

MEMORANDUM

TO: NORWELL BOARD OF SELECTMEN, COMMUNITY HOUSING TRUST, TOWN ADMINISTRATOR
FR: ROBERT W. GALVIN, ESQ.
DA: DECEMBER 29, 2018
RE: NEW LAW GOVERNING SHORT TERM RENTALS AND MUNICIPAL OPTIONS

On December 28, 2018, Governor Baker signed c. 337 of the Acts of 2018, a session law, that regulates so-called short-term rentals in the Commonwealth of Massachusetts. The new law becomes effective on July 1, 2019; however, there are several measures that towns may take now in anticipation of the new law.

Summary of New Law:

- Establishes a state-wide registry for all operators of short-term rentals and issues a certificate of registration to be established and administered by the Executive Office of Housing and Economic Development and Department of Revenue
- Requires a certificate of registration for all bed and breakfast establishments, hotels, lodging homes, short-term rentals and motels as a condition to operation.
- Authorizes the EOHEC to establish regulations relating to the registry and supporting the operation of short-term rental industry and hosting platforms (like AirBnB) and to consider the establishment of an online directory for the industry.
- Authorizes the DOR to facilitate by regulation a system of tax filing for those operators who offer their home for rental to the public for not less than 1 day in 5 separate months or fewer and approves a limited filing of a tax

return for income from such operators

- Sets forth a comprehensive list of definitions concerning various types of short-term rentals, including:
 - (a) Bed and breakfast establishments;
 - (b) Bed and breakfast homes;
 - (c) Hosting platforms
 - (d) Intermediaries
 - (e) Operators
 - (f) Professionally-managed unit
 - (g) Short term rental
 - (h) Rent
- Authorizes a state excise tax upon the transfer of occupancy of a unit in various types of short-term rentals of 5% of the total rent except where rent is less than \$15/day which is exempted.
- Authorizes municipalities to impose a local excise tax upon a transfer of occupancy of various types of short-term rentals at a rate of not more than 6% of the total amount of rent except where the rent is less than \$15/day which is exempted. This local tax is paid to the DOR and distributed quarterly back to municipalities. Acceptance is by majority vote of annual or special town meeting and takes effect at the first day of the calendar quarter after the adoption or the quarter specified by the municipality
- Authorizes municipalities to establish by a separate majority vote by town meeting a community impact fee of not more than 3% of the total rent for each transfer of occupancy of a professionally managed unit or within a two or three-family dwelling including the operator's primary residence. This fee is paid monthly to the municipality and not less than 35% of the revenue from this fee must be dedicated to affordable housing or local infrastructure projects.
- Allows recovery of certain excise taxes by operators from occupants provided it is separately charged from rent.
- Exempts from excise taxes operators renting to military

personnel provided certain required documentation is maintained.

- Authorizes Intermediaries who register with the state to collect rent or facilitate the collection of rent through the use of written agreements and to maintain the owner's compliance with laws and regulations
- Creates penalties for noncompliance and persons that misrepresent their status
- Allows municipalities to establish bylaws and ordinances to regulate operators including
 - (a) regulate the existence or location of operators and the number of local licenses or registrations or to allow temporary or seasonal permits;
 - (b) authorize a local licensing process;
 - (c) limiting short-term rentals to properties that are in compliance with building, electrical, plumbing, mechanical, fire, health, housing or zoning codes and any violations thereof
 - (d) authorizes a reasonable local fee associated with local licensing, inspection and compliance.
- Requires operators to maintain liability insurance of not less than \$1,000,000 to cover short-term rentals and indemnifying operators and tenants from bodily injury and property damage.
- Establishes a state commission to study the feasibility and potential for use of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and short-term rentals, as resources to increase the availability of emergency shelter for individuals and families displaced during extreme weather events or other states of emergency declared by the governor.

Recommendations:

1. Accept the local excise tax provisions of the new law at Annual or Special Town Meeting by inserting of the following article in the warrant:

To see if the Town will vote to accept Section 3A of c. 337 of the Acts of 2018 ((Section 3A of Gen. L. c. 64G) authorizing the imposition of a local excise tax upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel at a rate of 6% of the total amount of rent for each such occupancy, or to act on anything relative thereto.

Requested by the Board of
Selectmen

Explanation: This article authorizes the imposition of a local excise tax of not more than 6% on a transfer of occupancy of various types of short-term rentals now authorized by c. 337 of the Acts of 2018 effective on July 1, 2019.

NB: The rate can be anything equal to or less than 6%.

2. Accept the local community impact fee provisions of the new law in a separate article at Annual or Special Town Meeting by inserting the following article in the warrant:

To see if the Town will vote to accept Section 3A of c. 337 of the Acts of 2018 (Section 3Dof Gen. L. c. 64G) authorizing the imposition of a local community impact fee upon the transfer of occupancy of a professionally-managed unit and short-term rental units in a two-family or three-family dwelling that includes the operator's primary residence at a rate of 3% of the total amount of rent for each such occupancy, or to act on anything relative thereto.

Requested by the Board of
Selectmen

Explanation: This article authorizes the imposition of a local community impact fee of not more than 3% on a

transfer of occupancy of various types of short-term rentals including professionally-managed unit and short-term rental units in a two-family or three-family dwelling that includes the operator's primary residence authorized by c. 337 of the Acts of 2018 effective on July 1, 2019.

3. Consider drafting and adopting at Annual or Special Town Meeting local bylaw that regulates the existence, location, number and licensing of short-term rental operators by the Town.