



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
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Memorandum

To: LUPC Commissioners
CC: Stacie R. Beyer, Executive Director
From: Stacy Benjamin, Chief Planner
Date: February 7, 2024
Re: Short-term Rentals – Request to Post to Public Comment

This memorandum summarizes the staff's proposal for rule changes to Chapters 2 and 10 to incorporate new standards for short-term rentals (STRs). At the Commission's February business meeting, staff will present these changes and a recommendation to initiate rulemaking, including posting the draft rules to public comment.

Background

Seasonal and short-term rentals have a long history in rural Maine, including within the Land Use Planning Commission's service area. In response to changes in recent years that have allowed short-term rental use to become more intensive (i.e., more guests per dwelling, more frequent rental, and more rental density), the Commission initiated a study of short-term rentals in 2022. A conceptual regulatory approach was presented at the March 2023 Commission meeting, and public outreach to gather additional input and information occurred over the summer of 2023.

Public outreach and information gathering included in-person meetings in East Millinocket, Greenville, and Rangeley, one virtual meeting, and a written comment period. Meeting participants were asked how they define short-term rentals and to share their experiences with this type of activity. They were also asked their opinions on the benefits and challenges of short-term rentals. In addition, they were asked to provide feedback on a conceptual regulatory approach. A summary of comments received and other information about the short-term rental study can be found on the [project website](#).

Based on feedback gathered during the public engagement process held over the summer, the regulatory approach was refined and presented to the Commission in concept at its November 2023 business meeting. Per the Commission's feedback at that meeting, the specific rule changes described

below are proposed. A Draft Redline of the proposed changes is attached to this memorandum. With this regulatory approach, the Commission aims to:

- Respond to public comments heard during the outreach this summer and to complaints received over time from property owners;
- Start with a simple system that is less burdensome for STR owners and LUPC staff than a permitting process and can be modified, if needed, going forward;
- Collect data over time on STR activity in the LUPC service area by requiring a notice;
- Implement minimal standards that apply to all STRs with a focus on environmental impacts and renter safety, and use the notice as one way to communicate standards to property owners;
- Recognize the challenges and limitations in terms of enforcement of standards for STRs, but clarify the basis for enforcement when warranted; and
- Provide best practice information to STR owners, renters, and neighbors through guidance materials.

Current Practice

The Commission does not currently regulate STRs as a separate use; instead, it treats them as either residential or commercial, depending on the other land use activities occurring in the building or at the site. Renting out an entire dwelling is allowed without a permit and is considered a residential use, even if the purpose of renting is to generate income.

Proposed Rule Changes

Staff is recommending that the Commission amend its rules to adopt new performance standards for STR activity. These standards include requiring property owners to provide notice to the Commission if they are renting their dwelling as an STR and self-verification that they are meeting the proposed standards. If adopted, the rule changes would apply to all new and existing STRs. Existing STR owners would have 180 days after the rule's effective date to file notice with the Commission. The following changes to LUPC rules are proposed (see attached Draft Redline):

- Define short-term rental in Chapter 2 and update other implicated definitions;
- Amend use listings as appropriate to reflect that STRs are allowed in accordance with standards or by permit in zones that allow dwellings if they exceed the occupancy standard;
- Adopt the following activity-specific standards (*for the full language proposed, please see the [draft redline](#)*):
 - A written notice must be submitted for new and existing STRs (allow 180 days for existing owners to file a notice);
 - The maximum allowable occupancy must not exceed two persons per number of bedrooms in the STR unit (residential campsites and bunkhouses also have defined occupancies);

- The subsurface wastewater disposal system that serves the short-term rental must comply with all applicable Subsurface Wastewater Disposal Rules;
- Information must be posted in the rental identifying a local contact person with 24-hour contact information and the E-911 address or other specific information describing the property's location;
- Sufficient off-street parking must be provided on the property for guests and allow for access by emergency vehicles; and
- Provision must be made for adequate and regular solid waste disposal.

STRs involving the rental of a single dwelling on one lot in subdistricts where residential dwellings are allowed would continue to be considered a residential use and allowed in accordance with the proposed standards. The only standard that could be exceeded with a permit is occupancy. In those cases, a full permit application would be required, along with evidence that the increased occupancy would not produce undue adverse impacts on the resources and uses in the area. For example, an applicant would need to demonstrate that their subsurface wastewater disposal system was designed to handle the proposed additional occupancy and that they have adequate space for additional parking.

Concurrently with the rulemaking process, staff would create a notification tracking system, including a web portal for filing notices. Staff would also develop outreach materials to introduce the new system in tandem with information related to the proposed notice for accessory structures (should that rulemaking go forward). To improve compliance, “best practice” guidance materials for STR owners, renters, and neighbors would be developed and available via the LUPC website. This guidance would link to additional federal and state regulations that may apply to STRs and let interested persons know how to report issues not regulated by the Commission, such as noise, unsafe fire practices or fireworks, unmanaged pets, etc.

Staff Recommendation:

Staff recommends that the Commission initiate rulemaking on the proposed changes to Chapter 2 and Chapter 10 related to short-term rentals. Specifically, staff request to post the draft revisions to a public comment process and recommend that the comment period remain open for 45 days and that a rebuttal period remain open for 14 additional days. Should five requests for a public hearing be received, a public hearing would be scheduled pursuant to Chapter 4 requirements and the Administrative Procedures Act.

Attachment: *Draft Redline Rule Changes for Chapters 2 and 10*

AGRICULTURE, CONSERVATION AND FORESTRY

Maine Land Use Planning Commission

Proposed Chapter 2 and Chapter 10 Rule Revisions: Short-Term Rentals

February 2024 – Draft

The following amendments propose changes to Chapter 10, *Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10 and indicates additions in underline, deletions with a ~~striketrough~~, and relocated text in double underline and double ~~striketrough~~. Most revisions are self-evident. Where necessary, further explanations of some changes have been included in [brackets]. These explanatory notes would not be included in the final rule.

Rulemaking Introduction and Overview

What are the goals of this rulemaking?

- Respond to public comments heard during community meetings on short-term rentals by implementing minimum standards that apply to all short-term rentals with a focus on environmental impacts and renter safety;
- Begin with an approach that is less burdensome for short-term rental owners and LUPC staff than a permitting process by requiring only a notice;
- Use the notice as one way to communicate standards to property owners; and
- Allow the Commission to collect data on short-term rental activity in the LUPC service area.

Why make these rule changes now?

Seasonal and short-term rentals have a long history in rural Maine, including within the Land Use Planning Commission's service area. In recent years, short-term rental use has become more intensive (i.e., more guests per dwelling, more frequent rental activity, and more rental density), and the number of complaints has risen. Many towns and cities are enacting rules regarding short-term rentals, and the Commission believes it is appropriate and timely to adopt minimum standards for short-term rental activities within the Commission's service area.

How are the rules changing?

- A definition of short-term rental will be included in Chapter 2 and a few other related definitions will be refined as needed.
- Short-term rentals will be allowed in accordance with standards, or potentially by permit if they exceed the standards, in zones that allow residential dwellings.
- Activity-specific standards will be added, including:
 - Written notice will be required for new and existing short-term rentals;
 - A maximum allowable occupancy based on the number of bedrooms in the rental unit;
 - The subsurface wastewater disposal system that serves the short-term rental must comply with all applicable Subsurface Wastewater Disposal Rules;
 - Information must be posted in the rental identifying a local contact person with 24-hour contact information and the E-911 address or other specific information describing the property's location;
 - Sufficient off-street parking must be provided on the property for guests to ensure that entrances to private driveways are not obstructed and to allow for access by emergency vehicles; and
- Provision must be made for regular solid waste disposal.

How will the notice be administered?

If the following revisions are adopted by the Commission, a notice form will be developed that can be completed online or submitted on paper. The form would require basic information and would identify the applicable standards for short-term rentals. The owner would then self-verify that the short-term rental complies with all applicable standards by signing the notice.

Chapter 2 - Definitions

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[**Revision notes:** The following proposed terms and definitions, and amendments to current definitions, serve to define or clarify land use activities related to a "short-term rental". Condominium lots are proposed to be treated differently because other than lot ownership, individual condominium units are considered the same as single dwelling units in terms of minimum lot size, shoreline frontage, and road frontage requirements.]

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41. Commercial Use:

The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use includes the short-term rental of more than one of the following on a single lot, unless the lot is part of a condominium where the dwelling units are individually owned: a dwelling unit; a portion of a dwelling unit; or a residential campsite. Commercial use does not include:

- a.** a home-based business;
- b.** ~~or the rental of a single dwelling unit on a single lot for 30 days or more; or~~
- c.** ~~incidental sales of goods or services as may be allowed by permit or standard within a recreational lodging facility or forest management activities where such activities are otherwise exempt from review.~~

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65. Dwelling Unit:

“Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.” 12 M.R.S. § 682(11). ~~A structure or any part thereof that is intended for use or is used for human habitation, dwelling unit may consist~~ing of a room or group of rooms designed and equipped for use primarily as living quarters, including any minor home occupations, for one family. Accessory structures intended for human habitation that have plumbing are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp, outpost cabin, or other similar facility ~~which is rented or leased on a relatively short term basis~~. Staff housing in such facilities is not considered to be a dwelling unit, unless specifically regulated as such as part of the permit approval. ~~However, the term shall include accommodations utilized by guests for transient occupancy that qualifies as a home occupation.~~

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198. Rental Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters for a single party, and which is rented or leased on a ~~relatively short term~~ regular or recurring basis.

This term includes short-term rentals and recreational lodging facilities but does not include outpost cabins or remote rental cabins.

##. Short-term Rental:

A legally existing dwelling unit, portion of a dwelling unit, or single residential campsite that is rented for a fee or other compensation to a person or group for a period of tenancy of less than 30 consecutive calendar days. The term excludes land use activities regulated as other use listings, such as, but not limited to recreational lodging facilities, home-based businesses, and commercial uses.

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##. Use Notification:

A written or digital submission provided to the Commission pursuant to Chapter 4 Section 4.05(C) or other applicable requirements, providing notification or self-verification that a specific use, activity, or development will be conducted in compliance with applicable standards.

Chapter 10 – Land Use Districts and Standards

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10.21 DEVELOPMENT SUBDISTRICTS

Pursuant to 12 M.R.S. §685-A and consistent with the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

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[Revision notes: The following revisions would add “short-term rental” as a use allowed without a permit subject to standards and would add “short-term rental” as a use allowed by permit in cases where the standards would not be met. The edits illustrated below for Section 10.21,C are also proposed for the following development, management, and protection subdistricts:

- Extended Settlement subdistrict (D-ES) – Section 10.21,B
- Community Center Development subdistrict (D-GN2) – Section 10.21,D
- Rural Settlement Development subdistrict (D-GN3) – Section 10.21,E
- Low Density Development subdistrict (D-LD) – Section 10.21,F
- Maritime Development subdistrict (D-MT) – Section 10.21,G
- Rural Business Development subdistrict (D-RB) – Section 10.21,J
- Residential Development subdistrict (D-RS) – Section 10.21,M
- Community Residential Development subdistrict (D-RS2) – Section 10.21,N
- Residential Recreation Development subdistrict (D-RS3) – Section 10.21, O
- General Management subdistrict (M-GN) – Section 10.22,A
- Highly Productive Management subdistrict (M-HP) – Section 10.22,B
- Accessible Lake Protection subdistrict (P-AL) – Section 10.23,A
- Aquifer Protection subdistrict (P-AR) – Section 10.23,B
- Flood Prone Area Protection subdistrict (P-FP) – Section 10.23,C
- Fish and Wildlife Protection subdistrict (P-FW) – Section 10.23,D
- Great Pond Protection subdistrict (P-GP) – Section 10.23,E
- Special River Transition Protection subdistrict (P-RT) – Section 10.23,J
- Shoreland Protection subdistrict (P-SL) – Section 10.34,L
- Unusual Area Protection subdistrict (P-UA) – Section 10.21,M

In all cases, subsequent use listings in each subdistrict will be renumbered accordingly.]

C. GENERAL DEVELOPMENT SUBDISTRICT (D-GN)

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3. Land Uses

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b. Uses Allowed Without a Permit Subject to Standards

The following uses are allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

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(#) Short-term rentals, in conformance with the standards of Section 10.27,T;

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[Revision notes: The revision illustrated below for subsection c applies to subdistricts where single family dwellings are allowed by permit, such as the D-GN. The revision below for subsection d applies to subdistricts where single family dwellings are allowed by special exception (i.e., D-ES, D-MT, D-RB, P-FP, and P-FW). In the cases regarding subsection d, the new use listing will be added under special exceptions and reviewed according to the applicable criteria.]

c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III:

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(#) Short-term rentals which are not in conformance with the standards of Section 10.27,T;

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d. Special Exceptions

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(#) Short-term rentals which are not in conformance with the standards of Section 10.27,T;

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10.27 ACTIVITY-SPECIFIC STANDARDS

The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

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T. SHORT-TERM RENTALS

Short-term rentals allowed in a subdistrict without a permit must comply with the following standards. Short-term rental activities within legally existing dwelling units and residential campsites in D-PD or P-RP subdistricts must comply with the following standards. Short-term rental activities not in conformance with Section 10.27,T,2 may be allowed upon issuance of a permit from the Commission, provided that short-term rentals are an allowed use in the subdistrict involved. An applicant for such a permit must show by substantial evidence that the proposed activity, which is not in conformance with the standards of Section 10.27,T,2 must be conducted in a manner that produces no undue adverse impact upon the resources and uses in the area.

All existing or new short-term rentals allowed without a permit subject to standards must meet the following standards and conditions:

1. Written Notice Required.

Notice pursuant to Chapter 4, Section 4.05,C must be completed prior to the commencement of short-term rental activities. Notice must include self-verification by the landowner that the standards listed in Section 10.27,T,2 through 6 will be met. For short-term rentals in existence prior to [insert the effective date], written notice must be submitted within 180 days of [insert the effective date]. Such notice must conform to the requirements of Chapter 4, Section 4.05.C.

2. Maximum allowable occupancy.

The maximum allowable occupancy must not exceed two persons per number of bedrooms in the short-term rental dwelling unit. Occupancy and sleeping accommodations are limited to authorized buildings (e.g., dwelling or bunkhouse) or authorized residential campsites. Notwithstanding Section 10.27,T,3 below:

- a. The maximum allowable occupancy for a residential campsite must not exceed 12 persons; and
- b. For authorized bunkhouses, sleeping accommodations for every two persons counts as one bedroom.

3. Subsurface wastewater disposal system.

The short-term rental must have a subsurface wastewater disposal system that complies with all applicable Subsurface Wastewater Disposal Rules (DHHS Rules, Chapter 241).

4. Information posted.

The following information must be posted in a visible location both within the short-term rental and at an exterior location visible to emergency responders:

- a. Local contact person and contact information. The local contact person must be an individual who is personally available by telephone on a 24-hour basis and who has access and authority to assume management of the short-term rental. An owner-authorized agent or professional property management company that meets the availability requirements can serve as the local contact person.
- b. Property information. The E-911 address or other specific information describing the location of the property.

5. Parking.

Sufficient off-street parking must be provided on the property for guests to avoid violations of 17 M.R.S. § 3853-C. Parking in a manner that impedes access by emergency vehicles to the property or neighboring properties is prohibited.

6. Solid Waste Disposal.

Solid waste generated on site must be stored so as not to cause a fire, health, or safety hazard; stored in covered or closed containers; and stored in containers with adequate capacity to hold all waste generated between collections. Solid waste and recycling generated on site must be regularly collected and disposed of at a State-approved landfill or transfer station.