

(b) In addition to the penalties for code and ordinance violations established by the Commonwealth of Massachusetts and City of Newton, the Licensing Board shall have the authority to issue the following penalties for violations of these regulations after notice of hearing and opportunity to be heard.

- (1) More than three (3) code violations not addressed within 30 days of inspection unless a correction plan is approved by the Inspectional Services Department or Fire Prevention Bureau as appropriate.....\$300 Fine
- (2) More vehicles stored on the premises than allowed on the premises by zoning on (3) or more occasions as recorded by the Inspectional Services Department\$300 Fine
- (3) More residents on the premises than allowed on two (2) or more occasions as recorded by the Inspectional Services Department.....\$300 Fine
- (4) If two (2) or more of the above fines are warranted in any 12-month period or if three (3) or more of the above fines are warranted in a 36-month period Denial of License Renewal.

Sec. 20-159. Reserved.

**Article IX
SHORT TERM RENTALS**

Sec. 20-160. Definitions.

The meaning of the terms used in this article shall be as follows:

- (a) *Commissioner*: The commissioner of inspectional services.
- (b) *Operator*: A person or persons offering a dwelling unit or bedroom for short-term rental in the City, 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.
- (c) *Occupancy*: The use or possession or the right to the use or possession of a room in a Short Term Rental normally used for sleeping and living purposes for a period of not more than 30 consecutive calendar days to one person or party, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.
- (d) *Occupant or Guest*: A person who uses, possesses or has a right to use or possess a room in a Short Term Rental for rent under a lease, concession, permit, right of access, license or agreement.
- (e) *Short Term Rental*: The rental of one or more bedrooms (along with any associated living areas) within a dwelling unit on an overnight or short-term basis of less than 30 days to guests. The use is accessory to the primary residential use of the dwelling unit.

Any terms not expressly defined in this article shall have the meaning prescribed by Massachusetts General Laws Chapter 64G, Section 1.

Sec. 20-161. Requirements for Short Term Rentals

- (a) Compliance. No Residential Unit shall be offered as a Short Term Rental except in compliance with the provisions of this article.

- (b) Registration. Operators of any Short Term Rental located in the City of Newton must register with the City in accordance with Sec. 20-162 of this article.
- (c) No Outstanding Code Enforcement or Inactive Building Permits. Operators are prohibited from renting any Short Term Rental if the property is subject to an outstanding building, electrical, plumbing, mechanical, fire, health, housing, trash, noise or zoning code enforcement, including notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices, unpaid fines or if there are any inactive outstanding building permits for the property.
- (d) Three or More Violations in a Twelve Month Period. Should a property receive three or more violation notices within any twelve month period under this article, or of any municipal ordinance, state law, or building code, any residential unit within the property shall be ineligible to be used as a Short Term Rental for a period of six months from the third or subsequent violation.
- (e) Annual Certification. All Operators must file with the Inspectional Services Department a sworn certification attesting to continued compliance with the requirements of this article and all applicable public safety codes. Such certification shall be filed annually on the first business day of January.
- (f) Annual Notice to Abutters. The Operator must, within thirty (30) days after registration of a Short Term Rental, provide notice 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. This notice must thereafter be provided annually on the first business day of January to all abutters, owners of land directly opposite any public or private street or way, and abutters to the abutters. Failure to provide such notice shall constitute a violation of this ordinance.

Sec. 20-162. Registration Requirements.

Operators must register with the Inspectional Services Department prior to the occupancy of any Short Term Rental that commences after January 1, 2020 by submitting the following:

- (a) State Certificate. A copy of the State certificate of registration issued in accordance with Massachusetts General Laws Chapter 62C, Section 67.
- (b) Local Operator Affidavit. A completed sworn Local Operator Affidavit, in a form established by the Inspectional Services Department, that at minimum contains the following information:
 - 1) Contact information of Operator and Local Contact;
 - 2) Proof of Residence;
 - 3) Description of operation and number of rooms/units that will be rented;
 - 4) Confirmation that there is no outstanding code enforcement or outstanding building permits;
 - 5) Signature of Operator certifying that the Short Term Rental conforms to this article.
- (c) Smoke and Carbon Monoxide Certificate of Compliance. All Short Term Rentals must comply with the applicable smoke detector and carbon monoxide requirements for residential units set forth in Sec. 10-11 of these Ordinances and Massachusetts General Laws Chapter 148, Section 26E. Operators must schedule an inspection with the Fire Department and receive a Certificate of Compliance indicating that the property

meets the smoke detector and carbon monoxide requirements prior to the first occupancy commencing after January 1, 2020. Operators shall be responsible for the smoke detector inspection/permit fee to be paid directly to the Fire Department as set forth in Sec. 17-10 of these Ordinances.

- (d) House Rules. A copy of the House Rules required to be posted and distributed in accordance with Sec. 20-164 of this ordinance.
- (e) Registration Filing Fee. At the time of registration, Operators must pay a filing fee of \$100, an amount established by the City Council. All applicable inspection fees shall be paid directly to the inspecting department at the time of inspection.
- (f) Local Contact Information. When registering, an Operator must provide his or her name and contact information, and, in the event that the Operator is not present during the Short Term Rental, the name and contact information of an individual who is able to respond in person to any issues or emergencies that arise during the Short Term Rental within two (2) hours of being notified. Contact information must include a telephone number that is active 24 hours per day to short term rental occupants and public safety agencies. This phone number shall be included in the registration of the Short Term Rental unit at the time of registration. Failure of the local contact to respond within the stated period shall constitute a violation of this ordinance.
- (g) Proof of Residence. When registering a Short Term Rental, an Operator must provide evidence that he or she resides in the dwelling unit for a minimum of 9 out of 12 months during each calendar year, as demonstrated by at least two of the following: utility bill, voter registration, motor vehicle registration, deed, lease, driver's license or state-issued identification.
- (h) Permission of Owner. An Operator must certify at the time of registration that he or she is the owner of the Short Term Rental or as the lessee has permission from the owner to operate the Short Term Rental.

Sec. 20-163. Inspections.

- (a) The Inspectional Services Department, Health and Human Services Department, and Fire Department may conduct inspections of any Short Term Rental as may be required to ensure safety and compliance with all applicable ordinances and local, state, and federal codes, including but limited to the provisions of this article. All inspecting departments shall keep records of inspections and visits to the property throughout each year.

Sec. 20-164. Responsibilities of Operators.

- (a) General Responsibility. The Operator shall be responsible for the proper supervision, operation, and maintenance of the Short Term Rental in accordance with the requirements of this article and all other pertinent laws, regulations, and codes. The Operator shall also be responsible for the behavior and activity of guests that results in a violation of this ordinance. The appointment of an agent shall in no way relieve the Operator from responsibility for full compliance with the law.
- (b) 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.
- (c) Compliance with City Ordinances and State and Local Laws. All Short Term Rentals shall comply with all applicable ordinances and local, state, and federal codes applying generally to residential properties in

the City, including but not limited to the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.

- (d) Commercial Events Prohibited. A Short Term Rental property shall not be used for a commercial event during its occupancy as a Short Term Rental. Commercial events include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.
- (e) Agreements with Occupants. Operators may not enter into any rental agreements that are inconsistent with the terms of this article.
- (f) Minors. No Short Term Rental shall be rented to any unemancipated person who is younger than eighteen (18) years of age.
- (g) Occupant Registries. The Operator of every Short Term Rental must maintain, in permanent form, a registry log of occupants. It must include the names and home addresses of occupants, occupant's license plate numbers if traveling by car, dates of stay, and the room assigned to each occupant. The registry log must be available for inspection by any City official upon request.
- (h) Fire Prevention Notice. Operators shall post in a visible place inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.
- (i) Notice of Registration. The Operator of every Short Term Rental shall post in a prominent place within the rental the house rules below as well as the certificate of registration with the City of Newton. The Operator shall clearly display the Newton Registration number in all advertisements or notices of the short term rental, including online advertisements.
- (j) House Rules. Operators shall institute house rules to prevent the Short Term Rental from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighbors or neighborhood.
 - 1) House rules must make occupants aware of the City's ordinances and the Operator's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
 - i. Noise control, including use of audio equipment that may disturb the peace
 - ii. Adherence to laws regarding disorderly behavior
 - iii. Proper garbage disposal
 - iv. Location of parking stalls on the property
 - v. Neighborhood parking regulations and restrictions
 - vi. Occupancy limits according to the City's Zoning Ordinance
 - vii. Any other provisions as may be required by City Officials.
 - 2) Operators shall ensure all occupants are aware of the house rules by distributing them prior to the date of occupancy and posting them in a visible place.

- (k) Egress and Access. Operators of short term rentals, classified as one-family or two-family dwellings for the building code, shall be responsible for ensuring that adequate egress is provided in accordance with the the appropriate section of Massachusetts State Building Code, 780 CMR.
- (l) Maintenance. The building and all parts thereof shall be kept in good general repair and properly maintained.
- (m) Burden of Proof and Cooperation. The burden of proof is placed on the Operator to demonstrate that they are operating within the limits of this article. Operators must cooperate with any enforcement or investigation proceedings under this article.
- (n) False Information. Submission of false information shall constitute a violation of this ordinance..

Sec. 20-165. Enforcement, Violations and Penalties.

- (a) Enforcement. The Inspectional Services Department and the Newton Police Department or their designees shall be responsible for enforcement of this ordinance, including any rule or regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance.
- (b) Notice of violation. The Commissioner or designee shall issue a written notice of any violation of this article to the Operator. Said notice shall describe the prohibited condition and order that it be remedied within thirty (30) days of receipt of the notice.
- (c) Penalties. Any Operator who violates any provision of this ordinance shall be subject to suspension or termination of the certificate to operate a Short Term Rental and a fine of not more than three hundred dollars (\$300.00) for each violation. Each day a violation occurs shall be a separate offense. The Commissioner shall notify the Massachusetts Commissioner of the Department of Revenue of all such suspensions or terminations. Where non-criminal disposition of this section by civil fine has been provided for in sections 17-22 and 17-23 of these revised ordinances, as amended, pursuant to the authority granted by G.L. c. 40, section 21D, said violation may be enforced in the manner provided in such statute. The civil penalty for each such violation is set forth in section 17-23(c).
- (d) Violations of building, health, or fire code. Any action by the Commissioner to suspend, terminate or issue fines under this section shall not bar any other separate action by any other City Department for health, fire safety, building code or any other violations.
- (e) Failure to Register. Any person who offers or operates a Short Term Rental without first registering with the City shall be fined three hundred dollars (\$300.00) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

Sec. 20-166. Effective Date.

The provisions of this Article IX shall take effect on January 2, 2020.

Sec. 20-167. Severability.

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

Sec. 20-168. Reserved.

- ii. If more than 1 parking stall is required for the home business, the total number of parking stalls required shall be reduced by 1 stall;
- j. In any dwelling which has an accessory apartment, there shall be no more than 1 home business which shall be located in the principal dwelling unit; and
- k. The City Council may grant a special permit for a home business involving any or all of the following:
 - i. A number of nonresident employees greater than that permitted under Sec. 6.7.5.B;
 - ii. The utilization for the purpose of the home business of more than 30 percent of the ground floor area of the dwelling unit;
 - iii. The presence of more than 3 customers, pupils, or patients for business or instruction at any one time, subject to the provision of a number of parking spaces sufficient to accommodate the associated activity;
 - iv. The use of a detached accessory building, exterior structure, or land outside the residence for the primary purpose of, or accessory to the home business; provided, however, that no home business shall be permitted in any detached accessory building which is used as an accessory apartment pursuant to the provisions of Sec. 6.7.1.C or Sec. 6.7.1.D; and
 - v. The waiver of the off-street parking requirement.
- 2. In Multi-Residence Districts. The City Council may grant a special permit for a home business in accordance with standards listed in Sec. 6.7.3

(Ord. No. 191, 01/17/77; Ord. No. S-260, 08/03/87; Ord. No. T-264, 03/01/93; Ord. No. B-2, 02-20-18)

6.7.4. Scientific Research and Development Activities

- A. **Defined.** Activities necessary in connection with scientific research or scientific development or

related production, accessory to activities permitted as a matter of right, so long as it is found that the proposed accessory use does not substantially derogate from the public good.

- B. **Standards.** Notwithstanding anything in this Sec. 6.7.4, no recombinant DNA research shall be permitted as an accessory use.

(Ord. No. R-238, 03/15/82)

6.7.5. Short-Term Rental

- A. **Purpose.** The purpose of this provision and its complementary provision of the general ordinances is to maintain the long term residential use and quiet enjoyment of Newton neighborhoods while providing opportunities for rental income under carefully controlled conditions consistent with the foregoing objectives.
- B. **Defined.** The rental of one or more bedrooms (along with any associated living areas) within a dwelling unit on an overnight or short-term basis of less than 30 days to guests. The use is accessory to the primary residential use of the dwelling unit.
- C. **Standards.**
 1. A resident seeking to operate a short-term rental must register with the City in accordance with Sec. 20-162 of the Revised Ordinances of the City of Newton.
 2. The short-term rental accessory use is permitted in any residential use, excluding associations of persons living together in a common dwelling, congregate living, elderly housing, lodging house, dorms, accessory apartments, and similar residential uses.
 3. There may be no signage associated with a short-term rental.
 4. The burden of proof is placed on the resident registered with the City as the operator of the short-term rental to demonstrate that the resident is operating within the limits of this section.
 5. The resident of the dwelling unit must occupy the dwelling unit for a minimum of 9 out of 12 months during each calendar year.

6. The maximum number of bedrooms on the site that can be rented to overnight or short-term guests is 3 and the maximum number of guests is 9.
7. Temporary During Leasing. Short-Term Rentals in multi-unit buildings with a minimum of 10 units in a business or mixed-use district may, by special permit, occupy residential units with short-term rentals for up to six months while units marketed as for rent are vacant. Units designated as affordable may not be used as short-term rentals. Temporary Short-Term Rentals must register with the City as per Sec. B.1 above.
8. The effective date for this section 6.7.5 is January 2, 2020.

(Ord. No. B-37, 09-03-19)

6.7.6. Watchman or Caretaker

- A. **Defined.** [Reserved]

6.7.7. Food Trucks

- A. **Intent.** Food Trucks are intended to advance the following:
1. Bring variety to the availability of local food establishments;
 2. Add vibrancy and interest to the street life of a district;
 3. Encourage the advancement of new restaurants and food service businesses by serving as a form of business incubator for new restaurant ideas in a start-up phase; and
 4. Create food options and amenities for underserved locations in the City.
- B. **Food Trucks Defined.** Defined in City Ordinances Sec 20-88.
- C. **Rules for Food Trucks.**
1. In the Public Use District, Food Trucks shall only locate on the public street 'Wells Avenue' according to City Ordinances Sec 20-88 and 20-92. Food Trucks are allowed on public land as part of a special event with a license from the Health Department.

2. A Food Truck shall not remain parked overnight.
3. A Food Truck is not required to provide parking.
4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.

(Ord. No. A-120, 12/04/17)

6.7.8. Accessory Shared-Parking

- A. **Defined.** Accessory Shared-Parking is the use of accessory parking stalls, authorized under the Accessory Shared-Parking Pilot for shared use in off-peak times. Accessory Shared-Parking is an allowed accessory use only when the owner or operator of the parking stalls has been approved as a participant in the Pilot and the stalls so identified and approved are utilized in strict accordance with the requirements, terms, and conditions of the Pilot to be issued by the Director of Planning and Development.
- B. **Accessory-Shared Parking Pilot.** The Accessory Shared-Parking Pilot is intended to optimize existing parking resources in village centers by making underutilized private parking available to the public in select commercial areas.
- C. **Standards.**
1. The Pilot will be administered by the Director of Planning and Development, in consultation with the Commissioner of Inspectional Services. The Director of Planning and Development shall prepare and issue rules/guidelines, not inconsistent with the provisions of this Chapter, that clarify the criteria and requirements for participation in the Pilot and set forth the terms and conditions that will apply to approved participants. A copy of these guidelines shall be posted on the City website.
 2. Participation in the Pilot shall be limited to accessory parking located in a Business, Mixed Use, or Manufacturing District or a non-residential use property abutting or across a public way from a Business, Mixed Use, or Manufacturing District. Accessory parking to residential uses are not