

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Ordinances, Licenses and Legal Affairs co-posted with the Committee of the Whole met in the Council Chamber on Thursday March 28, 2024 at 6:00P.M.

for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on March 19, 2024 at 1:34 P.M.

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: Councilor Cohen (recused)

In Attendance from the Committee of the Whole: Councilors Prosniewski, Merkl, Jerzylo, and Stott. Councilor Varela joined late.

Also in Attendance: Mayor Pangallo, Building Inspector Voula Orfanos, Health Agent David Greenbaum, and Assistant City Solicitor James Wellock

Amending and Ordinance relative to Short Term Rentals

Amending an Ordinance relative to Certificate of Fitness

The City of Salem accepts MGL Ch. 40U, authorizing the City to impose and collect fines for a variety of code and ordinance violations using a non-judicial, administrative process

Mayor Pangallo begins by explaining that in 2018, the city adopted an ordinance regulating short term rentals, which required their registration with the city, and also required a certificate of fitness. Since then, we have seen an increase in the number of Short Term Rentals in our community, which led to some changes and clarifications in the ordinance. Additionally, the city would like to adopt this new standard of property code violations in Chapter 40U of MGL. The changes to the Short Term Rental (STR) ordinance include eliminating the ability to use a deed or utility bill as proof of residency by the owner, because these only prove ownership, not residency. Also, there is a clarification on the exemption for use for hospital stays, to state that the unit must ONLY be used for hospital stays, not sometimes for non-hospital rentals. And finally, this limits the number of Short Term Rentals to two units in the building in order to not turn apartment buildings into short term rental hotels. There are currently only one or two properties that fit this description, but this provides protection into the future. The change to the ordinance related to the Certificate of Fitness gives the Board of Health subpoena power to acquire records from short term rental platforms and companies in order to enforce the code. Finally, accepting MGL Chapter 40U enables us to modify our method of enforcing sanitary housing and building and property codes by establishing an administrative hearing process rather than one through the courts, and authorizing the city to attach unpaid code tickets to property taxes for the offending property. This applies to residential and commercial properties and is intended to provide a greater responsiveness to violations and compliance with the code. This applies to all property related code violations, not just Short Term Rental

violations. DOR collects lodging excise taxes on STR and reports 370 Short Term Rental properties, about 2% of housing stock. In conjunction with the passage of these changes, the City is anticipating raising the registration fee for short term rentals, enabling the city to hire another full-time employee to help enforce the code for short term rentals and certificates of fitness.

Councilor Stott asks what Chapter 40U covers. Mayor Pangallo states that KP Law provided documentation on what the law covers, which was distributed to the Councilors. He asks James Wellock to provide more information.

Councilor Morsillo notes that Councilor Varela has joined the meeting.

Mr. Wellock explains that 40 U covers most violations that can be brought against a property. The fine is issued to the property and follows the property. If owned by an LLC, the citation is against the property and if not paid or appealed, it would be attached to the property. This tends to bring the property under compliance faster.

Councilor Stott asks about the change to the number of units that can become STR. She asks what data was used to limit the ordinance to 2 units. Mayor Pangallo states that there are 1 or 2 buildings with more than 2 units where all units are STR.

Councilor Stott asks if they now need to comply and have the owners been given notice of this change? David Greenbaum states that the property owners of the two buildings have not been given notice and that if the ordinance change passes, they will need to come into compliance. He states that his department has received more questions about whether multi-unit buildings can be used for Short Term Rentals, and given the tight housing market, the idea is to provide more regular rental housing.

Councilor Harvey asks if the fines are attached to the deed and future buyers are responsible? Mr. Wellock states that when someone buys a property, they are given a list of fines attached to the property, so the new owner would be given notice of fines.

Councilor Watson-Felt states that there are condo owners of multiple units in the same building. How are the number of STR units limited in a condo building? Mr. Wellock says he is not sure. He states that it can be written in such a way that condo associations can write their rules for the building.

Councilor Stott asks about the 370 STR's that are known to the DOR. Is this an accurate number for the registered units? Mr. Greenbaum thinks it is not up to date, and about 50 have stated that they are no longer doing STR. The number is closer to 320, and 300 are registered. The department is falling short of the annual registration and inspection though.

Councilor Stott states that she is concerned about the two property owners who will be affected by limiting the number to 2 STR's in a building. She asks to consider exempting these properties. Mr. Greenbaum asks to be allowed to research this first to fully understand how many buildings this will affect.

Councilor Watson-Felt agrees that these properties may need to be exempted, but she does not want to change the number of allowable units because of the housing crisis. She asks about the growth in Short Term Rental units. Mr. Greenbaum states that when he came back to the city in 2019 there were about 50 units that the department knew about and now there are 320. Councilor Watson-Felt explains that other cities in the country are passing laws like this to limit the number of units, like Dallas and New Orleans. Mr. Greenbaum states that Marblehead and Nahant are passing laws like this as well.

Councilor Watson-Felt states that we are dealing with what is in front of us now, but we need to look at what is coming in the future and get ahead of that. Exempting properties is not a great practice because the levels continue to rise. Mr. Greenbaum says that they regularly get calls about buying property to Short Term Rent and not live in them.

Councilor Merkl states that she supports the changes and thanks the staff for the work done. She agrees that we need to understand how this affects current property owners who may now be out of compliance.

Councilor Watson-Felt asks about owners who vacate their properties during tourist season, and whether we can limit Short Term Rentals to 2 units and allow the owner to STR their own unit in October as well. Mr. Wellock states that he doesn't know how to enforce that. It would be very difficult.

Councilor Morsillo says that the least carve-outs in this ordinance the better because it is very difficult for neighbors to know what is happening in houses with these units. Councilor Watson-Felt agrees.

Councilor Varela states that if someone wants more than two Short Term Rental units, they can become an innkeeper or Bed-and-Breakfast, which means they need to follow fire code and would have a different tax classification. There is a mechanism if someone wants to make this a business. Councilor Morsillo agrees, stating that there are people want to get into the tourism business by providing lodging, and Councilor Varela makes a good point about it becoming a commercial venture rather than a simple Short Term Rental.

Councilor Morsillo reviews the red-line version of the ordinance text. She asks for an amendment to make the effective date April 12, 2024, the date of second passage. Councilor Watson-Felt makes the motion, seconded by Councilor Davis. The motion passes 4-0.

Councilor Watson-Felt asks if the exemption for hospital stays is for ALL use of the Short Term Rental. Mr. Wellock restates that for the exemption it is for 100% use of the unit. If the unit is being used even temporarily for a hospital stay, there is no need for a license.

Councilor Watson-Felt moves to refer the ordinance on Short Term Rentals to the Council as amended with a positive recommendation, seconded by Councilor Davis. The motion passes 4-0.

Councilor Watson-Felt moves to refer the ordinance on Certification of Fitness to the Council with a positive recommendation, seconded by Councilor Davis. The motion passes 4-0.

Councilor Watson-Felt moves to refer the acceptance of MGL Chapter 40U to the Council with a positive recommendation, seconded by Councilor Davis. The motion passes 4-0.

Councilor Morsillo thanked the Mayor and staff for being at the meeting.

On the motion of Councilor Watson-Felt the meeting adjourned at 6:31 P.M.



(Chairperson)