

Mark Pruhenski
Town Manager

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TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER
Selectboard Special Meeting via Zoom
Order of Agenda for Monday, April 4, 2022, at 6:00 PM

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84727797185?pwd=NDFRUjFITE12eDN3bE5LaTNBQ0RmZz09>

Webinar ID: 84727797185

Dial-in, audio-only: (929) 205 6099

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's June 16, 2021 Revised Order extending remote participation by all members in any meeting of a public body, this meeting of the Great Barrington Selectboard will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at www.townofgb.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner: See instructions at the top of the agenda. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means.

*****ALL VOTES ARE ROLL CALL*****

1. CALL TO ORDER SELECTBOARD REGULAR MEETING
2. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS
3. TOWN MANAGER'S REPORT
4. NEW BUSINESS
 - a. Initiate Town Manager's Annual Performance Evaluation
 - b. Selectboard Consent regarding KP Law's representation of Great Barrington regarding a reserve fund for the Rest of River Municipal Committee, notwithstanding the firm also represents the Towns of Lenox and Sheffield
5. PREVIOUS BUSINESS
 - a. Continued discussion of the proposed Short Term Rental Bylaw
 - b. Short Term Rental Public input Session
6. CITIZEN SPEAK TIME
 - a. *Citizen Speak Time is an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each.*
7. SELECTBOARD'S TIME
8. MEDIA TIME

9. ADJOURNMENT

NEXT SELECTBOARD MEETING

April 11, 2022

April 25, 2022

May 11, 2022

May 23, 2022

Annual Town Meeting Monday June 6, 2022 and June 9, 2022 (if needed)



Mark Pruhenski, Town Manager

Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion to the extent permitted by law.



Town of Great Barrington

Town Manager Performance Evaluation Evaluation

period of May 2021 through March 2022

Selectboard Member's Name

Each member of the Selectboard should complete this evaluation form, sign it in the space below, and return it to the Selectboard Chair. Evaluations will be summarized and included on a future Selectboard meeting.

Selectboard Member's Signature

Date Submitted

INSTRUCTIONS

This evaluation form contains ten categories of evaluation criteria. Each category contains a statement to describe a behavior standard in that category. For each statement, use the following scale to indicate your rating of the Town manager's performance.

5 = Excellent (almost always exceeds the performance standard)

4 = Above average (generally exceeds the performance standard)

3 = Average (generally meets the performance standard)

2 = Below average (usually does not meet the performance standard)

1 = Poor (rarely meets the performance standard)

Any item left blank will be interpreted as a score of "3 = Average"

This evaluation form also contains a provision for entering narrative comments, including an opportunity to enter responses to specific questions and an opportunity to list any comments you believe appropriate and pertinent to the rating period. Please write legibly.

Leave all pages of this evaluation form attached. Initial each page. Sign and date the cover page. On the date space of the cover page, enter the date the evaluation form was submitted. All evaluations presented prior to the deadline identified on the cover page will be summarized into a performance evaluation to be presented by the Selectboard to the Town manager as part of the agenda for the meeting indicated on the cover page.

PERFORMANCE CATEGORY SCORING

1. INDIVIDUAL CHARACTERISTICS

Diligent and thorough in the discharge of duties, "self-starter"

Exercises good judgment

Displays enthusiasm, cooperation, and will to adapt

Mental and physical stamina appropriate for the position

Exhibits composure, appearance and attitude appropriate for executive position

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

2. PROFESSIONAL SKILLS AND STATUS

Maintains knowledge of current developments affecting the practice of local government management

Demonstrates a capacity for innovation and creativity

Anticipates and analyzes problems to develop effective approaches for solving them

Willing to try new ideas proposed by Selectboard members and/or staff

Sets a professional example by handling affairs of the public office in a fair and impartial manner

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

3. RELATIONS WITH ELECTED MEMBERS OF THE SELECTBOARD

Carries out directives of the body as a whole as opposed to those of any one member or minority group

Sets meeting agendas that reflect the guidance of the Selectboard and avoids unnecessary involvement in administrative actions

Disseminates complete and accurate information equally to all members in a timely manner

Assists by facilitating decision making without usurping authority

Responds well to requests, advice, and constructive criticism

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

4. POLICY EXECUTION

Implements Selectboard actions in accordance with the intent of council

Supports the actions of the Selectboard after a decision has been reached, both inside and outside the organization

Understands, supports, and enforces local government's laws, policies, and ordinances

Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness

Offers workable alternatives to the Selectboard for changes in law or policy when an existing policy or ordinance is no longer practical

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

5. REPORTING

Provides regular information and reports to the Selectboard concerning matters of importance to the local government, using the Town charter as guide

Responds in a timely manner to requests from the Selectboard for special reports

Takes the initiative to provide information, advice, and recommendations to the Selectboard on matters that are non-routine and not administrative in nature

Reports produced by the manager are accurate, comprehensive, concise and written to their intended audience

Produces and handles reports in a way to convey the message that affairs of the organization are open to public scrutiny

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

6. CITIZEN RELATIONS

Responsive to requests from citizens

Demonstrates a dedication to service to the community and its citizens

Maintains a nonpartisan approach in dealing with the news media

Meets with and listens to members of the community to discuss their concerns and strives to understand their interests

Gives an appropriate effort to maintain citizen satisfaction with Town services

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

7. STAFFING

Recruits and retains competent personnel for staff positions

Applies an appropriate level of supervision to improve any areas of substandard performance

Stays accurately informed and appropriately concerned about employee relations

Professionally manages the compensation and benefits plan

Promotes training and development opportunities for employees at all levels of the organization

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

8. SUPERVISION

Encourages heads of departments to make decisions within their jurisdictions with minimal Town manager involvement, yet maintains general control of operations by providing the right amount of communication to the staff

Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls for their programs while still monitoring operations at the department level

Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the Town manager's office

Sustains or improves staff performance by evaluating the performance of staff members at least annually, setting goals and objectives for them, periodically assessing their progress, and providing appropriate feedback

Encourages teamwork, innovation, and effective problem-solving among the staff members

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

9. FISCAL MANAGEMENT

Prepares a balanced budget to provide services at a level directed by council

Makes the best possible use of available funds, conscious of the need to operate the local government efficiently and effectively

Prepares a budget and budgetary recommendations in an intelligent and accessible format

Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability

Appropriately monitors and manages fiscal activities of the organization

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

10. COMMUNITY

Shares responsibility for addressing the difficult issues facing the Town

Avoids unnecessary controversy

Cooperates with neighboring communities and the county

Helps the council address future needs and develop adequate plans to address long term trends

Cooperates with other regional, state and federal government agencies

Add the values from above and enter the subtotal $\div 5 =$ **score for this category**

NARRATIVE EVALUATION

What would you identify as the manager's strength(s), expressed in terms of the principle results achieved during the rating period?

What performance area(s) would you identify as most critical for improvement?

What constructive suggestions or assistance can you offer the manager to enhance performance?

What other comments do you have for the manager; e.g., priorities, expectations, goals or objectives for the new rating period?



The Leader in Public Sector Law

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Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

March 28, 2022

David J. Doneski
ddoneski@k-plaw.com

Hon. Stephen Bannon and
Members of the Selectboard
Great Barrington Town Hall
334 Main Street
Great Barrington, MA 01230

Re: Determination and Consent Pursuant to Massachusetts Rules of Professional Conduct,
Rule 1.7 - Representation of the Rest of River Municipal Committee,
Advice Regarding Creation of Reserve Fund for Technical, Legal and Related Support.

Dear Members of the Selectboard:

You have requested that our office provide advice and assistance in creating a Reserve Fund in anticipation of the disbursement of settlement funds obtained by the Rest of River Municipal Committee (the "Committee") from General Electric pertaining to its pollution of the Housatonic River (the "Funds"), specifically with respect to creation of a reserve fund to facilitate hiring of technical, legal and related consultants. The Committee is composed of representatives of five (5) municipalities including the Towns of Lee, Lenox, Great Barrington, Sheffield, and Stockbridge. As you know, in addition to serving as Town Counsel for the Town of Sheffield, KP Law, P.C. also serves as Town Counsel to the Towns of Lenox and Sheffield (the "Towns").

Our relationship with the Towns and the Town of Great Barrington creates interests that require disclosure pursuant to the Rules of Professional Conduct of the Massachusetts Bar, which mandate that we obtain the express permission of the Appointing Authority of each of our client towns/cities/entities before we can represent the other. The purpose of this letter is to make such disclosure and to request that you determine whether you will permit such representation. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not "municipal employees" pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of a conflict on the firm's behalf in this matter.

MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if the interests of one client are directly adverse to those of another client, or if his representation of one client may be materially limited by his responsibilities to another client or his own interests. If, however, the attorney reasonably believes that the representation of either client will not be adversely affected and each of the clients consents after consultation, the attorney may represent the client in such a situation.



Hon. Stephen Bannon and
Members of the Select Board
March 28, 2022
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DETERMINATION

It is our belief that our position as Town Counsel to the Towns of Lenox and Sheffield, for the purposes and under the conditions described in this letter, does not create a concurrent conflict of interest and will not affect the exercise of our independent professional judgment on behalf of the Town of Great Barrington with regard to the advice on the creation of a reserve fund. The only risk I would note would be in the event that discussions over the proper disbursement of the Funds or any matter related to the Funds breaks down among the parties, to the point where one party seeks legal redress from the other(s). Under these circumstances, KP Law would cease representing all parties with respect to the fund. It is, however, for you to determine whether the representation described herein will not impair the integrity of this firm's services to Great Barrington.

Accordingly, I request that you consent to our representation of Great Barrington notwithstanding the firm also serving as Town Counsel to the Towns with regard to the advice on the creation of the fund and creation of a reserve fund. Should you so consent, I ask that you sign the enclosed determination as required by the Rules of Professional Conduct. Please sign the two originals provided, return one copy to this office, and retain one copy for your records.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David J. Doneski', written in a cursive style.

David J. Doneski

DJD/JRD/jmp
Enc.
805694/GRBA/0001

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Selectboard of Great Barrington consents to KP Law, P.C. representing Great Barrington with regard to the disbursement of settlement funds from General Electric pertaining to its pollution of the Housatonic River and creation of a reserve fund, as disclosed in a letter to the Town dated March 28, 2022,, notwithstanding that KP Law, P.C. also serves as Town Counsel for the Towns of Lenox and Sheffield.

TOWN OF GREAT BARRINGTON
By its Selectboard

Dated: _____

Stephen Bannon, Chair

Leigh S. Davis, Vice Chair

Edward Abrahams

Eric Gabriel

Garfield Reed

EXECUTIVE SUMMARY

TITLE: Short-Term Rental bylaw

BACKGROUND: As discussed at the March 7 Selectboard meeting on this topic, the Assistant Town Manager and Town Manager met with the Chair and Vice Chair on March 23, in order to discuss several areas of the short term rental bylaw on which the board that as a whole could not resolve during the March 7 meeting.

At previous meetings the board had agreed to a set of three purposes, and also had voted to not treat primary residents and second homeowners differently. But agreement could not be reached about several key items including the number of licenses, how many days an STR could be offered, and what types of ownership would be eligible.

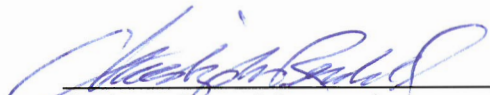
Staff has revised the bylaw based on meeting with the Chair and Vice Chair. Attached is the proposed draft. This may represent a final draft to which at least a majority of the board members can agree, and can vote to issue for a public review period and/or comment session. After that, the board could vote whether or not to amend the draft and place the proposal on the warrant for the Annual Town Meeting.

Key revisions made for this draft are summarized below:

<u>Revisions / items to highlight in this draft:</u>	<u>Accomplishes</u>
1 An STR can be in a primary unit or a secondary unit	Purpose 1
2 Unlimited days if Owner is on premises	Purpose 1
3 150 day limit if Owner is not on premises	Purpose 3 and 1
4 An Owner may have only one STR, (unless they have already had multiples as of 1/1/22)	Purpose 3 and 1
5 No corporations, LLCs are ok, but the LLC details must be disclosed at registration	Purpose 3
Other items that unchanged	
6 Registration required	Purpose 2
7 Certain requirements during operation	Purpose 2
8 Inspections	Purpose 2

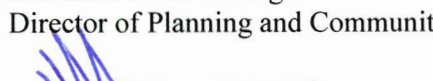
RECOMMENDATION: The Selectboard vote to issue the attached draft for a public review period and comment session, with a goal to vote on a final version on April 11.

WRITTEN BY:


Assistant Town Manager /
Director of Planning and Community Development

DATE: 3/25/22

APPROVED BY:


Town Manager

DATE: 3/25/22

DRAFT Bylaw for Short Term Rentals, for 3/30/22 SB meeting

SHORT-TERM RENTAL OF RESIDENTIAL PROPERTIES

Purpose and Intent.

Pursuant to the authority of G.L. c.64G, the Town establishes these regulations to balance private, neighborhood, and municipal interests. These regulations are intended to:

1. Enable residents to earn extra money from their properties to better afford to live here, maintain their properties, and contribute to the community.
2. Minimize public safety and health risks.
3. Deter commercial interests from buying housing to use primarily as short-term rental businesses.

Definitions.

For this Chapter, the following terms shall have the definitions indicated.

Owner. Any person whom alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC or a Trust. The Owner may also be referred to as the Operator, or the Host.

Short-Term Rental. The rental of a whole or a portion of a residential or secondary dwelling unit, in exchange for payment, as residential accommodations for not more than thirty consecutive days, excluding a Hotel, Motel, or Lodging House or Tourist Home for Transient Guests as defined and permitted under the Zoning Bylaw.

Regulations.

No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Great Barrington unless it is registered annually with the Town through an application process approved by the Selectboard and in accordance with this Chapter, and registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

An Owner may register to operate only one dwelling unit as a Short-Term Rental, unless an Owner had multiple Short-Term Rentals registered with the Commonwealth of Massachusetts in accordance with G.L. c. 64G as of January 1, 2022 and which can be documented as being used as Short-Term Rentals at any time between January 1, 2022 and January 1, 2023. Failure of an Owner to renew any such preexisting Short-Term Rental shall result in loss of that preexisting status. If a person owns two properties, or owns one and is listed as a manager or agent for a second that is owed by an LLC, for example, that person must choose one or the other to be registered as a Short-Term Rental. No person shall have more than one legal or equitable title or beneficial interest in any dwelling unit used for a Short-Term Rental except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner's name.

Up to two bedrooms in a dwelling unit or an entire secondary unit on the same parcel may be registered and rented as a Short-Term Rental by right. The registered Short-Term Rental may be rented for an unlimited number of days per year, provided that the Owner is residing in one of the dwelling units on premises at the time of the rental. In cases where the Owner is not residing on premises at the time of the rental, no unit or portion thereof may be rented more than 150 days per year.

Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC or Trust only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to affordability covenants or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

An Owner shall not register or offer a rental unit subject to a long term lease as a Short-Term Rental, nor shall a tenant offer his/her/their rental unit as a Short-Term Rental.

Requirements for Short-Term Rental Operations:

1. An Owner shall post in any Short-Term Rental unit the following information in a conspicuous place:
 - a. the Owner's certificate of registration with the Town;
 - b. Short-Term Rental street address;
 - c. Contact information for the Operator and whom to call in an emergency;
 - d. Instructions for recycling and waste disposal;
 - e. Notice that dogs must be leashed when outdoors if not in a securely fenced enclosure;
 - f. Notice that no excessive noise shall occur after 8:00 PM or earlier than 8:00 AM.
2. Each unit shall contain functional smoke detectors, carbon monoxide alarms, and a properly maintained and charged multi-purpose fire extinguisher.
3. A Short-Term Rental is not allowed on any property with outstanding violations of Building, Fire, Health codes, and/or Town Bylaws.
4. Events that include amplified music or tents which would customarily require a license or permit are prohibited.
5. Signs on the property advertising the Short-Term Rental are prohibited.

Inspection.

Short-Term Rentals may be subject to inspection by the Great Barrington Health Department, Fire Department, and/or the Building Inspector. Short-Term Rental Owners are required to provide access for the purpose of conducting safety inspections when necessary. Failure to provide access to an inspector upon request and after proper notice will invalidate the license to operate a Short-Term Rental until an inspection by the appropriate authority has been conducted, and all violations have been addressed to the satisfaction of the Department and/or the Town. Failure to comply with orders to correct deficiencies may result in fines or refusal to allow license renewal.

Owners can appeal a written violation within 21 days of notice in accordance with M. G. L. Ch. 40 § 21D.

In the event that there are three or more violations within a twelve-month period, Short-Term Rental Registrations may be revoked and permanently denied by a vote of the Selectboard.

Penalties.

If any Owner violates any provision of this bylaw, the Owner may be subject to a civil penalty in accordance with M. G. L. Ch. 40 § 21D, with the following:

\$100 1st Offense
\$200 2nd Offense
\$300 3rd Offense and each subsequent offense

Each day that a violation exists constitutes a separate offense.

Selectboard Authority. The Selectboard shall have the authority to create a registration application form, set registration fees, and adopt rules, regulations, policies or procedures to implement the provisions of this Chapter. The registration process shall require an Owner to include the address of the unit to be registered, to list the names of all organization members if owned by a legal entity, and to provide verifiable documentation of the owners or members of that legal entity.

Severability. If any provision in this section shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Effective Date. The provisions of this Bylaw “Short-Term Rental of Residential Properties” shall take effect on January 1, 2023.