

# **TOWN OF BROOKLINE ADVISORY COMMITTEE**

## **Planning and Regulation Subcommittee Report**

### **Warrant Articles 14, 15, 16, 17 Short Term Rentals**

The Planning and Regulation Subcommittee of the Advisory Committee held a public hearing on Monday, March 29, 2021, virtually on the Zoom platform to review Warrant Articles 14, 15, 16 and 17. In attendance were Subcommittee members Steven Kaness (Chair), David Pollak, Carlos Ridruero, Lee Selwyn, and Neil Wishinsky. The meeting at its peak had about 30 attendees. The petitioner for Articles 14, 15 and 16 was the Moderator's Committee on Short Term Rentals. Members of that committee present at the hearing were Chair Paula Friedman, Ana Albuquerque, Maureen Coffey, Paul Warren and Sean Lynn-Jones. Paul Warren presented for the Moderator's Committee. Susan Roberts and Maureen Coffey, petitioners of Article 17 were present. Members of the public who spoke were: Roger Blood, Lee Biernbaum, Heleni Thayre, Chiuba Obele and Branch Moody. Polly Selkoe represented the Department of Planning and Community Development

#### Summary

The Short Term Rentals (STR) series consists of 4 warrant Articles.

- **Article 14** is a change to the Zoning Bylaw which explicitly creates a new use in the Zoning Table of Use Regulations and permits them in all district. (Notable exception is homes with Accessory Dwelling Units [passed in November 2019] which in another part of the Zoning Bylaw has a 6 month rental minimum.)
- **Article 15** sets up a regulatory framework around STR's to include among other things:
  - only owner occupied dwellings can participate,
  - inspections by the Town prior to being permitted to rent,
  - limits on number of days allowed,
  - reporting on the Town website,
  - notification of abutters and if the STR is in a condo,
  - a certification by the condo association
- **Article 16** specifies fines and penalties
- **Article 17** (filed by Susan Roberts, TMM P2 and Maureen Coffey) proposes some modifications to the Article 15 regulatory framework.

The Planning and Regulation Subcommittee is recommending FAVORABLE ACTION on Articles 14, 15 and 16 essentially as presented by the Moderator's Committee with some limited modifications which will be explained.

Additionally, the subcommittee is recommending a contingent motion for the Article 14 zoning changes in case Town Meeting does not pass these warrant articles. The contingent motion defines STR's in the use table but disallows the use everywhere in Town. This is being recommended as a counter to a pending lawsuit challenging the Building Commissioner and ZBA's determination that our Zoning Bylaw does not allow for the operation of Short-Term Rentals in Brookline. If Town Meeting does not pass these warrant articles in some form and the court holds that the Building Commissioner and ZBA have been incorrect, then all STR's will become an "as of right use" and will be grandfathered into all future changes to the zoning by-law. They will then exist without any regulatory framework.

The Subcommittee is recommending NO ACTION on Article 17.

### Background

A similar series of warrant articles covering Short Term Rentals was on the warrant for the Fall 2020 Special Town Meeting and was referred to the Moderator's Committee on Short Term Rentals after extended discussion at Town Meeting. The warrant articles before us are the result of that Committee's deliberations. The Moderator's Committee wrote a very detailed explanation of these warrant articles which this report will not repeat.

### Current Situation

Short term rentals in their current form are a relatively recent arrival in Brookline driven by websites such as Airbnb, which provides a marketing and payment platform in return for a commission on the rental. STRs are not a defined use in our Zoning Bylaw. As a result, the Building Commissioner and ZBA have both determined that STRs are prohibited in Brookline. However, given the number of STR's (estimated to be in the hundreds) the Building Commissioner is enforcing short-term rentals on a complaint driven basis. Note that prior to the pandemic, STR's brought over \$400,000 to the Town in the form of room tax revenue.

There is a Pending lawsuit challenging the Building Commissioner's and ZBA's determination that our Zoning Bylaw does not allow for the operation of Short-Term Rentals in Brookline.

### **Current proposal**

#### Bylaw Features that did not Change from the November 2020 Warrant Articles

- Operator must have a valid certificate of operation issued by the Town
  - Active Certificates of Operation will be posted on the Town Website
  - Abutters within 300 feet notified when certificate is issued
- The owner must own the unit and the unit must be the Operator's Primary residence
  - No investor or owner adjacent units
- STRs allowed in all zoning districts (Article 14)
- Information regarding trash disposal, recycling and parking regulations must be posted for guests
- Maximum of 90 rental days per year; no more than 27 rental days in a month
- Rentals of less than 24 hours prohibited
- Select Board can issue regulations
- Violations posted on Town Website
  - Fine of \$300 per violation
  - Certificate revoked if 3 violations with 12 month period
  - Public hearing upon request of STR operator

- Enforcement by Town Agencies (Health, Fire, Building Depts.)

Key Changes from November 2020 proposal:

- Operator not required to be present during rental
- All condos treated the same
  - Condos with less than 4 units not required to have consent from all unit owners
- Maximum rental duration is 27 days, down from 31.

Key differences in Article 15 between the Moderator Committee/P&R Subcommittee recommendation and the Article 17 motion:

<b>Category</b>	<b>Article 15-Moderator's Committee/P&amp;R Subcommittee</b>	<b>Article 17-Roberts/Coffey</b>
Number of Guests	2 per bedroom 2 bedrooms, 4 guests in multi-unit dwelling 3 bedrooms, 6 guests in single-unit dwelling	2 per bedroom (no unit cap)
Condos	Written certification from condo association that STR complies with condo rules	None
Notification	Abutters within 300 feet notified within 15 days of certificate issuance	None
Revocation	Certificate to operate revoked for 3 or more violations in a 12 month period. Operator has a right to a public hearing	Allow continued operation of the STR until public hearing is held.
Inspections	Required prior to issuance of certificate. Building Commissioner has discretion to inspect upon renewal.	Inspection permitted but not required prior to issuance. Building Dept. discretion
Rental Days	90 days in a calendar year	No limit
Fines	\$300 for each violation. Each day of a continuing violation is a separate violation.	Violation determination at discretion of enforcement agency
Reporting	Active Certificates of Operation posted to Town Website. Violations also posted to website.	Only violations posted to website are STRs with certificates of operation revoked, suspended or modified due to 3 or more violations in 12 month period or good cause.

**Contingent Motion**

The subcommittee is recommending a contingent motion only if Town Meeting does not pass a version of Articles 14-17. The contingent motion amends the zoning bylaw to

explicitly prohibit of STRs throughout the Town. This is needed due to a pending lawsuit challenging Town's determination that STRs are currently prohibited by Brookline's Zoning Bylaw. If Town Meeting does not pass these warrant articles in some form and the court holds that the Building Commissioner and ZBA have been incorrect, then all STR's could become an "as of right" use. Should this happen, it means (1) existing STRs will be grandfathered from all future changes to the zoning by-law, and (2) would exist without any local regulations in place to protect our long-term housing inventory, and to ensure the safe and orderly operation of STRs in Brookline. This is, perhaps, a "nuclear" option given the hundreds of STRs which would be explicitly outlawed. This is one measure of the stakes presented by these warrant articles. Note that STR's in existence at the time of an adverse ruling would be affected but passage of the contingent motion could prevent future "as of right" STR's.

### Article 17

Maureen Coffey co-petitioner of Article 17 and a member of the Moderator's committee made the following points among others:

- She had some fundamental differences with the committee process
- The committee voted not to discuss the maximum days per year. She felt they should have discussed that.
- There wasn't town wide representation on the committee with 3 members from Precinct 1.
- The Articles should have been structured in a manner to permit amendments during the Town Meeting vetting process.
  - Article 17 serves that purpose.
- The committee should not have responded to the litigation threat with a contingent motion.

Susan Roberts, the other co petitioner of Article 17 made additional points:

- The committee should have made decisions on limits using data and research. The committee had very limited data and little reliable research.
  - Where did the 90- day maximum days for renting come from?
  - Why the limitation of a maximum rental term, 27 days?
- By limiting the STR's to owner occupied units, over 200 existing STR's will be shut down.
- Protections and safeguard inherent in the limitation of STRs to owner occupied units were ignored resulting in an overbearing regulatory scheme.
  - If you are living with guests you will not over crowd or allow loud parties
- Other points of disagreement:
  - By requiring condo association "consent", the town is being more restrictive than the condo documents.
  - The notification of abutters after the issuance of the operating certificate doesn't serve any purpose
  - Town inspections should be optional especially given the potential workload as opposed to the available inspection resources.
  - Automatic rescission of the license after 3 violations doesn't provide due process

### Highlights of points made in the subcommittee question period:

- With the 2 guests per bedroom limitation how would very small children be counted? For example, a small child sleeping in the parent's room? The answer was that common sense should prevail.
- In last fall's proposal, for condo associations with 4 or fewer units consent of all condo owners was required, why not here? The STR committee decided that upon further reflection that all associations should be treated the same and there should not be different rules for different sized associations.
- Does this series of articles address enforcement issues that were raised in the Fall? Not really, but there are a number of mitigations. Allowing only owner occupied STR's will reduce the number of STR's in town and pushing back the effective date to January, 2022 will allow Town Departments time to do inspections prior to the startup of the law. Allowing discretion for inspections at renewal will allow Town departments to focus and be selective in their resource allocations. If Article 16 doesn't pass there will continue to be no regulatory framework for permitting and inspections of STR's.
- The effect of STR's on the housing supply was discussed. A large number of STRs would reduce the housing supply and could drive up rents. Limiting STRs to owner occupied units could return investor owned and owner adjacent units to the rental market and increase the housing supply.

### Highlights of points made during public comment:

- STR's provide an affordable alternative to hotels to provide lodging for relatives of Town residents
- For condo associations, the Town should not impose additional decision making structures beyond those provided in the condo's governing documents. The Town is crossing the line by inserting itself into a condo association's decision making process.
- The need to start slowly is not supported by data. Of the many noise complaints made to the Town, this speaker said that only 1 involved an STR.
- Another speaker commented that the data on complaints is unreliable.
- One speaker commented on the removal of the requirement for the owner to be on site. He maintained that that weakened the protections for neighbors.
- A speaker thought that the maximum number of days a unit could be rented should be 45 as opposed to 90 in the STR Committee proposal.

### Proposed Subcommittee modifications from the Moderator's Committee proposal

Article 14: Sean Lynn-Jones spoke to the fact that the Accessory Dwelling Unit (ADU) zoning bylaw modification voted at the November 2019 Special Town meeting had a requirement that rentals be for not less than 6 months for both the ADU and the primary residence attached to the ADU. That modification has not been posted to the Town website and would be difficult to find. The subcommittee agreed that it would be clearer for the reader of the zoning bylaw to reference that section in the STR section to make sure it is not missed. The proposed motion adds language that accomplishes this.

## Article 15:

1. The Moderators Committee listed required items of documentation for operators of STRs and included the phrase “may include.” The subcommittee changed the “may” to “shall”.
2. Roger Blood suggested tightening the language on the procedure to establish owner occupancy to require a yearly recertification by submission of an affidavit by the operator. The subcommittee accepted this suggestion.
3. The most substantive change involved how compliance with condominium association rules would be established for STR’s in condos. The Moderator’s Committee proposal has (1) a submission by the condo association that they “consent” to the STR and (2) a certification by the operator that the STR complies with “all condominium documents, by-laws, or other governing documents.” The subcommittee questioned the Town needed a certification by the operator if the Town is receiving a certification from the association. The association certification is the one that counts. The committee also questioned the nature of “consent” by the condo association and how that consent could be denied unless “documents, by-laws, or other governing documents” prohibit STR’s.

The subcommittee language removes the operator certification regarding condo rules compliance. It then requires the condo association to certify that the STR complies with the condominium “documents, by-laws, or other governing documents” (as opposed to “consent”).

## Recommendation

The subcommittee commends the Moderator’s Committee for taking on this complex topic in a very short, compressed timeframe and addressing the concerns expressed during the Town Meeting debate in the fall. The Moderator’s Committee has found a good balance between allowing homeowners to make some extra money while respecting an STR’s neighbors while reasonably assuring that visitors to the Town have safe accommodations. Article 17 goes beyond what the Moderator’s Committee is recommending for Article 15 and thus broadens the scope of the warrant, opening the door to potential amendments prior to Town Meeting.

The Planning and Regulation subcommittee is recommending:

1. Article 14: FAVORABLE ACTION (as amended) with a 4-1 vote.
2. Article 14 Contingent on Articles 14-17 not passing: FAVORABLE ACTION with a 5-0 vote.
3. Article 15: FAVORABLE ACTION (as amended) with a 5-0 vote.
4. Article 16: FAVORABLE ACTION (as amended) with a 5-0 vote.
5. Article 17: NO ACTION with a 5-0 vote.

The recommended redlined votes follow:

**ARTICLE 14** (Redline shows differences from how the Article appears in the Warrant.)  
(4-1 vote)

VOTED: That the Town will amend the Zoning By-law as follows:

**1. By amending §2.19, “S” Definitions, as follows:**

**Inserting the following:**

1. Short-Term Rental (or “STR”) – The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes: (a) properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment, and (b) Accessory Dwelling Units (as defined and permitted otherwise by the Town’s Zoning Bylaw) or their associated primary dwelling units.

2. Short-Term Rental Operator – Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.
3. Short-Term Rental Unit – A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

**And increasing each subsequent section number by 3.**

**2. By amending §2.16, “P” Definitions, as follows:**

**Renumbering the five existing sections titled “PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL”, “PARKING GARAGE OR PARKING AREA, RESIDENTIAL”, “PORCH, ENCLOSED AND UNENCLOSED”, “PRIVATE CLUB OR LODGE”, and “PROFESSION, RECOGNIZED” as sections 1, 2, 3, 5, 6 respectively and inserting the following after “3. PORCH, ENCLOSED AND UNENCLOSED”:**

4. Primary Residence – Any property at which a resident resides for at least 183 days of the calendar year.

**3. By amending §4.07, Table of Use Regulations, as follows:**

Accessory	Residence	Business	Ind.
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Uses	S	SC	T	F	M	L	G	O	
<u>51C. Short-Term Rentals in possession of a valid Town Certificate of Registration and in accordance with §4.14 only.</u>	<u>Yes</u>								

**4. By amending the Use Regulations by adding the following section, §4.14, Short-Term Rentals:**

§4.14 – SHORT-TERM RENTALS

1. Purpose

This section is intended to protect the health and safety of visitors and residents, ensure that the primary use of these properties remains as a residence, and to minimize the effect Short-Term Rentals have on the character and livability of residential neighborhoods and the well-being of surrounding residents.

2. Applicability

- a. The requirements of this section shall apply to any Short-Term Rental. No property shall be offered as a Short-Term Rental except in compliance with each of the provisions of this By-Law.
- b. Nothing in this By-Law shall be construed to make the Town responsible for compliance with or enforcement of condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

3. Requirements

Short-Term Rentals shall comply with all applicable federal, state, and local laws, regulations and codes, including, but not limited to, the Town’s General By-law entitled “Short-Term Rentals”.

4. Severability

If any provision(s) of this section is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

**These amendments to the Zoning by-law shall take effect on January 1, 2022.**

**ARTICLE 14 Contingent Motion if Articles 14-17 do not pass** (5-0 vote)

VOTED: that the Town will:

1) Amend Section 2.19 of the Town of Brookline Zoning By-law by inserting the following:

½. SHORT-TERM RENTAL – The rental of a whole or portion of a dwelling unit as defined under M.G.L.Chapter 64G.

2) Amend Section 4.07 of the Town of Brookline Zoning By-law by adding the following use 51C:

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
51C. Short-Term Rental for periods of 27 days or fewer.	No	No	No	No	No	No	No	No	No

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**ARTICLE 15** (Redline shows differences from how the Article appears in the Warrant.)  
(5-0 Vote)

VOTED: That Town will amend the General By-laws by adding the following article:

**ARTICLE 5.11**  
**Short-Term Rentals**

**Section 5.11.1**            **PURPOSE**

The Town of Brookline adopts this By-law for the regulation and restriction of Short-Term Rentals within the Town in order to protect the health and safety of renters and residents, and to provide a process through which certain properties that meet specific requirements and eligibility criteria may be registered with the Town of Brookline for use as Short-Term Rentals.

**Section 5.11.2**            **DEFINITIONS**

As used in this by-law, the following terms shall have the following meanings:

“Enforcement Authority”: As designated by Article 10.2 of the General By-Laws.

“Short-Term Rental”, or “STR”: The rental of a whole or portion of a Dwelling Unit for not more than 27 consecutive calendar days, as otherwise defined by M.G.L. Chapter 64G, Sec. 1, which shall be the Primary Residence of the operator.

In accordance with M.G.L. Chapter 64G, the term excludes properties that are, or that are required by law to be, licensed as a lodging house because the lodgings are rented to four or more persons not within the second degree of kindred to the owner or operator. The term also excludes properties that are, or that are required by law to be, licensed as a hotel, motel, or bed and breakfast establishment.

“Short-Term Rental Unit”: A whole or portion of a whole Dwelling Unit that is being offered as a Short-Term Rental.

“Short-Term Rental Operator”: Any person operating a Short-Term Rental. An Operator must be the owner of the Short-Term Rental Unit.

“Primary Residence”: Any property at which a resident resides for at least 183 days of the calendar year.

**Section 5.11.3**            **ELIGIBILITY/APPLICABILITY**

1. Any Short-Term Rental Operator seeking to establish a Short-Term Rental Unit must apply for and receive a Certificate of Registration, following the procedure set forth in Section 5.11.4. The following eligibility requirements shall apply to applicants seeking a Certificate:

- a. The Short-Term Rental Unit cannot be subject to any local, state, or federal income-eligible or income-restricted program that is designated as below market rate housing.
  - b. The Short-Term Rental Unit shall not be subject to any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, or other requirements, laws or regulations that prohibit the Operator from offering the residential unit as a Short-Term Rental.
  - c. The Short-Term Rental Unit shall not be in arrears regarding any municipal or state taxes, fines or fees. Short-Term Rentals, Short-Term Rental Operators, and Short-Term Rental Certificates of Registration are subject to Article 4.7 of the Town's General By-laws.
  - d. The accommodations offered must be compliant with all applicable state and local codes, including building codes, fire codes and health codes.
  - e. Occupancy is limited to a maximum of two (2) guests per bedroom. In a multi-unit building, occupancy is limited to a maximum of four (4) guests. In a single-unit building, occupancy is limited to a maximum of six (6) guests.
2. Nothing in this By-law shall be construed to make the Town responsible for compliance with or enforcement of a lease, condominium by-laws or other governing documents, or any contract or agreement to which the Town is not a party.

**Section 5.11.4                    REGISTRATION PROCEDURE AND SUBMISSION REQUIREMENTS**

1. In connection with an application for a Certificate of Registration, the operator shall provide to the Select Board's Office all documentation that the Office shall require, which ~~may shall~~ include, but not be limited to:
  - a. Any application fee, as may be determined by the Select Board.
  - b. Proof of Primary Residence, either by: 1) providing proof of enrollment in the Brookline residential tax exemption program; or 2) an income tax return for the current year and a recent utility bill both showing the current address of the operator as the address of the Short-Term Rental Unit. Primary Residency must also be certified by the operator at the time of application and not less than once per calendar year thereafter by an affidavit in a form to be provided by the Town and signed by operator.
  - c. Where a Short-Term Rental Unit is part of a condominium association, a certification signed by the condominium association that the ~~condominium association consents to the use of the Operator's unit as a Short-Term Rental.~~ proposed Short-Term Rental complies with all condominium documents, by-laws, or other governing documents.

~~d. Where a Short-Term Rental Unit is part of a condominium association, certification signed by the applicant that the operation of the Short-Term Rental complies with all condominium documents, by laws, or other governing documents.~~

~~e.d.~~ Floor plan of the Short-Term Rental Unit indicating the specific rooms to be offered. The floor plan shall identify each room by a numerical or alphabetical identifier. The floor plan may be sketched by hand but should be legibly labelled with the numerical or alphabetical identifier and the use of that room (e.g., bedroom, living room, etc.). The floor plan should identify the rooms to be used as sleeping accommodations and the proposed maximum occupancy for each. An operator may be asked to resubmit a floor plan with amendments in the event it is unacceptable to the Town's inspectional departments for health and/or safety or code compliance reasons.

~~f.e.~~ Local Contact Information. When registering, a Short-Term Rental Operator must provide their name, address, home telephone number, cell phone number, and email address, as well as such contact information for a secondary contact. Such contact information should identify at least one individual with corresponding contact information (including an active telephone number at which the person will be reachable 24 hours a day) who can respond in person within two hours of contact by a Town official to any issue or emergency that arises during a Short-Term Rental.

~~g.f.~~ Such other information and documentation as the Select Board's Office may determine.

~~h.g.~~ Within 14 days of the issuance of a Certificate of Registration, the Select Board Office shall mail notice of the Certificate of Registration to abutters (property owners, residents and tenants) within 300 feet of the Short-Term Rental Unit.

2. The initial issuance and renewal of a Certificate of Registration shall be subject to the applicant's compliance with applicable federal, state and local law, including this By-Law.
3. The Certificate of Registration shall be valid for a period of one (1) to five (5) years, as the Select Board's Office may determine. The Certificate of Registration shall include a registration number, and shall identify the type of Short-Term Rental, the specific rooms that may be used as sleeping accommodations, and the maximum occupancy for each such room and for the unit as a whole.
4. An operator may seek modification of a Certificate of Registration, including with regard to rooms to be used as sleeping accommodation and maximum occupancies, by submitting such documentation as may be required by the Select Board's Office in connection with such request. Modification of a Certificate of Registration is subject to approval by the Town's Health, Building and Fire

Departments, who may conduct a pre-approval health and safety inspection as necessary. No modification of a Certificate may effect a change to the type of Short-Term Rental for which the Certificate was issued.

5. Certificates of Registration are non-transferable. A Certificate of Registration shall be null and void upon a change in property owner or upon any change in the Primary Residence of the Short-Term Rental Operator that makes the unit ineligible for operation as a Short-Term Rental under this By-law.
6. An Enforcement Authority may revoke, suspend or modify a Certificate of Registration for good cause. The Short-Term Rental Operator shall have the right to a hearing, or opportunity therefor, in connection with such action.
7. Should the Short-Term Rental Operator be issued three (3) or more violation notices within any twelve (12) month period under this article, or of any municipal ordinance, state law, or building code, the Certificate of Registration will be revoked. In such case, a new Certificate of Registration may only be re-issued after a public hearing before the Select Board, which may, impose additional conditions. In the event an Enforcement Authority suspends or revokes an operator's right to operate an STR, the Town shall notify the Massachusetts Commissioner of Revenue of the suspension or termination.

#### **Section 5.11.5           INSPECTIONS**

Prior to approving an initial Certificate of Registration, the Health, Building and Fire Departments shall conduct a health and safety inspection. Such inspections may be conducted upon renewal or in connection with an annual or other inspectional schedule to be determined by the Town. Such inspections may be used to verify that each Short-Term Rental Unit:

1. Meets all building, health and fire code and regulatory requirements.
2. Meets all requirements of this By-Law and of any regulations promulgated pursuant to this By-law.

Inspections shall be made on week-days during normal Town business hours. In addition, inspections may be made at other times (including but not limited to evenings and weekends) to investigate complaints and/or concerns regarding non-compliance or health and safety issues. Inspections shall be conducted in conformity with applicable federal, state and local law. Facilities requiring re-inspection are subject to applicable re-inspection fees.

#### **Section 5.11.6           OPERATIONAL REQUIREMENTS FOR SHORT-TERM RENTAL UNITS**

1. No person shall operate a Short-Term Rental without a current Certificate of Registration pertaining to the Short-Term Rental Unit.
2. Short-Term Rentals shall comply with all applicable federal, state, and local laws,

regulations and codes.

3. Except as may be otherwise specified by Select Board regulation promulgated pursuant to this By-Law, a Short-Term Rental Operator may offer their Short-Term Rental Unit for up to 90 days per year.
4. A Short-Term Rental must be operated consistent with the terms set forth on the Certificate of Registration and with applicable law, including, but not limited to, with regard to rooms to be used as sleeping accommodations, the maximum occupancy of each room, the maximum occupancy of the unit as a whole, and any other stated conditions.
5. The following must be included within each Short-Term Rental Unit:
  - a. Diagram indicating the location of all fire extinguishers, gas shut-off valves, fire exits and fire alarms inside the Short-Term Rental Unit as well as in the building, as well as an evacuation route(s) highlighted in red. The diagram shall be posted (i) in each bedroom used as a Short-Term Rental, (ii) on all egresses from the Short-Term Rental Unit, and (iii) in common areas accessible to the Short-Term Rental Unit;
  - b. A conspicuously placed binder with, at a minimum, the following information:
    - i. Local contact information including the name, address, home and cell phone numbers and email address for the Short-Term Rental Operator as well as one additional contact person who shall be reachable 24 hours a day in the absence of the Operator,
    - ii. Instructions for disposal of trash and recycling pursuant to any applicable requirements established by the Town of Brookline and/or by the property owner or condominium association,
    - iii. Information about Brookline parking regulations, including overnight parking restrictions and designated parking areas for guests, and
    - iv. Copy of Certificate of Registration from the Select Board's Office;
  - c. Fire extinguisher(s) which shall be of type ABC 10lb., dry chemical commercial with a tag to be tested and serviced annually by certified service company. Within a single-family unit, or multiple-unit building where units do not share a common access corridor, there shall be at least one acceptable type fire extinguisher available to the occupant within the unit. Where multiple units share a common access corridor on the same floor, one extinguisher may service up to four units, and be located within the access corridor on the same floor in a location to be determined by the Fire Department;
  - d. A hard-wired smoke/fire alarm system installed in accordance with M.G.L. Chapter 148 and NFPA 72; and
  - e. Any other documentation required by the Select Board's Office to be

distributed inside Units.

6. Public advertisements (online or in print) for a Short-Term Rental shall include in the advertisement the Town-issued registration number associated with the Short-Term Rental's Certificate of Registration. A Short-Term Rental Operator shall only use the name stated on the application for an initial or renewed Certificate of Registration in on-line or other listings of the Short-Term Rental Unit.
7. A Short-Term Rental Operator must keep accurate records of their business including date(s) of rental, rental rates, names of customers and customers' contact information for a period of three (3) years, and make them available to the Town upon request consistent with applicable federal, state and local law.
8. A Short-Term Rental Operator shall notify the Select Board's Office of any change in the Operator's Primary Residence within two (2) weeks of any change.
9. Renting for durations of less than twenty-four (24) consecutive hours shall not be permitted.
10. Commercial uses are prohibited in Short-Term Rental Units.
11. Short-Term Rental Operators shall cooperate and comply with lawful requests for information made by the Select Board's Office and its agents, including from the Planning, Building, Health, Police, Fire and Public Works Departments. Such requests may include requests for by-laws and other condominium documents in order to verify certification(s) submitted to the Town in connection with a Short-Term Rental Certificate of Registration.

#### **Section 5.11.7            REGULATIONS**

The Select Board may issue regulations for the implementation of this By-law, including for the establishment of any appeal process, and for the establishment of a cap on the number of Certificates of Registration issued.

#### **Section 5.11.8            APPEALS**

Unless provided otherwise by Select Board regulations, any person aggrieved by the action or failure to act of a certifying agent shall have the right of appeal to the Select Board. Such appeal must be made in writing and filed with the office of the Select Board within fourteen days from the date action was taken. If the party aggrieved appeals from a failure of a certifying agent to act within forty-five days from the filing of an application, such appeal shall be made in writing and filed with the office of the Select Board within sixty days from the date of application.

#### **Section 5.11.9            FINES**

Any person violating this By-law shall be fined in the amount of \$300 for each violation. Each day of a continuing violation shall count as a separate violation.

**Section 5.11.10      REPORTING**

1. A list of Short-Term Rental Units with active Certificates of Registration will be published on the Town website and updated at least monthly. Information must include address, Short-Term Rental type, Certificate of Registration effective and expiration dates, approved number of rooms and guests and any other restrictions.
2. A list of Short-Term Rental Unit violations will be published on the Town website and updated at least monthly. Information must include Certificate of Registration number, address, date of violation, type of violation, and dollar amount of fine.

**Section 5.11.11      EFFECTIVE DATE**

These amendments to the General By-law shall take effect on January 1, 2022.

**Section 5.11.12      SEVERABILITY**

If any provision(s) of this Article 5.11 of the General By-law is held to be invalid, such provision(s) shall be severed and the remaining sections shall be valid.

**Article 16** (5-0 vote)

Voted: that the Town will amend Article 10.2 (Prosecutions and Enforcement) of the General By-Laws as follows (additions are in **bold underlining**):

**ARTICLE 10.2  
PROSECUTIONS AND ENFORCEMENT**

The provisions in Parts V, VI, VII and VIII of the by-laws of the Town of Brookline shall be enforced and violations prosecuted by any police officer of the town. In addition, enforcement and prosecution of the following bylaws and articles shall be by the following department head or their designees:

<b><u>DEPARTMENT HEAD</u></b>	<b><u>ARTICLE</u></b>
<b>BUILDING COMMISSIONER</b>	
Part V – Private Property	Articles 5.2, 5.3, 5.4 5.6, 5.7, 5.8, <b><u>5.11 (5.11 (“Short-Term Rentals”) to be effective January 1, 2022)</u></b>
<b>DIRECTOR OF HEALTH &amp; HUMAN SERVICES</b>	
Part V – Private Property	Articles 5.1, 5.2, 5.4, 5.5, 5.7, <b><u>5.11</u></b> <b><u>(“Short-Term Rentals”) to be effective 1/1/22)</u></b>
<b>FIRE CHIEF</b>	
)Part V – Private Property	Articles <b><u>5.11 (5.11 (“Short-Term Rentals”) to be effective 1/1/22)</u></b>
.....	
<b><u>TOWN ADMINISTRATOR</u></b>	
Part V – Private Property	Articles <b><u>5.11 (5.11 (“Short-Term Rentals”) to be effective 1/1/22)</u></b>