

SEPTEMBER 17, 2018

JOINT PUBLIC HEARING OF THE CITY COUNCIL AND PLANNING BOARD

A Joint Public Hearing with the Planning Board and the City Council was held in the Council Chamber on Monday, September 17, 2018 at 6:30 P.M., for the for the purpose of discussing an Ordinance to Amend an Ordinance Relative to Zoning Sec. 3.0 – Table of Principal and Accessory Uses and Sec. 10.0 Definitions relating to Short-term Rentals. Notice of this meeting was posted on August 24, 2018 at 1:16 P.M. and advertised in the Salem News on August 30, 2018 & September 10, 2018.

Below is a copy of the Zoning Ordinance:

(#486) – AN ORDINANCE AMENDING ZONING RELATIVE TO SHORT TERM RENTALS SECTION 3.0 – TABLE OF PRINCIPAL AND ACCESSORY USES AND SECTION 10.0 – DEFINITIONS

An Ordinance to amend an Ordinance relative to Zoning

Be it ordained by the City Council of the City of Salem, as follows:

Section 3.0 Table of Principal and Accessory Uses

Amend *Section 3.0 Table of Principal and Accessory Uses* to include the following new uses:

The following uses shall be permitted as set forth in the Table of Principal and Accessory Use Regulations.

	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD	NRCC
Non-Owner Occupied Short-Term Rentals	N	N	BA	BA	BA	BA	BA	BA	N	N	

Section 10.0 Definitions

Amend *Section 10.0 Definitions* to include the following new definitions:

Non-Owner-Occupied Short-Term Rental: A dwelling unit where the owner does not live in either the unit, the building, or otherwise on the property and which was being used as a Short-Term Rental prior to the date the general ordinance, Chapter 15 Short-Term Rentals, was filed with the City Clerk for consideration by the City Council.

Short-Term Rental: A Short-Term Rental is the use of a dwelling unit for residential occupancy for a period of fewer than thirty (30) consecutive calendar days for a fee. A Short-Term Rental may or may not be facilitated through an online booking agent.

SEPTEMBER 17, 2018

**JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND PLANNING BOARD**

Councillor Milo recorded as absent (excused)

President Beth Gerard presided.

President Beth Gerard introduced the members of the Planning Board, Ben Anderson, Chair, Helen Sides, Matthew Smith, Kirt Rieder, Carole Hamilton and Matt Veno.

Also present was Victoria Caldwell, Assistant City Solicitor and Dominick Pangallo, the Mayor's Chief of Staff.

Councillor McCarthy made a motion to suspend the rules to allow the Assistant City Solicitor Victoria Caldwell to speak. There were no objections.

Attorney Caldwell stated that this zoning ordinance is a companion piece to the new ordinance Sec. 15-2 relative to short term rentals that was brought in front of Council last week and passed for first passage. This companion piece would allow the grandfathering of existing non-owner occupied short-term rentals such as those that were in existence as of July 19, 2018 when the general ordinance was filed could remain subject to the process this is detailed in this ordinance amendment that defines a non-owner-occupied short-term rental and a short term rentals less than 30 days for a fee; then you have your use table which shows you where a non-owner occupied short term rental, only where a grandfathered use would be allowed by special permit process which would be R2, R3, B1-B5. The subject of grandfathering short-term rentals before July 19, 2018 could remain only in areas where rooming houses, bed and breakfasts and lodging homes are allowed. The idea behind the ordinance was to balance the interest in the City put everybody on a level playing field for those who are already there. The Special Permit Process would vet out any short-term rentals if it wasn't well received by the neighbors or abide by the rules put in place. There are special conditions put on everybody to meet such as the use is not more detrimental than the existing use. Boston eliminated all non-owner-occupied rentals; Salem grandfathered them in. There will be no grandfathering of existing non-owner-occupied short-term rentals in the R-1. There are no opportunities to do this. It was only meant to be where B&Bs, Inns, Lodging and Rooming houses are allowed.

Councillor McCarthy asked just for clarification if non-owner occupied already existed, then according to this table these properties in RC, R1, I or BPD as of April 15, 2019 will need to cease and desist. And the non-owner-occupied short-term rentals in R1, R2, B1, B2, B3, B4 and B5 would have to go to the Board of Appeals if they so desire

Atty. Caldwell responded yes, if exist in RC, R1, I or BPD as of April 15, 2019 they need to cease and desist. Grandfathering only for R2, R3, B1, B2, B4 & B5 but they need to go to the Board of Appeals within sixty (60) days if don't then they can no longer operate.

SEPTEMBER 17, 2018

**JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND PLANNING BOARD**

Councillor Turiel gave two examples of 2 properties that were both rental units. 1.) A 2-family house with owner living in one unit and a long-term renter in the other unit; and 2.) A 3-family house with family members living in one unit, one long term unit and one short-term rental.

Atty. Caldwell responded if these houses were in a R2 or R3 then they can be grandfathered in with special permit.

Councillor Madore asked why is the NRCC blank and if we could clarify the word grandfathering in the definitions.

Atty Caldwell responded that the definition of grandfathering already exists in the non-owner-occupied definition and that the NRCC is blank because it has its own section and not normally in the table of uses; however, Councillor Dibble asked us to include it.

Councillor Gerard asked – Do we know of any non-owner-occupied short-term rentals in R1

Atty. Caldwell responded, yes, we know of some but Air BNB does not give location unit you book.

Kirt Rieder, Planning Board Member, asked if we knew how many in a R2 or R3 district? And did Boston have a sunset clause?

Atty. Caldwell responded about 200 totals in the city but no breakdown by District. Boston did have a sunset clause and the Salem City Council also added one as of April 19, 2018.

Ben Anderson, Chair of Planning Board, we are specifying non-owner-occupied rentals, do we have a sense of owner occupied and if they are allowed?

Atty Caldwell responded that in the general ordinance that was just passed for first passage, owner occupied in any district will be allowed. The three (3) types being addressed if your primary residence, which is you reside there 6 months or more in a year then you can rent out your home for 30 days or less with no zoning. Also, Owner adjacent units i.e. 2-family – you live in one unit you can rent out another unit on a short-term basis R1, R2, and R3 or Owners can rent up to 2 rooms limited share unit as long as owner is there on a short-term rental. Concept is to preserve neighborhoods and if owners are there and are around they would take care of any issues or problems. They would have a stake in it.

Matt Veno, Planning Board Member, had a follow up to Ben Anderson's and Councillor Turiel's questions. If owner occupied and renter is relative of owner if R1 or RC then doesn't matter if relative if it is only on a short-term basis, but non-owner in a R2 or R3 then they can apply for a special permit.

SEPTEMBER 17, 2018

**JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND PLANNING BOARD**

Matt Smith, Planning Board Member, little confused on why can't be grandfathered in R1, but if Single Family in R2 you can.

Atty Caldwell responded because R1 you are not allowed to have lodging or rooming houses.

Councillor Peterson – if a person lives in a R1 and owner goes into a nursing home or rehab in hopes of returning home can a family member move in to take care of home and property and rent out a room to help with expenses. Can this be done?

Atty. Caldwell responded that with the permission of the owner and using the limited share option then technically they can.

Councillor Turiel asked as a follow up if owner went into extended care and lives in a R1 they cannot list their home on Air BNB and rent it for as long as they were in rehab.

Atty. Caldwell responded technically no.

Matt Veno had a question about the Zoning Ordinance. Is there a definition for short-term rental referenced in the zoning ordinance? Are we creating any requirements? Is there another definition?

Atty. Caldwell responded no.

Matt Veno – just to be clear why is there a definition of short-term rental.

Atty. Caldwell answered that the non-owner-occupied is defined to get the 30 days in there

Councillor Dibble recommends that the NRCC be by Board of Appeals. Also having trouble with grandfathering – that means one property can do it but the one next door can't. Non-owner occupied needs to be better defined.

Councillor Gerard agrees that the NRCC should be by Special Permit.

Kirt Rieder agrees that a better definition is needed for owner occupied.

Matt Veno – Does definition of owner occupied short term rental exist?

Kirt Rieder – Should add owner occupied in front of second definition

Ben Anderson, disagrees with Kirt and Matt that the definition of short-term rental and should be added to Section 10.

SEPTEMBER 17, 2018

**JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND PLANNING BOARD**

Matt Veno – argues why if there are no requirements

Councillor Turiel – Definitions need to be there since we may amend table later so need to be in Zoning because may need to make changes to owner occupied or non-owner occupied.

Brian Burns, 64 Gardner St., Peabody – owns 5 non-owner-occupied units at 24 Hawthorne Blvd. Best use for building. Tourists want to be downtown – possibly grandfathering his buildings will allow this to happen. Will share with City any records and comply with ordinance.

Susan Matula – 10 Lemon Street, Salem – lives next door to a non-owner-occupied short-term rental. Long-term renters have left. Now there is a turnover of tenants. The tenant that looks over the property moved to Winter island so that unit could be rented short term. They paint the curb yellow and white and put up make shift signs. Owner not concerned. Strictly financial investment. Snow emergencies the police have come. Assessed as a 2family but being used as a 3 family. Rotating of tenants and parking and smoking and trash gets to be excessive. Effects the way she lives. 4 rooms rented to 4 different people. There are lots of parties and noise. She didn't move next door to a lodging house. Interested in seeing how this turns out. What is this property originally zoned as?

Darleen Melis, 115 Federal Street, Salem, - Question about what the difference is in the definition of Air BNBs and rooming houses when you get to the point the previous person just spoke about.

Emily Gritters, 105 Derby Street, Salem - After 8 years decided to use home as Air BNB this summer. Thank you for grandfathering.

Mary Johnson, 96 Bay View Ave., Salem – Already know of non-owner occupied in R1. How do you notify them of this change? Are you relying on them to read our newspapers?

Atty Caldwell explained that if you rent out your property you need a certificate of fitness. Working with compliance and enforcement through Building Inspectors.

Richard Rodderick – 7 Sutton Ave., Salem – This is our second home in this area. City made up of 7 wards 2 precincts each and personally wouldn't live anywhere else. We are in a R1. Independent Business are not allowed in R1. To Allow short-term rental what is to stop other businesses from moving in. Investments are no guarantees. Banning non-owner-occupied hopes that the planning board goes along with this.

Mary Rodderick – 7 Sutton Ave., Salem – There has been a short-term rental next door for 2 years. Most renters are on vacation and party more. Concerned how the neighborhood could drastically change. The Willows are is perfect for short term renters. If R1 allowed to have non-owner-occupied units, investors will buy up homes and be a business. Please do not approve of grandfathering R1.

SEPTEMBER 17, 2018

**JOINT PUBLIC HEARING OF THE
CITY COUNCIL AND PLANNING BOARD**

Kathy Picone, 25 Beach Ave., Salem – When owner occupied the respect is there. The owners are knowledgeable of the area and know who to contact. Non-owner occupied doesn't work. Support Owner Occupied in R1.

Jeff Cohen – 12 Hancock St., Salem – B&Bs and Inns are exempt because zoning rules apply to them i.e. parking, assessed commercially, fire equipment. Not in favoring of grandfathering beyond April 15, 2019. Boston found over 2,000 units long-term and short-term and grandfathered until September 19th. Boston passed this ordinance because of diminished rental stock. Has become more difficult and more expensive to live here. Long-term renters have left. The 5 units that have gone from long term to short term at 24 Hawthorne Blvd. Only in favor of grandfathering non-owner occupied until April.

Ben Anderson – Parking and # of units under existing use by zoning district. Parking in General Ordinance. Information about on street parking. No change in parking requirements in Zoning Ordinance.

Councillor Turiel – Replied that parking is to be taken up as part of the Board of Appeals process.

Councillor Dibble – Stated that Ward 2 Councillor against parking requirements in the downtown area. What are Parking requirements for short-term rentals.

Atty. Caldwell replied that there are not parking requirements for short-term rentals in the ordinance except that the owner needs to provide that information. If violate rules i.e. parking, noise, trash then you are eliminated from being a short-term rental property.

Councillor Dibble – People think we are voting for or against the grandfather clause tonight. Not clear on how we are grandfathering anything when read this.

Atty. Caldwell responded on what's in front of you the definitions and table. No special permit process unless non-owner occupied.

Councillor McCarthy moved that the hearing be closed. It was so voted.

Councillor McCarthy moved that the matter be referred to the Planning Board for their recommendation. It was so voted.

On the motion of Councillor Furey the hearing was adjourned at 7:40 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK