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## Article 11. Lodging or Boarding House Definition (Planning Board)

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To amend Article 12, Definitions, of the Zoning Bylaw by deleting the ~~lined-out~~ language, adding the language in ***bold italics***, and re-enumerating sections, as follows:

12. ***Lodging or boarding house: A residential use housed in a single dwelling or in part of a dwelling where no fewer than six (6) but not more than ten (10) unrelated persons are let or sublet lodging in private rooms or quarters not constituting dwelling units for definite periods of time, and where there are no overnight stays by transient guests. The building shall be occupied by the owner of the property or the manager of the use. Meals may or may not be provided, but only one common kitchen facility shall exist and no meals shall be provided by the establishment to members of the general public not lodged in the establishment. Lodging or boarding houses shall not include hotels, motels, inns, sorority, fraternity and cooperative residences, dormitories, or convalescent homes, nursing homes, rest homes, or group residences licensed or regulated by agencies of the Commonwealth. Lodging or boarding houses shall abide by all applicable state and local laws and regulations governing lodging houses, boarding houses, or rooming houses.***

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### Recommendation

The Planning Board voted unanimously, 9-0, to recommend that Town Meeting adopt Article 11, which adds a missing definition for an existing residential use—lodging or boarding houses .

### Background

Article 11 was spurred by the Planning Board's examination of zoning housing regulations under the larger effort to improve rental housing regulations in Amherst. Over this past summer, citizens participating in the process of developing the zoning regulations being presented to this Town Meeting described properties being rented to students as being like

“boarding houses” in their impacts on the surrounding neighborhoods. While “boarding house” was not an accurate description of those uses from a zoning standpoint, it led to an examination of Amherst’s zoning regulations governing lodging and boarding uses, to ensure that all of the proposed new zoning regulations being considered for small-scale rental properties fit together with existing regulations and made sense.

One of the first things discovered was that, while Amherst’s Zoning Bylaw has a principal residential lodging use category “lodging or boarding houses” (Section 3.329), the use is not defined anywhere in the Zoning Bylaw.

What Article 11 Would Do

Article 11 would provide the missing definition. It makes no changes to the permits required or to the existing Standards and Conditions applying to the existing use category, but it does add some further limitations in the definition itself.

The Standards and Conditions impose the following existing limitations on lodging or boarding houses:

- There shall be no separate cooking facilities in rooms.
- The establishment may (but is not required to) provide meals to lodgers/boarders/roomers, but not to members of the general public who are not lodged at the establishment.
- The owner or manager of the lodging or boarding house shall reside on the premises.

Article 11 adds the following new limits in the proposed definition:

- Rooms can be let to a minimum of 6 and a maximum of 10 persons.
- Lodging is for definite periods of time, and there will be no overnight stays by transient guests (as in a hotel or motel, inn, or bed and breakfast).
- Lodging or boarding houses shall not include a range of other kinds of lodging and group residential uses.
- There shall be only one common kitchen.

The proposed new definition expands on the definition set forth in state law, which states:

“Lodging house” or “boarding house”, any house or building, or part thereof, in which six or more persons are harbored, received or lodged for hire, or any building, or part thereof, which is used as a sleeping place or lodging for six or more persons not members of the family residing therein. [MGL Ch. 145, Sec. 2.]

The definition also reflects the contents and patterns of similar definitions used by many other Massachusetts communities, including college communities.

### Public Hearings

The Planning Board held a public hearing on Article 11 on October 3.

Attorney Lawrence Farber, speaking on behalf of several rental property owners, expressed concern that the proposed definition would be applied to multi-unit rental dwellings. It was pointed out that the definition confined lodging or boarding houses to the renting of rooms, not dwelling units.

Vincent O’Connor recommended that kitchen facilities be allowed in rooms and that transient overnight guests also be permitted. He also expressed concern that limiting meals offered on-site to lodgers only could prevent people from having dinners with friends.

It was noted that adding a kitchen to a room could convert it into a dwelling unit, and that a lodging or boarding house was not supposed to be the equivalent of an overnight lodging use like a hotel or motel, but instead to offer rooms for longer periods of time.

There was discussion of how the proposed regulations apply to the use (the lodging or boarding house establishment) and not to the tenants. The regulations prohibit the establishment from offering meals to non-lodgers—i.e., from turning into a restaurant or soup kitchen without the benefit of required permits. It does not prevent lodgers from having friends over for dinner. Similarly, it did not prohibit lodgers from having overnight guests—it prevented the establishment from offering to let rooms for overnight stays.

The Board agreed to modify the language of that section to make it clearer that the meals prohibition applied to the establishment.

After further discussion, the Planning Board voted unanimously, 9-0, to recommend that Town Meeting adopt Article 11.