural Resource
P Public

Legend:

P Permitted Use
N Not a Permitted Use
S Special Permit Required

Notes: 1. Some uses may require site plan review. See Section 9.09.

2. It is the intent of this zoning bylaw not to create any industrial districts and not to permit any industrial uses anywhere in town.

3. Uses or structures for Nonprofit Religious or Educational Purposes are allowed in a Natural Resource District to the extent required by M.G.L. c. 40A, § 3. (STM 2019

End