**Town of Lexington Public Hearing & Town Board Meeting**

**April 6, 2021 Via Zoom**

**Open Public Hearing**

**Local Law No. 3 of 2021Short Term Rentals**

Supervisor JoEllen Schermerhorn opened the Public Hearing at 6:05 pm and read the changes that were made to the proposed law. Nancy L. is a member of the short term association and said that the association would like to work with the Town Board to pass a law that would work for everybody. She said that there should have been more notice for the public hearing and that there was some confusion regarding the changes made to the law on the website and they would like more time to respond. There were 3 major issues 1. the Cap – it will drive property values down and the permit should be transferable 2. Home Inspection – is a burden & invasive 3. Review Process – they find that the STR owners need to be full time residents limiting and there should be a possibility in the review appeals process that there is a right to review before court if necessary. She does believe that there were some improvements to the law. Konstantyne believes the law needs to be supported by data, there should have been more time to review the latest draft, the property manager to be 30 miles from property is illegal & unconstitutional, the Town has failed to prove the need for a water test. Anne wanted to thank the Town for taking action and soliciting the community on this. This isn’t something crazy that Lexington is doing. Her worst nightmare is having a party house next door to her. People need to support this community and develop this community and have a long term interest in it. James we have been speaking about this for over 8 months. The law has been re- written at length several times. People are always going to oppose regulation. The Town has acted responsibly and should be commended. Jillian is a board member of the association and requests a meeting with the association and the Town Board. Everyone should feel comfortable with the decisions being made. Beverly said that this short term rental process has been years in the making. She feels that there should be something on the books sooner rather than later. Caroline wanted clarification on the grandfathering in of permits and what does it mean when the 10 cap has been met. Board Member Barcone said that the Board would revisit the issue whether or not the cap can be increased. Rick said that he found out about this in February and so a lot of people have not been in the loop. Inspections are an invasion and a lot of problems are not just because of renters. What is the case for this? Filed a FOIA request with the Board today and asking for complaints that the Board received. He believes a lot of problems are because of the pandemic. He thinks the Board should hold off and work with the association. Kristen purchased land December of 2020 and he would like to be grandfathered in even though they only have land and have plans to build a home. Board Member Barcone said that the property owner needs to have a certificate of occupancy in order to apply for a permit. The Board will take things into consideration like have you been a property owner before the law was passed, the use of the property, etc. Mark his biggest concern is how is the Town going to figure out who is telling the truth. They should start out like Jewett. Lexington has always been a short term rental place. Board Member Barcone said that they will have a committee to handle complaints. Town Attorney Tal Rappleyea said that Jewett passed their law over a year ago and now have modified their law and have updated their town wide noise ordinance. Nancy L. wanted to know if a property is sold could the permit be transferred. Board Member Barcone said that a permit could not be transferred but the Board would take into consideration that is was a short term rental previously. Board Member Jenkins asked if short term rentals needed special use permits and Board Member Barcone said no but it is in the zoning that they could. Jenni is the Planning Board Chair and explained that a short term rental could be required to have a special use permit under lodging facility in the Town’s zoning. Board Member Barcone said that laws can be amended. Mike wanted to know if the town was requiring hosts to submit a reservations list. Jenni said that we are trying to do something that is workable. There is a need for this law. If it doesn’t work you can go back and fix it. Rick said you can’t compare hotels and short term rentals. What if I want to have a family wedding or event and some one complains. Why do I have to have my well tested. Konstantyne said that if there is a problem with noise to call him because he has surveillance and can put a stop to it.

Board Member Barcone said that the zoning law stated that anyone who operated a short term rental could be required to have a special use permit which requires going through DEP, DEC, DOH, & a public hearing so the point of this law is to create a simple process regarding short term rentals.

**Close Public Hearing**

On a motion by Council Member William Pushman, seconded by Council Member Bennett Wine and with all in favor the Public Hearing was closed at 7:01 pm.

**Open Town Board Meeting**

Supervisor JoEllen Schermerhorn opened the regular Town Board meeting at 7:01pm followed by the Pledge of Allegiance to the American Flag.

**Present:** Supervisor JoEllen Schermerhorn

Council Members Michael Barcone Bradley Jenkins

William Pushman

Bennett Wine

Town Clerk Charlotte Jaeger

Town Attorney Tal Rappleyea

**Absent:** Superintendent of Highways Frank Hermance

**Others Present:** Hilary Kolos, Larry & Devon Russ, Collin McCall, Jo Cross, Eric Egas, Christine Dwon, Lynn Byrne, James Dolan, Harley Yanoff, Jenni Cawein, Nancy Lainez, Rick, Anne Hall, Mike Ryan from the Mountain Eagle, Robert, Nicole Pursell, Beverly Dezan, Jillian Nelson, Caitlin Williams & Will, Caroline Egas, Kristen Azevedo, Shelly, Logan Aires, Ryan Potter, Kashka Glowacka, Moira Taylor & John E, Mark Bodnar, Karen Varona, Stefanie Sportan, Daniella Melen, Michael Sportan, Catherine Gomes, Valentyna, Peter Jensen, Matt & Nancy Jordan, Konstantyne, and Sacha. I apologize if I missed anyone.

**RESOLUTION # 34-21**

**Accept March 2, 2021 Public Hearing and Town Board Minutes**

On a motion by Council Member Bennett Wine, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5- Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the minutes from the March 2, 2021 Public Hearing & Meeting as presented.

**RESOLUTION # 35-21**

**February 2021 Financial Report**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Aye – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wind

Nays- 0

Therefore this Town Board moves to accept the financial report from February 2021.

**Highway Report**

Supervisor Schermerhorn read the highway report that Superintendent of Highways Frank Hermance prepared. Sweeping and cleaning of shoulders has started and they have a lot of work to do especially on Beech Ridge. Frank is trying to get help from the State with Beech Ridge since a lot of people used it when the bridge was closed. A culvert will be replaced on Rappleyea Rd. by Greene County Soil & Water and a culvert will be replaced on Truesdell Rd. by DEC this summer. CHIP money is coming in at a very small increase but there is a concern on the increase in black top prices. Frank also got two proposals for a generator for the highway garage from Holdridge Electric. There is a difference in the cost and the wattage. Council Member Jenkins said that the bigger kilowatt would be better and Council Member Barcone agreed and so did Council Member Pushman. There would be a seven year warranty and the proposal also included installation and a year of maintenance. They said that they needed to make sure that it was 3 phase as well as the highway equipment.

**RESOLUTION # 36-21**

**Generac Generator**

On a motion by Council Member Bradley Jenkins, seconded by Council Member William Pushman the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the proposal for the 14,000 kilowatt generac generator from Holdridge Electric for $ 7,850.00.

**Burn Ban**

The State has a burn ban until May 15th.

**American Rescue Plan**

Is a Federal program and New York state has secured 12.6 Billion. The money was allocated according to our census and the money is for infrastructure, helping with Covid, technology, etc. Lexington will be receiving approximately the same amount as Jewett, Ashland, & Prattsville.

**Local Law No. 3 of 2021**

Supervisor Schermerhorn said that they had been working on this for a long time and that it is difficult to get data because there are a lot of informal complaints. She asked for comments from the Town Board Members. Council Member Barcone said that the goal for this law was for responsibility & accountability and he thinks that they can work with the association and the community. Council Member Jenkins said that he was anti or on the fence for 2 years. He thinks that he can support this if it’s not etched in stone and if they can fix problems that arise he can support it. Council Member Wine believes this is the beginning of something that could evolve based on strengths and weaknesses. Council Member Pushman said that he was back and forth a lot on this issue and is willing to work with people but we have to start somewhere.

Town Attorney Tal Rappleyea said that the Town did a section 239 referral of Municipal Law to the Greene County Planning Board and the County recommended adoption and they did not recommend against it.

**Environmental Review**

Town Attorney Tal Rappleyea read 11 questions of which the answer was no to all of them.

**RESOLUTION # 37-21**

**Negative Declaration**

On a motion by Council Member Michael Barcone, seconded by Council Member Bennett Wine the following was,

ADOPTED: Ayes – 5- Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays – 0

Therefore this Town Board moves to adopt the Negative Declaration of Local Law No. 3 of 2021 which means that there will not be an environmental impact

**RESOLUTION # 38-21**

**Local Law No. 3 of 2021 Town of Lexington Establishing Regulations Regarding Short Term Rentals**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays -0

Therefore this Town Board moves to adopt Local Law No. 3 of 2021 Town of Lexington Establishing Regulations Regarding Short Term Rentals.

**Communications and Tech Support**

Town Council Member Bennett Wine wanted to propose that the Town Board form a communications technical committee. Hilary Kolos helped with getting the zoom set up for the meeting this evening.

The committee and the volunteers would be able to help with the website and other issues that might come up. Council Member Michael Barcone thought this was a good idea. Council Member Bradley Jenkins wanted to know if Council Member Bennett Wine would head up this committee. Council Member Bennett Wine gave his email; [bennettwine@gmail.com](mailto:bennettwine@gmail.com) for anyone that would like to volunteer to be on the committee.

**RESOLUTION #39-21**

**CWC/DEP Acquisition**

On a motion by Council Member Bradley Jenkins, seconded by Council Member William Pushman the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhonr, & Wine

Nays – 0

Therefore this Town Board moves to approve the possible acquisition of 3635 Rte 42 by CWC/DEP.

This property is owned by Kim and Iris Do.

Council Member Bradley Jenkins asked if there was anything new on the old highway garage and Supervisor Schermerhorn said there was nothing new that she needs to get in touch with someone to find out.

**Proposed Ashokan Hydroelectric Plan by Premium Energy**

Council Member Michael Barcone said that many communities and environmental groups are against it because it will displace people from their homes and will affect river ecology. Senator Michelle Hinchey will be having a live stream on face book on the 8th. The public comment period is until April 12th. Council Member William Pushman can’t believe that they would even consider doing this in the watershed. Supervisor Schermerhorn said that everyone’s voice counts.

**Properties in Disrepair**

Supervisor Schermerhorn said that there are a number of properties in disrepair and that Code Enforcement Officer Carl Giangrande would be sending out notices and she would contact someone at the County.

**Covid-19 Update**

Supervisor Schermerhorn said that anyone 16 years of age and older can sign up for a shot. WE had sad news that Windham School and Hunter -Tannersville School each lost a bus driver to Covid. Greene County had 9 new positives, 4 new hospitalizations, and 1 death since yesterday.

**Code Enforcement Report**

The Town Board Members received the reports for review.

**RESOLUTION #24-21**

**Audit Committee Report**

On a motion by Council Member Michael Barcone, seconded by Council Member Bennett Wine

the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to approve the paying of the following expenditures.

**Highway Fund** No. 42 Through No. 66 = $ 47,272.32

**General Fund** No. 67Through No.101 = $ 29,479.89

**Lighting District** No. 3 Through No. 4 = $ 591.15

**Sewer District** No. 8 Through No. 11 = $ 950.60

**Trout Update**

Council Member Michael Barcone said that they were still waiting for the dna because of Covid causing delays. Teh state received large amounts of money for habitat rehabilitation. They have been electrode fishing which puts electricity in the water which numbs the fish so they float, they are caught and so recordings can be made and then they are released. This does not harm them. There will be 2 more surveys taken.

**Public Be Heard**

James Doran will be posting his first story on the website and it will be on opening day of trout fishing.

**Calendar of Events**

Town Clerk’s Conference April 26-28

Town Board Meeting Tuesday May 4,2021 at 6:00pm via Zoom

Farmer’s Market Saturday May 29, 2021 10am-1pm

**Adjourn**

On a motion by Council Member William Pushman, seconded by Council Member Bradley Jenkins the meeting adjourned at 8:00 pm with all in favor.

Respectfully Submitted,

Charlotte Jaeger, Town Clerk

**LOCAL LAW No. 3 OF 2021**

**TOWN OF LEXINGTON**

**ESTABLISHING REGULATIONS REGARDING SHORT TERM RENTALS**

Be it enacted by the Town of Lexington as follows:

**Section 1. Title**

This Local Law shall be known as “A Local Law Establishing Regulations Regarding Short Term Rentals.”

**Section 2. Authorization**

This local law is enacted pursuant to the requirements set forth in the New York State Town Law and Municipal Home Rule Law.

**Section 3. Definitions**

SHORT-TERM RENTAL AND VACATION RENTAL - Furnished apartments or living units in a dwelling ordinarily occupied for residential purposes or otherwise directly by the owner or through an owner's agent or hosting platform. Hereinafter referred to as “STR”.

HOSTED PROPERTY - owner resides on the property on which an STR is located.

UNHOSTED PROPERTY - owner not living on property but must have a Local Property Manager- Person in charge of managing property.

OWNER AND/OR OPERATOR – Person or entity that owns the parcel of land on which the STR is operated or the person or entity that conducts the business of the STR.

LOCAL PROPERTY MANAGER (LPM) – Person that lives within the Town or within 30 miles of the Unhosted Property STR. Responsibilities of the LPM include assuring that all rules and regulations are met by guests including noise, parking and garbage disposal and shall respond to all complaints from the Town or the public. Name, address and phone number of the LPM must be filed with the permit application to the Town.

**Section 4. Regulations**

1. Every new STR must obtain a permit prior to commencing operation and every current STR within the Town of Lexington must register for a permit from the Town Code Enforcement Officer (CEO). The CEO, within 30 (thirty) days of the receipt of a complete application, shall conduct an initial inspection of the following items and upon successful completion, the initial permit shall be issued.
2. The applicant must provide a water test result of the potable water supply of the rented dwelling that complies with Subpart 5-1 (non-community water system) of the New York State Sanitary Code. Subsequent water tests shall be required upon annual renewal of the STR permit.
3. The occupancy of the building utilized for the STR shall not exceed the number of persons approved by the CEO based upon bedrooms, in accordance with the New York State Building Code.
4. STRs will be limited in occupancy to sleeping 15 persons or less. Any establishment that can house and sleep more than 15 persons will not be considered an STR and will be subject to the same rules and regulations as hotels/motels.
5. All parking for STRs must occur on the parcel. No parking on any roads by STR guests, renters or visitors will be allowed. Failure to comply at all times with the requirements herein shall result in a revocation of the permit until remedied and approved by the CEO.
6. The applicant shall provide an emergency number on the application and shall prominently post such number in the property. All emergency calls from the Town or renters must be responded to within sixty (60) minutes.
7. Proof of hazard/liability insurance in an appropriate amount is recommended.
8. Each permit shall have a term of one (1) year and must be renewed at the expiration of one year, with the appropriate fee and inspection by the CEO.
9. The fee for such inspection shall be $250. Permits shall be applicable to one tax parcel only. If the STR covers more than one parcel, the owner must obtain a permit for each parcel utilized as an STR.
10. The owner of every STR within the Town of Lexington shall apply for an initial permit within 180 days of the effective date of this local law. Failure to do so shall be punishable by a civil fee in an amount to set by resolution of the Town Board.
11. STR permits shall be issued only to the property owner of the STR being registered.
12. Failure to meet New York State Sanitary Code Standards shall require that STR owner or operator to notify guests of the failure, and provide potable bottled water to the guests, until such time as the failure is remedied. Upon failure of a water test, STR operator shall be required to submit a quarterly test for a period of one year to continue operation.
13. All current ~~non-resident~~ owners/operators of STRs may continue operation provided a permit is timely obtained hereunder from the CEO. However thereafter, only ten (10) further permits may be issued to new ~~non-resident~~ owners of STRs on a first-come-first serve basis. The CEO shall maintain a list of interested ~~non-resident~~ owners who may apply for a new permit when one becomes available after the tenth (10th) new ~~non-resident~~ permit is issued. The annual renewal requirements set forth above shall also apply.
14. At any time a violation is issued, the host has thirty days to remedy the violation. If a host receives three violations and the violations are not remedied and the host is still renting the dwelling, revocation of said license will ensue.
15. First violation: warning
16. Second notice: $500
17. Thirds notice; $1000
18. Fourth notice ; $1500, etc.
19. Fire safety requirements including smoke alarms, C02 alarms, and fire extinguishers, in accordance with the most recent version to the National Fire Safety Code. Fire extinguisher certification is required every 12 months.
20. The 911-Fire number of the rental property shall be prominently displayed at the curb of the property in numerals at least 4 inches high.
21. In any STR with 5 bedrooms or more, placards must be placed within the rental, delineating clear route of exit in case of emergency in every bedroom, to be affixed to the back, inside surface of the bedroom door.
22. Information shall be prominently displayed stating: “Strict adherence to local restrictions such as no trespassing on property boundaries outside of your hosts, adherence to noise limitations after 10 PM, and proper garbage disposal in accordance with the Town Zoning and other Local Laws, is essential for us to maintain our STR license. Please help us by respecting these laws. In addition, please be sure to review our house rules.”
23. A copy of the local law in regard to snow mobiles and ATVs will be prominently displayed.

**Section 5. Enforcement**

1. Violations of this Local Law shall be enforced in the same manner of violations of the Town Zoning Law.
2. A Review and Appeals Board is hereby formed to receive, investigate and make determinations on complaints and/or appeals of determinations by the CEO. The Committee shall include: one member from the Town Council, one member from the planning board, one full time resident who does not own or run an STR, and two STR owners, both of whom must be full-time town residents, and one of whom shall be a member of a local association of STR owners. All members of the appeals board will be appointed by the Town Council and shall use the same standards set forth in Town Law §267-b (1) relating to interpretations and shall follow the same public hearing and decision-making process as set forth in such section..

**Section 5. Effective**

This Local Law shall take effect immediately in accordance with the requirements of the New York State Municipal Home Rule Law.