

ReCode Questions & Concerns Summer and Fall 2024 & Winter 2025

Answers prepared by the Comprehensive Plan Implementation Committee, Director of Planning, Code Enforcement Officer, and Town Manager, November 2024 – Updated January 2025

| # | Question | Section | Answer |
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| 1 | How can zoning changes be made moving forward, re role of the PB, public hearings | 12.20.6 | The way that zoning changes occur is not anticipated to change with the new ReCode. |
| 2 | ReCode will improve the tax base. | Entire code | Allowing denser development in the center of town was a priority of the 2019 Comprehensive Plan and will increase tax revenues per acre in areas where density increases. |
| 3 | ReCode seeks to build community, which for so long was missing as a value. | Entire code | Creating walkable communities, and more of a town center was a clear goal of the 2019 Plan. Revising our land use code to allow for more mixed-use buildings and allowing for increased density in the town center supports this goal. |
| 4 | The focus on public space is appreciated. | Entire code | Public space amenities is something that Topsham clearly lacks, and that is a big desire of town residents who participated in the plan update. |
| 5 | Good enforcement is important. | Entire code | Yes, it is important to note. One of the goals of ReCode is to have a code that is clear and unambiguous, and that will support good enforcement. |
| 6 | Once the code is updated/approved, what happens to current property owners? | Entire code | Current property owners will become grandfathered and subject to Article 14. |
| 7 | The focus on form over use is lovely, and bringing back trad. town center sounds good, but concern that in the shift in emphasis there will be a sacrifice of protecting people from noxious things. | Article 2 | In addition to form being regulated in the Topsham Center Zones, uses remain regulated as well. The allowed uses in these zones is not anticipated to change very much from our current ordinance. |

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| 8 | Solar removed as allowable use in R3. Not clear distinction between private use versus utility scale solar. If there's a change, should be highlighted. | Table 6-4 | This was done in error and will be fixed in the next draft. Solar Energy Conversion Systems at the small-, large-, and utility-scale will be allowed in R3 as they are under the current ordinance. |
| 9 | Concrete manufacturing not allowed in LI | 6.10 LI | Concrete manufacturing is allowed in the LI, if it was shown as not being allowed this was done in error. The current April 2024 draft shows this as allowed. |
| 10 | Master Plan Development, does this apply to all town zones? | 2.140 | The Master Plan Development applies only to the Topsham Center Zones per 2.140.1 of the April 2024 Draft. |
| 11 | Open space subdivision ordinance, seems a major change, now appears to be required in R3). Concerned about changes not subject to public hearing. Requests that "substantive changes" be highlighted for public awareness. | 4.4 | In the April 2024 ReCode draft open-space subdivisions are required for properties in the R3 zone that are 10 acres or more and are enrolled in the State Farm and Open Space Tax Program. As of November 2024, this would apply to five parcels in Topsham, and these five parcels all have third-party conservation easements on the section receiving this tax benefit. The Planning Board will discuss this change when they hold workshops on this specific section. |
| 12 | Development transfer overlay, has this been deleted? If so, what is the rationale? | page 5-16 | The Development Transfer Overlay has not been used once in the entire time that the Town has offered it. It was removed as part of the code-cleanup effort. |
| 13 | Home occupation provisions appear to include numerous changes. | 7.30 | Yes, the home occupation section has been changed. This would be considered a substantive change to a section outside of the Topsham Center Zones, this will be discussed in depth by the Planning Board when they hold a workshop on this specific section. |
| 14 | It doesn't take much to trigger site plan review. | 2.40.5 | What triggers Site Plan Review has not changed in the proposed ReCode and all triggers for Site Plan Approval are available in Chapter 175. |

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| 15 | Include provisions to allow for use of air space to allow more units on same footprint and incentives for shared (day/night) parking. | Topsham Center Zones | It is not the purpose of ReCode to significantly alter the building height. Parking requirements have been reduced. |
| 16 | Kume parking lot, eats up a lot; shared parking and location of parking in more than just side lots should be considered (ex: 99 Restaurant has parking on both street facing corners which may or may not be non-conforming with ReCode draft). | Topsham Center Zones | We need to understand the concern more precisely to respond in a specific, helpful manner. We are open to discussing this further. |
| 17 | The math is confusing. If I'm reading this correctly, a 26-space parking lot must have charging stations available to at least 1.3 spaces. Does this mean 1 space for 2? For a 50-space lot it's 2.5 spaces. Again is this 2 or 3? I would recommend changing the wording to say 1 charger must be available for every 12 spaces. Most public chargers are deployed with two connections per unit. From experience, I would also suggest requiring signage that prohibits parking in charging accessible spaces when not charging. | 9.50.2, B + C | We'll review code language and these standards with the consultants, given progress in EV technology. |
| 18 | Again, the math is confusing. I recommend changing the wording to say 2 EV ready spaces per 12 spaces. | 9.50.3 | We'll review code language and these standards with the consultants, given progress in EV technology. |
| 19 | I really like the provisions in this section. | 9.40 | We appreciate this feedback, the 2019 Comprehensive Plan prioritized Streets for People, to accommodate the needs of both pedestrians and cyclists as well as vehicles. |
| 20 | Solar removed as allowable use in R3 | 6.10 Table 6.4 | This was done in error and will be fixed in the next draft. Solar Energy Conversion Systems at the small-, large-, and utility-scale will be allowed in R3 as they are under the current ordinance. |

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| 21 | Open Space Development - The Commission supports the change to require properties enrolled in open space or farm land tax programs to comply with the open space development regulations. It would be nice to extend this to medium or high value properties identified in our Natural Areas Plan. | 4.40.1 | The Planning Board will review this note when they review this section in depth during their workshops. |
| 22 | Would like to see higher density in R3, specifically ADUs without owner occupancy. | 7.20 | This outside the scope of our current ReCode process. LD 2003 expanded ADUs by right statewide when it was passed in 2022 and as a result Topsham does allow ADUs more generously than we did when the 2019 Comprehensive Plan was adopted. |
| 23 | Will chapters 175, 185, & 191 also be revised? | Chapters 175, 185, and 191 | Yes, these sections will be revised, but to a much lesser extent than Chapter 225. The Planning Board will hold workshops and public hearings on any proposed revisions to these chapters. |
| 24 | Table 2-3 lists civic building type as requiring conditional use approval. If specific conditional use review and approval criteria are required, they should be added to CU section 12.30.8. | Section 2.60, Table 2-3 | Thank you for bringing this to our attention, it will be brought to our consultants as they prepare the next draft. Additional discussion on Conditional Use Permits will occur when the Planning Board holds a workshop on this specific section. |
| 25 | CEO and Planning Director are part of planning department and amendments proposed by the planning department should be initiated by majority vote of the planning board as has been historically completed with planning board workshops. | 12.20.3 | The Planning Board will review this section in depth when they hold workshops. |

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| 26 | Should variances be restricted to dimensional requirements? Otherwise, the board [of appeals] would have to evaluate Building and Architectural Design criteria of Articles 2 and 8. The planning board can waive these requirements per section 12.30.3 and Article 8. It may be worthwhile to define waiver and variance criteria for Regulations, guidelines and provisions. And which board should grant a waiver or variance based on different type of requirements. | 12.40.2, G + H | The Town Attorney recently reviewed the entire Chapter 225 for any legal issues, this was flagged by him as a potential issue. We believe that his comments, which have been passed on to the consultants for the next draft, should take care of these concerns. Thank you for bringing them to our attention. |
| 27 | The town attorney said at the planning board workshop that one purpose of zoning is to reduce nonconforming uses and dimensional requirements. The dimensional changes for R2 back to 20,000 sf per lot help eliminate a non conformity with one of my properties. There are changes though in the code that create non conformities and should be carefully reviewed. | Entire Code | Thank you for bringing this to our attention. |
| 28 | Utilities + Services (Major) - I suggest conditional use only for R zones, RCI, MUL, and Mixed Residential. | Article 6, Table 6-4 | The uses related to utilities were altered to Utility, major and Utility, minor as part of this process, which was not what the Town intended. This is being reverted to our current use types and allowances per zone for the next draft. |
| 29 | Solar Energy Conservation Systems: The table doesn't carry forward the C, P, X requirements in the current use Table in Chapter 225; for example, Table 6-4 doesn't allow solar in R3 which is where we have approved large scale and utility scale solar projects. Suggest making 6-4 match current Chapter 225 use designations. | Article 6, Table 6-4 | This was done in error and will be fixed in the next draft. Solar Energy Conversion Systems at the small-, large-, and utility-scale will be allowed in R3 as they are under the current ordinance. |

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| 30 | <p>Adult Entertainment: Currently a conditional use in MUC and CC in existing use table in 225. I don't see why in Table 6-4 proposed as a conditional use in MUC-1 and not allowed in MUC or Topsham Center Zone replacing CC Zone. In my opinion, this use should not be allowed in any zone in Topsham. The MUC-1 zone abuts residential neighborhood on west side of 295 and should not allow adult entertainment business in this area.</p> | <p>Article 6, Table 6-4</p> | <p>We will need to verify with the Town Attorney, but it is our understanding that Adult Entertainment must be allowed in some portion of the Town. The Planning Board will review these changes carefully as they hold workshops on these specific sections.</p> |
| 31 | <p>Office : I think it should be permitted in the I zone. There could be professional office use in the industrial park within the industrial zone. Specific performance standards for offices in residential zones should be carried forward in next revision.</p> | <p>Article 6, Table 6-4</p> | <p>Some conditional uses are still under review by the Planning Board, this will be looked at in depth when the Planning Board holds a workshop on this specific section.</p> |
| 32 | <p>High Intensity Industry: a) Should be conditional use in the I zone with exception of concrete product manufacturing as a permitted use in I and LI zones. Future high intensity Industry uses could approach residential areas in R-2 zone on River Rd and R-3 zone on 196 depending on where the use may be located in the industrial zone, which is largely undeveloped currently. b) Concrete product manufacturing should be clarified as precast concrete manufacturing (e.g. Sandelin Precast and Precast of Maine).</p> | <p>Article 6, Table 6-4</p> | <p>This is considered outside the scope of the current ReCode project.</p> |
| 33 | <p>Extractive Industry: Existing use table in 225 allows this as a conditional use in R-3. There is an historically used gravel pit on Meadow Rd and other possible mineral extraction site uses possible in largely rural areas of R-3. This should continue to be a conditional use in R-3 on Table 6-4.</p> | <p>Article 6, Table 6-4</p> | <p>The current ordinance lists extractive industry as conditional in R-3 and MUL and permitted in I. The intention of ReCode is not to meaningfully alter the uses allowed outside of the Topsham Center zones, so this change will be reviewed by the Planning Board as they hold workshops on this specific section.</p> |

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| <p>34</p> | <p>"Safety is a huge concern for the neighborhoods on Winter St, Topsham Fair Mall Rd, and Sokokis: - Winter St - we love the speed tables, but it can be as long as 5 minutes to be able to safely pull out of our street due to heavy traffic. - TFM Rd - dark at night. We've had experience when driving + kids on bikes are difficult to see when they are in the middle of the street. - Sokokis, Mallett Drive and Winter St - there is a need for (tree/shrub) trimming for all 3 points: 1) turning off Mallett onto Winter; Sokokis - top of hill around 7-9 - All in all winter St, Granite Hill, Folks on Bridge St, Summer St, Maple St, and Mallett have safety concerns."</p> | <p>Entire Code</p> | <p>The 2019 Comprehensive Plan prioritized Streets For People, to accommodate the needs of both pedestrians and cyclists as well vehicles. The Bicycle & Pedestrian Committee are working on a Complete Streets Plan to attempt to address these concerns among others.</p> |
| <p>35</p> | <p>Safe walkability around Topsham. My son was hit by a car while on 196. I am concerned about bicycling safety town wide.</p> | <p>Entire Code</p> | <p>The 2019 Comprehensive Plan prioritized Streets For People, to accommodate the needs of both pedestrians and cyclists as well vehicles. The Bicycle & Pedestrian Committee are working on a Complete Streets Plan to attempt to address these concerns among others.</p> |
| <p>36</p> | <p>"1) I would like to see more affordable apartments created like the multi-unit on Pleasant Street in Topsham. I think it doesn't segregate low-income people, and puts them in walking distance of jobs + schools, and it's a safe area to walk with sidewalks. More of these, please! 2) I would like to see more multifamily townhouses that are soundproof between neighbors. These allow for parks to be created and expenses to be shared (similar to Monroe Ln condos). We need places for our adult children to move into who wish to stay in this town/area. 3) In R3, I would like to see new developments be well planned to allow for shared green space,</p> | <p>Entire Code</p> | <p>Yes, allowing greater density and more mixed-use development was a goal of the 2019 Comprehensive Plan. Sweeping changes in the rural area (R3) are outside the scope of this ReCode process but we are focusing on much of your comments in the center zones.</p> |

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| | sidewalks and public utilities. I don't want more pedestrians walking on the unsafe shoulder of 196! 4) ""Green sidewalks"" - Trails set back behind properties that are not paved add great value to neighborhoods, such as those behind Bay Park, behind Homeplace, that eventually connect with the trails behind the transfer station." | | |
| 37 | You should provide a map to the other districts not just Topsham Center as part of your your outreach. Is there a redline of the Use Table available or a redline to any definitions? | Zone Map & Article 6 | A map that showcases the entirety of the Town zoning areas is planned to be a part of the outreach. Due to the comprehensive nature of this code rewrite, there is not a redline version. The Planning Board will review the use table in depth when they hold workshops. |
| 38 | "Do you know that Topsham's 3rd and 4th largest solar array's exist in the Commercial Mixed-Use (Target >40,000 sq feet) and Mixed Traditional (Morning Star) zones. For perspective, the new MTA solar array would be considered a Large Scale array. There is no reason this development should cease to be allowed in these districts, especially when one of the suggestions in the Topsham Fair Mall study identified the use of solar on parking lots in this area to reduce salt. Further, there are businesses with large parking lots like the car dealerships, Bowdoin Mill and the strip mall across the street that could also benefit from solar covered parking. The definition of Small and Large Scale Solar should be amended to exclude solar covering parking areas and allowing it in all zones." | Table 6-4 | Table 6-4 Principle Use table does not regulate where an accessory use is allowed. The examples given would fall under accessory uses and remain allowable in the zones mentioned. You can find more information about Solar Energy Systems as an accessory use in Article 7.70. |
| 39 | I do not agree with Section 9.50.4. A developer could provide just one high ball bid and get out of installing the infrastructure. Section 9.70 is too vague, lacking details to prove hardship. They should have to provide more than one quote and should always | Section 9.50.4 | We'll review code language and these standards with the consultants, given progress in EV technology. |

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| | include Level 2 options as Level 3 is a multitude more expensive than a level 2. Where did the 5% come from? If you want to expand charging just require it without the wiggle room as it is too subjective. | | |
| 40 | <p>"It appears that you are removing the currently allowed installation of all solar in R-2B and R3? I would like to see a red line of the use table and any changes to definitions.</p> <p>Further, I would propose a change to the zones allowing Small Scale Solar (Ground Mount). I believe it should be allowed in R1 with the caveat that it is to solely benefit the property owner of the parcel it is located on. There should be no reason why a homeowner or business in R1 cannot put an array in their yard for their own consumption if they meet the setbacks. Granted I think you will see very few because of the lot size. While I understand this is the growth area, ground mounts are typically no larger than the footprint of a small garage for a single family home."</p> | Table 6-4 | This was done in error and will be fixed in the next draft. Solar Energy Conversion Systems at the small-, large-, and utility-scale will be allowed in R3 as they are under the current ordinance, Solar Energy Conversion Systems at the small- and large-scale will be allowed in R2B as they are under the current ordinance. Solar energy systems are permitted as an accessory use to all lawfully established principle uses in all zones. You can find more information on this in Article 7.70. |
| 41 | The definition section list appears not to include many definitions in the current 225-6. I understand some definitions will be removed with some changes in use groupings. The next revision should reflect review of definitions to transfer from 225-6. I also didn't see the maximum structure height carried over from the 225 table of dimensions. | Article 6 | Definitions not in use were removed as part of the code clean up effort. As this process moves forward we will create informational tools to clarify the changes proposed. Maximum structure height was removed as part of the code clean up as it did not have any applicable uses; structures such as wind turbines and cell towers have their own regulations in the code. |
| 42 | I think additional articles need to be added for general performance and specific performance standards in 225 along with board of appeals section. It's unclear to me if the general performance standards in existing 225 will apply to the Topsham center zone or just form based standards within the | Entire Code | This is a total Chapter 225 rewrite. General Performance Standards was removed at the suggestion of our attorney, as some were not zoning standards. Some of the content of that section has been incorporated elsewhere in 225. Other portions will be moved to the Site Plan Review Chapter or their own chapter. These changes would go to the Planning Board for |

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| | Topsham center article. I'm assuming the existing general and specific performance standards will continue to be applicable to all zone outside Topsham Center. | | workshop. The Specific Performance standards have either been removed or incorporated where applicable. |
| 43 | The middle village zone is too restrictive or just too big. Elm to Wilson Street the middle village zone as written seems to apply. From Wilson north to Goodwins Volvo it feels more like the Village Center Zone. This section already has many business including Dairy Queen, dentist, picture framer, church, lawyers and a couple of financial services. This is still our Main Street and is the perfect location for more small to medium size businesses that attract walking customers. Restaurant, grocery, cafe or bars. Mixed use and requiring a new build to have second and or third floor residential makes sense in this area. | Article 2 and Article 6 | We are not materially changing zone boundaries as part of this process. However, we will review the allowed uses and building types for this zone. |
| 44 | In an attempt to reduce regulatory complexity, the heart of the rural open space subdivision has been removed. 30% of most parcels in R3 where there are sensitive habitat will be unsuitable for development due to natural constraints. The objective of providing higher density is to leave a significant portion of the valuable upland habitats. The original language in 225-17 and struck out on page 4-6 of the draft resulted in removing the unsuitable land from the calculation of the 30% conserved acreage. This needs to be restored otherwise this subdivision option will result in dense development in R3 with no real benefit to the town. | Article 4.40 | The Planning Board will review this note when they review this section in depth during their workshops. |
| 45 | In these example street layouts please include a dedicated bikeway instead of showing the cyclist in the travel lane. It's a fantasy to think you'll get cyclists using the travel lane if they are riding between passing cars and parallel parked cars. The challenge of | Article 2.140 | We will bring these concerns up to the consultants responsible for the graphics. |

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| | avoiding being side-swiped by motorists and being doored is enough to make even experienced cyclist avoid such locations. The boulevard example should reduce the one-way travel lane to 9' and include a 5' bike lane between the parked cars and sidewalk. | | |
| 46 | The 2019 comp plan specifically notes that roads should be safer for bicycles and pedestrians and others. (see page 57 of the comp plan). In section 9.10 you note that the changes are intended to improve usage by bicycles. I believe you should add "and pedestrians," specifically. | Article 9.1 | We will bring these concerns up to the consultants. |
| 47 | I think the section on long-term bicycle parking is good, particularly because it mentions the need for covered bike parking, which is a key factor. | 9.50 (c) | Thank you, we are glad to hear that. |
| 48 | You do not currently require covered short term parking -- but I think you should add language to the effect that covered short term parking is desirable, and may be required if the site cannot meet the general short term parking requirements. In other words, if the site is supposed to have 10 bike parking spaces and can only fit 2, those two ought ideally to be covered. This wording is not perfect but I hope you get the idea. | 9.40.4 | Thank you for this suggestion, mandating this is beyond the level that CPIC wants to go to. |
| 49 | In Japan and possibly other countries, there are multi-story bike parking facilities near train stations in congested areas. It's something to see. You hand your bike off to an attendant who attaches it to some sort of gizmo that lifts it up to the second or third floor of the bike parking area. It is covered. When you get home from work, the bike has been safely stored | 9.40.4 (B) | Thank you for this suggestion, mandating this is beyond the level that CPIC wants to go to. If anyone were to propose this type of parking the Planning Department would be glad to work with them. |

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| | <p>under cover. These facilities hold an enormous number of bicycles. Although we probably don't need something of quite the same scale in Topsham, smaller scale multi-story bike parking facilities perhaps should be considered. You can see a small scale 2-story bike parking facility at this link. https://media.istockphoto.com/photos/parking-cycling-storage-hall-picture-id470342077?k=20&m=470342077&s=612x612&w=0&h=OhkUwLLbtvYrdbbZXkr4Yko4rYwaTrOpyj4EszHoWGE= It might make sense to mention it in case there isn't a lot of space on the sidewalk near the building. It might be useful down near the mill buildings, or maybe at the mall.</p> | | |
| 50 | More flexibility for projects being grandfathered to the old code | Article 1 | We will work to clarify the provisions for implementation and how projects that have already received approvals will be treated. |
| 51 | <p>“Group Living” should not be fully banned, particularly in R1.</p> <p>I live in R1, a zone intended for denser housing development. As everyone knows, we face an affordable housing crisis. For over six years I provided affordable housing, to two roomers at a time in my home, who were workers in the area who otherwise would have had a tough time affording housing. With their rent I, too, had affordable housing when I needed it most. I fear that the code is, at best mushy, about this practice, because it prohibits “group living.” (Sections 6.10 and 6.30.2) The code has no number of rented rooms, above which it becomes prohibited group living. Was I violating it with my two renter/housemates? I could be read that way. Yet, as one person told me, the Town really has no interest (thank heaven) in controlling who I live with. The ban on “group living” needs updating at best.</p> | Article 6.30.2 | The descriptions you provide here would not fall under either the Group Living or Lodging/Short Term Rental primary use. Instead, they would be considered a Household Unit primary use with a Home Occupation. These are not limited in these zones and what you have described remains fully allowable under the proposed ReCode. You can find more information on Home Occupations in Article 7.30. For a use to fall under the Group Living or Short-Term Rental/Lodging primary uses, that would need to be the main use of the building. Examples of Group Living primary uses can be found in 6.30.2 (B). |

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| | <p>I suggest allowing “group living”, rent by the room configurations, with some specific restrictions. (This would need research, but I would suggest something like limiting a single family home to no more than 5? renters.) The history of these types of provisions, as with large-lot single family zoning, is tied to efforts to rid areas of lower income renters. See, Rooming Houses: History’s Affordable Quarters Sightline Institute. With building and public health codes long since in place to assure safety, there is no rationale today to prohibit group living in a time when three-quarters of Maine families are unable to afford a home. Maine's Unprecedented Housing Crisis Is Worse Than You Think.</p> <p>There is a rental program called Nesterly, promoted by the Maine State Housing Authority and designed to encourage home sharing by pairing homeowners and roomers. It is an important tool in helping with the housing crisis. It can also help people age in place. I am in my late sixties and often think that when I get older I could trade housing for help with the right people. It is not clear from the definition of group living that this would be permitted.</p> | | |
| 52 | <p>Short term rentals should be permitted at least when it is not a self contained unit. (6.50.8). Since I have stopped renting rooms, I would like to have the flexibility to rent it via Airbnb. This is not taking an apartment unit off the market. It is a bedroom in my home. Is this prohibited? It looks like it. If so, why?</p> <p>Guest room rentals have been around forever as extra income for the home owner and affordable stays for the traveler. The internet supercharged the option and perhaps caused investors to convert housing into</p> | Article 6.50.8 | The descriptions you provide here would not fall under either the Group Living or Lodging/Short Term Rental primary use. Instead, they would be considered a Household Unit primary use with a Home Occupation. These are not limited in these zones and what you have described remains fully allowable under the proposed ReCode. You can find more information on Home Occupations in Article 7.30. For a use to fall under the Group Living or Short-Term Rental/Lodging primary uses, that would need to be the main use of the building. Examples of Short-Term Rental/Lodging primary uses can be found in 6.50.8 (B). |

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| | <p>short term rentals in popular areas. Let's avoid that problem with some nuance in the code by banning only short term rentals of self-contained units (units with kitchens and bathrooms). Renting a room without a kitchen in your home does not contribute to the housing shortage. Rather, it helps people afford to stay in their homes and pay their taxes. It will also save the Town from having a policy that is hard to enforce.</p> | | |
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