



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

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# Memorandum

**To:** LUPC Commissioners  
**CC:** Stacie R. Beyer, Executive Director  
**From:** Tim Carr, Senior Planner  
**Date:** March 1, 2023  
**Re:** Short Term Rentals in the LUPC's Service Area

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## Summary

LUPC staff are seeking input from the Commission on regulating short-term rentals (STRs). This memo provides background and findings from preliminary research on STR use in the LUPC's service area, a description of current LUPC rules applicable to regulation of STRs, a description of various regulatory options, and the staff recommendation for near-term action. A range of regulatory options and their considerations are presented in a table starting on page 7 of the memo. Staff believe that currently the best approach involves requiring that a property owner provide notice to the Commission that they are renting their dwelling as an STR and adoption of new performance standards for this use (option #3 in the table on page 9 of the memo).

## Background and Preliminary Research

Seasonal and short-term rentals have a long history in rural Maine, including within the LUPC's service area. However, this use has been growing and changing since before the Land Use Regulatory Commission was established. Historically, rentals were generally of small camps around lakes and ponds, ski areas, or near other recreational activities. The dwellings tended to be seasonal, use was relatively infrequent, often limited to family and friends, and primarily for recreational purposes. The 1990's and 2000's were marked by an increase in the size of new dwellings, an increase in expansions of existing dwellings (for example: additional bathrooms, bedrooms, second stories, bunkhouses), and an increase in winterization corresponding at least in part with an expansion of recreational interests involving multiple seasons. Such changes allowed STR use to become more intensive (i.e., more guests per dwelling, more frequent rental, and more rental density). Interest in recreational activities continues to expand and the demand for places to stay in the unorganized territories remains robust.

More recent demographic and technological changes may be further increasing the intensity of STR use in the LUPC's service area. While more demand for STRs can have a positive effect on local economies, it can also result in increased nuisance and septic issues. Recent demographic and technological changes include:

- increased overall demand for STRs resulting from tourism and shifts in consumer attitudes toward using STRs rather than owning second homes or cabins or using commercial lodging facilities (e.g., inns, hotels, motels, etc.);
- increased frequency of use of properties as STRs (from occasional use to regular use) resulting from increased demand and increases in the number of dwellings (whether through upgrades or new construction) that can accommodate more visitors and offer four-season use; and
- the advent of online rental platforms such as Airbnb and VRBO that make it easier for property owners to offer STRs and for consumers to find STRs.

Converting a single-family dwelling to an STR has the potential to create capacity issues. Dwellings are typically designed based on a single-family residential model. For example, the parking may be designed to accommodate 2-3 vehicles, and the wastewater disposal system will be sized based on design flow requirements per bedroom that are based on a single-family residential model. While these sizing considerations may have occasionally been exceeded in the past (for instance, an extended family gathering for a week in the summer), STRs have the potential to exceed capacity limits more frequently, such as when bedrooms accommodate more than two people or when other rooms serve as additional sleeping areas to support a greater number of guests. Typical issues with STRs in neighborhoods include parking, trash, lighting, and noise ('good neighbor' issues). In the LUPC's service area, wastewater disposal issues are also of particular concern with regard to preserving water quality in lakes and rivers.

*What is known about STRs in the LUPC's service area?*

STR activity in recent years has led to problems in certain places, especially where there is a high-density of residential development and numerous rental units or units that are frequently rented. For example, in Harford's Point Township on Moosehead Lake, a relatively dense residential neighborhood hosts multiple short-term rentals that are active year-round, have absentee owners, and are managed by a commercial property management company. Complaints from residents include reports of excessive noise (sometimes through parties or fireworks), litter, increased use of outdoor fire rings resulting in frequent smoke/odor issues, more vehicles than parking spaces available, increased intensity of ATV and snowmobile use on residential properties, and dwellings with more guests than septic systems are designed to accommodate. Staff have received complaints about renters of STR units from other parts of the Commission's service area including in the Rangeley Region and on Monhegan Island. Additionally, during recent planning projects (2022) in the Rangeley and Moosehead Lake regions, the staff heard from stakeholders that there has been an increase in the overall number of short-term rentals in the region and that this increase is affecting the availability of housing for long-term renters or sale to fulltime residents.

A survey of AirDNA<sup>1</sup> data compiling Airbnb and VRBO listings in the LUPC's service area for the Fall/Winter of 2021-2022 found:

- Nearly 570 active STR listings spread over 72 minor civil divisions in the Commission's service area;
- 248 MCDs had zero active listings;
- STRs in the Commission's service area are generally widely dispersed and at low density with the exception of some areas of particular concentration (see Attachment A for a map of STR listings and a list of the MCDs with the most listings);
- Over 95% of the rentals are for entire homes and 80% of entire home rentals are for two- to four-bedroom homes;
- Approximately 60% of properties participating in the STR market are available for 6 months or less and approximately 60% of properties are booked for 3 months or less; and
- Although the design flows for residential septic systems may be based on 2 people per bedroom, over 40% of listings have a maximum number of guests that is more than 2 per bedroom.

#### *Municipal Regulation of STRs in Maine and other Jurisdictions*

Staff have researched regulatory approaches taken by municipalities or other jurisdictions, both within Maine and from outside of the state.<sup>2</sup> Towns regulating STRs have taken a variety of approaches, described in the following paragraphs.

Nearly all the jurisdictions researched define an STR as a residential unit rented for terms of no more than 30 days/nights. Definitions typically exclude traditional commercial rentals (hotels, motels, etc.) and may exclude the rental of individual rooms within an owner or lessor occupied residence.

In addition to their existing regulations on nuisances (such as noise), parking, etc., some jurisdictions have instituted specific standards for STRs addressing noise, waste, traffic, lighting, parking, and guest limits. Examples of such standards include:

- Trash shall be removed on a weekly basis while the property is being rented as a STR.
- The maximum number of guests allowed in a hosted rental shall not exceed two people per hosted bedroom and shall not exceed six total guests. Children five and under are not counted toward maximum occupancy. Rental to unaccompanied minors under the age of 18 is prohibited.
- Outdoor amplified sound is prohibited. Quiet hours shall be from 10:00pm to 8:00am. Use of outdoor spas and hot tubs is prohibited during quiet hours.

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<sup>1</sup> AirDNA (airdna.co ) compiles data from Airbnb (airbnb.com) and VRBO (vrbo.com) for research on short term rental markets.

<sup>2</sup> Jurisdictions include: Portland, Bar Harbor, Conway NH, Lincoln NH, Laconia NH, Jackson NH, Burke VT, Bolton NY, North Elba NY, Nantucket MA, Tisbury MA, Barnstable MA, Bainbridge WA, Mammoth Lakes CA, South Lake Tahoe CA, Munising MI, Traverse City MI, Sun Valley ID, Jackson WY

- Limit of vehicles associated with the hosted rental use is determined by the number of paved off-street parking spaces dedicated for use by hosted rental guests, not to exceed two vehicles.

Some towns have created a registration system for STRs, typically requiring annual renewal. A fee is often required to register, and fines can be levied, or registration renewal refused for noncompliance with performance standards. In some cases, there is a cap on the total number of registrations and on the number of units any one person can register. A benefit of requiring registration is that the municipality can gather data on STR location, number of units, compliance status, etc.

Some communities regulate STRs as a permitted use. Locations and densities of STRs may be limited by zone, spacing or clustering. There may also be limits on the number of STR units that an individual can operate. Jurisdictions that issue permits or licenses for STRs have a variety of terms ranging from annual to longer. Application fees are assessed and there is a review process. Performance standards also apply and there can be caps on the total number of permits or licenses issued.

Both registration and permitting of STRs may require an inspection by a code enforcement officer to determine that all applicable building, health, and safety codes are met before STR activity begins. Some jurisdictions also require that neighbors are provided notice when an STR is initiated, and there may be requirements such as providing neighbors with the name and contact number of a local person overseeing the rental. Some jurisdictions require that specific information be posted within the STR unit such as local contact information, the occupancy limit, parking requirements, noise ordinance requirements or quiet hours, trash disposal requirements, regulations relating to activities renters may engage in (for example, ATVing or snowmobiling), etc.

### *Current Policy and Applicable Regulations*

The Commission does not currently regulate STRs as a separate use, instead treating them as either residential or commercial, depending on the circumstances. Renting out an entire dwelling is allowed without a permit and is considered a residential use (even if the purpose of renting it is to generate income). How it is rented (online or through a local agent), the frequency of rentals, and other aspects of property management are not regulated. Renting out multiple dwelling units on the same lot creates a commercial lodging facility which generally must be in a development subdistrict and receive a development permit. Recreational lodging facilities are treated differently and are allowed in many subdistricts based on a categorization system. (Chapter 10, Section 10.27,Q.)

Many sections of LUPC rule that apply to residential use apply to construction of dwellings; few sections apply to how dwellings are used post-construction. In the LUPC's service area, dwellings generally are/were not constructed to be STRs. Their use as STRs often starts when an owner decides to convert a residence to an STR or to add STR to the mix of activities at the dwelling. The sections of rule that apply to residential use that are pertinent to regulation of STRs (for example: they address nuisance or septic issues), include:

- 10.24 – General Criteria for Approval of All Permit Applications.  
10.24,A – “...and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;”

“Adequate provision has been made for loading, parking and circulation of land, air and water traffic in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods;”

“The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public’s health, safety and general welfare will be adequately protected.”

- 10.25,D – Vehicular Circulation, Access, and Parking

10.25,D,1 – “General Circulation. Provision shall be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area.”

- 10.25,I – Wastewater Disposal

10.25,I,1 – “No permit will be issued for a project with subsurface wastewater disposal unless an acceptable plan to construct the absorption area is prepared. Where wastewater is to be disposed on-site by a subsurface wastewater system, the system must be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Wastewater Disposal Rules, or must be licensed by the Maine Department of Environmental Protection pursuant to 38 M.R.S. § 413(1-B)(A).”

Additionally, deriving from the above standards, LUPC’s Building Permits typically include conditions relevant to nuisances, including those associated with STRs. Examples include:

- “All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.”
- “The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.”
- “The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation, Driveway Entrance Permit, a physical E-911 address from your County Commissioner’s Office.”

Chapter 10 currently has no specific standards regulating noise, trash, or parking for individual dwellings. For example: the noise standards of 10.25,F apply to non-residential development; 10.25,H on Solid Waste Disposal and 10.25,J on Water Supply regulate only subdivisions and nonresidential uses; and 10.27,H on Driveways Associated with Residential Structures and Uses contains no parking requirements.

*Additional Information on Wastewater Disposal Regulations*

Requirements for the design and construction of residential subsurface wastewater disposal systems are in the State of Maine’s Subsurface Wastewater Disposal Rules (10-144 CMR 241) administered by the Maine Department of Health and Human Services. Design flows for single-family dwelling units are based on data collected under conditions of traditional single-family use (Section 4,D,2). The design flows are typically based on number of bedrooms with each additional bedroom adding 90 gallons per day (GPD) to the design flow requirement (Section 4,E,1):

**Table 4A [in part]  
Design Flows for Single Family Dwelling Units**

<b>Bedrooms</b>	<b>GPD per dwelling unit</b>
2 or less	180
3	270
4	360
5	450
6	540

Design flows are considerably less for various types of primitive or limited systems.

The Subsurface Wastewater Disposal Rules include design flows for other uses including “180 gpd per house plus 40 gpd per boarder” for boarding houses with meals (Section 4, Table 4C). Six people occupying a three-bedroom single-family dwelling would be using a wastewater system designed for 270 gallons per day. Six boarders in a boarding house with meals would be using a wastewater system designed for 420 gallons per day.

*Current Enforcement Considerations*

LUPC compliance staff typically receive complaints about, and enforce cases involving, development issues such as construction without a permit, lack of erosion controls, or failure to meet setback requirements. Historically staff have received few complaints involving nuisance or safety issues such as noise, trash, and parking. STRs are changing that pattern by increasing nuisance complaints, at least in some of the service area’s more dense neighborhoods. While there is a general basis in rule and permit conditions for addressing nuisance issues, compliance staff feel that activity-specific standards for STRs would provide a clear basis for addressing nuisance complaints and enforcing compliance. LUPC does not permit wastewater systems or enforce wastewater disposal rules. Complaints involving overburdened or failing wastewater systems are referred to the Local Plumbing Inspector (LPI).

**Regulatory Options and Considerations**

The table below presents a range of regulatory options for the Commission to consider. It includes information on the steps necessary to implement each measure.

To understand the regulatory options available to the LUPC, it is helpful to understand particular requirements of the Administrative Procedures Act ([Title 5, Chapter 375](#)) and of the LUPC’s organizing statute ([Title 12, Chapter 206-A](#)) regarding registration and permitting. Registration of STRs would likely be considered a form of licensing. Under these statutes, the LUPC may not amend, revoke, or refuse to renew a registration (license) or permit without providing the registrant/permittee an opportunity for a hearing. [Note that in limited circumstances, the LUPC may temporarily revoke, suspend, or refuse to renew a registration or permit without proceedings for up to 30 days.]

<b>Regulatory Option</b>	<b>Potential Rule Revisions or Implementation Steps</b>	<b>Considerations</b>
1) Require compliance with <u>current</u> standards and permit conditions (current approach)	<ul style="list-style-type: none"> <li>• No rulemaking needed</li> <li>• Develop staff guidance about the policy to help with communication and enforcement</li> <li>• Develop and distribute informational materials to property owners to explain existing requirements and enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Includes compliance with current standards and permit conditions but does not provide a clearer regulatory basis for enforcement</li> <li>• Does not address some known issues with STRs nor respond to complaints from property owners and feedback from stakeholders</li> <li>• Could include outreach to property owners to raise awareness about STRs and the potential for impacts</li> <li>• Little additional staff workload</li> </ul>
2) Require notice to engage in STR activity and compliance with <u>current</u> standards and permit conditions	<ul style="list-style-type: none"> <li>• Rulemaking: i) add notice requirement to Chapter 4; ii) change definitions in Chapter 2; and iii) potentially create an STR use listing in Chapter 10 and an STR activity-specific standard in 10.27 requiring notice</li> <li>• Create a notice form</li> <li>• Staff training</li> <li>• Outreach to property owners to explain existing and new requirements and enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Notice system could potentially generate reliable information about where STRs are occurring, helping to provide a basis for future STR-specific regulations if needed</li> <li>• Includes compliance with current standards and permit conditions but does not provide a clearer regulatory basis for enforcement</li> <li>• Does not address some known issues with STRs nor respond to complaints from property</li> </ul>

Regulatory Option	Potential Rule Revisions or Implementation Steps	Considerations
<p>2) Require notice to engage in STR activity and compliance with <u>current</u> standards and permit conditions (continued)</p>		<p>owners and feedback from stakeholders</p> <ul style="list-style-type: none"> <li>• Could include outreach to property owners to raise awareness about STRs and the potential for impacts</li> <li>• No fee involved</li> <li>• Minimal increase to staff workload</li> <li>• Parallels a new approach for accessory structures; the two approaches could be rolled out concurrently</li> </ul>
<p>3) Require notice and compliance with <u>new</u> STR-specific standards</p>	<ul style="list-style-type: none"> <li>• Rulemaking: i) add notice requirement to Chapter 4; ii) change definitions in Chapter 2; iii) create activity-specific standards in 10.27; and iv) potentially create an STR use listing in Chapter 10</li> <li>• Create a notice form</li> <li>• Staff training</li> <li>• Outreach to property owners to explain new requirements</li> <li>• Guidance materials/webpage on STR requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Notice system could potentially generate reliable information about where STRs are occurring, helping to provide a basis for additional STR-specific regulations if needed</li> <li>• Could address known issues with STRs</li> <li>• Provides new regulatory basis for enforcement</li> <li>• As part of notice, property owners could self-certify that standards are met</li> <li>• No fee involved</li> <li>• Feedback from stakeholders about which standards to adopt could be important</li> <li>• Could include outreach to property owners to raise awareness about STRs and the potential for impacts</li> <li>• Requires staff time to implement and enforce</li> <li>• Parallels a new approach for accessory structures; the two</li> </ul>



Regulatory Option	Potential Rule Revisions or Implementation Steps	Considerations
3) Require notice and compliance with <u>new</u> STR-specific standards (continued)		approaches could be rolled out concurrently
4) Require registration and compliance with <u>new</u> STR-specific standards	<ul style="list-style-type: none"> <li>• Rulemaking: i) create a registration process in Chapter 4; ii) change definitions in Chapter 2; and iii) potentially create an STR use listing in Chapter 10 and a STR activity-specific standards in 10.27</li> <li>• Design and set up registration system</li> </ul>	<ul style="list-style-type: none"> <li>• Registration system could potentially generate reliable information about where STRs are occurring, helping provide a basis for additional STR-specific regulations if needed</li> <li>• Could address known issues with STRs</li> <li>• Provides new regulatory basis for enforcement</li> <li>• When registering their rental, property owners acknowledge compliance with the applicable standards (self-certification)</li> <li>• Could include a fee</li> <li>• The Commission could revoke or refuse to renew a registration to address non-compliance after affording the registrant a hearing</li> <li>• Feedback from stakeholders about which standards to adopt could be important</li> <li>• Requires staff time to implement and enforce</li> </ul>

Regulatory Option	Potential Rule Revisions or Implementation Steps	Considerations
5) Treat STRs as a use allowed by permit	<ul style="list-style-type: none"> <li>• Rulemaking: i) change definitions in Chapter 2; ii) change subdistricts in Chapter 10; iii) potentially create new activity-specific standards in Chapter 10; and iv) possibly establish new fees in Chapter 1</li> <li>• Create new application form</li> <li>• Staff training</li> <li>• Outreach to property owners to explain new requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Permitting could generate reliable information about where STRs are occurring</li> <li>• Would place a higher burden on applicants seeking to rent STRs than the options above</li> <li>• Additional research and outreach to stakeholders may be needed to create specific standards/permitting requirements</li> <li>• A permit would include conditions of approval tailored to someone’s project making it easier for staff to ensure compliance.</li> <li>• Staff time needed to design an application, communicate new requirements to property owners, process permit applications, and ensure compliance</li> </ul>

**Recommendation and Next Steps**

Staff believe that the best approach, at this time, involves requiring that a property owner provide notice to the Commission that they are renting their dwelling as an STR and adoption of new performance standards (#3 in the table above). This approach could be implemented in a two-step process. The first step would involve adopting the notice requirement and would help in gathering information about where STRs are occurring. The next step would involve developing STR-specific activity standards. It may be appropriate to include a process for stakeholder and public input as part of this phase.

The staff are seeking guidance from the Commission about the overall approach to STRs, actions that would be appropriate at this time, and additional information the Commission may need.

Attachments:

Attachment A: Map of Short-Term Rentals in the LUPC’s Service Area and the Minor Civil Divisions with the Most Active STR Listings on Airbnb and VRBO

## Attachment A

Map of Short Term Rentals in the LUPC's Service Area  
and the Minor Civil Divisions with the Most Active STR Listings on  
Airbnb and VRBO  
(in landscape orientation)

# AirDNA Active Listings by LUPC MCD

569 Active Listings in Q4 2021

## MCDs with the most active listings:

- 1) Rangeley Plt – 63
- 2) Sandy River Plt – 50  
Rockwood Strip (T1 R1 NBKP) – 50
- 3) Dallas Plt – 29
- 4) Beaver Cove – 25
- 5) T1 R9 WELS – 21
- 6) Wyman Township – 20
- 7) Taunton & Raynham – 18  
Matinicus – 18
- 8) Connor Township - 17

## Short Term Rentals - Q4 2021

