

Westminster Board of Health
Regulations for Lodgings (Short-Term Rentals, Hotels, Motels, and Bed & Breakfast)

Effective 04/01/2024

Adopted pursuant to M.G.L. Ch. 111, 31

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I. Purpose and Scope

The Board of Health (BOH) Regulations for Lodgings is intended to make the operation of short-term rentals, hotels, motels, and bed & breakfast’s habitable and safe for Town of Westminster residents and other potential occupants by means of permitting, licensing, and inspecting in order to protect the health and safety of occupants and residents. Licenses are required for three main purposes: To identify the business; to make sure it is accountable for its actions, and to protect the public health and safety. This regulation also ensures that lodgings in Westminster will not create a public nuisance or have injurious impact to the natural and physical environment of the surrounding residential neighborhood.

II. Authority

The BOH has the authority to promulgate Lodging regulations by M.G.L. Chapter 140 Section 32B consistent with Chapter 111 Section 122, 105 CMR 410 and including 310 CMR 15.000, 310 CMR 7.09 and 310 CMR 7.10 and Town of Westminster Regulations for Private Wells and the Westminster Regulations for Subsurface Sewage Disposal Systems. These regulations are adopted and enforced by the Westminster Board of Health and its Agents.

III. Definitions

Bed and Breakfast Establishment means a private owner-occupied house where rooms are let and a breakfast is included in the rent, and all accommodations are reserved in advance.

Lodging Operation means any building or property that someone can exchange money in return for a room to be let and other amenities, depending on the type of Lodging Operation. Examples include: short term rental, hotel, motel, or bed and breakfast.

Hosting Platform means services through digital platforms, third-party websites, software, online-enabled applications, mobile phone applications or other, similar electronic processes that allow:

- A. An Operator to advertise, list, or offer the use of an accommodation subject to the excise under M.G.L. c. 64G in exchange for rent;
- B. An Operator to collect the payment of rent on an accommodation; and
- C. A person to arrange, book, reserve or rent an accommodation.

Hotel means a building used for the feeding and lodging of guests licensed or required to be licensed under M.G.L. c. 140, § 6.

Locally available means available 24 hours per day and 7 days per week, and residing in the Town of Westminster.

Motel means a building or portion of a building in which a person is lodged for hire with or without meals and that is licensed or required to be licensed under M.G.L. c.140, § 32B; provided, however, that a *Motel* shall not include a hotel or lodging house.

Occupant means a person who uses, possesses or has a right to use or possess a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel for rent under a lease, concession, permit, right of access, license or agreement.

Operator/Owner means a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth including, but not limited to, the owner or proprietor of such premises, the lessee, sub lessee, mortgagee in possession, licensee or any other person otherwise operating such bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

Property Manager means a person who, on behalf of an Operator of a bed and breakfast establishment, hotel, motel, short-term rental or lodging house:

- A. Manages the operation or upkeep of a property offered for rent; or
- B. Books reservations at a property offered for rent

Rent means the total consideration paid by or on behalf of an occupant, including payment for any service, cleaning or other charge, to an Operator or an intermediary associated with occupancy,

valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature. Rent includes, but is not limited to, booking fees and other service charges paid to Operators or intermediaries. Consideration allocated to amenities provided by an Operator to all guests, whether or not used and whether or not separately stated by the Operator, is rent subject to the applicable state and local room occupancy excise and any local fees. Examples might include free shuttle service provided by a hotel, or a beach parking sticker provided to all occupants by the Operator of a short-term rental. Separately stated, optional charges for services provided by an Operator, such as the charge for a rollaway bed, are included as rent unless otherwise excluded under 830 CMR 64G 1.1(5) (a) 1.

Rent does not include:

- A. *Bona fide* refundable security deposits;
- B. Any amount paid by an occupant that is included in the taxable gross receipts of the Operator under M.G.L. c. 64H or 64I where the Operator is a vendor for purposes of M.G.L. c. 64H or 64I; or amounts paid by an occupant to an Operator for services offered by the Operator on similar terms to non-occupants in the regular course of the Operator's business.
- C. Separately stated charges for services provided by another vendor not related to occupancy. Examples of such charges might include charges for airline tickets, a whale watch cruise, or ferry tickets, if optional.

Short Term Rental means an owner-occupied, or owner-adjacent property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where:

- A. At least 1 room or unit is rented to an occupant or sub-occupant; and
- B. All accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

IV. Application and Registration

The owner of the Lodging Operation must fill out and submit an application with the Westminster Board of Health. The owner must also register with the State and Town for tax purposes. At the time of application, there will be a fee collected from the owner. Proof of this will be required. If the owner fails to submit an application to the Board of Health or to register with the State for Tax Purposes, they will not be allowed to operate.

V. Standards for Operation

- A. The Operators of all Lodging Operations must submit an application and obtain a permit from the Westminster Board of Health. This permit must be renewed annually prior to December 31st.
- B. The Lodging Operation is limited to be in operation 6 months out of the calendar year. This information must be provided on the application to the Board of Health.
- C. Prior to the issuance of the annual permit, the property and building must undergo an inspection by the Health Agent. The Agent will confirm the number of legal bedrooms or units, confirm the capacity of the septic system (if applicable), witness a well water sample being taken (if applicable) and ensure the property does not demonstrate any potential health hazards to the occupants and is otherwise code compliant.
- D. The Operator must supply the Board of Health with a copy of their annual Smoke Detector Certification.

- E. Lodging Operations are not permitted on any property with outstanding safety or code violations, including but not limited to those of the Building Code, Fire Code, Board of Health (both State and Local) and Town Bylaws. Furthermore all utility and tax obligations owed to the Town of Westminster must be resolved prior to operation.
- F. The number of occupants in Lodging Operations will be limited to either the capacity of the septic system that services the operation (two people per bedroom), or the regulations of the Westminster Zoning Board (four people per bedroom not related to the Operator).
- G. The Operator of any Lodging Operation is responsible, to the extent allowed by law, for the actions of the renters or customers, whether resulting in potential health hazards or nuisance complaints.
- H. The Operator of any Lodging Operations must be available 24 hours per day, 7 days per week to respond to complaints or concerns from the renters/occupants of the property. This includes any health or nuisance complaints or concerns. If the Operator is unavailable during any period of lodging, the Operator may designate another locally available individual as a Property Manager to perform this function. Names and contact information of the Property Manager must be available and clearly posted at the Lodging Operation. The information must also be included on the permit application to the Board of Health. The Operator has a continuing obligation to update this information throughout the permit period.
- I. The Westminster Board of Health, through its Health Agent, may revoke, suspend or deny renewal for any permit issued under these regulations for violations of these regulations, including but not limited to nuisance complaints or health code violations.
- J. In the event of a revocation of a permit issued under these regulations, the Operator may request a hearing before the Board of Health within seven days of the issuance of any revocation, suspension, or non-renewal order.

VI. Procedural Requirements for Lodging Operations

The following information must be provided to all occupants/renters and must be posted by the Operator in the Lodging Operation in a common area:

- A. An emergency exit diagram in all bedrooms or units used and on all egresses from the lodging unit;
- B. Contact information for the Operator or, when the Operator is not present, the contact information for a locally available property manager to respond to all emergencies and problems that may arise during the rental period;
- C. The certificate of registration for the Lodging Operation;
- D. Valid certificate of insurance;
- E. Fire Prevention Notice. Operators shall post information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building in a visible place inside of the Lodging Operation
- F. Notice of Registration. The Operator of every Lodging Operation shall post in a prominent place within the operation, the house rules as per section VIII, as well as the certificate of registration with Westminster. The Operator shall clearly display the Westminster Registration number in all advertisements or notices of the Lodging Operation, including online advertisements.

VII. Owner Requirements

Owners of any Lodging Operation must comply with the following requirements:

- A. **General Responsibility.** The Operator shall be responsible for the proper supervision, operation, and maintenance of the Lodging Operation in accordance with the requirements of these Regulations 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 Regulation. The appointment of a property manager shall in no way relieve the Operator from responsibility for full compliance with the law.
- B. **No Nuisance.** Lodging Operations 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. **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 Regulation. Operators must cooperate with any enforcement or investigation proceedings under this Regulation.
- D. **False Information.** Submission of false information shall constitute a violation of this Regulation.

VIII. Specific Requirements for Short Term Rentals

- A. Events are 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.
- B. Owners must provide updated information if the property transfers ownership.
- C. 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 Regulation.
- D. House Rules.
 - i. Operators shall institute house rules to prevent the Lodging Operation from being a cause of complaint to the Police Department or a cause of nuisance to the neighbors or neighborhood.
 - ii. House rules must make occupants aware of the Town's Bylaws and the Operator's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
 - 1. Noise control, including use of audio equipment that may disturb the peace
 - 2. Adherence to laws regarding disorderly behavior;
 - 3. Proper garbage disposal and instructions for disposal of waste per the Town's waste disposal and recycling programs;
 - 4. Information regarding the Town's parking regulations, including but not limited to snow emergencies, and location;
 - 5. Neighborhood parking regulations and restrictions;
 - 6. Occupancy limits;

7. Any other provisions as may be required by Town Officials.

- iii. Operators shall ensure all occupants are aware of the house rules by distributing them prior to the date of occupancy and posting them on their Hosting Platform and in a visible place in the Lodging Operation.

IX. Specific Requirements for Hotels & Motels

- A. Hotels and Motels providing food must obtain a food license through the BOH food permitting and inspection process, pursuant to 105 CMR 590. An inspection of the “food handling facilities must be conducted prior to the annual renewal.

X. Specific Requirements for Bed and Breakfast operations

- A. Annual notice to abutters. The Operator must, within thirty (30) days after registration of a Bed and Breakfast, 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 Regulation.
- B. Owners must provide updated information if the property transfers ownership.
- C. Bed and Breakfast Operators must obtain a food license through the BOH food permitting and inspection process, pursuant to 105 CMR 590. An inspection must be conducted on the kitchen prior to the renewal.

XI. Specific Requirements if Lodging Operation is serviced by Well Water

- A. The Operators must have their well water tested yearly. This water test will be a full scan, as designated by the Town of Westminster Private Water Regulations.

XII. Specific Requirements if Lodging Operation is serviced by Septic System

- A. The Operators must have a passing Title 5 inspection yearly.
- B. The occupancy must be limited to the septic system approved flow, divided by 55 gallons for both overnight and gatherings. Also, a maximum 2 people per bedroom.

XIII. Notice of Violation

Board of Health shall issue a written notice for any violation of this Regulation to the Operator. Said notice shall describe the prohibited condition and order that it be remedied within up to thirty (30) days of receipt of the notice.

XIV. Enforcement

Any Operator who violates any provision of this Regulation shall be subject to suspension or termination of the certificate to operate a Lodging Operation 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. Where non-criminal disposition of this section by civil fine has been provided for, said violation may be enforced in the manner provided in such statute.

XV. Failure to Register

Any person who offers or operates a lodging facility without first registering with the Town 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.

XVI. 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, operation, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article

XVII. Effective Date

These Regulations were adopted by vote of the Westminster, Massachusetts Board of Health, at their regularly scheduled meeting held on February 7, 2024 are to be in full force and effect on and after April 1, 2024. Before said date, these regulations shall be published and a copy placed on file in in the Board of Health Offices and filed with the Department of Environmental Protection. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, as provided by law and applicable regulations

Approved:

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|-------------------------|-------|
| _____ | _____ |
| Dr. Michael Popik | Date |
| _____ | _____ |
| Dr. John Lutz | Date |
| _____ | _____ |
| Mr. Ed Simoncini- Chair | Date |