

*The Bar Harbor Town Council will hold a public hearing October 3, 2022 at 6:30 p.m. in the Municipal Building Council Chambers to hear comment on the following amendment to the Municipal Code.*

**Short-Term Rental Registration Ordinance Amendment**  
Town of Bar Harbor  
2022-05

**An amendment to the Short-Term Rental Registration Ordinance to revise the Life Safety Inspection requirements and schedule, and to include explanatory text boxes inadvertently omitted when the ordinance was originally adopted.**

*The Town of Bar Harbor hereby ordains that Chapter 174, Short-Term Rental Registration, of the Town Code is amended as follows:*

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

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

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**§ 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 an 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 short-term rentals (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 an STR without a valid registration issued pursuant to this chapter.
- C. The owner of an 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 an STR shall not be in arrears.
- F. Prior to the issuance of a registration, the dwelling unit to be used as an STR must pass the life safety inspection per § 174-8A. In between inspections cycles, the property owner shall attest, in writing, that the dwelling unit complies with the regulations in § 174-8B.
- 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.

#### **Definition of Terms as defined in §125-109**

*with bracketed notes for clarification*

**Primary residence:** The primary location that a person inhabits and is where the owner resides most of the year. The property owner uses this address as their legal address for tax returns, driver's license, and/or voter registration card.

**Short-term rental (STR):** Includes vacation rental, vacation rental-1 (VR-1) and vacation rental-2 (VR-2).

**Vacation rental (VR):** The use of a dwelling unit or portion thereof for rent to a family for a period of less than 30 days and a minimum of five days [4 nights]. Time-share property, as most recently defined in 33 M.R.S.A § 591, is also included in this definition.

**Vacation rental-1 (VR-1):** A dwelling unit, or portion thereof, that is rented to a person or a group for less than 30 days and a minimum of [3 days] two nights. The rental of a portion of the dwelling, as in a bedroom, must be located in the principal structure housing the dwelling unit.

**Vacation rental-2 (VR-2):** An entire dwelling unit that is not the primary residence of the property owner and is rented to a person or a group for less than 30 days and a minimum of [5 days] 4 nights.

**Family:** Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, transient accommodations, short-term rental, employee living quarters, or shared accommodations.

#### **Summary of VR-1 and VR-2**

##### **VR-1**

- VR-1 is the short-term rental of an owner's primary residence (or a part of it) and/or the rental of another residential dwelling unit on the owner's primary residence property.
- The maximum number of VR-1 registrations allowed per primary residence property is two.
- The minimal rental period for VR-1 is two nights.
- VR-1 are allowed in 34 districts.

##### **VR-2**

- A VR-2 is the short-term rental of a residential dwelling unit that is not the owner's primary residence.
- Minimal rental period for VR-2 is four nights.
- The maximum number of VR-2 registrations issued is not to exceed 9% of the total number of dwelling units town-wide.
- VR-2 are allowed in 18 districts.

**For more information, please refer to Ch. 125 Land Use Ordinance**

- H. Trash shall be removed on a weekly basis while the property is being rented as an 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; transition from VR to VR-1 or VR-2.**

- A. Terms. All registrations expire on May 31 of each year, per § 125-69Y(1)(a).
- B. Maximum number of registrations. Refer to § 125-69Y(1)(b).
- C. Transfer of registration. Refer to § 125-69Y(1)(c).
- D. Transition from VR to VR-1 or VR-2. Refer to § 125-69Y(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 nonrefundable registration fee must be paid at the time the application is filed.
- C. Renewal. Refer to § 125-69Y(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

**Summary of Transfer and Transition**

The transfer of any short-term registration is expressly prohibited. However, if there is a change of ownership during the term of the registration, the registration remains valid for the dwelling unit, or part thereof, to which it was issued until it would expire on the following May 31.

**Transition from VR to VR-1 or VR-2**

- On or before May 31, 2022, the VR registration will be renewed as a VR-1 for a VR operating in a dwelling unit, or in a room in the dwelling unit, which is the owner's primary residence, or on the property of the primary residence. However, if an owner has more than two existing VR registrations on the same primary residence property, then the third registration (and any additional registrations thereafter) will be renewed as VR-2s notwithstanding the 9% cap.
- On or before May 31, 2022, the VR registration will be renewed as a VR-2 for any VR not operated in a dwelling unit that is the owner's primary residence or is not on the property of the owner's primary residence notwithstanding the district it is in or the 9% cap.
- After December 2, 2021, the Code Enforcement Officer will accept applications for, but will not process or issue, any new VR-2 registrations until June 1, 2022. New VR-2 registrations issued on or after June 1, 2022 will be subject to the 9% cap.

**For more information, please refer to Ch. 125 Land Use Ordinance**

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 an 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 the following minimum codes and safety standards in order to operate:

(1) **Sleeping areas.** Only habitable space will be considered for sleeping purposes. Areas such as garages, storage areas, bathrooms, laundry rooms, hallways, closets, or similar shall not be used for sleeping purposes.

(a) A minimum ceiling height of 7 feet as required by section R305 of the 2015 International Residential Code (IRC), as amended.

(b) Minimum room size as required by section R304 of the 2015 International Residential Code (IRC), as amended.

(c) Emergency and escape opening complying with section R310 of the 2015 International Residential Code (IRC), as amended.

(d) When egress windows or openings are located more than 20 feet above exterior finished grade as measured to the finished sill of the window, a safe landing no less than 4 feet X 4 feet shall be provided no more than 20 feet below the window, or the window shall be directly accessible to the Fire Department rescue apparatus as approved by the authority having jurisdiction.

(e) Safety glass is required for windows located in hazardous locations in compliance with section R308.4 of the 2015 International Residential Code (IRC) as amended.

(f) Smoke and carbon monoxide alarm(s) installed in accordance with sections R314 and R315 of the 2015 International Residential Code (IRC), as amended.

(g) All required smoke and carbon monoxide alarms shall be interconnected in accordance with sections R314.4 and R315.5 of the 2015 International Residential Code (IRC), as amended.

(h) All windows, which are located more than 72 inches from finished grade or other exterior surface below and have a sill height of less than 24 inches from the floor surface of the room, shall comply with section R312.2 of the 2015 International Residential Code (IRC), as amended.

(2) **Fire Alarms and Suppression Systems.** Structures containing fire protection systems shall have those systems serviced and tagged annually by a licensed State of Maine fire protection contractor.

(3) **Additional Safety Standards.** The following additional minimum safety standards are applicable to all STRs:

(a) The E-911 address shall be posted on-site in a location clearly visible from the roadway.

(b) The structure shall be maintained in a safe, hazard-free condition. This includes, but is not limited to, all mechanical, electrical, and plumbing systems, which shall be maintained in operating condition in accordance with the original permit approved, unless otherwise specified in this chapter.

(c) Every dwelling unit shall be equipped with fire extinguishers sized and located per the requirements of the most recently adopted edition of NFPA 10.

(d) Smoke alarms and carbon monoxide alarms installed in accordance with sections R314 and R315 of the 2015 International Residential Code (IRC), as amended.

(e) All stairways, steps, landings, handrails, and guardrails shall be installed and maintained in accordance with section R311 of the 2015 International Residential Code (IRC). Full compliance with the requirements of section R311 is not required where a property owner can demonstrate to the Authority Having Jurisdiction (AHJ) that it is structurally impracticable to meet the requirements.

(f) Temporary wiring shall not be used for permanent fixtures, outlets, or receptacles.

(g) All required exits and egress windows shall remain unobstructed.

(h) Portable heaters shall not be used as a primary source of heat for any space.

(i) A Knox box is required when a fire alarm system or fire sprinkler system is installed.

(j) Ground fault circuit interrupter (GFCI) receptacles shall be installed and operable in bathrooms, laundry areas, kitchens, basements, garages, and around the exterior of the building.

(k) Attached garages must comply with the standards in section R302.6 of the 2015 International Residential Code (IRC), as amended.

**(4) Other Applicable Codes.**

(a) 2018 NFPA 1 (Fire Code);

(b) 2009 NFPA 54 (National Fuel Gas Code);

(c) 2006 NFPA 211 (Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances);

(d) MRS Title 25 §2469 Fuel Gas Alarms;

(e) 2021 Uniform Plumbing Code; and

(f) Chapter 70, Electrical Installations, of the Bar Harbor Municipal Code, as it may be amended, edited and as applicable.

~~(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 and penalties.**

- 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 an STR without a valid registration. If, after investigation, the Code Enforcement Officer finds that an 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 an 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.
- (1) 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.
  - (2) If, after notice given pursuant to § **174-9B(1)**, 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.
- C. Suspension and revocation of registration.
- (1) Suspension - minor violation. The Code Enforcement Officer shall suspend a registration for failure to correct a violation, per § **174-9B**. 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 per day.
  - (2) 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 twenty-four-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 per day.
- D. 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.**

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.