



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: Stacy Benjamin, Chief Planner
Date: November 1, 2023
Re: Short-term Rentals in the LUPC's Service Area

Background and Quick Summary

Short-term rental (STR) activity has been on the rise in Maine and beyond in recent years. At the March Commission meeting, Tim Carr presented an overview of STR activity in the Commission's service area. He explored policy considerations relating to the increase in this activity in recent years. He summarized regulatory approaches of other jurisdictions and presented a recommended regulatory approach that would require owners of STRs in the LUPC service area to provide notice to the Commission, perhaps in conjunction with STR-specific standards. The Commission asked the staff to gather feedback from residents and property owners on the proposal.

During the summer of 2023, LUPC staff held three in-person meetings, one virtual meeting, and a written public comment period. The outreach goal was to obtain additional information about STRs in the Commission's service area and gather feedback on the conceptual regulatory approach presented to the Commission at its March meeting.

Staff reviewed and considered the feedback and materials received, as well as other data and resources gathered, and has used the information to refine the conceptual approach. This agenda item includes a recommendation that the Commission adopt new performance standards for this activity, including requiring property owners to provide notice to the Commission if they are renting their dwelling as a STR, and to self-verify that they are meeting the proposed standards. The proposed standards would include:

- A notice requirement;
- Occupancy limits based on the number of bedrooms;

- Compliance with Maine’s subsurface wastewater disposal regulations;
- Identification of a local contact person who is available by telephone on a 24-hour basis and who has access and authority to assume management of the short-term rental;
- Posting information describing the specific location of the property (for use by renters in case of emergencies);
- Providing sufficient off-street parking on the property for guests and access by emergency vehicles; and
- Providing for regular solid waste disposal.

The Commission does not currently regulate STRs as a separate use, instead treating 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 it is to generate income).

Community Meetings and Public Comments Received

In-person community meetings were held in the Millinocket region on June 15, the Moosehead region on June 29, and the Rangeley region on July 13. A virtual meeting on Microsoft Teams was held on July 18. Each meeting generally followed the same format, including a brief presentation by LUPC staff followed by a discussion session. Participants in the Moosehead and Rangeley region meetings also participated in an interactive activity that involved responding to question prompts by writing comments and opinions on sticky notes¹. Summary notes from these meetings created by the staff and images of the original sticky notes from participants can be viewed on the [STR project webpage](#).

In addition to the community meetings, a public comment period was open from May 18 through August 15. Written comments were received from thirty individuals. Commenters included STR owners, neighbors of STRs, business owners who manage or provide services for STRs, public officials, and other residents and stakeholders. An in-depth summary of all the public comments received is attached to this memorandum. Below is a shorter, condensed summary of the most common comments heard. They are organized around the discussion questions used for the community meetings.

1. What are the benefits of short-term rentals in your opinion or experience?

- Additional income for the owner was a common response
- Positive impacts on the local and state economies, including job creation, lodging taxes, and increased business for local vendors, restaurants, and businesses
- Addressing a shortage of beds available through more formal lodging facilities like hotels, motels, inns, and campgrounds
- Providing an opportunity for a diversity of visitors to enjoy Maine and who may become new future residents
- More accommodating lodging for families than hotels, motels, and inns
- There are no benefits to STRs

¹ This activity was not conducted in East Millinocket due to lower than anticipated attendance.

2. What are the challenges or issues with short-term rentals in your opinion or experience?

- Occupancy and septic system capacity and the potential water quality impacts from overuse were common concerns
- Nuisance issues, including noise, loud parties, trespassing, traffic/road damage, trash/litter, outdoor lighting, outdoor fires, fireworks, unmanaged pets, improper use of ATVs, boats, and snowmobiles, and inappropriate parking of vehicles including blocked emergency vehicle access
- Lack of communication channels to owners
- Loss of community and neighborhood character
- Impact on the availability of long-term housing
- Fire safety, drinking water safety, and guest safety in general
- Impacts on roads and trails due to an increase in vehicular traffic, including ATVs and snowmobiles
- Increase in solid waste handling and disposal costs
- There are no issues or challenges with STRs

3. How would you define short-term rental? Do you consider them residential or commercial, and why?

- A common response was a property rented for 30 days or less
- Some commenters noted the frequency a property was rented (e.g., 25% of the time)
- Some commenters considered it important whether the property was owner-occupied for all or a portion of the year
- Some commenters identified STRs as a residential use in general or tied its status as residential to some extent of owner occupancy
- Some commenters believe STRs fit under LUPC's current definition of commercial use
- Some commenters believe that STRs are commercial when they have certain characteristics such as paying lodging tax, hiring a property management company or paying for other services, are organized as an LLC with multiple properties, advertise units for rent, or unrelated persons are staying at a single dwelling

4. What do you think of the LUPC requiring a notice for short-term rentals? What performance standards or other rules specific to short-term rentals should be considered, if any?

- Support for the concept of requiring notice was a common response
- Some commenters were opposed to any regulation of STRs, citing concerns about the impact of regulation on the economy and infringement on property rights
- Several commenters felt that a notice was not enough and that a permit would be more effective
- Some stated that STRs should be restricted to non-residential subdistricts or only require notice if it is considered a commercial or home-based business
- Multiple commenters expressed support for a standard that required contact information in case of an issue
- Multiple commenters expressed support for limiting occupancy based on the capacity of the septic system
- Some commenters suggested standards for noise, lighting, trash disposal, parking, and buffering

- Multiple commenters expressed concern about the LUPC’s ability to enforce new regulations on STRs
- Some commenters noted that nuisance complaints and wastewater regulation may not be something the LUPC has jurisdiction over

Recommended Regulatory Approach

Based on feedback from the public and stakeholders during the public engagement process held over the summer, the staff believes that a reasonable approach would be for the Commission to require that short-term rental owners provide a one-time notice to the Commission that the activity is taking place, and simultaneously self-verify that they are meeting specific standards. The objectives of this regulatory approach would be:

- Start with a simple system that is easy to understand and can be modified going forward;
- Respond to public comments we heard during the outreach this summer;
- Collect data over time on STR activity in the LUPC service area by requiring a notice;
- Begin with an approach that is less burdensome for STR owners and LUPC staff than a permitting process – if needed, further regulation could be explored in the future;
- 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;
- Provide best practice information to STR owners, renters, and neighbors, in the form of guidance materials accompanying the notice form; and
- Simultaneously roll out both the STR and accessory structure rulemakings for more effective communication regarding these new notice requirements.

Other Policy Considerations

There are concurrent ongoing efforts across the state and nation to evaluate the issues and impacts of STRs. Many municipal ordinances have been proposed or adopted in Maine in the past few years. The Maine Department of Health and Human Services recently amended its subsurface wastewater disposal rules to require additional design flow capacity for short-term rental properties. Maine Legislators have introduced multiple bills in recent sessions, with more anticipated in the upcoming session. Any new regulatory framework adopted should be developed with flexibility in mind and awareness that new state or federal regulations may intersect with our rules in the near future.

Research on STRs in the service area has revealed other policy issues. For example, in some cases, property owners are renting out campsites through STR platforms. These situations present special challenges and potentially can create undue environmental impacts if there is not an adequate subsurface wastewater disposal system available.

Proposed Rule Changes

In light of the above considerations, the following conceptual changes to LUPC rules are proposed:

- Define short-term rental in Chapter 2 and update other implicated definitions as needed;
- Amend use listings as appropriate to reflect that STRs are allowed in accordance with standards, or by permit if they exceed the occupancy standard (more on this below), in zones that allow dwellings;
- Create activity-specific standards, including the requirement to provide notice;
- Create a notification tracking system; and
- Develop outreach materials to introduce the new system concurrently with information about best practices for STR property owners.

Initially, a two-step process was considered, where a notice requirement could be implemented first and followed later by the adoption of specific standards for STRs. Based on feedback received during the community meetings and written comments, however, staff acknowledge the broad public concern about potential water quality impacts from overuse of septic systems through over-occupancy of STR units and other environmental and public safety considerations. Therefore, staff recommends that the Commission consider concurrently adopting the proposed notice requirement and performance standards. Recommended standards would include:

- Written notice required for new and existing STRs;
- A maximum allowable occupancy not to exceed two persons per number of bedrooms in the STR unit (residential campsites and bunkhouses would also have defined occupancies);
- The subsurface wastewater disposal system that serves the short-term rental would need to comply with all applicable Subsurface Wastewater Disposal Rules;
- Information would need to 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 regular solid waste disposal.

STRs involving the rental of a single dwelling on one lot would continue to be considered a residential use and allowed in accordance with the proposed standards in the same subdistricts where residential dwellings are allowed. 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.

To improve compliance, “best practice” guidance materials for STR owners, renters, and neighbors would be developed and made available to property owners. This guidance will link to additional federal and state regulations that may apply to STRs and let people know how to report issues not regulated by the Commission, such as noise, unsafe fire practices or fireworks, unmanaged pets, etc.

Recommendation and Next Steps

At the November Commission Meeting, the staff seek guidance from the Commission regarding:

1. This overall approach to the regulation of STRs;
2. Additional information the Commission may need as it considers this approach; and
3. Feedback on a timeline and process for potential rulemaking.

If the Commission would like to move forward with rulemaking, staff could prepare draft rule revisions and a sample notice form for consideration at the January Commission meeting for posting to a public comment period.

Attachment: Land Use Planning Commission Study of Short-Term Rentals - Public Comment Period and Community and Virtual Meetings 2023 – Comment Summary

Land Use Planning Commission Study of Short-Term Rentals

Public Comment Period and Community and Virtual Meetings 2023

COMMENT SUMMARY

During the summer of 2023, the Land Use Planning Commission (LUPC) gathered information on how short-term rental (STR) activity affects residents and visitors in the area it serves. As part of this process, the Commission sought public comment and feedback on a potential regulatory approach for STRs. Community meetings were held in the Millinocket, Moosehead, and Rangeley regions, as these are areas of significant STR activity. A virtual community meeting was also held to accommodate individuals who were unable to attend meetings in person. See the [project website](#) for more information.

This document summarizes the comments, feedback, and information Commission staff received during this process. The summary is organized in a manner corresponding to the questions asked during the community meetings. It includes the diverse opinions expressed in written comments and phone calls received during the comment period and during the community meetings. Comments not directly related to the questions posed are summarized together at the end of this document.

What are the benefits of STRs in your opinion or experience?

Most of the benefits identified for STRs were economically related. People identified benefits associated with the ability for a property owner to rent their property as a vacation home. Additional income for the owner was the benefit identified most often, specifically as it helps owners continue to afford and maintain their property and pay taxes. This could be especially true for individuals with a fixed income. Benefits to the local and state economies were often noted, including creating jobs and increased business for local vendors, restaurants, and support businesses, especially in areas with little economic opportunity. Cleaning, landscaping, and property management services were noted in particular. Commenters identified that STRs help address a shortage of beds available through more formal lodging facilities like hotels, motels, inns, and campgrounds, particularly in the Greenville and Rangely regions. Several people cited Maine's state lodging tax, collected by online STR platforms, as an economic boost for the state and local communities. Commenters also identified community benefits. It was noted that STRs provide an opportunity for a diversity of visitors to enjoy Maine and can help attract new residents. STRs may be more accommodating/appealing for families than hotels, motels, and inns, making them more likely to visit a particular area. One commenter felt that STR owners were well positioned to invest back into the community as well as the rental property. Some commenters stated there are no benefits to STRs.

What are the challenges or issues with STRs in your opinion or experience?

Comments regarding challenges and issues related to STRs primarily fell into three broad categories: 1) Impacts on Neighbors and the Community; 2) Health, Safety, and Environmental Impacts; and 3) Impacts to Public Services.

1) Impacts on Neighbors and Community

Commenters reported nuisance issues with neighboring STRs in terms of noise, loud parties, trespassing, traffic/road damage, trash/litter, outdoor lighting, outdoor fires, fireworks, unmanaged pets, improper use of ATVs, boats, and snowmobiles, and inappropriate parking of vehicles. For some commenters, these issues were compounded by a high turnover of guests and a lack of communication channels with owners. Some commenters also noted that owners did not care about complaints. Concerns about the loss of community and neighborhood character were expressed by multiple commenters, with some considering relocating or already having done so. Some commenters expressed concerns about property values increasing because of STRs, while others worried that their property values were decreasing due to unruly STRs on neighboring lots. Commenters mentioned concern about the impact on the availability of long-term housing due to an increasing number of residential properties being used as STRs.

2) Health, Safety, and Environmental Impacts

The most common issue reported was concern about occupancy and septic system capacity and the potential water quality impacts resulting from the failure or overuse of septic systems. Commenters expressed concern that properties are currently rented to a number of guests exceeding the design capacity of the septic system. Additionally, commenters brought up fire and drinking water well safety concerns for properties that are not owner-occupied. Regular well tests and fire safety inspections were recommended. Concerns about impacts to the shoreline from overuse of pathways and cutting trees for firewood were also expressed. Several commenters noted an increase in litter on or near STR properties. Some people mentioned changes in wildlife behavior and increased invasive plants once properties were converted to STRs.

3) Impacts on Public Services

Commenters reported situations where inappropriate parking made road passage difficult or blocked emergency vehicle access. Several participants noted that their location had long response times for emergency service calls. Others reported that they hesitate to call to report nuisance issues since they feel that first responders are busy with other emergencies. Commenters indicated a likely increase in calls for first responders/emergency services, though participating law enforcement representatives did not identify this as an issue.

Other impacts to public services identified include impacts to roads and trails due to increased vehicular traffic, including ATVs and snowmobiles, and an increase in solid waste handling and disposal costs. Several commenters noted that though STRs result in lodging tax for the State of Maine, that tax is not sent back to the location where it is generated to be used to help address these impacts.

Some commenters stated there are no issues or challenges with STRs.

In addition to comments received, commenters submitted evidence to support their claims, including videos of nuisance activity, photographs of environmental effects such as erosion and road activity, and an article discussing STR impacts on housing.

How would you define short-term rental? Do you consider them residential or commercial, and why?

STR definitions provided by participants and commenters were varied (see table below). Commenter definitions of STRs can be categorized as time-based (the length of rental stay by renters), frequency-based (in

a twelve-month period), or related to owner occupancy. A few commenters defined STRs as a residential home available for the private use of visitors or one that involves paying a third party for cleaning or ground maintenance or paying a platform to book stays.

STR Definition Comments

| Category | Definition | Options Given |
|-----------------|--|---|
| Time Based | Property Rental Duration | A few days 30 days or less Six months Less than one year |
| Frequency Based | Percentage of Year Property Rented | Rented 25% of the year Rented 75% of the year |
| Owner Occupancy | Owner Occupied During Stay Owner Occupied Portion of the Year Owner Unoccupied | 25%-75% |

Opinions were split on whether STRs are a residential or commercial use, and commenters provided a variety of methods for defining each category. Some commenters believe STRs fit under LUPC's current definition of commercial use, and considering them as a residential use is erroneous. Current LUPC definitions and standards for commercial use, residential use, and lodging were cited to support ideas about the definition of STRs. Following is a short summary:

- | Commercial Use | Residential Use |
|---|--|
| a) Lodging tax paid shows commercial use | a) Any STR Activity |
| b) Rented a percentage of the year ranging from 25-75%) | b) Owner Occupancy (to some extent - more than rental occupancy) |
| c) Homeowner/management company/LLC with multiple properties | c) A homeowner with one unit rented as an STR |
| d) LLC with any number of properties | |
| e) Any income generation (e.g., home-based business) | |
| f) Advertising of unit(s) | |
| g) Paying for services (e.g., cleaning, management, chef on site, dumpster) | |
| h) Unrelated persons staying at the dwelling | |

Several examples were provided to support commenter definitions, including court cases from the U.S. Supreme Court, Maine, Massachusetts, and Pennsylvania, as well as screenshots of advertising activity, state tax information, homeowners' association rules, Airbnb statistics, industry definitions for STRs, and articles about STR effects in communities.

What do you think of the LUPC requiring a notice for STRs? What performance standards or other rules specific to STRs should be considered, if any?

Some commenters supported the concept of a notice requirement or permit in the LUPC service area. Other commenters opposed regulation, citing concerns about the potential impact of regulation on the economy and infringement on property rights.

For those who expressed support for a notice, opinions varied about which STRs this should apply to and what should be included in a notice. Several commenters felt that a notice was insufficient and that a permit would be more effective. Several commenters, especially those with negative experiences with STRs in their neighborhood or community, stated that STRs should only be allowed in subdistricts that allow non-residential uses. Some commenters suggested that a permit should be required for all STR properties that make a profit. Other commenters felt that STRs should require notice only if it is considered a commercial or home business.

Regarding standards for STRs, there was broad support for both a standard that required contact information in case of an issue and limiting occupancy based on the capacity of the septic system. A few commenters felt that contact information and notice of STR activity should be distributed to surrounding neighbors. Standards for noise, lighting, trash disposal, parking, and buffering were also supported by some commenters. Other recommendations included adopting similar standards as those for bed and breakfast establishments, limiting the number of STRs in an area or neighborhood, or requiring a water test. One commenter suggested starting with fewer standards and increasing regulations in the future if needed.

Some commenters expressed concern about the LUPC's ability to enforce new regulations on STRs or noted that nuisance complaints may not be something the LUPC has jurisdiction over. Several referred to the use of fines for non-compliance with any new regulations or the loss of the ability to have a short-term rental if there are too many complaints/violations.

An example of a municipal STR ordinance from Cape Elizabeth was submitted by one commenter.

Additional Comments about STRs

Several commenters discussed other strategies for dealing with STR issues in a neighborhood setting. They pointed out that many STR websites provide methods for submitting complaints that reflect on both the renters and the property owner listing the STR. Some commenters felt that the same issues experienced with STRs were also possible with long-term rentals and non-rental properties. One STR owner discussed their efforts to prevent nuisance activities and provide best practices to renters in response to complaints from neighboring property owners.

Multiple commenters expressed the need for better communication between STR owners/managers and abutting landowners. One commenter who hosted an STR wished for stronger communication as well and described an experience where law enforcement did not notify them of nuisance activity that occurred at their property. Others suggested that STR owners/managers provide rules and best practices to renters. Some commenters feel that STR complaints come from a vocal minority and that most STRs cause no problem with surrounding landowners.