



Regulating Vacation Rentals

Bar Harbor, Maine

Planning and Code Department
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(Correction on page 30)

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01. EXECUTIVE SUMMARY

This report documents the process and data used to develop the proposed vacation rental regulations. The main reason why we are focusing on vacation rentals is that vacation rentals contribute to the unaffordability of homes and apartments in Bar Harbor. This is an issue the Town Council has identified as needing to be addressed.

Vacation rentals are presently allowed in 34 of 40 zoning districts, pretty close to being town-wide. In 2019, there were 518 vacation rentals in Bar Harbor, an increase of 13% over 2018. Nearly one in five dwelling units in Bar Harbor are used either exclusively or intermittently as a vacation rental.

Some vacation rentals are the product of new construction while many are located in existing dwelling units that are converted from year-round to short-term housing. The impacts of this shift include people being evicted from their apartments. As for the cost of a house, specifically a starter home for the median income earner, the prices are inflated making the homes unattainable. Consequently, many workers live off-island.

In addition, many renters have to move out every six months and some people end up living in cars, in the park, and/or couch surfing. These living conditions lead to stress and anxiety. In turn, the housing problem contributes to the labor shortage and to the traffic problems. However, it is important to remember that vacation rentals also provide an important source of income allowing many residents to live in Bar Harbor and pay their bills.

Multiple actions can be taken to improve the housing situation in Bar Harbor. One of them is to stem the conversion of year-round housing to vacation rentals through land use and licensing/registration regulations. The development of these regulations has been an arduous process as vacation rental is a politically charged subject. In 2020 alone, vacation rentals were discussed/worked on at 33 municipal meetings and other town-organized events.

The process began with three listening sessions in January of 2020. About 220 people attended and 33% provided comments on the impacts and benefits of vacations rentals. The Planning & Code Department, with the assistance of a group of citizens involving a cross-representation of stakeholders, used this information to draft a goal, as well as policy objectives and regulatory approaches. Over a ten-month period, the Town Council and Planning Board refined these both independently and jointly. Also considered were 33 written comments received.

The proposed land use regulatory approaches, which are the basis of the proposed amendments to Chapter 125 Land Use Ordinance, would allow any currently registered vacation rental to continue operating so long as the registration is maintained. Two new types of rentals are proposed: vacation rental-1 (VR-1) and vacation rental-2 (VR-2).

VR-1, located in the primary residence or at the location of the primary residence, would be allowed in 34 districts. A VR-1 registration would allow the rental of the entire dwelling unit or part of, with no minimum rental period/number of nights restriction. A maximum of two VR-1 registrations per qualifying property would be allowed.

VR-2, located on a property that is not the owner's primary residence, would be allowed in 18 districts zoned for commercial and lodging activities. VR-2 registration would be restricted to renting the entire dwelling unit with a minimum rental period of four nights (the same minimum that exists at present). The maximum number of VR-2 registrations issued would be capped at 9% of the total number of dwelling units in town.

The transfer of both VR-1s and VR-2s would be prohibited. This would include the transfers to a new owner or a new location.

The proposed amendments to Chapter 125 Land Use Ordinance are expected to be on the June 8, 2021 ballot for Bar Harbor residents to vote on.

The proposed regulatory approaches to Chapter 190 Vacation Rental (registration ordinance), which complement to Chapter 125 Land Use Ordinance, include requiring the town-issued registration number to be posted on all advertisements and a 2-year inspection cycle. In addition, anyone operating without a registration would be prohibited from applying for one year. Furthermore, a registration could be revoked for up to eight months for multiple, recurring and/or significant code violations. Finally, the town would send a one-time notification to immediate abutters within 30 days of issuance of a registration.

These proposed regulatory approaches will guide the drafting of the proposed amendments to Chapter 190. This work is anticipated to be completed in the near future. It is expected that the Town Council will consider the amendments to Chapter 190 prior to the June 8, 2021 vote, with adoption contingent upon the passing of the proposed amendments to Chapter 125 Land Use Ordinance.

02. INTRODUCTION

Housing Policy Framework Adopted October 1, 2019 by the Town Council

HOUSING VISION

Support Bar Harbor's year-round community by having adequate and affordable workforce housing for residents who work in town, for families hoping to raise their children here, for seniors hoping to stay in the community as they age, and for businesses looking for a stable workforce and housing base needed to expand the town's year-round economy.

HOUSING GOAL

Provide a framework for the Town of Bar Harbor to ensure that we are fast-tracking the increase in housing availability and affordability for year-round residents by addressing the unique and pressing housing challenges as identified in, but not limited to: the 2007 Comprehensive Plan; the 2012 Economic Development Strategy; the Council Vision, Goals, and Strategies; and the 2018 Island Housing Trust Housing Needs Analysis and Assessment.

STRATEGY #1 (of 9)

Develop short-term rental restrictions.

This report documents the process taken to propose vacation rental amendments to both Chapter 125 Land Use Ordinance and Chapter 190 Vacation Rental (registration ordinance).

To advance its goal of increasing the year-round livability and quality of life for its citizens, the Town Council has sought to stem the conversion of year-round housing to vacation rentals.

The Town Council further prioritized year-round housing when it adopted the Housing Policy Framework in 2019. It includes a variety of strategies beyond vacation rentals, as vacation rentals play a role in the shortage of affordable housing but are not the sole factor.

Housing in Bar Harbor is too costly for the average person to afford. The second-home and vacation rental markets, coupled with zoning requirements that are beyond what is necessary to protect the health, safety, and welfare of the residents, drive up property values. These property values continue to rise at a much faster rate than wages.

Consequently, many people are choosing to move and/or live off-island while some are forced to do so. For example, 66% of The Jackson Laboratory (JAX) workforce lives off-island. As a result, the town struggles to retain a stable workforce.

Labor and housing are the two main concerns for Bar Harbor employers, while the barriers to employment in Bar Harbor are housing and transportation costs.

The rise in vacation rental units in Bar Harbor is compounding the housing problem, as it is taking long-term housing options off the market and affecting cost and availability. The proposed vacation rental regulations balance the need for year-round housing and the economic benefits from vacation rentals, especially for residents.

03. GOAL

Builds on the Council Vision, Goals and Strategies and on the 2019 Housing Policy Framework.

To develop vacation rental regulations that balance the needs of the Town of Bar Harbor and protect public interests including housing affordability, health and safety, and neighborhood quality, while still allowing residents to earn supplemental income from vacation rentals.

04. POLICY OBJECTIVES

Based on housing and vacation rental data and the listening sessions held in early 2020

1. To establish clear definitions, appropriate locations, and minimum length of stay.
2. To classify the types of use (residential or commercial).
3. To maximize the supply and affordability of year-round housing options.
4. To address speculation and conversion from year-round housing to short-term lodging.
5. To prioritize residential use and neighborhood quality.
6. To balance the playing field with transient accommodations, B&Bs, etc.
7. To establish a pathway to successful and consistent enforcement.
8. To ensure guest safety.
9. To identify possible incentives that assist in retaining and creating year-round housing.
10. To develop regulations that are politically acceptable, legally and practically enforceable, and financially affordable.

05. EXPLANATION OF PROPOSED AMENDMENTS AND REGULATORY APPROACHES

Chapter 125 Land Use Ordinance

We expect the proposed amendments to Chapter 125 Land Use Ordinance (LUO) to be on the June 8, 2021 municipal ballot. The amendments will be presented as two questions: one question pertaining to the Regulation of Short-Term Rentals (see A through I below) and the other question pertaining to the Prohibition of Transferability of Short-Term Rental Registrations (see J below). The draft orders can be found at <https://www.barharbormaine.gov/207/Land-Use-Information>.

Explanation of proposed amendments

Regulation of Short-Term Rentals (A through I)

- A. It would allow any currently registered vacation rental to continue operating as long as registration is maintained.
- B. It would create and define two new uses, vacation rental-1 (VR-1) and vacation rental-2 (VR-2).
- C. It would add a definition for short-term rental, as an umbrella term to encompass vacation rentals, vacation rental-1s and vacation rental-2s.
- D. It would allow VR-1, as follows:
 - 1. In the primary residence or at the location of the primary residence (as proposed to be defined).
 - 2. May be an entire dwelling unit or part of a dwelling unit.
 - 3. No minimum rental period/number of nights restriction (i.e. nightly rental allowed).
 - 4. Maximum number of VR-1 registrations per qualifying property would be two - it may be in the primary residence and/or at the location of the primary residence (i.e., a house and garage apartment).

E. It would allow VR-2, as follows:

1. Not the owner's primary residence.
2. Must be an entire dwelling unit.
3. Minimum rental period of four nights.
4. The maximum number of VR-2 registrations issued would be capped at 9% of the total number of dwelling units town-wide.

F. It would prohibit short-term rentals (vacation rentals, VR-1 and VR-2), in the same six districts where vacation rentals are currently prohibited:

- | | |
|------------------------|----------------------------------|
| 1. Industrial | 4. Scientific Research |
| 2. Stream Protection | 5. Shoreland Maritime Activities |
| 3. Resource Protection | 6. Marine Research |

G. It would allow VR-1 in the following 34 districts. These are the same districts where vacation rentals are presently allowed:

- | | |
|----------------------------------|---------------------------------------|
| 1. Bar Harbor Gateway | 18. McFarland Hill Rural |
| 2. Village Historic | 19. Otter Creek |
| 3. Mount Desert Street Corridor | 20. Salisbury Cove Corridor |
| 4. Village Residential | 21. Salisbury Cove Residential |
| 5. Downtown Village I | 22. Salisbury Cove Rural |
| 6. Downtown Village II | 23. Salisbury Cove Village |
| 7. Downtown Village Transitional | 24. Schooner Head |
| 8. Downtown Residential | 25. Town Hill Business |
| 9. Emery | 26. Town Hill Residential Corridor |
| 10. Hulls Cove Business | 27. Town Hill Residential |
| 11. Hulls Cove Res. Corridor | 28. Town Hill Rural |
| 12. Hulls Cove Rural | 29. Shoreland General Dev. I |
| 13. Indian Point Residential | 30. Shoreland Limited Residential |
| 14. Indian Point Rural | 31. Shoreland Gen. Dev. II/Hulls Cove |
| 15. Ireson Hill Corridor | 32. Shoreland Gen. Dev. III |
| 16. Ireson Hill Residential | 33. Shoreland Gen. Dev. IV |
| 17. McFarland Hill Residential | 34. Educational Institution |

H. It would allow new VR-2s, subject to the proposed cap (see E.4 above), in the following 18 districts:

- | | |
|----------------------------------|------------------------------------|
| 1. Bar Harbor Gateway | 10. Hulls Cove Business |
| 2. Village Historic | 11. Hulls Cove Res. Corridor |
| 3. Mount Desert Street Corridor | 12. Hulls Cove Rural |
| 4. Village Residential | 13. Ireson Hill Corridor |
| 5. Downtown Village I | 14. Salisbury Cove Corridor |
| 6. Downtown Village II | 15. Salisbury Cove Village |
| 7. Downtown Village Transitional | 16. Town Hill Business |
| 8. Downtown Residential | 17. Town Hill Residential Corridor |
| 9. Emery | 18. Town Hill Residential |

I. It would prohibit new VR-2s in the following 16 districts:

- | | |
|-------------------------------|-----------------------------------|
| 1. Indian Point Residential | 9. Schooner Head |
| 2. Indian Point Rural | 10. Town Hill Rural |
| 3. Ireson Hill Residential | 11. Shoreland General Dev. I |
| 4. McFarland Hill Residential | 12. Shoreland Limited Residential |
| 5. McFarland Hill Rural | 13. Shoreland Gen. Dev.II H/Cove |
| 6. Otter Creek | 14. Shoreland General Dev. III |
| 7. Salisbury Cove Residential | 15. Shoreland General Dev. IV |
| 8. Salisbury Cove Rural | 16. Educational Institution |

Prohibition of Transferability of Short-Term Rental Registrations (J)

J. It would prohibit the transfer of any and all short-term rental registrations. This would include transfers to a new owner or a new location. This amendment would allow all currently registered vacation rentals to continue operating, so long as the registration is maintained.

Chapter 190 Vacation Rental Ordinance (Registration/Inspection)

We are working on drafting the amendments to Chapter 190. We expect the Town Council will consider the amendments to Chapter 190 prior to the June 8, 2021 vote, with adoption contingent upon the passing of the proposed Regulation of Short-Term Rentals (see page 8). A link to the proposed amendments will be inserted here as soon as the document is ready. A list of proposed regulatory approaches, the basis for the upcoming proposed amendments to be incorporated into Chapter 190, is presented here:

Proposed Regulatory Approaches

- A. Require posting the town-issued registration number on all advertisement including, but not limited to, online platforms such as Airbnb, HomeAway, etc. to show that the dwelling unit, or part thereof, is duly registered to be used as a short-term rental.
- B. Maintain the annual registration deadline of May 31.
- C. Maintain the annual fee of \$250/registration.
- D. Institute a 2-year inspection cycle for life safety standards and an annual check-off by owner in between inspections by town.
- E. Allow the Town Council to revoke a registration for a minimum of three months and maximum of eight months, after a public hearing, based on multiple, recurring and/or significant code violations and non-compliance, and in some cases criminal activity.
- F. For any property owner operating without a registration, it would require them to wait 12 months from the date of the violation before applying for a registration. They would also go to the bottom of the wait list if applying for a VR-2 registration.
- G. Require that the owner be current on all taxes, water/sewer and any other municipal fees.

- H. Require indoor posting of registration number (to include the physical address of the property and owner/contact information).
- I. Require a one-time notification by the town to immediate abutters (includes across a road/ROW) within 30 days of issuance of a registration.
- J. Require weekly trash removal.

**06.
CONSISTENCY
WITH
COMPREHENSIVE
PLAN**

**Bar Harbor's 2007
Comprehensive Plan**

The opening paragraph of the Comprehensive Plan's Vision Statement states, in part, that it "is the varied population of young and old, new comers and old timers, students, retirees and workforce members that makes Bar Harbor Special."

Per MRSA 30-A §4352. 2., "a zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the legislative body." The Bar Harbor Comprehensive Plan was adopted on November 6, 2007 by a town-wide vote.

Below are excerpts from the Comprehensive Plan demonstrating that the proposed amendments are in accordance with the plan. **Goal 6, Policy 6 C** and its related strategies specifically speak to vacation rentals.

Furthermore, as it is recognized that vacation rentals play a role in the shortage of affordable housing but they are not the sole problem, we documented the plan's goals, policies and strategies in support of affordable workforce housing, as shown below.

∞ Comprehensive Plan Excerpts ∞

**Chapter III.A
Goals, Policies, and Strategies**

Goal 2:

To encourage orderly growth that protects the character of the Town and its economy, allows commercial and residential growth, and prevents development sprawl.

Policy 2A:

To preserve and enhance the present level of tourism and encourage managed growth in this sector.

It has been a town policy since the 1960s to strengthen Bar Harbor's economy by encouraging tourism. The Town has been successful in this respect. But with the 90s came

concerns, not only about the environmental integrity of the Town and the island, but also about the strategies the Town must adopt to ensure the Town's continued economic viability. Tensions continued into the early years of the new millennium, particularly concerning the short-term volume of visitors that cruise ships bring to the community (see 3E) and the issue of weekly rentals in residential areas. This plan advocates a middle course between economic development and preservation. Reaching agreement on this concept and on the concept of balancing the commercial aspects of Town with the residential aspects is critical if this plan is to be a viable document. More importantly, such a tacit agreement will encourage trust between the business community and residents. It is, however, imperative that the existing balance between residential and commercial zoning be maintained. Any map change that considerably tips the balance between residential and commercial zoning should be discouraged.

Strategy 2A1:

Monitor recent LUO amendments addressing the practice of weekly rentals, assessing their effectiveness in balancing neighborhood integrity with the demand for this form of lodging, and modify these ordinances, if necessary.

Policy 2B:

To examine the zoning in Bar Harbor village to preserve its residential integrity, while acknowledging numerous nonconforming commercial uses.

The present business district was structured by measuring a certain distance from Cottage, Mount Desert, and Main Streets and labeling that area "business." The result, however, is that some residential areas, e.g. Kennebec St., include both business and residential zoning. Intrusion of commercial activities could result in destruction of the character of the neighborhood and the loss of valuable housing. On the other hand, a number of hotels and shops have existed in residential areas for many years. Under present ordinances, such businesses are nonconforming and the properties cannot be changed or modified. The intent of this policy is to give the Town a chance to preserve its residential areas and to allow long-established nonconforming businesses to make changes.

The Planning Board should review the use patterns in the downtown area and reclassify some areas like Kennebec Street so they remain residential but allow established businesses to upgrade and/or renovate.

Policy 2J:

To watch over implementation of this Plan Update and monitor success in achieving its policies and goals.

Strategy 2J2:

Adopt benchmarks for Bar Harbor's ten-year planning period to include: ...

- 10% or more of new year round housing affordable to those making 80% to 120% of the Town's median household income...

If, by at least the fourth year after adoption of the Comprehensive Plan Update, growth, particularly the percent of growth, is not being directed as desired in the Plan, the Town Council, with assistance from the Planning Director and Planning Board, will review the Plan's strategies and adjust them to increase their effectiveness in meeting the benchmarks.

Goal 3: To encourage economic development that increases job opportunities, has a low environmental impact, and supports sustainable year-round economy.

Policy 3A:

To prepare and adopt an economic development plan.

A number of Bar Harbor Comprehensive Plans have mentioned the desirability of year-round commerce, yet high land costs are a significant barrier and the Town lacks a vehicle to bring together the various viewpoints on this matter. The Town Council, in conjunction with the business community, should develop and adopt an economic development plan.

The Town is facing competing economic interests and serious issues that require careful balancing. The major economic drivers in the community are tourism, not-for-profit research, fishing, and possibly the retirement industry.

Two of the drivers are also of considerable statewide importance (Acadia National Park and the Town of Bar Harbor are the state's premier "first visit" driver for tourism and the two biological labs are important to the state's biomedical technology niche).

The economic development plan must consider the strategic plans of the major drivers. While tourism has dominated the Town's economy for more than a century, the community yearns for a sustainable year-round economy to support a broader array of retail goods and services and provide stable, year-round employment for its resident population. This is only likely to occur with the active involvement and support of the Town. Efforts to extend retail sales into the fall season have been successful over the last few years.

Bar Harbor is a job center for the region with many workers living off-island. These workers are a built-in market that, if tapped, could help the Town build a sustainable year-round economy.

Strategy 3A5:

Identify and implement ways to encourage the relatively permanent population of in-town commuters to spend more time, and money, in Bar Harbor. Work with the Chamber of Commerce, local merchants, and non-resident workers to identify the uses, services, and/or activities that appeal to this group to help build a sustainable year-round economy.

Strategy 3A6:

Encourage a geographically closer linkage between employment and housing opportunities by allowing mixed uses and higher densities of new, affordable residential development near employment opportunities in Downtown and other areas of Town where both housing and job creation might work hand-in-hand. Work with major employers to explore opportunities for joint efforts to create affordable housing for employees.

Goal 6:

To encourage and promote decent and affordable housing and slow off-island migration.

Policy 6A:

To increase the number of affordable rental units.

Workers have a very difficult time finding affordable rentals, especially during the summer season. The Town should continue to monitor the effectiveness of recent ordinance amendments that restrict multifamily housing outside of the Downtown unless it is part of a PUD in order to encourage diversity in housing stock. The Planning Board should review the restrictions on apartments or rentals on lots with single-family residences and provide incentives so that more people can convert unused space into rental units. Additionally, the Town should allow the construction of dormitory type structures to house seasonal workers or year-round employees near businesses that generate them. This could benefit the need for housing at the college and the lab as well as offer less expensive housing for summertime workers.

Strategy 6A1:

Monitor the effectiveness of recent ordinance amendments that restrict multifamily housing outside of the Downtown, remove parking requirements for dwellings in the Downtown, adjust them, and add incentives if necessary, to increase the number of affordable rental units for year-round and seasonal workers.

Strategy 6A2:

Amend the LUO to allow dormitory type structures for workers near businesses that generate seasonal or year-round jobs and to provide other incentives that encourage affordability, including but not limited to height restriction and lot coverage requirements.

Strategy 6A3:

Explore approaches used in other resort communities to provide affordable rental units for both year-round and seasonal employees.

Policy 6B:

To encourage more affordable housing so that at least 10% of newly constructed units are affordable to low and moderate income residents.

One of the major forces driving workers off the island to live in Trenton, Lamoine, or other parts of Hancock County

is the cost of buying and owning a house in Bar Harbor. The scarcity of affordable work force housing on the Island is also the biggest hurdle to finding and retaining qualified professionals for public safety as well as other town departments.

The Town should work with public, private, and nonprofit partners in the community and region to encourage the construction of more affordable housing opportunities as well as examine density and road frontage requirements in the LUO so that land is more affordable, review the ordinance as it pertains to manufactured housing, and provide additional incentives, which would encourage the private sector to build affordable housing, as well as examine LUO amendments that require affordable housing as part of a given project.

Strategy 6B1:

Work with public, private, and non-profit interests in the community and region to provide more affordable and work force housing in Bar Harbor and the rest of the Island.

Strategy 6B2:

Develop affordable work force housing for public employees and other year-round workers on currently owned town land and, where appropriate when opportunities arise, to acquire additional town land for that purpose.

Strategy 6B3:

Investigate techniques and other strategies to promote affordable housing and amend the LUO to:

- provide additional incentives to encourage the private sector to build affordable housing;

Strategy 6B4:

Create an Affordable Housing Fund within the Town Budget with its primary purpose being support of converting the existing housing to affordable units. Impact fees from applicants proposing subdivision that do not create affordable units may be dedicated to this fund. Work with existing organizations for possible dedication of these funds or for partnerships.

Strategy 6B5:

Since one of the Town’s objectives is to create more affordable housing, the Town, within two years of adopting incentive-based and regulatory changes to the LUO, the Town shall investigate whether the strategies have been effective in creating affordable housing. If they have not been effective in reaching the 10% goal or an adequate supply to support a sustainable year-round economy, the Town shall adopt more stringent regulatory measures in order to increase the supply of affordable housing.

Policy 6C:

To continue to support and expand municipal code enforcement to ensure that property owners comply with the LUO, building code standards are met, and weekly rentals and transient accommodations are safe for visitors.

The subject of weekly rental property has generated considerable discussion in recent years. The Town should not unduly restrict the ability of the resident owners to generate extra income through seasonal rental of their homes.

However, the Town should continue to recognize that non-resident owners of rental property are operating a business and restrict weekly rentals to business districts and the Downtown. The public has commented that there is insufficient enforcement of the LUO. Enforcement that is more aggressive will likely require additional enforcement staff.

Strategy 6C1:

Monitor the effectiveness of recent ordinance changes regarding weekly rental, including restrictions on the location of non-resident owned weekly rentals to business districts and the Downtown and require an initial inspection of non-resident owned units based on data from registration of rental units and other information. Amend the LUO as necessary to improve their effectiveness.

Strategy 6C2:

Identify the threshold for determining whether additional enforcement is necessary.

07. OUTREACH & ENGAGEMENT

Listening Sessions

To hear from the residents and better understand the benefits and impacts of vacation rentals in Bar Harbor three listening sessions were held in January of 2020. In an effort to focus on year-round residents, including renters, a 3,716-piece direct mailing was sent to all postal customers in Bar Harbor. About 220 people attended the listening sessions over the course of three nights. Each session started with a presentation on the status of housing and vacation rentals in Bar Harbor, followed by public comments. The information from these sessions was used to develop the goal and policy objectives (see page 7).

Demographics of attendees

Of the people that attended and completed the registration form, 90% were from Bar Harbor and the majority of those were from the downtown.

Thirty-six percent (36%) of the registrants were under age 50, which is a strong turnout of younger people.

Close to 50% of the registrants owned at least one vacation rental. Of the 220 participants, 33% (73 people) provided comments. About 10% of the participants who commented were not from Bar Harbor. Of those who spoke, 53% do not own vacation rentals while 47% were vacation rental owners. The combined number of vacation rentals as reported by those who commented was 51.

Summary of Comments

NOTE: This is a summary of opinions expressed by speakers during the listening sessions. As a result, some of them conflict with or contradict one another.

Source of Income

Most owners have only one vacation rental. It provides income, allows people to afford to live in Bar Harbor, and/or serves as a retirement plan. Many saw a difference between residents owning vacation rentals to supplement their income and non-residents owning vacation rentals as investments. Several people mentioned that year-round rentals are not as lucrative as vacation rentals and come with their own set of challenges. Some people see a vacation rental as a business, and therefore a commercial use, and believe that it should be treated as such.

Length of Stay

Most vacation rental owners said that they would like the minimum number of days to be reduced, as visitors are looking for shorter stays than the present 5-day (4-night) minimum. It was also said that the small vacation rental places and private rooms are not suited to a 4-night stay. On the other side it was argued that going to one or two nights will effectively turn vacation rentals into accommodations and put them in direct competition with existing lodging operations.

Year-round Housing and Community

There was an acknowledgement that living in Bar Harbor is expensive. Many people, born and raised in Bar Harbor, have moved off-island because they cannot afford to live here and/or because it is more affordable to live off-island.

Some believe that the town will never be affordable – it is about supply and demand. It was said that vacation rental

regulations would not solve the workforce housing¹/year-round housing problem. Property rights and free market is the way to go. The short-term rental market is more lucrative than the long-term market and there is less wear and tear. Some remarked that vacation rentals ensure that properties are well maintained and help keep property values high. There would need to be some type of financial incentive for people to consider year-round rentals.

Some people see vacation rentals as growing the town as a *commodity*, to the detriment of the town as a *community*. There is a feeling that the aging and affluent population is not welcoming to young people. It was said that although it is great that vacation rentals are a vehicle for people to be able to retire in Bar Harbor, we should not forget that many people that work here would also like to be able to afford to live here. They feel overlooked.

Many feel that there are enough vacation rentals but not enough year-round housing, and that a balance with year-round housing needs to be achieved. There was concern that decreasing the minimum length of stay for vacation rentals (both year-round and in the shoulder season) would keep more vacation rentals on the market. In turn, this would make vacation rentals more valuable and therefore continue to exacerbate the year-round housing problem. Some feel that residential neighborhoods have turned into business districts. Lots of traffic and strangers (does not feel safe) in the peak season and dark homes in the off-season.

There needs to be a year-round population living in Bar Harbor in order to have a community. If we want to have kids in school, we need families; and if we want families, we need workforce housing. Workforce housing availability is the primary hurdle for people wanting to

¹ — Per the *Housing Policy Framework* (2019), workforce housing is defined as quality housing in reasonable proximity to the workplace that has a sale price or rental amount that is within the means of the household that earns from about double to two-thirds the median household income.

work here and live here. The lack of quality, year-round workforce rentals create stress and anxiety for many people trying to live here. Many renters move every six months. A long-time Bar Harbor business owner said that in her first 10 years in Bar Harbor she moved 21 times. A young woman with a start-up business and school-age children moved six times in three years. An oyster worker moved 12 times in six years. The constant moving requires a significant amount of cash flow for each move. The lack of housing creates insecurity and constant fear of being homeless. People live in substandard rentals and couch surf. People live in cars, in the woods, in closets, and in Acadia National Park. People deserve stability. They do not deserve to be up-rooted every six months; they deserve a place to live year-round.

(End of summary of comments)

Meetings & Workshops

The three public listening sessions were held at the end of January 2020 to kick-start the project, hear from the residents, and draft a goal and policy objectives to guide the effort.

From there, a Zoning Advisory Group (ZAG), consisting of six residents, selected by the Planning Director and involving a cross-representation of stakeholders, met nine times in the first half of 2020. The ZAG provided guidance and assistance to the staff with the drafting of the goal, policy objective and the first iteration of the regulatory approaches.

In the spring of 2020, the proposed land use amendments entered the formal 6-month process of public hearings and review by the Town Council and Planning Board with the end goal for it to be placed on the ballot for the residents to vote on. On August 18, 2020, the Town Council voted not to move the proposal forward to the ballot, as councilors felt it needed more work. From there, the Town Council and Planning Board held a series of joint workshops to continue working on and developing a proposal that better meets the needs of the town.

In 2020 alone, the subject of vacation rentals was discussed/worked on at 33 meetings and other events, as presented below (at least six of these included specific opportunities for public comment, i.e., a public hearing):

01/2020 - Listening sessions (3 sessions were held, 220 people participated)

01/23/2020 - ZAG meeting

02/06/2020 - ZAG meeting

02/11/2020 - Council meeting

02/18/2020 - Council meeting

02/24/2020 - ZAG meeting

02/27/2020 - ZAG meeting

03/02/2020 - ZAG meeting

03/04/2020 - Planning Board meeting

03/05/2020 - ZAG meeting

03/11/2020 - Joint Council/Planning Board workshop

03/23/2020 - ZAG meeting

04/21/2020 - Council meeting

04/28/2020 - Joint Council/Planning Board workshop

05/01/2020 - ZAG meeting

05/06/2020 - Planning Board meeting

05/27/2020 - Public information session webinar (75 watchers, 15 people commented. Most were Bar Harbor residents. As vacation rentals continued to be controversial no clear message was captured)

05/28/2020 - Planning Board workshop

06/01/2020 - ZAG meeting

06/04/2020 - Planning Board workshop

06/10/2020 - Planning Board meeting

06/15/2020 - Planning Board workshop

07/08/2020 - Public hearing at Planning Board meeting

07/21/2020 - Council meeting

08/18/2020 - Public hearing at Council meeting (it was decided not to place the proposed amendment on the June 2020 ballot as councilors felt more work was needed)

09/09/2020 - Joint Council/Planning Board workshop

10/29/2020 - Joint Council/Planning Board workshop

11/16/2020 - Joint Council/Planning Board workshop

11/23/2020 - Joint Council/Planning Board workshop

12/01/2020 - Council sends proposed amendments to Planning Board and asks for a public hearing to be called

12/02/2020 - Planning Board calls for a public hearing on January 6, 2021

Note: More than 30 written comments were also received from citizens on the subject of vacation rentals during this time period.

08. BACKGROUND INFORMATION

The subject of vacation rentals has been, and continues to be, a difficult and controversial conversation in Bar Harbor as everyone has an interest. The interest often depends on if you own vacation rentals (or indirectly benefit from them) or if you do not. These opposing interests lead to fundamental differences in terms of what is seen as the best course of action. Below is a summary of the rationale behind the proposed land use amendments.

Proposed Changes to Chapter 125, Land Use Ordinance

Rationale

- A. Two types of vacation rentals: vacation rental-1 (VR-1) and vacation rental-2 (VR-2) are proposed. Specific criteria are outlined below.
- B. VR-2 is more stringent than VR-1, as the wellbeing and economic prosperity of the full-time residents of Bar Harbor was favored. There is a difference between homeowners renting out their homes to supplement their income and non-residents owning vacation rentals as investments.
- C. **VR-1**
 1. VR-1 is characterized by:
 - A primary residence, or is on the primary residence property;
 - Sharing one's home, or units on one's primary residence property, with guests;
 - Generating income that helps one afford to live here; and
 - Real skin in the game/real stake in the community
 2. Up to two VR-1 registrations may be permitted per primary residence property (i.e., main home and garage apartment).

3. VR-1s are proposed to be allowed in 34 of the 40 districts (the same 34 districts where vacation rentals are presently allowed).
4. VR-1s are proposed to be allowed in districts that prohibit accommodations (hotels, motels, B&Bs, cabins, transient accommodations, and campgrounds) and in districts zoned primarily for residential uses where little or no commercial uses are allowed. Some of the commercial uses allowed in the latter districts are resource based or rural- and farming-related.

VR-1s are proposed to be allowed in these districts as it is expected that the owner of the VR-1 will be present on-site during the entire rental period or part of it. The owner's presence will likely lead to more accountability on the part of both the owner and the renter and less possibility of neighborhood disruption in regards to issues of noise, trash, parking, and excessive number of people on the property.

D. VR-2

1. VR-2 is characterized by:
 - Not a primary residence, or is not on the primary residence property;
 - An investment property;
 - Renting my investment property and/or second property as short-term rental; and
 - Less skin in the game/less stake in the community, in many cases.
2. VR-2s are proposed to be allowed only in districts that allow accommodations (hotels, motels, B&Bs, cabins, transient accommodations-2 through -8, and campgrounds) and certain commercial activities, as the impacts are somewhat similar.

3. VR-2s are proposed to be prohibited in districts zoned primarily for residential uses where little or no commercial uses are allowed. Some of the commercial uses allowed are resource based or are rural- or farming-related.

VR-2s are proposed to be prohibited from these districts as it is expected that the owner of the VR-2 is likely to be absent from the site during the rental period. The owner's absence may lead to less accountability on the part of the owner and the renter and more possibility of neighborhood disruption in regards to issues of noise, trash, parking, and excessive number of people on the property.

4. VR-2s are proposed to be prohibited in in Shoreland Development I, III, and IV districts as presently there is only one vacation rental registration in the three districts combined. Additionally, prohibiting new VR-2s in these districts is an opportunity to prevent dwelling units from being converted to VR-2s.
5. It is proposed that the maximum number of VR-2 registrations to be issued not exceed 9% of the total number of dwelling units town-wide.

In 2020, the town had as many as 351 dwelling units that would be considered VR-2 under the proposed new regulations. This is a combination of two numbers: 216 current vacation rentals associated with owners who do not have a Bar Harbor address in the assessor's database, and up to 135 more vacation rentals belonging to owners who do have Bar Harbor addresses, but which may be second homes or investment properties.

The combined total of possible VR-2s, therefore, is 351 (216+135). The assessor reports that there are 2,795 dwelling units in Bar Harbor, meaning 351 equals 12.5% of all

dwelling units. At a minimum, using the 216 figure, 7.7% of the town's dwelling units are presently used as what would be considered VR-2s.

Based on this data, at this time we estimate that we are about 3.5% over the proposed 9% cap, which is an excess of about 99 dwelling units registered as VR-2s. This means that no new VR-2 registrations would be issued unless and until we get down from 351 to 252 dwelling units (9% cap) being registered as VR-2. Note that the 252 is based on the current number of dwelling units.

Following a series of joint workshops, where data was presented and discussions took place, the Town Council and Planning Board members settled (though not unanimously) on 9% as an appropriate number for the proposed cap. The 9% number is seen as not being too low (which would keep the goal from being achievable) but not being too high (which would perpetuate the current conditions).

Going from 12.5% to 9% of the dwelling units being registered as a VR-2 could happen through a combination of attrition (current registrations expiring because someone chooses not to renew) and construction of new dwelling units (as the number of VR-2 stabilizes, rather than continues to grow, new dwelling units would bring that number of VR-2 closer to the 9% cap). Once we are under the 9% cap, then new registrations would be issued, using a wait-list system.

The overall goal of having a cap is to stem the tide of conversion of potential year-round housing (whether rented or owned) into properties used for short-term rentals. In "The Economic Costs and Benefits of Airbnb" published January 2019 by the Economic Policy Institute, author Josh Bivens writes

that studies have shown a negative correlation between an increase of short-term rental units and the effects of that increase on long-term rental units. A 2018 study (Barron, Kung and Proserpio) found that a 10% increase in Airbnb listings in a ZIP code led to a 0.42% increase in rental prices and 0.76% increase in house prices within that same ZIP code. That same study, and another done in 2016, found evidence that short-term rental listings correlated with a rise in landlords shifting away from long-term rentals and toward short-term rental operations.

6. It is proposed to prohibit the transfer of any and all vacation rental registrations including the transfer to a new owner of new location. Vacation rentals, where the town allows the short-term rental of a dwelling unit, is a privilege and not a forever entitlement.

The proposed prohibition on transferability dovetails squarely with the proposed cap: they are designed to work together. Without prohibiting transferability, the cap would essentially be moot because registrations could be transferred to new owners ad infinitum.

Proposed Changes to Chapter 190, Vacation Rental Ordinance (Registration/Inspection)*

Rationale

We are working on drafting the amendments to Chapter 190. We expect the Town Council will consider the amendments to Chapter 190 prior to the June 8, 2021 vote, with adoption contingent upon the passing of the proposed Regulation of Short-Term Rentals (see p. 6). This document will be updated with a rationale for the proposed amendments to Chapter 190 have been finalized.

* This version of the report, issued 1/5/2021, corrects and replaces the earlier version issued on 12/30/2020 that incorrectly referred here to Chapter 125, Land Use Ordinance.

Data²

Town-wide Population & Housing

Between 2010 and 2016, population growth in Bar Harbor was slow. It increased from 5,232 to an estimated 5,356 (an increase of only 2.3% or 124 persons). In 2016, median age was estimated at 45.3. Per the 2016 U.S. Census, the town's total housing stock was about 3,505 housing units: 2,410 were occupied by year-round residents, while 830 were seasonally or occasionally occupied (second homes) and 265 were vacant. A vacant housing unit is one that either is for sale or rent or has been sold/rented but people have not yet moved in. It also includes other forms of vacancies.

Between 2010 and 2016, it was estimated that the Bar Harbor housing stock experienced a net loss of about 40 housing units. About 65 year-round occupied housing units were lost – this does not mean that these units were demolished but it assumes that the type of occupation morphed into something else. For example, it was estimated that the town gained 95 seasonal or second homes. Some of the previously year-round occupied units may now be used as second homes. As for vacant housing units, it was estimated that the town had 70 less vacancies than in 2010.

² Data sources: 2010 U.S. Census; 2016 and 2017 - American Community Census; and affordability data - The Maine State Housing Authority, 2018 Housing Facts and Affordability Index for Hancock County (2017 data).

Bar Harbor CDP, Maine

Place in Maine



Downtown Population and Housing

The Bar Harbor Census Designated Place (CDP) encompasses 3.2 square miles of land in the downtown area. It is bordered to the northeast by Frenchman Bay, to the west by Paradise Hill, to the south by the Park Loop Road and Bear Brook, and extends as far north as Hulls Cove.

In 2016, the downtown (CDP) population was 2,329 with a median age of 36. Between 2010 and 2016, the CDP experienced an out-migration of about 256 persons. During this 6-year period, there was a net gain of 50 housing units. However, there was a total loss of 189 year-round occupied housing units – 33 were owner-occupied and 156 were renter-occupied.

Workers' Place of Residence

According to the U.S. Census, about half of the Bar Harbor workers live off-island. This ratio has been shown to be accurate for the employees of the Town of Bar Harbor and the Mount Desert Island Hospital. However, the ratio differs for employees of The Jackson Laboratory, which reports about 66% of its workers live off-island.

Homes and Rents are Unaffordable

The Bar Harbor Homeownership Affordability Index – the ratio of median income to median home price – is 0.58. An index of less than 1.0 means the area is generally unaffordable. For example, a household earning area median income could not cover the payment (mortgage, insurance, and taxes) on a median priced home using no more than 28% of gross (pre-tax) income.

The relationship between income and housing price is the most significant factor influencing affordability. In 2017, the Bar Harbor median home price was about \$317,000 while the median income was \$53,000. The income needed to afford a median-priced home was \$91,000. The home price affordable to a median income earner was \$185,000.

In 2017, 81% of Bar Harbor households were unable to afford a median-price home. That year 97% of the Bar Harbor homes sold were unattainable to people with a median income. The number of affordable homes sold was one while there were 41 homes sold that were unattainable to people with median income.

Bar Harbor rents are also unaffordable. In 2017, the renter household median income was \$28,000. The median rent was \$900 per month. The income needed to afford a median rent was \$36,000.

Number of VR per Town Records

In the 13-year period between 2006 and 2019, the number of registered vacation rentals in Bar Harbor grew by 137 percent (from 185 to 438, an increase of 253).

In 2020, the total jumped to 458 registered vacation rentals: 421 renewal and 37 new registrations. This represents an increase of 20 vacation rentals over 2019, or a 4.5% increase. There are also 60 pending applications for a potential total of 518 registrations in 2020 and, therefore, a potential increase of 80 vacation rentals or 13% over 2019.

Somewhere between 16.4% to 18.5% (includes pending applications) of the town's 2,795 housing units (per the assessor's record) are used as vacation rentals. That means that between 458 and 518 units of the town's dwelling units are dedicated intermittently or exclusively to vacation rental.

Vacation Rental and Zoning Districts

The data in Table 1 shows the number of vacation rentals per districts. The information uses Vacation Rental Address Points (VRAP) instead of vacation rental registrations. There are 518 vacation rental registrations in Bar Harbor but only 481 VRAP as there are properties that have more than one vacation rentals sharing one physical address.

The table also shows the districts where accommodations (includes hotels, motels, BnBs, cabins, and transient accommodations) and campgrounds are allowed.

Finally, the table shows the districts zoned primarily for residential uses where little or no commercial uses are allowed. Some of the commercial uses allowed in the latter districts are resource based or rural- and farming-related.

The data in Table 2 shows a breakdown of types of accommodations and campground allowed in each district.

Ownership

In 2019, 56% of the vacation rental registrations were linked to Bar Harbor addresses while 44% were linked to non-Bar Harbor address, compared to 55% and 45% respectively, in 2020. Of the 44%, 16% were linked to an address somewhere else in Maine while 28% were linked to an out-of-state address.

In 2019, overall, 88% of owners (including LLCs) of vacation rentals had only one vacation rental while 9% of the owners had two vacation rentals to their names, 1.25% each had three vacation rentals and four vacation rentals, and 0.25% each had five vacation rentals and six vacation rentals.

Vacation rental owners with Bar Harbor addresses, proportionally, had the highest percentage of multi-vacation rental ownership. Of the 56% of vacation rental registrations that were linked to Bar Harbor addresses, 85% own one vacation rental while 15% own two or more vacation rentals.

Of the 16% of vacation rentals that were linked to addresses somewhere else in Maine, 91% owned one vacation rental while 9% owned two or more vacation rentals. In addition, of the 28% of vacation rentals linked to an out-of-state address, 92% owned one vacation rental while 8% owned two or more vacation rentals.

AirDNA Data

In 2019, AirDNA (an online aggregator of data related to short-term rental listings around the world) reported 8,535 short-term rental listings in the state of Maine and 616 in the town of Bar Harbor. This means that about 7.2% of the state's short-term rental listings were in Bar Harbor.

From 2014 to 2017, the number of vacation rentals in Bar Harbor for entire place increased slowly and then grew rapidly. Between August 2017 and 2019, the total number of available listings increased by 43%. In August 2017, the total number of available listings was 430 with 404 listed as entire places and 26 as private rooms. In August 2019, the total number of available listings was 616 with 544 listed as entire places and 72 as private rooms.

Vacation rental occupancy rates are increasing. The summer highs of (80+%) remain steady while the occupancy rates during the off-season are increasing with lows at 40%.

In 2019, 27% of the average bookings were for 1 night, 17% for two nights, 14% for three nights, 25% for four to six nights, and 17% for seven to nine nights.

The overall income from vacation rental in 2017 was about \$6.1 million, in 2018 about \$13 million, and for the first eight months of 2019 about \$12.4 million.

TABLE – 1 VACATION RENTAL PER DISTRICTS							
#	ZD #	Zoning Districts	# VRAP	% total VRAP	Allows Accommodation*	Allows Campgrounds	Primarily Res.
1.	125-17	Bar Harbor Gateway	1	0.21%	✓		
2.	125-18	Village Historic	16	3.33%	✓		
3.	125-19	Mount Desert Street Corridor	9	1.87%	✓		
4.	125-20	Village Residential	42	8.73%	✓		
5.	125-21	Downtown Village I	20	4.16%	✓		
6.	125-21.1	Downtown Village II	34	7.07%	✓		
7.	125-21.2	Downtown Village Transitional	11	2.29%	✓		
8.	125-22	Downtown Residential	118	24.53%	✓		
9.	125-23	Emery	10	2.08%	✓		
10.	125-24	Hulls Cove Business	10	2.08%	✓		
11.	125-26	Hulls Cove Residential Corridor	4	0.83%	✓	✓	
12.	12-27	Hulls Cove Rural	3	0.62%	✓	✓	
13.	125-28	Indian Point Residential	8	1.66%			✓
14.	125-29	Indian Point Rural	0	0.00%			✓
15.	125-30	Industrial	0	0.00%			
16.	125-31	Ireson Hill Corridor	2	0.42%	✓	✓	
17.	125-32	Ireson Hill Residential	12	2.49%			✓
18.	125-33	McFarland Hill Residential	10	2.08%	✓		✓
19.	125-34	McFarland Hill Rural	10	2.08%			✓
20.	125-35	Otter Creek	10	2.08%	✓		✓
21.	125-36	Resource Protection	0	0.00%			✓
22.	125-37	Salisbury Cove Corridor	8	1.66%	✓		
23.	125-38	Salisbury Cove Residential	17	3.53%			✓
24.	125-39	Salisbury Cove Rural	7	1.46%		✓	✓
25.	125-40	Salisbury Cove Village	1	0.21%	✓		
26.	125-41	Schooner Head	0	0.00%			✓
27.	125-42	Scientific Research 4 Eleemosynary	0	0.00%			
28.	125-43	Town Hill Business	5	1.04%	✓	✓	
29.	125-44	Town Hill Residential Corridor	2	0.42%	✓	✓	
30.	125-45	Town Hill Residential	28	5.82%	✓	✓	
31.	125-46	Town Hill Rural	22	4.57%	✓		✓
32.	125-47	Shoreland Gen. Dev. I	0	0.00%	✓		
33.	125-48	Shoreland Limited Residential	56	11.64%			✓
34.	125-49	Shoreland Gen. Dev. II (Hulls Cove)	4	0.83%			
35.	125-49.1	Shoreland Gen. Dev. III	1	0.21%	✓		
36.	125-49.2	Shoreland Gen. Dev. IV	0	0.00%	✓		
37.	125-49.3	Shoreland Maritime Activities	0	0.00%	✓		
38.	125-50	Stream Protection	0	0.00%			✓
39.	125-51	Marine Research	0	0.00%			
40.	12-51.1	Educational Institution	0	0.00%			
Total			481	100			

*Accommodations: includes hotels, motels, B&Bs, cabins and TAs

✓ : Allowed ■ :Not allowed

TABLE 2 – BREAKDOWN BY ACCOMMODATIONS TYPES

#	ZD #	Zoning Districts	Hotel	Motel	B&B	Cabin*	TA1**	TA2-TA8***	Camp-ground
1.	125-17	Bar Harbor Gateway	✓	✓	✓				
2.	125-18	Village Historic			✓				
3.	125-19	Mount Desert Street Corridor			✓				
4.	125-20	Village Residential			✓	✓			
5.	125-21	Downtown Village I	✓	✓	✓				
6.	125-21.1	Downtown Village II	✓	✓	✓				
7.	125-21.2	Downtown Village Transitional			✓				
8.	125-22	Downtown Residential					✓	✓ 3, 4	
9.	125-23	Emery					✓		
10.	125-24	Hulls Cove Business					✓	✓ 2	
11.	125-26	Hulls Cove Residential Corridor					✓	✓ 3, 4	✓
12.	12-27	Hulls Cove Rural					✓		✓
13.	125-28	Indian Point Residential							
14.	125-29	Indian Point Rural							
15.	125-30	Industrial							
16.	125-31	Ireson Hill Corridor					✓	✓ 2, 3, 4, 5, 6, 7, 8	✓
17.	125-32	Ireson Hill Residential							
18.	125-33	McFarland Hill Residential					✓		
19.	125-34	McFarland Hill Rural							
20.	125-35	Otter Creek					✓		
21.	125-36	Resource Protection							
22.	125-37	Salisbury Cove Corridor					✓	✓ 2, 3, 4, 5, 6	
23.	125-38	Salisbury Cove Residential							
24.	125-39	Salisbury Cove Rural							✓
25.	125-40	Salisbury Cove Village					✓	✓ 2, 3, 4, 5, 6, 7, 8	
26.	125-41	Schooner Head							
27.	125-42	Scientific Research 4 Eleemosynary							
28.	125-43	Town Hill Business					✓	✓ 2, 3, 4, 5, 6, 7, 8	✓
29.	125-44	Town Hill Residential Corridor					✓	✓ 3, 4	✓
30.	125-45	Town Hill Residential					✓	✓ 2, 3, 4, 5+	✓
31.	125-46	Town Hill Rural					✓		
32.	125-47	Shoreland Gen. Dev. I						✓ 3, 4, 5, 6, 7, 8	
33.	125-48	Shoreland Limited Residential							
34.	125-49	Shoreland Gen. Dev. II (Hulls Cove)							
35.	125-49.1	Shoreland Gen. Dev. III	✓	✓	✓				
36.	125-49.2	Shoreland Gen. Dev. IV		✓		✓			
37.	125-49.3	Shoreland Maritime Activities	✓						
38.	125-50	Stream Protection							
39.	125-51	Marine Research							
40.	12-51.1	Educational Institution							

*Includes hotels, motels, B&Bs, cabins, and TAs

*Cabins are allowed in two districts but the term is not defined in the LUO

**TA-1 allows a maximum of 3 rooms

***TA-2 allows a max of 25 rooms; TA-3 allows 4-10 rooms; TA-4 allows 11-25 rooms; TA-5, TA-6 and TA-7 allows 4-25 rooms; and TA-8 allow 25 or more rooms.

✓ : Allowed :Not allowed

† : TAs are allowed in certain part of the district