

CONWAY PLANNING BOARD

MINUTES

NOVEMBER 12, 2020

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CONWAY PLANNING BOARD

MINUTES

NOVEMBER 12, 2020

A meeting of the Conway Planning Board was held on Thursday, November 12, 2020 beginning at 7:00 pm at the Conway Village Fire Station, 97 Main Street, Conway, NH. Those present were: Chair, Steven Hartmann; Selectmen's Representative, Steven Porter; Vice Chair, Benjamin Colbath; Secretary, Sarah Frechette; Bill Barbin; Ailie Byers; Earl Sires; Planning Director, Thomas Irving; and Planning Assistant, Holly Meserve.

REVIEW AND ACCEPTANCE OF MINUTES

Mr. Porter made a motion, seconded by Mr. Colbath, to approve the Minutes of October 22, 2020 as written. Motion carried with Ms. Frechette abstaining from voting.

OTHER BUSINESS

James and Linda Digiandomenico (PID 262-64.1) – Conditional Approval Expiring (File #S20-12): Mark Lucy of White Mountain Survey appeared before the Board.

Mr. Colbath made a motion, seconded by Ms. Byers, to extend the conditional approval for James and Linda Digiandomenico until August 26, 2021. Motion carried unanimously.

JANET MCMAHON (PID 214-23.1) – 2-UNIT SUBDIVISION REVIEW (FILE #S20-17)

Andy Fisher of Ammonoosuc Survey Company appeared before the Board. This is an application to create two residential units. Mr. Fisher reviewed the plans with the Board. **Mr. Porter made a motion, seconded by Mr. Colbath, to accept the application of Janet McMahon for a two-unit subdivision review as complete. Motion carried unanimously.**

Mr. Hartmann asked for Board comment; there was none. Mr. Hartmann asked for public comment; there was none.

Mr. Irving read a waiver request for §130-36.A. **Mr. Porter made a motion, seconded by Mr. Colbath, to grant the waiver request for §130-36.A.** Mr. Hartmann asked for Board comment; there was none. **Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Byers, to conditionally approve the two-unit subdivision for Janet McMahon conditionally upon Town Engineer approval; North Conway Fire Chief approval; submitting four copies of revised plans with original stamps and signatures; submitting a Mylar for recording; submitting a check for \$25 made payable to Carroll County Registry of Deeds for the LCHIP fee; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on February 11, 2021. Motion carried unanimously.

MEMORIAL HOSPITAL AT NORTH CONWAY NH (FILE #FR20-09) – FULL SITE PLAN REVIEW (PID 215-60)

Ken Costello of SMRT, Inc appeared before the Board. This is an application to modify the existing parking area, construct a new 18 space parking area and reconstruct the building entrance. Mr. Costello reviewed the plans with the Board. **Mr. Porter made a motion, seconded by Ms. Frechette, to accept the application of Memorial Hospital at North Conway NH for a full site plan review as complete. Motion carried unanimously.**

Mr. Hartmann asked for Board comment; Mr. Porter asked if this was formerly the 121 Fit building. Mr. Costello answered in the affirmative. Mr. Hartmann asked for public comment; there was none.

Mr. Porter made a motion, seconded by Ms. Frechette, to conditionally approve the full site plan for Memorial Hospital at North Conway NH conditionally upon Town Engineer approval; North Conway Fire Chief approval; North Conway Water Precinct water and sewer approval; submitting four copies of revised plans with original stamps and signatures; a performance guarantee for all on-site improvements; a performance guarantee for all off-site improvements; when the conditions have been met, the plans can be signed out-of-session; and this conditional approval will expire on February 11, 2021. Motion carried unanimously.

OTHER BUSINESS CONTINUED

Short-Term Rental Committee Recommendation: Steve Solomon, Conway Village Fire Chief and Chair of the Short-Term Rental Committee, appeared before the Board. Mr. Solomon stated the Committee has completed their project. Mr. Solomon submitted the *Final Report of the Town of Conway Short Term Rental Committee* [attached] to the Board.

Mr. Solomon stated he brought the Planning Board's concerns to the Committee, but the Committee did not want to change their provisions. Mr. Solomon stated they are still looking to add a definition, to have them added to the permitted use table where residential is allowed and exempting them from site plan.

Mr. Solomon stated the Committee was not in favor of conditional use permits or requiring site plan review; they are suggesting a business license so it puts it on the Board of Selectmen if there is something not working.

Mr. Solomon stated the Committee discussed the idea of putting a cap on the number of licenses, but they couldn't come up with a way to make it reasonable, functional and fair. Mr. Sires asked if the Committee discussed exempting the smaller properties, but not the larger properties, from site plan review. Mr. Solomon stated a two-tier approach was discussed early on, but the Committee through a vote was not in favor of doing that. Mr. Solomon stated a lot of what is addressed under site plan is address in the business license.

Ms. Byers asked if this is still set up as a self-certification. Mr. Solomon stated the format starts as a self-certification, and there are triggers for inspections.

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CONWAY PLANNING BOARD – NOVEMBER 12, 2020

Mr. Hartmann asked how will it be monitored. Mr. Solomon stated the Town will likely hire a company that does this professionally; through licensing they compare what is being requested to the tax roll. Mr. Hartmann asked if the fees will cover the outside company. Mr. Solomon answered in the affirmative.

Ms. Byers asked if you have a person with multiple properties would any violation at any of their properties trigger looking at their other properties. Mr. Solomon answered in the negative and stated it would be property specific; it would start with a warning, then a fine, then a second fine and then the license revoked.

Ms. Frechette asked if there would be a limit per individual. Mr. Solomon stated that was not discussed and stated he doesn't think legally we could mandate that as it is the landowner's right.

Mr. Hartmann asked for public comment; Greydon Turner stated Host Compliance notifies abutters of short-term rentals. Mr. Turner stated the Committee spent a lot of time on compliance, and self-certification is not done for long-term rentals. Mr. Turner stated we spent a lot of time working on this this summer; we have come a long way. Mr. Turner stated he hopes the Board of Selectmen can license them.

Ray Shakir stated when he was selected to be on this Board, he saw both sides of the issue, which drifted to be a homeowner adjacent to these types of properties. Mr. Shakir stated he sees the downside now that he didn't see before. Mr. Shakir stated to see transients come in to his once quiet neighborhood every weekend is disturbing; we have to deal with different people every weekend.

Mr. Shakir stated most short-term renters are really nice people, but all you need is one. Mr. Shakir stated nobody would want to be next door to a property that changes neighbors four or five times a month. Mr. Shakir stated anyone who lives next door are pseudo policemen and we do it every weekend.

Mr. Irving submitted to and reviewed with the Board a definition and a revised permitted use table adding short-term rentals [attached]. Mr. Irving stated the Board of Selectmen are looking for a recommendation from the Planning Board. After a brief discussion, **Mr. Barbin made a motion, seconded by Ms. Byers, to refer this to the Board of Selectmen. Motion carried unanimously.**

Mr. Porter made a motion, seconded by Ms. Frechette, to forward the revised definition and the permitted use table to the Board of Selectmen for their consideration. Motion carried unanimously.

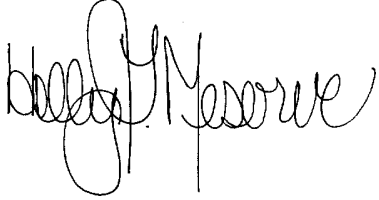
Proposed Zoning Amendments: Mr. Irving reviewed the attached memo regarding an amendment to §190-13.B.(4), accessory dwelling units. Mr. Irving stated the Board may want to also propose this amendment in the other districts as well. **Ms. Frechette made a motion, seconded by Mr. Barbin, to post the amendment to accessory dwelling units to a public hearing on January 28, 2021. Motion carried unanimously.**

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The Board chose not to pursue a Conditional Use Permit [attached] at this time.

Meeting adjourned at 8:28 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style with a large initial "H" and "M".

Holly L. Meserve
Planning Assistant

Final Report of the Town of Conway
Short Term Rental Committee

November 5, 2020

Background:

In 2019, in response to the community, the Town began investigating short term rentals (STRs) to determine legality, and whether there was a need to regulate.

The Selectmen held a public hearing in September of 2019 about Short Term Rentals. The split between the public speaking in favor or and against the presence of short term rentals in the community was very close to 50/50.

From there, an ad-hoc committee was formed to examine the issue in more detail. That committee met through the fall of 2019. Multiple meetings were held, case law was read, consultation with the Town's attorney and the New Hampshire Municipal Association (NHMA) took place. Based on their work, the committee reported back to the Board of Selectmen with the following information.

1. Short Term Rentals are not a permissible use in the residential zones in Conway.
2. A company should be hired to ascertain the number and location of STRs in the Town.
3. Enforcement of the zoning regulations should be stayed for 1 year, with the exception of bonafide complaints, while a set of regulations to manage the STR complaints and problems is sought.

The Selectmen acted on the information provided by the committee putting forth a warrant article to hire a vendor to locate and count the STRs, staying enforcement, and forming a new STR committee.

That Committee was formed to include a Fire Chief, a STR owner, a Realtor, two members of the Board of Selectmen, and three residents that abut STRs. It was hoped that this mix representing life safety, the industry itself, and abutters would be good mix to promote reasonable regulation.

The Town Manager participated as a non-voting member. Other Town staff was made available as resources for the committee.

This is the final report back to the Board of Selectmen of the work of that Committee.

Committee Members

Stephen Solomon, Fire Chief, Chairman
Kris Cluff, Abutter
Scott Kudrick, STR Owner
Steve Porter, Selectman
Tom Reed, Abutter
Ray Shakir, Abutter
Carl Thibodeau, Selectman
Greydon Turner, Realtor

Tom Holmes, Town Manager, Non-voting
Krista Day- Recording Secretary

Meeting Dates

June 4, 2020
June 11, 2020
June 18, 2020
June 25, 2020
July 8, 2020
July 22, 2020
August 5, 2020
August 19, 2020
September 2, 2020
September 16, 2020
September 30, 2020
October 14, 2020
October 28, 2020
November 5, 2020

Process

Over the course of fourteen meetings, the committee members weighed a number of issues related to short term rentals. It took public input both via email and allowing the public to speak via zoom at each meeting. Per the instructions of the Board of Selectmen, the committee did not address whether short term rentals should be allowed in residential zones but rather worked to regulate but not eliminate.

Decisions were made after considering comments and concerns from both the side of the short term rental industry and the residents of Town with final recommendations being moved forward by majority vote.

Recommendations to the Board of Selectmen

The Short Term Rental Committee recommends the following:

1. A change to the zoning ordinance be proposed to the voters to allow short term rentals anywhere single family homes are allowed. This requires a warrant article and a majority vote of the Town Legislative Body.

The Town of Conway has a permissive zoning ordinance. As such, transient accommodations, with the exception of an owner occupied tourist home, are only permitted in the commercial districts. To allow them in the village residential zones or residential agricultural zone requires a change in the zoning and the assent of the voters.

2. License Short Term Rentals under RSA 41:11-C, business licensing and adopt a comprehensive set of rules to manage the short term rental industry. (Proposed Rules included later in this report)

The committee picked this over other methods of regulation such as conditional use permits as rules made by the Board of Selectmen can be altered by the Board without going back to the voters. This allows a set of new regulations to be adjusted by the Board quickly if they find parts of the regulations not working as intended.

3. Establish License Fees as per RSA 41:9-a to cover the Town's expenses related to Short Term Rentals. This will require a warrant article and a majority vote of the Town Legislative Body.

The Committee recommends that the fee be set with a minimum amount that covers STRs up to a certain occupant load with a higher fee as the occupant load rises. This is a fairness issue to the STR owners as larger STRs require greater engagement from the Town and generate more complaints. For example, \$400.00 a year plus \$25.00 per occupant over 8. (Numbers are illustrative only)

4. Establish and Expendable Trust Fund for Short Term rental fees and expense with the Board of Selectmen as agents to expend under RSA 31:19-a. This requires a warrant article and a majority vote of the Town Legislative Body.

Use of an expendable trust fund is intended to make it tax neutral so that the cost to manage STRs is borne solely by the STRs and not the general tax payer of the Town.

5. Hire a service such as Host Compliance to aid Town staff in the management of short term rentals. This packages of services should include address identification, permitting, compliance monitoring, enforcement outreach, and a 24 hour hot line.

This should be a plus for both owners and the Town. It aids in identifying non-licensed STRs and managing the ones that are licensed. In addition it provides a 24 hour hot line

for residents to call if they have a complaint which in turn should get the complaint resolved quickly and does not burden the police department. Of course, residents can still call the police should they feel the situation warrants it.

6. Establish a noise ordinance.

Noise is the number one complaint from neighbors of STRs. The Police respond to noise complaints from other types of properties as well and the committee felt a general noise ordinance may help complaints beyond those of neighbors and abutters of STR properties. (Example noise ordinance included in this report) This requires a warrant article and a majority vote of the Town Legislative Body.

Regulations of Short Term Rentals Proposed by the Committee

I. Definitions

- A. Short Term Rental: Shall mean the rental of a dwelling unit for periods of less than thirty (30) days, rented or offered for rent for 15 or more days in a calendar year. This is a non-residential use.
- B. Short Term Rental License: Shall mean a business license issued under RSA 41:11c by the Town of Conway to an owner permitting use of a dwelling unit as a short term rental.
- C. Application: Shall mean the application for a short term rental license which shall be a form approved by the Conway Board of Selectmen
- D. Complete Application: Shall mean an application that has satisfied all the submittal requirements set forth herein and otherwise complies with the criteria required for issuance of a short term rental license.
- E. Floor Plan: Shall mean a level by level plan of the rental property with labeling of all enclosed spaces within the structure(s) and dimensions, including without limitation all sleeping areas.
- F. Owner: Shall mean the recorded titled owner of the residence for which a short term rental license is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New Hampshire. If the owner is a business entity, said entity must maintain current registration with the NH Secretary of State's Office.
- G. Parking Space: Shall mean an area with a width of not less than nine feet and a length of not less than 18 feet located either within designated garage, or on impermeable surfaces such as asphalt, concrete, or gravel.
- H. Owner's Agent: Shall mean a person, or business designated by the owner to manage the property. An owner's agent shall be designated by the owner as a person who can be contacted by the Town, by Emergency Services, and can receive legal notices on the owner's behalf.
- I. Sleeping Area: To be a valid sleeping area, there must be a primary means of egress, a secondary means of escape, and a working smoke detector as per chapter 24 of NFPA 101, *The Life Safety Code*. The number of sleeping areas in a short term rental shall not be more than the number of bedrooms listed on the Tax Card.
- J. Town: Shall mean The Town of Conway, NH.
- K. Valid Objection: Shall mean an objection based on:
 - 1. The owner's failure to file a complete application
 - 2. The owner's failure to meet any of the required criteria for issuance of a short term rental license.

- II. Short Term Rental License Required:
 - A. To operate a short term rental, the owner, or the owner's agent shall file an application with the Town for a short term rental license.
 - B. No dwelling unit may be rented or offered for rent as a short term rental without a short term rental license.
 - C. Operating a short term rental without a license may be charged as a criminal offense under RSA 41:11-C and/or be subject to civil penalty of \$275.00 for the first day and \$550.00 each subsequent day the dwelling unit is being rented or offered to rent as a short term rental without a license. An owner who believes he/she has been fined in error may appeal as per section VII E.

- III. Requirements for Application: Short Term Rentals are a permitted use anywhere single family dwellings are permitted. The following information and documentation shall accompany the application and be provided to the Town.
 - A. Completed application
 - B. Proof of ownership
 - C. Sketch, to scale, of property showing structures, parking spaces, and outside amenities.
 - D. Floor plan
 - E. Letter signed by owner designating owner's agent if any.
 - F. The Name, address, and 24 hour contact phone number for the owner or owner's agent who can be contacted in case of emergency. This person or business must be able and available to be on site within 30 minutes if requested by the Town or emergency services.
 - G. A form certifying compliance with safety standards set forth in section V I.
 - H. A signed acknowledgement on the application that the owner, and owners agent, if any, have read all of the Town's regulations pertaining to the operation of short term rentals.
 - I. The owner and the owner's agent, if any, shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.
 - J. Septic Systems. Short Term Rentals on Septic Systems must show that their occupant load does not exceed the capacity of their septic system. This can be done by showing a State of New Hampshire ISDS Permit showing approval for the proposed occupant load or, where there is no permit on file, a letter from a New Hampshire Licensed Septic Inspector stating the Septic System is appropriately sized for the proposed occupant load within 12 months.
 - K. Garbage. Short term rentals shall demonstrate an approvable plan for trash storage and removal.
 - L. Fire Pits. If the short term rental has a fire pit, the owner must submit with their application and subsequent renewals, permission for the guests to obtain a fire permit. Fire pits must meet the requirements of NH RSA 227:L-17

- M. Should an owner believe that their property possesses more sleeping areas than the tax card shows, they may request the Town review that. The Town and Fire Department will inspect the property and if the room in question meets the requirements of a sleeping area, it may be added to the floor plan and license as such.

IV. License

- A. The license shall be issued by the Town provided that:
 - 1. The application is complete
 - 2. Any valid objections have been corrected to the satisfaction of the Town.
 - 3. The fee has been paid.
- B. The license shall be valid for one year from date of issue.
- C. Annual renewal must be completed prior to expiration. Renewals will expire on the same date year to year as the original license.
- D. Failing to renew the license prior to expiration shall be treated the same as operating a short term rental without a license and will be subject to the penalties set forth in section II C.
- E. License Fee. The License Fee shall be established annually by the Board of Selectmen as per NH RSA 41:9-a.

V. Regulations

- A. Sleeping Areas. Only the rooms designated as sleeping areas in the application, shown on the floor plan, and approved by The Town, shall be used for sleeping. Lofts accessed by ladders are not suitable for sleeping areas.
- B. Occupant Load:
 - 1. The maximum number of overnight guests permitted in a short term rental is, not more than 2 persons per bedroom, plus 2 additional guests. Children under 3 years old sleeping in their parent's bedroom shall not count toward the occupant load.
 - 2. The maximum number of people allowed on the property after midnight shall not exceed the approved occupant load.
- C. Parking: A maximum of 1 vehicle per bedroom is permitted. All overnight guests' vehicles must be parked on the property. All vehicles must be parked in a designated parking space.
- D. Garbage
 - 1. Dumpsters shall be placed in observance of setbacks and shall be enclosed.
- E. Noise
 - 1. Short Term Rentals shall not interfere with the neighbor's peaceful enjoyment of their property.
 - 2. Noise complaints, when reported to the Town, may constitute a violation of this ordinance when the reporting party is willing to make a written complaint or provide evidence of excessive noise.

F. Posting: Each Short Term Rental shall have a clearly posted and legible notice, on or adjacent to the front door, containing the following information.

1. The name of the owner or owner's agent with their 24 hour phone number.
2. The maximum number of occupants permitted by license
3. The maximum number of vehicles permitted on the property and that all vehicles must be parked on the property.
4. If there is a Fire Pit, the requirement to get a permit before use and to burn only camp fire wood.
5. If Pets are permitted, the requirement to keep pets under control and off other people's property.
6. Name and phone number of Fire Department that covers that STR

G. Fire Pits: Fire Pits must be installed and used in compliance with NH RSA 227:L-17.

1. Permits must be obtained by the guest before using the fire pit.
2. Only campfire wood may be burned in the fire pit.
3. A guests' violation of State Law and Rules regarding outdoor burning or burning other than campfire wood will be addressed with the guest by the Fire Department. It shall also be a violation of these rules and subject to the penalties set forth in section VII.

H. Fire Alarm Systems

1. Short Term Rentals that have fire alarm systems are required to maintain their systems in compliance with NFPA 72, *The National Fire Alarm Code*.
2. Fire Alarms shall be installed and maintained such as to minimize nuisance activations from things such as cooking appliances, wood stoves, and fireplaces.
3. The third and each subsequent time the Fire Department responds to a nuisance fire alarm in a calendar year shall constitute a violation of these rules and subject to the penalties set forth in section VII.

I. Safety Standards

1. Short Term Rentals shall meet the requirements of Chapter 24 of NFPA 101, *The Life Safety Code*, as adopted by the State of New Hampshire including but not limited to:
 - a. Not less than one Means of Egress for each occupiable room.
 - b. Not less than one Means of Escape for each occupiable room.
 - c. Smoke Alarms in each sleeping area, outside each sleeping area and on each level.
 - d. Carbon monoxide alarms.
2. Heating appliances shall be maintained not less than annually.
3. Chimneys, Fireplaces, Woodstoves, and Pellet Stoves shall be installed and maintained in accordance with NFPA 211, *Standard for Chimneys, Vents, Fireplaces, and Solid Fuel Burning Appliances*.
4. Building electrical system installed and maintained in accordance the NFPA 70, *The National Electric Code*.

VI. Inspections

- A. Short Term Rental Licenses are issued with self-certification of compliance with life safety and other rules.
- B. Inspection by the Town and/ or Fire Department is initiated in one of the following ways.
 - 1. Owner's request
 - 2. Violation of these rules
 - 3. Observation of perceived Life Safety violation by the Town or Fire Department while there on other business, such as an emergency response.
- C. Town and Fire Department officials conducting inspections will do their best to accommodate the owners or owner's agent needs and minimize disruption to guests whenever possible.
- D. Discovery of Imminent Threat to Health, Life, or Safety. Pursuant to NH RSA 147:4, 147:11, or 154:21-a, should an imminent threat to life or safety be discovered, the short term rental shall be vacated and their license suspended until such time that the problem is corrected.

VII. Violations and Penalties

- A. Violations of These Rules shall be addressed as follows
 - 1. First Violation. A written warning shall be issued to the owner or owner's agent containing the nature of the problem and required corrective action.
 - 2. Second Violation within one year of the first violation. A fine of \$275.00 shall be levied on the owner.
 - 3. Third Violation within one year of the first violation. A fine of \$550.00 shall be levied on the owner.
 - 4. Fourth Violation within one year of the first violation. Revocation of the Short Term Rental License.
- B. One year from the date of the first violation, that violation shall be removed and the second violation, if there is one, shall become the first violation for subsequent violations. If there is a third violation on file, it becomes the second.
- C. Owners with continued or egregious violations of these rules may be prosecuted under NH RSA 616:17
- D. Any owner who has had his/her short term rental license revoked, may not apply for a short term rental license for that property for one year from the date of revocation.
 - 1. This has no effect on other licensed short term rentals that owner owns.
 - 2. Should an owner have his/her licensed for a particular short term rental property revoked a second time, that owner may no longer obtain a short term rental license for that property.
- E. Right of Appeal. An owner who feels he has been issued a violation in error, may appeal to the Board of Selectmen.
 - 1. Any fines levied shall be stayed pending the appeal.

2. Should the violation being appealed cause a revocation of the license, that short term rental shall not be rented during the appeal process.
3. If an owner has been charged criminally, he/she must seek redress through the court system.

Recommendations to the Planning Board

The STR Committee recognized early on that zoning changes were required to move this forward. Without zoning changes, STRs are permitted in the commercial zones only and then only if they have been through site plan review and conformed with those requirements. Without zoning changes, the Town will have no choice but to issue cease and desist orders to all or nearly all the STRs in town. That will undoubtedly result in the Town having to take STR owners to court, the STR owners taking the Town to court, all resulting in lengthy and costly litigation.

To begin the discussion at the Planning Board, the Committee sent them a letter and subsequently the chairman met with the Planning Board to discuss the following recommendations.

1. Add the following definition to section 190-31 of the Town Code:
Short Term Rental: The rental of a dwelling unit for periods less than 30 days, rented or offered for rent for 15 or more days in a calendar year. This is a non-residential use.
2. Add Short Term Rentals licensed by the Board of Selectmen as a permitted use anywhere single family homes are permitted.
3. Add Short Term Rentals to section 110-4 A, "Non-applicable" for site plan review.

The Planning Board has met and begun discussion on these recommendations. They have not yet voted on them.

The Board of Selectmen may have to initiate action on their own regarding zoning. RSA 675:3 VIII allows the Board of Selectmen to propose zoning changes under their authority.

Sample Noise Ordinance

Code of the Town of ~~Durham~~ Conway, NH

CHAPTER ??? NOISE

[HISTORY: Adopted by the Town of Conway April 13, 2021 Board of Selectmen (now Town Council) of the Town of Durham: Art. I, 11-2-1970; Art. II, 10-6-1986. Amended by the Town Council on 6-21-2010.]

Article I

§ ???-1 PURPOSE AND INTENT

Because the creation and/or maintenance of loud, unnecessary or unusual noises, within the Town of Conway, which are prolonged, unusual and unnatural in their time, place and use, detrimentally affect public health, comfort, convenience, safety, welfare and prosperity of Town citizens, the Town ordains it necessary and appropriate to enact the following provisions and prohibitions.

§ ???-2 AUTHORITY

This chapter is enacted by the Town of Conway pursuant to the authority granted by the New Hampshire Legislature as stipulated in RSA 31:39 I. (n), as amended.

§???-3 VEHICLE NOISE

A. 85-1. Vehicle noise restricted.

No person shall operate any vehicle on any street so as to make any loud, unusual or other unnecessary noise as hereinafter defined.

§ ???-4 85-2. Definitions.

As used in this ~~Article~~ Chapter, the following terms shall have the meanings indicated:

ANNOY - To disturb or irritate, especially by continued or repeated acts; to bother with unpleasant deeds; To do something to upset or anger someone; to be troublesome; A feeling of discomfort or vexation caused by what one dislikes;

DISTURB - the unsettling of proper order in a public space, or the unsettling of proper order heard from a private place, through one's actions. This can include creating loud noise by fighting or challenging to fight, disturbing others by loud and unreasonable noise, or using offensive words or insults likely to incite violence.

LOUD, UNUSUAL OR OTHER UNNECESSARY NOISE -- Includes any noise occasioned by any one (1) or more of the following actions of the operator of any vehicle:

- A. Misuse of power exceeding tire traction limits in acceleration, sometimes known as "laying down rubber" or "peeling rubber."
- B. Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency.
- C. Rapid acceleration by means of quick upshifting of transmission gears with either a clutch and manual transmission or an automatic transmission.
- D. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch and manual transmission or an automatic transmission.
- E. Racing of engines by manipulation of the accelerator, gas pedal, carburetor or gear selection, whether the vehicle is either in motion or standing still.

~~Code of the Town of Durham, NH~~

~~Chapter 85— Noise~~

- F. The blowing of any horn except as a warning signal or the use of any other noisemaking device, whether the vehicle is either in motion or standing still.

STREET -- Includes a crosswalk, intersecting way or other public highway, all as defined by RSA 259:1, as amended.

VEHICLE -- Includes a bus, highway building equipment, motorcycle, motor truck, motor vehicle, semitrailer, sidecar, tractor, trailer or other vehicle, all as defined by RSA 259:1, as amended.

~~§ ???-5 85-3. Violations and penalties.~~

~~Any person convicted of a violation of this Article shall be fined as provided in Chapter 1, Article II, of this Code. Any person found in violation of this chapter shall be guilty of a violation and may be fined in an amount set from time to time by the Board of Selectmen, with such fines not exceeding \$1,000 to inure to the general budget of the Town per RSA 31:39 III.~~

~~Article II~~

~~§ ???-6 OTHER NOISE USE DISTRICTS~~

- ~~A. 85-4. Noise restricted.~~

In accordance with the concepts set forth below, it shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessarily loud noise or any noise which either annoys, disturbs, injures or is likely to endanger the comfort, repose, health, peace or safety of others within the town limits. For the purpose of this section, persons shall include the owner, tenant, or other person in control of a private residence who permits or allows guests to engage in loud or unreasonable noises that can be heard in a public or other private place or who fail to take the necessary steps and precautions to prevent guests or other persons on the property from engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other device which reproduces or amplifies sound.

~~85-5. Specific prohibitions.~~

B. ~~A.~~ Prohibited noise/time restrictions.

~~(1) 1-~~ Between 10:00 p.m. and 6:00 a.m., created by loading, unloading, opening, closing or otherwise handling boxes, crates, containers, building materials, trash cans, dumpsters or similar objects.

~~(2) 2-~~ Between 10:00 p.m. and 7:00 a.m. created by:

~~(a) a-~~ The operation or use of construction vehicles, to include but not be limited to bulldozers, graders, dump trucks, backhoes, earthmoving equipment, front-end loaders and log skidders.

~~Code of the Town of Durham, NH~~

~~Chapter 85 — Noise~~

~~(b) b-~~ The operation or use of tools or construction equipment, to include but not be limited to cement mixers, hammers, staple or nail guns, power tools (i.e., saws, drills, grinders and sanders), chain saws, lawn mowers, electric hedge trimmers, lawn edgers and jackhammers.

~~(c) c-~~ The operation or use of agricultural equipment, to include but not be limited to tedders, balers and tractors.

~~(3) 3-~~ Between 10:00 p.m. and 7:00 a.m. engaging in conduct that creates loud and unreasonable noises including, but not limited to the operation, playing, or using of any audio equipment, sound amplifier or other device which reproduces or amplifies sound.

~~(4) 4-~~ Evidence of a specific complaint or complainant is not necessary to establish a violation of this ordinance

§ ???-7 ~~85-6~~. Exemptions.

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure-relief valves.
- B. Noises resulting from any authorized vehicle when responding to an emergency call or acting in time of emergency.
- C. Noises resulting from emergency maintenance work as performed by the town, by the state or by public utility companies, to include snow-removal operations.
- D. Municipal maintenance work where the abutters to the work site have been given prior notice of the project.
- E. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town.
- F. Vehicles, tools and equipment enumerated in S 85-7B(1) and (2), except during time periods of their prohibited use.
- G. Snowblowers and other types of private or commercial snow-removal operations.
- H. Parades and public gatherings for which the Town of Conway has issued a permit.
- I. Bells, chimes or carillons while being used for religious purposes or in conjunction with religious services and those bells, chimes or carillons that are presently installed and in use for any purpose.

~~Code of the Town of Durham, NH~~

~~Chapter 85—Noise~~

§ ???-8 ~~85-7~~. Application for special permit.

Application for a permit for relief from the noise level designated in this Article on the basis of undue hardship may be made to the Town of ~~Durham~~ Conway. Any permit granted by the Town shall set forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement.

~~85-8. Violations and penalties.~~

~~Any person who violates the provisions of this Article shall be subject to a fine as provided in Chapter 1, Article II, of this Code.~~

~~Code of the Town of Durham, NH~~

§ ???-9 Validity

If any section or part of a section or paragraph of this Ordinance is declared invalid or unconstitutional, said declaration shall not be held to invalidate or impair the validity, force or effect of any other section or sections, or part of a section or paragraph of this Ordinance unless the purposes of this Ordinance cannot be accomplished in the absence of the invalidated provision.


§ ???-10 Effective.

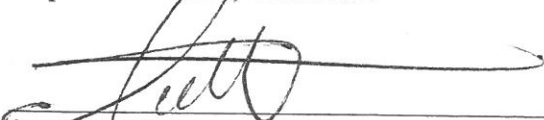
This Ordinance shall take effect upon its passage.


Conclusion

This concludes the work of the Short Term Rental Committee. Its members worked diligently in trying to balance two separate and often competing property rights. It is this committee's hope that these recommendations and proposed regulations can be used to balance the rights of property owners to short term rent their property and the rights of residents to the peaceful enjoyment of their property.


The Committee understands that its role was to produce recommendations only and that the respective Boards within the Town may make changes to any or all of these recommendations under their authority and auspices. Ultimately, it is the voters of the Town of Conway and not this committee who decides the fate of short term rentals.



Stephen Solomon, Chairman

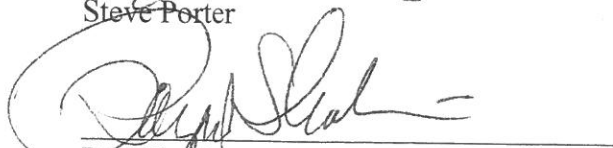

Scott Kudrick



Tom Reed


Carl Thibodeau


Kris Cluff


Steve Porter


Ray Shakir


Greydon Turner

Short Term Rental: The rental of a dwelling unit for periods of less than thirty (30) days, rented or offered for rent for 15 or more days in a calendar year and where the dwelling unit is not associated with commercial activities such as a hotel, motel or bed-and-breakfast. This is a non-residential use. A qualified Short Term Rental must have a Business License in good standing from the Board of Selectmen.



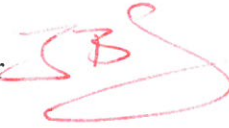
TOWN OF CONWAY

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MEMO

TO: Planning Board

FROM: Tom Irving, Planning Director 

CC: File

DATE: 10/30/20

RE: Zoning Amendments... Special Exception for ADUs

Message:

Please review the following draft amendment: It affects the ADU provision(s) in the Ordinance. Currently the provision requires that either the primary or accessory dwelling unit be occupied by the Owner. This amendment would delete that requirement.

It is my understanding that the owner occupancy requirement was premised on properties being better controlled and maintained if the owner was present and to mitigate any negative issues associated with absentee landlords. The question is now whether or not the need for more housing opportunities and especially workforce rental housing outweighs the owner occupancy requirement.

The attached is relative to the RA District. However, if it is the pleasure of the Board, it may also be applicable to other or all residential and commercial districts

§190-13 B (4)

- (b) In order to help provide year-round rental housing, the Zoning Board of Adjustment may grant a special exception for one accessory dwelling unit as an accessory use to a single-family dwelling on any size lot, subject to the following conditions:
- [1] The accessory dwelling unit is designed to ensure architectural compatibility with the neighborhood.
 - [2] Sufficient parking is located on site.
 - [3] ~~Reserved. The owner shall be the full-time occupant of either the primary single-family dwelling or the accessory dwelling unit.~~
 - [4] Both the primary single-family dwelling and the accessory dwelling unit shall be used for long-term residency, and short-term transient occupancy of either dwelling unit is prohibited.

If it is the pleasure of the Board, you might want to consider proposing the amendment(s) for a public hearing on January 28, 2021 pursuant to consideration for the 2021 Town Warrant.

§ 190-13 Residential/Agricultural (RA) District.

L. Conditional Use Permits (CUPs)

To preserve the traditional character of residential neighborhoods that can be negatively impacted by Short Term Rentals and to help preserve the quality and quantity of the housing stock for year-round residential use, in accordance with the provisions of RSA 674:21 I. (i) Short Term Rentals are permitted in the zoning district by a Conditional Use Permit (CUP).

- (1) Conditional use permits for Short Term Rentals shall be administered by the Board of Selectmen or their designee, the Administrator).
- (2) Application forms and fees shall be established and amended from time to time by the Board of Selectmen.
- (3) The following conditions must be satisfied prior to issuance of the Conditional Use Permit:
 - (a) Onsite parking shall be provided at a rate of at least 2 spaces plus one space for each bedroom over three. Such parking spaces shall not be within 15 feet of any road right of way.
 - (b) Onsite solid waste facilities shall be provided for both recycling and disposal as necessary to serve the site. All such facilities shall be screened from sight from abutting properties and streets by means of a fenced or landscaped enclosure. In all cases, facilities shall be selected and operated to minimize windblown litter and animal problems. Such facilities shall not be located in front, rear, or side setbacks.
 - (c) On site snow storage areas that do not encroach into adjacent properties or any road right of way shall be provided.
 - (d) The applicant shall submit a scaled site plan demonstrating compliance with the forgoing conditions.
 - (e) A valid Town of Conway Short Term Rental License must be obtained prior operation of the Short Term Rental.
- (4) Upon receipt of an application for a Short Term Rental Conditional Use Permit, the Administrator shall review the application for completeness and if it is complete forward the application to the Conway Planning Board, who shall place the application on the available agenda.
- (5) The Planning Board shall review the application and shall provide the Administrator with written comments on the application. The Planning Board is not required to hold a public hearing.
- (6) Upon receipt of the Planning Board's written comments, the Administrator will either approve or deny the application. If the Administrator does not incorporate the Planning Board's comments directly into their decision, then the Administrator shall set forth their findings and decisions on the Planning Board's comments pursuant to RSA 674:21, II.
- (7) Within 30 days of the date of the Administrator's decision to approve or deny an application for a Short Term Rental Conditional Use Permit, an aggrieved party may file an appeal in writing with the Board of Selectmen, requesting that the Selectmen reconsider the decision and setting forth the reasons why reconsideration would be appropriate. If such an appeal is

timely filed by an aggrieved party, the Selectmen shall schedule the appeal for a public hearing within 45 days upon receipt pursuant to RSA Chapter 43.

- (8) Revocation of Conditional Use Permit; Fines and Penalties
 - (a) Approvals may be revoked for failure to comply with this Ordinance or with any conditions of approval imposed as part of the Conditional Use Permit. The first violation of this Ordinance (or a Condition of Approval) may result in a warning; the second violation may result in a civil penalty of \$275; and the third violation will result in a revocation of the Conditional Use Permit. If a revocation occurs, the owner may not apply for reinstatement for a period of three months.
 - (b) Using a dwelling unit for Short Term Rentals without a valid Conditional Use Permit will subject the property owner to fines and penalties outlined in RSA 676:17.
- (9) Reports of Nuisances or Other Dangers to the Public Health
 - (a) Nuisances or any other dangers to the public health reported by lodgers or abutters may require an inspection pursuant to RSA 147:3.