Planning Board Draft 03.18.24

**§ 13 PROTECTIVE (ZONING) BYLAW CONCERNING SHORT TERM RENTALS**

**13.1 PURPOSE**:

Berkshire communities are seeing a proliferation of properties dedicated to short-term rental (“STR”) usage, including individual investors converting housing stock specifically for STR investment and scaled corporate ownership and management which, if allowed to expand without limitation, could impact the character of New Marlborough (the “Town”). The purpose of this Section 24 is to (i) define a STR; (ii) limit the commercialization of STR in the Town; (iii) require Owners of STR to comply with health and fire code requirements; (iv) minimize neighbor disruption and; (v) protect the quiet rural character of the Town.

**13.2 DEFINITIONS**

**“Caretaker”** A local person, including an Owner, who will be responsible for the operation of a STR in the absence of the Owner. A Caretaker may not be a corporate entity that manages more than four (4) STR for more than two (2) Owners.

**“Owner”** Any person whom alone or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; is a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, a limited liability company or a trust.

**“Short Term Rental”** The rental of a whole or a portion of a primary or secondary residential dwelling unit in exchange for payment, as residential accommodations for a period of thirty (30) consecutive days or less. The definition of STR specifically excludes a licensed hotel or motel and seasonal or long-term rental of thirty-one (31) consecutive days or more.

**“Owner-adjacent STR”** The short term rental of a dwelling unit that is not the primary residence of the Owner but is located on the same parcel of land as the Owner’s primary residence.

**13.3 REQUIREMENTS**

**24.3.1** **License**. An Owner must obtain a business license from the Town.

**24.3.2** **Registration**. A registration process will be defined by the Select Board and administered by the Town Clerk. An Owner must register a qualified STR property with the Town Clerk annually. Registration information must include the following:

1. The Owner’s name and address.
2. STR street address.
3. Emergency contact information for the Owner.
4. Emergency contact information for the Caretaker, if applicable.
5. The number of bedrooms in a STR or an Owner-adjacent STR.
6. Certification that the STR is equipped functional smoke detectors, carbon monoxide alarms and at least one visible, properly maintained and charged multi-purpose fire extinguisher on each floor of the STR.
7. An annual registration fee of $75 will be assessed by the Town. The annual STR registration fee may be adjusted from time to time in the discretion of the Select Board.

**13.3.3 Inspection**. A STR may be subject to a safety inspection by an authorized agent of the Town from time to time in the Town’s discretion subject to reasonable notice. All records regarding these requirements must be maintained onsite and available for inspection.

**13.3.4 Insurance.** An Owner must maintain liability insurance appropriate to cover the STR use.

**13.3.5 Parking**. An Owner must provide at least one off street parking space per bedroom offered for STR use.

**13.3.6 Instructions**. An Owner must provide written instructions in a prominent location in the STR regarding the following:

1. Waste and recycling disposal.
2. Owner and/or Caretaker emergency contact information (phone number, cell phone number and email address).
3. The name, contact information and code for any monitored alarm system.
4. Locations of portable fire extinguishers.
5. Notice that dogs must be leashed when outdoors or otherwise restricted to a secure fence enclosure.
6. Notice that no excessive noise shall be allowed after 10:00 pm or before 8:00 am.

**13.3.7 Fire Safety.** A STR shall contain in each living space (bedrooms, living room, kitchen and all other rooms) functional smoke detectors, carbon monoxide alarms and at least one properly maintained and charged multi-purpose fire extinguisher per floor. All alarms need to be registered annually with the Town’s police department.

**13.3.8 Oversight**. An Owner or a Caretaker must be available to physically respond to an emergency at the STR within one hour.

**13.4 RESTRICTIONS**

**13.4.1** **Owner.** An Owner may not offer more than two (2) properties for STR use in the Town. Only one STR may be the Owner’s primary residence or an Owner-adjacent STR.

**13.4.2 Corporation.** An Owner may not be a corporation.

**13.4.3 Income Restriction.** STR is prohibited in dwelling units designated as affordable or otherwise income restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal law.

**13.4.4 Occupancy**. Occupancy cannot exceed more than three persons (adults and children) per bedroom. Occupancy must comply with all state and local health and safety regulations.

**13.4.5 Signage**. Signs on a property advertising STR are prohibited.

**13.4.6** **Outstanding Violations**. STR is not permitted in any property with any outstanding taxes or violations of building, fire, health or any other applicable code or Town bylaw.

**13.4.7 Violations.** Violations should be reported to the Select Board, or to the Police Department, if time sensitive.

**13.5 PENALTIES**

**13.5.1 Violations.** Violations should be reported to the Select Board.

**13.5.2 Penalties**. If an Owner violates any provision of this bylaw, the Owner may be subject to civil penalties in accordance with M.G.L Ch.40 Sect. 21D including the following:

1. First offense - Verbal warning
2. Second offense - $100
3. Third offense - $200
4. Each day that a violation exists constitutes a separate offense.

**13.5.3 Non-Renewal.** In the event there are more than three violations of any of the provisions of this bylaw in a 12-month period, the Select Board may restrict Owner registration of an STR property.

**13.5.4 Appeal**. A penalty may be appealed to the Select Board within 10 days of issuance.