

May 15, 2013

Dear Town Meeting Members –

Everybody agrees that the problem of out of control rental houses and irresponsible tenants must be addressed immediately. Violators of town bylaws must be held responsible and punished to the highest extent of the law.

Unfortunately the proposed residential property bylaws do nothing to significantly address townspeople's concerns about student parties, noise, garbage, lawn parking, and unsightly houses in residential neighborhoods.

Not only do the proposed rental bylaws not address any issues that aren't already covered by existing laws that are not currently being enforced, but these bylaws punish the 98% of Amherst tenants (56% of Amherst's population!) who are respectful and law abiding; and these bylaws punish the 98% of landlords who are responsible and law abiding.

These proposed bylaws add a quarter million dollar additional cost to our tax base plus lifetime benefits for new positions hired.

These proposed bylaws were developed without including any of the affected population! Zero tenants and zero Amherst residential landlords were on the committee.

Please review the enclosed letters to the editor and position outlines before Monday, May 20th when the residential rental bylaws will be addressed.

Everyone agrees we need to act to counter the negative impact student renters are having on our community. The bylaws being proposed aren't an effective solution to identified problems. They are excessive, expensive, and bureaucratic.

Please urge town officials to use all the laws on the book already to protect our neighborhoods. Please vote to send the proposed rental bylaw back to committee for further study with all stakeholders represented.

Sincerely,

Coalition of Concerned Landlords and Tenants
Amherst Landlords Association
amherstlandlords@gmail.com

Amherst Rental Regulation Property Bylaws

Articles 29 and 38

ARE THEY NECESSARY?

PROPOSED IN THE BYLAWS:	RESPONSIBLE LANDLORDS SUPPORT:
Mandatory registration and permitting:	The existing Board of Health Rental regulation mandating registration. Adapt it as a town bylaw and enforce it.
Self Inspection/Certification:	Existing state law requires this certification in a Statement of Condition signed by landlord and tenant. A landlord by state law gives an implied warranty of habitability that the property complies with all applicable health and safety codes.
Annual Renewal:	One time registration and renewal when ownership or use of the property changes.
Demands access to leases and apartment Interiors:	Respecting the privacy and "quiet enjoyment" of tenants in their homes. We support requests for leases and to enter a dwelling only when a complaint is made and with appropriate legal action if the tenant refuses access.
Detailed Parking Plan:	Requiring all residents-both renters and owners- to comply with the Parking Regulations of the Amherst Zoning Bylaws. Enforce them for all residents.
Enforcement procedures:	Enforcement procedures already exist, enforce them.
Rental permit required:	Using existing fines (up to \$1,000 per day) or immediate property condemnation when necessary. Enforce them.
Additional fees and administrative costs:	If this is a documented health and safety issue affecting the entire population of the town, costs should be shared by the whole town through property taxes.

Responsible Amherst Landlords agree that health and safety issues need to be addressed. We disagree with the alleged extent of the problem. The town's recently hired Code Enforcement Officer is making great strides by identifying problems and enforcing existing regulations. However, if you look at the statistics compiled by the town regarding the code violations, <http://www.amherstma.gov/DocumentCenter/View/22318> , <http://www.amherstma.gov/DocumentCenter/View/22319> an interesting picture emerges: Of the approximately 100 complaints over the period of June 1st 2012 to March 15th 2013, the majority related to parking and trash problems. Do parking and trash issues resulting in 100 calls in a 290 day period require a new and very complex bylaw and additional staff to enforce it? The Police are making great strides in addressing behavior offenses. After the "Blarney Blowout", the next 4 weeks were relatively quiet thanks to a highly visible police presence. Perhaps additional staffing to the police department would have a much greater effect on long term quality of life issues in our neighborhoods than would additional code enforcement personnel. The proposed bylaw creates no new regulations or tools and indeed is not intended to address nuisance behavior in any significant way. It instead creates an overly intrusive and expensive bureaucracy, possibly causing further increases in rents. The proposed bylaws are still complaint driven, as is the existing system. Enforcement is the key to both systems. And if the concern is to have healthy and safe rental units, then any room that is rented must be included, owner occupied or not. In reality, only a few poorly behaving individuals create disturbances, just as only a small percentage of landlords create unappealing situations. There are over 5,000 documented rental units in Amherst, but just 100 units or less creating the problems. Is it justified to create additional work and expense for 98% of the property owners and their tenants with either of these bylaws to control the behavior of the 2%?

Better Enforcement action of existing laws, not committees, not applications, not the issuance of "permits" is what is needed to bring the change that everyone wants.

Sponsored by Amherst Landlords Association
 Contact us with questions or comments at amherstlandlords@gmail.com

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UMass initiative seeks to make off-campus students good neighbors

By SCOTT MERZBACH Staff Writer

Tuesday, May 14, 2013

AMHERST — University of Massachusetts officials have teamed up with landlords and property managers in Amherst to attempt to make off-campus living arrangements for students a positive experience for them as well as their neighbors.

The Moving Off Campus Online Web-Based Learning (OWL) program started April 5 with the goal of having all off-campus student tenants complete it to gain an understanding of the expectations of being a renter in Amherst. Those who do earn a certificate they can present to their landlords.

David Vaillancourt, associate dean for graduate and off-campus students, said that while the [website for Off Campus Housing](http://twitter.com/bdgazette) (<http://twitter.com/bdgazette>) has sponsored programs that give instructions for off-campus living, his involvement with the Community Coalition to Reduce High-Risk Drinking indicated a greater effort was needed.

"After attending the CCC in my new position in late fall 2011, I realized that it would be better to reach as many off-campus students as possible," Vaillancourt said. The CCC is a group of town and university officials concerned with excessive student drinking.

Vaillancourt said both Kamins Real Estate and Puffton Village have been involved, along with UMass staff, Student Legal Services, the dean of students office and the office of information technology.

The new program addresses a range of topics. These include finding places to rent and searching for housemates and signing leases, landlord-tenant relationships, state laws and Amherst bylaws, the UMass code of conduct for off-campus behavior and resources for community information.

Once completed, students can print out certificates demonstrating that they have answered the questions in eight areas, which include rights and responsibilities, personal safety, fire safety and preparing for an emergency, and responsible party hosting and working with police.

In addition, a student's completion of the program is noted on the [Housing and Community Resources website \(mailto:bdunn%40gazettenet.com?subject=\)](mailto:bdunn%40gazettenet.com?subject=) where landlords can log in and determine if a potential tenant has the OWL certificate.

Vaillancourt said the number of landlords participating is not yet known. "We are in the process of tracking landlords who will require proof of the certification," Vaillancourt said.

"It's just another tool for people to use, for landlords to use, to know they are getting tenants informed about rental issues," Select Board Chairwoman Stephanie O'Keeffe said.

Steve Walczak, property manager at Puffton Village, said the program is a piece of the puzzle to ensure students are behaving off campus and not pleading ignorance.

"This will make them familiar with the principles of leasing and the responsibilities to the various laws and bylaws of where they're living," Walczak said.

The website upgrades and development costs were \$19,987, Vaillancourt said, and with staff time to research and write content, the university made an investment of at least \$25,000.

While it is too early to say whether this will help improve off-campus student behavior, Police Chief Scott Livingstone said he was happy with the spring semester, with only the Blarney Blowout, a large -scale disturbance at Townehouse Apartments the week before St. Patrick's Day, marring the semester.

Livingstone said he would like to have an Amherst officer address students at the new student orientation in the fall as a way to begin the dialogue at the outset of their experience at UMass.

Source URL:<http://www.gazettenet.com/home/6140850-95/story.html>

Rental permit bylaw misses mark

By DENISE-RENEE BARBERET

I heard them Friday night, late, from lower Main Street, the yelling, the swearing loud and clear in the spring air. I heard them Thursday night, too, roaming up my street, once again loud and rude. And yet, it turns out, they are not the real problem. I, a renter, am.

At a recent Select Board meeting, the chair of the board finally acknowledged that the proposed rental registration bylaw is not about bad student behavior, but rather about the condition of rental properties in town.

Rather than address and resolve behavioral issues that affect, directly or indirectly, the quality of life of all residents, the town has instead chosen to focus its attention on the new and virtually undocumented problem of threats to the health and safety of those who rent. And this bylaw will not limit itself to properties that indeed appear to present problems, such as those with lawns turned to parking lots, unkempt and overflowing with trash after the weekend's entertainment. It will train its vigilant eye on not just students, but on everyone who rents, including professors, families, responsible working adults, retirees.

While the original plan of annual inspection by town officials has been dropped, this bylaw will now require all landlords, including those who only rent out a room in

GUEST COLUMN

their home, to inspect their properties annually and to certify — under pains and penalties of perjury — that, among many other things, their units have “sufficient natural light,” that they are accessibility-compliant, and that there is sound buffering (the latter two being conditions that no Victorian house will likely meet). New staff will be hired to tame the resulting flood of paperwork, and yet, for all its vigilance, the system will continue to be complaint-driven. As well, the chair of the Select Board has made it very clear that permits to rent given under the new system will be revoked only in the case of egregious behavior by the property owner — not by the tenants.

According to the 2010 census, Amherst has 5,001 rental dwelling units; 56 percent of the population rents. Of this 56 percent, only a small percentage is principally responsible for the quality-of-life issues that the town faces. And now that 56 percent of the population, because they pay rent rather than a mortgage, will be subjected to annual scrutiny for their own health and safety — a scrutiny that no homeowner will face, no matter the condition of their property.

This is not intrusive, we are told by the working group that fashioned this bylaw — homeowners all, with not a single renter as a member

with an official voice or vote.

If this bylaw is not about controlling bad behavior, and if action will only be taken when a complaint is received, and if rental permits will only be revoked in the case of overtly egregious (but still undefined) bad behavior by the property owner, what, then, is its purpose?

The town has expressed great concern about the condition of rental housing, although it has provided only vague anecdotal evidence as to how widespread this problem is, and although any issues can already be addressed under current regulations.

Is it the town's real plan to get its proverbial foot in the door so that it can then require property owners to undertake potentially expensive upgrades of perfectly livable yet aging housing stock, thus making the town even more unaffordable for those of moderate income?

It would be lovely if we all lived where everything was in perfect working order. Yet even the town itself cannot manage that. Our roads continue to be in deplorable condition; our fire department has been chronically understaffed for over 50 years; CPA projects remain in backlog because the Planning Department continually takes on other tasks.

The town should get its own house in order before it tells others what to do with theirs.

Denise-Renee Barberet lives in Amherst.

Amherst's proposed rental permit bylaw a case of legal overkill

By LOUIS S. GREENBAUM

AMHERST — In a ringing endorsement of a proposed rental permit bylaw for Amherst, Eric Beal, the chairman of the Zoning Board of Appeals, concluded that "Although the rental permit bylaw cannot cure all that ails us, surely that is no excuse to do nothing."

On the contrary, the new by-law heading to Town Meeting is more harmful than doing nothing. Landlords and tenants are being punished for the inability of Town Hall to enforce existing codes, statutes and bylaws.

The new permitting system requires the annual registration and licensing of all owner- and non-owner-occupied rental units in Amherst. It mandates the preparation of detailed information describing each property, the hiring of a local agent if the owner lives more than 10 miles away, to "self-inspect" every unit annually using a checklist provided by the town that only an engineer can understand, to supply all tenants annually with information sheets enumerating all

the applicable laws; to limit occupancy to no more than four unrelated persons; to limit all parking to surfaced areas; and to submit a parking plan for each property that conforms to zoning laws.

A license or permit will henceforth be required to give the owner the right to rent his or her property. What the town of Amherst gives with one hand, however, it can take back with the other. Licenses can be suspended for up to three years for repeated violations. In addition the town sets annual fees for each property, as well as fines, to pay for a new registration bureaucracy.

The new permitting system and support staff to regulate more than 5,000 housing units.

Why are landlords called on to finance the new bylaw, which they oppose, together with tenants who should not be penalized with rent increases due to the mandated added costs. Nor should tenants' rights for the peaceful enjoyment of their homes be abridged by the intrusion of visiting inspectors.

Since this legislation is being crafted in the interests of "all," why shouldn't the community

pay for it out of Amherst property taxes?

State and local codes enumerated by Beal in an Amherst Bulletin essay are the same laws on the books — which inspectors are empowered to use to go after abuses or violations. They are the same laws that would be used in the new bylaw. So why don't town inspectors go after present abuses now, as they are empowered to do, instead of promulgating a punitive, expensive, highly discriminatory and unneeded new policy?

Doesn't Amherst already have enough regulations and controls?

Nor is the growth of the University of Massachusetts to be regretted but rather to be celebrated for the long-term prosperity and stability it brings to our town. It lavishes \$1.25 billion on the local economy each year, keeps providing jobs and most important, increases educational opportunity to students eager to pursue their studies at a world-class university. Our students are far and away decent, serious-minded and hardworking people. They have the right to live close to campus if they wish in neigh-

Proposed rental permits not effective solution

To the editor:

The issue of registering and licensing Amherst landlords in an attempt to curtail bad student behavior is yet another case of people wanting to do something as opposed to nothing, but offering no effective solution to the actual problem.

The numerous restrictions to be presented at Town Meeting in Articles 29 and 38 can already be enforced under our present bylaws. There is nothing new in this lengthy legislation except that it will require new employees to keep copious records of compliance, officers to collect fees and fines and additional inspectors. The cost to the town will undoubtedly be greater than expected, and the additional cost to landlords will surely be passed on to tenants.

porthoods of their choice without prejudice.

Instead of cupidly and greed, commonly attributed to them, responsibly landlords unconditionally accept safety

The proposed bylaws will increase the size of town government, and taxes will continue to go up. I know of people who are already planning to sell their properties if either of these bylaws is approved.

The present state building codes and sanitary codes, as well as the existing Amherst rental registration bylaw, already encompass all of the actions proposed in Article 29 as it will be presented to Town Meeting in May. The present laws may be invoked with probable ease and the town may already enforce them as they stand today. Even without new registration or licensing, under the present complaint-driven system the town is well prepared to remedy any and all complaints. Perhaps what we need to focus our efforts on is

the enforcement of laws that already exist.

Regardless of whether licensing will affect every rental unit in town or just large commercial rentals, there will be issues of discrimination regarding the rights of single-family homes versus those who rent out a bedroom. The equitable treatment of renters who live in large complexes versus those who live in a room in a private home may also be difficult to guarantee.

Does Amherst really want to invest time, money and manpower into creating a bylaw which is sure to be challenged by local landlords and/or tenants, only to have the bylaw be declared unconstitutional?

Doel Chapman
Amherst

contributing to basic human and health as the cornerstone of rental housing. They take pride in their property and acknowledge that in renting safe and healthy units they are offering an invaluable service.

Louis S. Greenbaum lives in Amherst.

Amherst rental permitting won't solve problem

By RENATA SHEPARD

AMHERST — As a small landlord and Amherst resident, I would like to address some of the claims stated by Priscilla White in her guest column April 29.

I appreciate White's concern and experience with out-of-town landlords and corporations and some local management companies that rent properties in single-family neighborhoods. I would not like to live near a nuisance home myself.

However, requiring all landlords to comply with Amherst's proposed bylaw will not only be a burden to current small landlords and current owners who may need to rent their homes later, but also will not resolve the nuisance problem.

Laws are already in the books (both town and state) to take care of health and safety standards. If the town is concerned about that, then sending out information to all residents (renters and owners) about those regulations would tackle that problem.

Many owner-occupied homes have health and safety issues — probably more so than rentals, since Massachusetts General Laws are very strict when dealing with rental properties.

A landlord has little control of tenants' behavior.

Chapter 186 has 22 sections (some of which are subdivided). Section 14, for example, spells out all you would want in terms of a healthy and safe property.

The parking problem described by White could be seen in owner-occupied homes as well. If a rental property is next to an owner-occupied property that has two or three teenage drivers plus their parents' vehicles, they should both technically abide by the same parking rules, which is, by the way, already in Article 7 of the Amherst Zoning Bylaw.

The voluntary rental registration that White refers to in her column is actually a Board of Health mandatory registration since 2003. The Board of Health has two full-time inspectors to handle any complaints. The code enforcement officer recently hired by the Inspections Services to help alleviate the load and deal with rental properties can also count on three building inspectors plus a building commissioner who would

help if necessary.

Paying \$100 per year for a permit, in addition to all the accompanying paperwork, which includes a self-inspection list that a layperson is not qualified to sign under the pains and penalties of perjury will not resolve the nuisance issue White wants to avoid.

The proposed rental bylaw will not resolve her issue of needing to pay for private patrols — only more police officers would be able to take care of party houses. A landlord has little control of tenants' behavior. Even experienced landlords with iron-clad leases and plenty of supervision are bound to run into tenants who violate leases, are hard to evict and may even cause unrecoverable damages due to the protective state laws and subjectivity of courts on the side of tenants.

When landlords can count on full, committed university involvement, on courts to expedite evictions and recover damages, and on towns to enforce current noise and nuisance bylaws, only then the situation everyone is complaining about will change.

That will not be accomplished with the proposed rental permitting system.

Renata Shepard lives in Amherst.

Landlords governed
by myriad laws

To the Bulletin:

I am responding to a quote by Amherst Planning Director Jonathan Tucker: "Right now, they (landlords) don't have to follow practically any rules at all. There's no oversight or review."

Landlords are regulated by the following federal, state and local laws and Amherst bylaws:

Massachusetts G.L.c 93-regulation of trade, regulation of business practices for consumers (consumer protection statute, health code regulations regarding housing — which authorize the state sanitary code landlords are subject to, lead paint laws, federal and state, public nuisances — housing can be shut down if landlord allows public nuisance (drugs, prostitution, illegal alcohol, explosives, illegal fire arms etc.), lodging houses regulations, anti discrimination, condominium conversion, rent and tenancies regulations, breach of quiet enjoyment of tenants, lease language illegal and waive of notice not allowed, security deposits, money at beginning of tenancy, last month's rent, delivery of leases to tenants, personal injuries against landlords and no waiver of liability, against precluding children, presumed retaliation by landlords for actions against tenants, landlord must repair if notified by tenant of defect or else may be sued, attorney's fees, must disclose insurance information, water use and sub-metering, counterclaims against landlords includes conditions, Federal fair Housing Laws, Americans with Disabilities Act, fire codes, building codes for construction, state sanitary codes, town by-laws, no more than unrelated occupants, parking regulations, zoning regulations.

These are some of the laws governing landlords. Our business even has its own specific court system: Housing Court.

I am disappointed that as a member of the Safe and Healthy Neighborhood Working Group and one of the principal architects of the rental regulation bylaw could display such a lack of knowledge of a business he is attempting to regulate.

The proposed rental regulation bylaw will do nothing that cannot be done under existing laws to correct any housing problems enforcement personnel currently encounter. Landlords are more than willing to work with the town on solving housing problems and strengthening the existing Rental Regulation bylaw. We recommend Town Meeting vote against Article 29 and Article 38. Reconvene the Safe and Healthy Neighborhood Working Group and give equal representation to landlords, town officials, owner-occupants as well as tenants, none of whom were on the working group and who will feel the greatest impact of the bylaw.

Stephen Walczak

Amherst

Stephen Walczak is president of the Amherst Landlords Association

February 11, 2013

Patrick Kamins, II, President
Kamins of Amherst, Inc.
400 Amity Street
Amherst, MA 01002

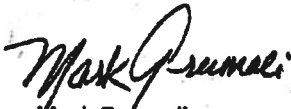
Dear Pat,

It has been brought to my attention that the Town of Amherst is considering a permit process for individual owners and management companies that lease housing units to the student population in the Amherst marketplace. In addition, if there are problems with the tenant base, permits issued by the Town of Amherst could/would be terminated which would have a negative impact on the property owners and their ability to generate income from the property. Income generated from the investment/income producing property is used to cover property overhead expenses which include debt service requirements on mortgage loans extended by banks to individual owners and management companies for the purchase of those investments properties and/or to complete improvements to those properties.

Although you are a valued customer of Greenfield Savings Bank, the bank would deem financing these types of investment properties as high risk. The bank at its option, could decide not to provide financing or provide financing at much higher rates due to the higher risk associated with these types of properties and associated permitting requirements.

Please call me at 413-320-6462 to discuss any questions or concerns that you may have.

Sincerely,


Mark Grumoli
Senior Vice President

MG/sas