

**MINUTES**  
**Bar Harbor Town Council**  
**September 7, 2021**

- I. CALL TO ORDER** – 6:00 P.M. — In attendance were Councilors Jefferson Dobbs, Matthew Hochman, Erin Cough, Jill Goldthwait, Joe Minutolo, Val Peacock, and Gary Friedmann (by Zoom); and Town Manager Cornell Knight.
- A. Excused Absence(s)**—all present.
- II. Town Manager Search**—*Review process, advertisement and timeline with consultant Don Gerrish.* Mr. Gerrish presented the timeline and draft advertisement and answered Council questions. No action was taken.
- III. PUBLIC COMMENT PERIOD**—7:00 P.M. *The Town Council allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not in litigation with a maximum of three minutes per person. Comments can also be made through the Zoom webinar or may be emailed in advance to the Council Chair at [jdobbs@barharbormaine.gov](mailto:jdobbs@barharbormaine.gov) to be read during the meeting.*—Chair Dobbs read an email from Adele Abolafia asking for a special public meeting with Assessor Steve Weed to discuss the recent revaluation. John O’Brien also spoke about the revaluation.
- IV. APPROVAL OF MINUTES**
- A. August 17, 2021 – Regular Meeting**
- B. August 30, 2021 – Special Meeting**
- Mr. Hochman, with second by Ms. Cough, moved to approve the August 17 Regular Meeting minutes and August 30 Special Meeting minutes as presented. Motion passed 7-0.
- V. ADOPTION OF AGENDA**— Mr. Hochman, with second Ms. Cough, moved to approve the agenda as presented. Motion passed 7-0.
- VI. CONSENT AGENDA** - *A single vote has been scheduled to approve the following routine items of business without discussion, unless individual agenda item action is requested by a Councilor:*
- A. Special Town Meeting November 2021**
1. **Special Town Meeting Warrant**—*Possible motion for staff to prepare final Warrant for Council’s signature.*
2. **Notice of Public Hearing**—*Possible motion for staff to prepare final notice for Council’s signature and schedule the public hearing for October 19, 2021.*
- Mr. Hochman, with second by Ms. Cough, moved to approve the consent agenda as published. Motion passed 7-0.
- VII. PUBLIC HEARINGS:**
- A. Vacation Rentals Ordinance #2021-05**—*Public comment and possible motion to repeal Chapter 190 of the Municipal Code, effective December 2, 2021 and contingent on adoption by the voters of the proposed Land Use Ordinance amendment Article 4 at the Special Town Meeting November 2, 2021. There being no public comment, Mr.*

Hochman, with second by Ms. Cough, moved to repeal Chapter 190 of the Municipal Code, effective December 2, 2021, contingent on adoption by the voters of the proposed Land Use Ordinance amendment Article 4. Motion passed 7-0.

**Vacation Rentals Ordinance Amendment**

Town of Bar Harbor

#2021-05

**An Amendment to the Town Code to Repeal Chapter 190, Vacation Rentals Ordinance.**

*The Town of Bar Harbor hereby ordains that Chapter 190, Vacation Rentals, of the Town Code is repealed as follows, effective December 2, 2021, contingent on adoption by the voters of the proposed Land Use Ordinance Amendment Article 4 at the Special Town Meeting Election November 2, 2021.*

[Please Note: Old language is stricken. New language is underlined.]

**Chapter 190. Vacation Rentals**

**§ 190-1 Purpose.**

The purpose of this chapter is to regulate the use in alignment with state laws and regulations.

**§ 190-2 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**VACATION RENTALS**

As defined in Land Use Ordinance § ~~125-109~~.

**§ 190-3 Registration; procedure.**

**[Amended 10-7-2008 by Ord. No. 2008-03; 4-15-2014 by Ord. No. 2014-01]**

All vacation rentals shall be registered with the Town of Bar Harbor on an annual basis, prior to rental. Previously registered vacation rentals shall reregister on or before May 31 annually. Registration forms shall be filed with the building permit files under the management of the Code Enforcement Officer. **[Amended 2-19-2019 by Ord. No. 2019-05]**

Registration forms shall include the following information:

- Name and mailing address of the owner of the property;
- Physical address of the property to be rented;
- Local contact name and phone number;
- Determination of Land Use Ordinance compliance.

The property shall pass inspection prior to the issuance of the registration card.

A registration card shall be issued to the property owner upon submission of the completed form and payment of any fees as may be set from time to time by the Town Council. The card shall certify that the applicant has met all requirements in this chapter and the Land Use Ordinance as attested by the Code Enforcement Officer or his/her designee. **[Amended 4-15-2021 by Ord. No. 2021-02]**

An approved registration card shall be posted on the premises of the vacation rental unit for convenient inspection by a vacation rental occupant.

Registration does not relieve the property owner from the obligation to obtain any additional permits necessary for the use.

**§ 190-4 Inspections; compliance with certain regulations.**

**[Amended 4-15-2014 by Ord. No. 2014-01]**

All vacation rentals shall be inspected initially by the Code Enforcement Officer or his/her designee for life safety requirements. **[Amended 4-15-2021 by Ord. No. 2021-02]**

Compliance with certain regulations required.

For the purposes of this chapter, vacation rentals shall comply with the following chapters of the NFPA 101 Life Safety Code, as most recently amended and edited, and as applicable:

- Chapter 4, General.
- Chapter 6, Classifications of Occupancy and Hazard of Contents.
- Chapter 7, Means of Egress.
- Chapter 9, Building Service and Fire.

~~Protection Equipment-  
Chapter 24, One and Two Family  
Dwellings-  
Chapter 30/31, New and Existing  
Apartment Buildings-~~

~~Additionally, vacation rentals shall comply with Chapter 70,  
Electrical Installations, of this Code, as it may be amended, edited  
and as applicable-~~

~~§ 190-5 Enforcement; violations; appeals.~~

~~Enforcement authority. The provisions of this chapter shall be enforced by the Code Enforcement  
Officer-~~

~~Violations. A violation of this chapter shall constitute a violation under the Land Use Ordinance,  
Chapter 125, Article X, Enforcement.~~

~~Appeals. An appeal from the action of code enforcement may be sought through the powers and  
responsibilities in the Land Use Ordinance, Chapter 125, § 125-103, Administrative appeals-  
[Amended 4-15-2021 by Ord. No. 2021-02]~~

**B. Short-Term Rental Registration Ordinance #2021-06**—*Public comment and possible motion to adopt proposed Chapter 174, effective December 2, 2021 and contingent on adoption by the voters of the proposed Land Use Ordinance amendment Article 4 at the Special Town Meeting November 2, 2021.* There being no public comment, Mr. Hochman, with second by Ms. Cough, moved to adopt Chapter 174 of the Municipal Code Short Term Rental Registration as presented, effective December 2, 2021, contingent on adoption by the voters of the proposed Land Use Ordinance amendment Article 4. Motion passed 7-0.

**Short-Term Rental Registration Ordinance Amendment**

Town of Bar Harbor

#2021-06

**An Amendment to the Town Code to Enact Chapter 174: Short-Term Rental Registration Ordinance.**

*The Town of Bar Harbor hereby ordains that Chapter 174, Short Term Rental Registration, of the Town Code is appended as follows, effective December 2, 2021, contingent on adoption by the voters of the proposed Land Use Ordinance Amendment Article 4 at the Special Town Meeting Election November 2, 2021.*

[Please Note: Old language is striken. New language is underlined.]

**Chapter 174. Short-Term Rental Registration**

**§ 174-1. Purpose.** The purpose of this chapter is to ensure that the quality of short-term rentals (herein STR) within the Town of Bar Harbor is adequate for protecting the health, safety and welfare of occupants of STRs and of the community.

**§ 174-2. Administration.**

**A. Authority.** The provisions of this chapter shall be administered and enforced by the Code Enforcement Officer or their designee (herein referred to as the CEO).

**B. Text box aids.** The text boxes are **not** part of this chapter but placed there to assist the reader in understanding and complying with this chapter.

**C. Cross-references.** Information is cross-referenced for the convenience of the reader. Any omissions or misreferences shall not preclude STRs from having to meet the requirements of other chapters of the Bar Harbor Municipal Code or other applicable regulations.

**§ 174-3. Validity and severability.**

If any section, subsection, clause or phrase of this chapter shall be found to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of this chapter and to that end the provisions of this chapter are hereby declared severable.

**§ 174-4. Definitions.**

As used in this chapter, the following terms shall have the following meanings:

**Primary residence**

As defined in the Land Use Ordinance § 125-109

**Registration**

A written permission issued by the CEO to a property owner to operate a STR.

**Short-term rental**

As defined in the Land Use Ordinance § 125-109

**Vacation rental (VR)**

As defined in the Land Use Ordinance § 125-109

**Vacation rental-1 (VR-1)**

As defined in the Land Use Ordinance § 125-109

**Vacation rental-2 (VR-2)**

As defined in the Land Use Ordinance § 125-109

**§ 174-5. Requirements to operate STRs.**

- A. STRs must comply (it cannot be in violation) with Chapter 125 Land Use Ordinance. Refer to Chapter 125 for information on where STRs are allowed, related definitions, and standards.
- B. No person(s) shall advertise for rent, rent, or operate a STR without a valid registration issued pursuant to this chapter.
- C. The owner of a STR shall complete and post the emergency information sheet, provided by the CEO, on or about the inside of the front or main door of the dwelling unit for convenient inspection by the occupant. The emergency information sheet shall include, but is not limited to, the following information:
  1. Registration number;
  2. Physical address of the STR and instruction on how to contact emergency responders;
  3. Information on how to file a complaint regarding life safety requirements with the Town of Bar Harbor;
  4. The name, mailing address, email address, and telephone number of the owner; and
  5. The name, email address, and telephone number of a local contact (if different from the owner) who will be available to respond to problems and emergencies.
- D. The registration number shall be posted on all advertising including, but not limited to, online platforms.
- E. At the time of issuance of a registration, the property taxes, town water fees, and/or town sewer fees, associated with the property to be rented as a STR, shall not be in arrears.
- F. Prior to the issuance of a registration, the dwelling unit to be used as a STR must pass the life safety inspection per §174-8. A. In between inspections cycles, the property owner shall attest in writing that the dwelling unit complies with the regulations in section §174-8. B.
- G. No person(s) shall be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreational vehicle, accessory structure or other structure of a similar nature.
- H. Trash shall be removed on a weekly basis while the property is being rented as a STR.
- I. To register as a VR-1, the property owner shall attest and provide reasonable documentation demonstrating that the subject property is the owner's primary residence such as tax returns and driver's license.

**§ 174-6. Terms, maximum number of registrations, transfer of registration and transition from VR to VR-1 or VR-2**

- A. **Terms.** All registrations expire on May 31 of each year, per 125-69. Y (1) (a)
- B. **Maximum number of registrations.** Refer to 125-69.Y.(1) (b)
- C. **Transfer of registration.** Refer to 125-69.Y.(1) (c)

**D. Transition from VR to VR-1 or VR-2. Refer to 125-69.Y.(2)**

(a)

**§ 174-7. Procedure for registration, renewal, and registration wait list.**

**A. Applications.** All applications for STR registrations shall be filed with the CEO on forms provided for this purpose.

**B. Fee.** The non-refundable registration fee must be paid at the time the application is filed.

**C. Renewal.** Refer to 125-69.Y.(2) (b)

**D. Registration Wait list (VR-2 9% Cap).**

1. The CEO shall maintain a registration wait list for VR-2s.
2. To be on the registration wait list, the owner must have submitted a complete registration application.
3. The CEO will determine at the start of the calendar year if registration slots are available. When registration slots are available, the CEO will inform the applicant(s) at the top of the registration wait list. The applicant(s) will have 120 days to secure the registration including but not limited to passing the required inspection.
4. If, for any reasons, the applicant does not obtain the registration within 120 days, the VR-2 slot shall be offered to the next owner on the registration wait list.

**E. The Code Enforcement Office shall issue a registration to the property owner if the dwelling unit has met all requirements of this chapter.**

**F. Within 30 days of the issuance of a new registration, the CEO shall send a one-time notification of the STR to all property owners within 50 feet of the outer boundary of the property. Notice shall be deemed received if mailed to an owner's last known address according to the town tax records. This provision does not apply to registrations that are being renewed.**

**G. Having secured a registration does not relieve the property owner from the obligation to obtain any additional permits necessary for the use.**

**H. All issued registrations shall be filed with the building permit files under the management of the CEO.**

**§ 174-8. Life safety inspections and inspection schedule.**

**A. The registration of a STR shall be subject to an initial inspection of life safety requirements by the CEO, and thereafter, registration renewals shall be subject to an inspection every three years.**

**B. All STRs shall comply with:**

1. The following chapters of the NFPA 101 Life Safety Code, as most recently amended and edited, and as applicable:
  - (a) Chapter 4, General
  - (b) Chapter 6, Classifications of Occupancy and Hazard of Contents
  - (c) Chapter 7, Means of Egress
  - (d) Chapter 9, Building Service and Fire Protection Equipment
  - (e) Chapter 24, One- and Two-Family Dwellings
  - (f) Chapter 30/31, New and Existing Apartment Buildings
2. Chapter 70, Electrical Installations, of the Bar Harbor Municipal Code, as it may be amended, edited and as applicable.

**§ 174-9. Violations, penalties and fines**

**A. Violation of operating without a registration.**

It shall be a violation of this chapter for any person to advertise for rent, rent, or operate a STR without a valid registration. If, after investigation, the Code Enforcement Officer finds that a STR is being advertised for rent, or is being rented without a valid registration, written notice shall be given by certified mail, return receipt requested, of such violation to the property owner. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record. This violation shall prohibit the property owner from applying for a STR registration for the property in violation for 12 months from the date of the payment of the applicable fine. The fine for operating without a valid registration shall be \$250 per day for each day of operation without a valid registration as determined by the Code Enforcement Officer.

**B. Violation of registration.**

The Code Enforcement Officer shall investigate all alleged violations, and enforce the provisions of this chapter and the terms and conditions of the registration. If, after investigation, the Code Enforcement Officer finds that any provision of this chapter or any term or condition of any registration granted under this chapter is being violated, written notice shall be given by certified mail, return receipt requested, of such violation to the owner and to any other person responsible for such violation, indicating the nature of the violation and ordering that action necessary to correct it be taken within a reasonable time determined by the Code Enforcement Officer. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record.

1. If, after notice given pursuant to § 174-8 B. the violation is not abated or corrected within the specified time, the Code Enforcement Officer shall report same to the Town Council. The Code Enforcement Officer's report shall indicate the additional enforcement actions under consideration and whether the Town Attorney has been consulted or will subsequently be involved. At its next meeting, the Town Council shall vote to accept the Code Enforcement Officer's report. The Town Council shall not entertain comment from the person alleged to have violated this chapter nor shall it take any evidence relating to whether a violation has in fact occurred.

**(a) Suspension and revocation of registration**

- i. **Suspension – Minor Violation.** The Code Enforcement Officer shall suspend a registration for failure to correct a violation, per §174-8.B. The suspension may not exceed three months. Operation of the STR during the period of suspension shall be a violation subject to a fine of \$500.00 per day.
  - ii. **Suspension – Major Violation.** After three or more of the following: substantiated disorderly events as defined in Chapter 64 or other violations of this chapter in a 24-month period, the Code Enforcement Officer, shall suspend a registration for a minimum of three months and a maximum of 12 months. Minor and major violations can be either concurrent or cumulative. Operation of the STR during the period of suspension shall be a violation subject to a fine of \$500.00 per day.
- (a) **Revocation.** In cases of recurring major violations or in certain cases of criminal activity at the STR property, the Code Enforcement Officer may revoke a registration.

**§ 174-10. Appeals**

- A. In accordance with the process outlined in §125-103, the Board of Appeals may, upon written application of an aggrieved party received by the Planning Department within 30 days of any decision or enforcement action which interprets this chapter, or hear an appeal from such decision. For purposes of this section, the term "decision" is limited to an order, decision, or enforcement action made in writing.

**VIII. REGULAR BUSINESS:**

- A. **Code Enforcement**—*Request of Code Enforcement Officer to consider additional enforcement action.* Code Enforcement Officer Angela Chamberlain participated in the discussion and answered Council questions.

1. Aloha, 35 Cottage Street. Following discussion, Mr. Hochman, with second by Ms. Cough, moved to authorize the Town's attorneys to file an enforcement action against Aloha in the Maine District Court or Maine Superior Court pursuant to 30-A M.R.S.A. § 4452. Motion passed 7-0.
2. D.L. O'Halloran, 23 First South Street. Following discussion, Ms. Goldthwait, with second by Mr. Hochman, moved to authorize the Town's attorneys to file an enforcement action against D.L. O'Halloran in the Maine District Court or

Maine Superior Court pursuant to 30-A M.R.S.A. § 4452. Mr. Hochman, with second by Ms. Cough, moved to recuse Councilor Friedmann due to the appearance of a conflict of interest for a special interest as he owns an abutting property. Motion failed 3-3 (Nays: Minutolo, Goldthwait, Dobbs).

Main motion passed 7-0.

- B. Shared Accommodations License**—*Request of Code Enforcement Officer to set application fee.* Code Enforcement Officer Angela Chamberlain participated in the discussion and answered Council questions. Mr. Hochman, with second by Ms. Cough, moved that the Shared Accommodations and Employee Living Quarters application fee be set at \$250. Motion passed 7-0.
- C. Comprehensive Plan**—*Update. Michele Gagnon, Planning Director.* Ms. Gagnon gave an update and answered Council questions. No action was taken.
- D. American Aqua Farms**—*Update and discussion of next steps.* Mr. Hochman, with second by Ms. Cough, moved to request that the Marine Resources Committee, Conservation Commission and Harbor Committee discuss the potential impact to Bar Harbor of American Aqua Farms' project on Bar Harbor and report to the Council with concerns or suggestions by December. Motion passed 7-0.
- E. Harbor Committee**—*Possible motion to ask committee to study the working waterfront in Bar Harbor.* Following discussion, Mr. Hochman, with second by Ms. Cough, moved to ask the Harbor Committee to study the working waterfront in Bar Harbor and report back with recommendations. Motion passed 7-0.
- F. Resolution**—*Honoring Betty Bryer for many years of service on the Bar Harbor Housing Authority board.* Mr. Hochman, with second by Ms. Cough, moved to approve the resolution for Betty Bryer as presented. Motion passed 7-0.

**Resolution of the  
Bar Harbor Town Council**

**WHEREAS**, in recognition of Betty Bryer who has served as a member of the Bar Harbor Housing Authority Board of Directors for twenty-nine years, first appointed in 1992; and

**WHEREAS**, Betty served as the Vice-Chair of the Board for the past 19 years; and

**WHEREAS**, during her tenure, Betty served during the development of the West Eden Meadow and Northeast Creek subdivision projects and the renovation of the Rodick Lorraine building; and

**WHEREAS**, Betty served with all 3 Housing Authority Directors Fred Clement, Terry Kelly and Duane Bartlett; and

**WHEREAS**, throughout her career she has worked tirelessly to improve the housing availability and conditions of the residents of Bar Harbor; now therefore

**BE IT RESOLVED**, that the Honorable members of the Bar Harbor Town Council do hereby recognize and honor Betty Bryer with great gratitude and appreciation for her many years of commitment to the Bar Harbor Housing Authority, and to wish her much success in her future endeavors.

- G. Treasurer's Warrant** - *Request of Treasurer to authorize paid bills.* Mr. Hochman, with second by Ms. Cough, moved to sign the Treasurer's Warrants for paid bills. Motion passed 7-0.

**IX. TOWN MANAGER'S COMMENTS**

Mr. Knight said Sgt. Wharff has reported that, as of the end of July, the town had taken in over \$1.5 million in parking revenue, so we're on pace to a record year. We have filed our ARPA request, the recovery fund, but have not received the first 50% of the approximately \$580,000. We ought to think about seeking public comment on thoughts, ideas about use of the funds. We can add that to a future agenda.

**X. COUNCIL COMMENTS AND REQUESTS FOR FUTURE AGENDAS**

Ms. Peacock asked for her waste reduction plan to be added to the agenda for the next meeting.

Mr. Hochman would like to discuss at the next meeting with the Town Attorney the Planning Board votes of Sept. 1 and what they mean for the warrant articles. It really muddied the waters and created some legal ambiguity.

Mr. Minutolo agreed that solid waste is really important right now. It's important to talk about reducing waste and what direction we're going.

Ms. Cough wanted to make sure that the assessor would be present for the next meeting. She also asked about potential action points for the Council based on the feedback received from citizens.

Ms. Goldthwait asked what form the discussion about the revaluation would take. Can there be a public question and answer period? Ms. Peacock said it may be helpful to collect some of the probing questions and discuss them as a Council, rather than trying to answer them on the fly. She asked for information about what legally the town's options are for any action. Ms. Cough asked about whether it's possible to change or delay the late fee.

Ms. Goldthwait also said we need some training or guidance regarding what exactly a conflict of interest is or isn't. We should hope for some consistency on where we end up on that. She also said we need a job description for the town manager. Mr. Knight said staff can work on adapting the template from Mr. Gerrish and if that's done, it could go on the next agenda for review.

Mr. Friedmann said it's good to see everyone and he will be back in Maine at the end of the month.

**XI. EXECUTIVE SESSION**

- A. Sick Leave Transfer**—*To be held in executive session as permitted by 1 MRSA §405.6.A. for discussion or consideration of a personnel matter.* Mr. Hochman, with second by Ms. Cough, moved to go into executive session at 8:25 p.m. as permitted by 1 MRSA §405(6)(A) for discussion and consideration of a personnel matter. Motion passed 7-0.

Council returned to regular session at 8:35 p.m.

Mr. Hochman, with second by Ms. Cough, moved to approve the sick leave transfer requested in a memo dated August 26, 2021 from Bethany Leavitt, PW Director and in accordance with the town's personnel rules, with the following conditions:

1. The Finance Director shall transfer up to 340 hours as needed.
2. Transferred leave will be considered qualifying leave under the Family Medical Leave Act.



3. Transferred leave may not be used by the employee until all available sick leave and accrued vacation leave have been used.
4. No additional sick leave will accrue while the transferred leave is being used.
5. Consistent with the Town policy on leaves of absence, vacation leave will not be earned for the period in which the transferred leave is used.

Motion passed 7-0, which included a voice vote on the phone from Councilor Friedmann.

Mr. Hochman, with second by Ms. Cough, moved to approve the sick leave transfer requested in an email dated September 1, 2021 from Chief of Police Willis and in accordance with the town's personnel rules, with the following conditions:

1. The Finance Director shall transfer up to 40 hours as needed.
2. Transferred leave will be considered qualifying leave under the Family Medical Leave Act.
3. Transferred leave may not be used by the employee until all available sick leave and accrued vacation leave have been used.
4. No additional sick leave will accrue while the transferred leave is being used.
5. Consistent with the Town policy on leaves of absence, vacation leave will not be earned for the period in which the transferred leave is used.

Motion passed 7-0, which included a voice vote on the phone from Councilor Friedmann.

**XII. ADJOURNMENT**—Mr. Hochman, with second by Ms. Cough, moved to adjourn at 8:39 p.m. Motion passed 7-0, which included a voice vote on the phone from Councilor Friedmann.

---

Elizabeth Graves, Town Clerk