

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 met remotely via zoom on June 30th 2022 at 6:00 P.M. for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on June 22nd at 5:35 P.M

(This meeting is being recorded)

ATTENDANCE

ABSENT WERE: C Cohen

Also in Attendance:

COW: C Morsillo, C Merkl, C McClain, C Watson Felt

City Of Salem: Anna Freedman, Finance Director Vickie Caldwell, Asst. City Solicitor Dominick Pangallo, Chief of Staff, David Greenbaum, Health Agent

SUBJECT(S)

- Ordinance to amend the enforcement of and penalties for violations of short-term residential Ordinance.
- Ordinance Amending the Short-Term Residential Rental Ordinance.
- MGLCh. 64G, Sec 3D city to impose 3% community impact fee for Professionally managed & 2-3 Family Short Term Rentals
- MGLCh. 64G, Sec 3D city to impose community impact fee for professionally managed Short-Term Rentals
- MGLCh. 64G, Sec 3D city to impose community impact fee for Short-Term Rentals for 2 or 3 Family
- Ordinance amending certificate of Fitness Requirements

Taken up first were the Mass General Law Chapter 64G, Sec 3D, city to impose community impact fees:

- MGLCh. 64G, Sec 3D city to impose 3% community impact fee for Professionally managed & 2-3 Family Short Term Rentals
- MGLCh. 64G, Sec 3D city to impose community impact fee for professionally managed Short-Term Rentals
- MGLCh. 64G, Sec 3D city to impose community impact fee for Short-Term Rentals for 2 or 3 Family

C Riccardi provided an brief intro that the first two orders Accept the provision of state law that allows the City to assess a community impact fee (CIF) on “professionally managed” STRs (#342) and on STRs in 2- or 3-family buildings (#343) and the third order sets the CIF at 3%, which is the max allowed by state law.

D Pangallo added additional information:

There are approximately 7 “Professionally managed” (meaning a non-owner occupied or investor owned STR where the same owner owns more than one such unit in the municipality) and approximately 80 “2 or 3 Family” STR in the city. These are units that would most likely be rentals if STR was not an option, removing them from the city's housing stock.

35% of the funds raised from the CIF will be deposited into a receipt reserved account to be used for affordable housing efforts. This is the minimum requirement by the state. Specifically, those funds will be used to supplement and add to the work underway by the Affordable Housing Trust Fund Board and forthcoming housing-related initiatives that will be funded by ARPA, largely focused on preserving affordable rental stock. Because of the nexus between STRs and their impact on a community's long-term rental supply, this is an appropriate linkage between the CIF and this use. The remaining 65% of the funds are considered general fund revenues, which could be viewed as a contribution to off-set the City's costs for managing community impacts related to STRs (i.e. public safety, inspections, visitor impacts and amenities, etc.). It is not possible to project the total amount that may be collected from the CIF because, while we know the number of STRs in Salem and we know the relative amount of business they do (based on room excise data), we do not know how much of that business is attributable to the roughly 87 units that will be subject to the CIF.

C Morsillo asked about the 35%, and if the funds must be directed to the Affordable Housing Trust Fund. D Pangallo noted the 35% is the state minimum. A Freedman noted it will be deposited into a receipt reserved funds account, not the AHTF. D Pangallo noted that any funds transfer from this account must be approved by City Council.

C Dominquez asked what the Affordable Housing Funds would be used for. D Panagallo said there are many options hard to say exactly. All appropriations would be in front of the council for approval.

C McClain noted we can increase the 35%, that this is a minimum and he feels this should be at least 50% or higher. D Pangallo noted the min 35% was chosen as we are not sure what the funds will amount to. The remaining will go towards other items that are needed to help the city support these STRs (Police, Fire, Destination Salem, etc)

C Merkl noted she would agree with something more then 35%

C Morsillo asked if the other communities that have passed the CIF, what their percentage towards affordable housing is? D Pangallo will research as he did not have that available.

Public Comment

Flora Tonthat 30 Northey Street, agrees with C McClain and C Merkl that the percentage should be higher than 35%

Motions

C Varela made a motion to report back to the council a positive recommendation for the City to Accept Sec. 3D of MGL 64G (a) impose CIF at 3%, with 35% going towards affordable housing and local infrastructure projects, on Professionally managed Short-term rentals, seconded by C Dominguez, RCV: 4/0 Matter Passes

C Varela made a motion to report back to the council a positive recommendation for the City to accept Sec. 3D of MGL 64G (b) impose CIF at 3%, with 35% going towards affordable housing and local infrastructure projects, for Short-term rentals for 2 or 3 Family seconded by C Dominguez, RCV: 4/0 Matter Passes

C Varela made a motion to report back to the council a positive recommendation for the City Pursuant to MGL 64G Sec. 3D city impose a 3% CIF on Professionally managed & 2-3 Family Short-term rentals with 35% going towards affordable housing and local infrastructure projects, seconded by C Dominguez, RCV: 4/0 Matter Passes

C Riccardi made a note that when this is reported to council, she will also be submitting an order requesting the finance department to submit a report to A&F on the amount of funds received in the first quarter from the start of the CIF.

Taken up next were the three Ordinance amendments:

- Ordinance to amend the enforcement of and penalties for violations of short-term residential Ordinance.
- Ordinance Amending the Short-Term Residential Rental Ordinance.
- Ordinance amending certificate of Fitness Requirements

From D Pangallo's sheet reviewing changes, the below was reviewed and discussed. Now that the city has a few years of STR on the books, these are suggested amendments from the city.

Order 345 makes several changes to the existing STR ordinance:

1. On page 1 of the tracked changes: changing the definition of "primary residence" – this amendment eliminates the language from the definition that covers owners who "intend to reside" in the unit for "six of the next 12 months." Since the STR ordinance was adopted four years ago, we have seen individuals who have bought units intended for STR use take advantage of this language to, effectively, operate a non-owner occupied STR, which is not permitted under the ordinance.
2. On page 2 of the tracked changes: changing the language relative to suspending a STR registration for a problem property – The current language only allows the Inspectional Services Director to suspend a listing. The proposed language broadens that authority by making it less specific.
3. On page 4 of the tracked changes: allowing additional departments to request records from STR owners – The current language only allows the Inspectional Services Director to request records from a STR owner to demonstrate compliance with the ordinance. The proposed language adds Health, Police, and Fire.
4. On page 5 of the tracked changes: changing how listing information is displayed/furnished – The current language requires platforms like Airbnb to furnish to the City a quarterly report of STR listings in the City. The enforcement of this provision is extremely problematic and, since this data is available to the City already through the registration process, it is not a necessary provision of the ordinance. The proposed language replaces this section with different language that instead requires the STR owner to display, in their listing on the platform, proof that the unit is registered and has a certificate of fitness issued within the previous 12 months, as required by code.

5. On page 6 of the tracked changes: authorizing the pursuit of injunctive relief – This section calls for the City to execute agreements with platforms like Airbnb in which the platform agrees to “delist” any STRs in violation of the ordinance. As with the requested change above, the implementation of this section has been cumbersome. Platforms are not required to enter into these agreements and therefore they have been disinclined to do so. Under the existing language, platforms that fail to enter into an agreement are simply “prohibited from conducting business in the city,” which is a broad and generally unenforceable provision. The proposed language would have the City notify the platform about an ineligible unit and then authorize the City to seek injunctive relief to have it removed from the platform.
6. On page 6 of the tracked changes: eliminating the featured short term rental program – This provision was intended as an incentive to induce STR owners to comply with the ordinance. In the four years of the ordinance no STR owner has sought to avail themselves of it, nor is it established where the “featured short term rental” would be so listed or advertised. We are recommending eliminating this provision as it is not proved necessary to induce general compliance with the ordinance and would create additional administrative burdens to implement.

D Greenbaum noted that broadening which city departments can enforce the STRs will be extremely helpful. C Merkl agreed.

C Riccardi asked how enforcement of listing requirements (certificate and registration) will take place? V Caldwell noted that the city uses a service for this.

Public Comment

Flora Tonthat 30 Northey Street, appreciates this thoughtful update; it is very important to Inn Keepers (full time lively hood and not a side job) - competition is welcomed as long as it is on a level and fair playing field. She had three questions that were asked and discussed:

1. 6 out of 12 months for residency does not feel like enough time for residency.
2. How are repeat offenders de-listed
3. Regarding the Certificate of Fitness, how will similar rooms not use the same COF?

Motion

C Varela made a motion to report back to the council a positive recommendation for first passage of Ordinance Amending the Short-Term Residential Rental Ordinance, seconded by C Dominguez, RCV: 4/0 Matter Passes

Order #346 adds to the section of the Code that specifies fines: to include new language specific to fine amounts and enforcement of the STR ordinance.

D Pangallo noted, Currently, violations of the ordinance are subject to the \$50/\$150/\$300 non-specific fines enforced by the Police Department. The proposed language sets STR-specific fines of \$100/\$200/\$300 enforceable by building inspectors, health inspectors, police officers, and fire prevention personnel.

C Merkl asked for clarification on the increase maximum. C Riccardi confirmed the state rule that the maximum fine allowed by ordinance is \$300.

C Dominguez asked how much is charged after the third offense. V Caldwell noted the \$300 would be a daily fine until the offense is remedied.

Motion

C Varela made a motion to report back to the council a positive recommendation for first passage of Ordinance Amending the Short-Term Residential Rental Ordinance, seconded by C Dominguez, RCV: 4/0 Matter Passes

Order #347 makes three changes to the existing Certificate of Fitness (COF) ordinance :

1. On page 1 of the tracked changes: changing the definition of "short-term rental" – The existing ordinance defines a short-term rental as a unit provided for rent for 14 days in one year. We are proposing to change that definition to make it identical to the definition that appears in the STR ordinance: a unit provided for rent for 30 days in one year. Note that the proposed COF ordinance language here requires an amendment by the Council as it is missing one word, "consecutive," which appears in the STR ordinance definition: therefore, the correct COF ordinance language should read: "'Short-term rental' shall be defined as a rental or rentals of fewer than 30 consecutive days in one calendar year."
2. On page 2 of the tracked changes: requiring proof of a Certificate of Fitness in STR listings – As was proposed in the amendment to the STR ordinance (see point #4 in the summary for Council Item #345 above), this is an identical change to the COF ordinance to state the same requirement that proof of a currently valid COF must appear in the listing of any STR.
3. On page 2 of the tracked changes: increasing the fine for COF violations – We are proposing to increase the fine for violations from the current \$50 amount up to \$100 to better induce compliance with the ordinance, both from STR owners and from owners of conventional rental units.

C Riccardi asked if anyone had issues with the requested amendment of the new word "Consecutive"

C Riccardi asked if we issued a lot of fines for the COF. D Greenbaum stated he did not have the actual number, but it is low.


C Riccardi asked how many inspections were completed each year; D Greenbaum did not have an actual number, but he would estimate 300 – 500 a year.

Motion

C Varela made a motion to report back to the council a positive recommendation for first passage of Ordinance amending certificate of Fitness Requirements, **as amended**, seconded by C Dominguez, RCV: 4/0 Matter Passes

The Committee thanked Dominick for his help guiding us through the requested ordinance amendments this evening, along with the city staff that joined us.

On the motion of C. Varela, Seconded by C Dominguez, RCV 4/0, the meeting adjourned at 7:07 P.M.



(Chairperson)

