

## Short-Term Rental Licensing Ordinance Discussion Draft

### I. Purpose

The Town of Mount Desert recognizes the desire of some property owners to rent their legal residential unit(s) as short-term rentals. The Town of Mount Desert also recognizes that the ability for some property owners to rent their residential dwelling unit and/or their accessory dwelling unit as a short-term rental has contributed to their ability to remain as a year-round resident of the Town of Mount Desert. At the same time, there are legitimate concerns about the proliferation-increase in number of short-term rentals and the undue impacts they can have on the quality of life and quiet enjoyment of properties within the vicinity of short-term rentals. It is the intent of this ordinance to allow the continued reasonable short-term rental of legal residential properties in the Town of Mount Desert, while minimizing the negative impacts said short-term rentals can/could generate. This will be accomplished by a licensing program that enables the Town to monitor and track the proliferationnumber of short-term rentals within its borders and includes modest performance standards intended to protect property owners, renters, and neighbors.

### II. Applicability

- A. Permitted short-term rentals. Legally existing residential dwelling units may be used as short-term rentals upon the issuance of a short-term rental license for the premises in accordance with the requirements of this ordinance.
- B. Prohibited short-term rentals. No person may offer for rent, operate, or otherwise use any residential dwelling unit in the Town of Mount Desert for short-term rentals if such person has not secured or maintained a valid short-term rental license for the premises.
- C. Lodging establishments exempt. The following lodging establishment uses are exempt from the licensing requirements and standards of this chapter: hotels, motels, bed-and-breakfasts, and inns.
- D. Hosted home stays exempt. Hosted home stays are exempt from the licensing requirements and standards of this chapter.

### III. 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.

### IV. Definitions

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

ADVERTISING — Any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed

through various media, including, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.

**HOSTED HOME STAY** — A residential dwelling unit that is the owner's residence; is occupied, including overnight, by such Owner during the short-term rental period. In the case of a one-family residential dwelling with a legally permitted accessory residential dwelling unit, the owner shall reside in either unit during the short-term rental period. There is no minimum night stay required for hosted home stay short-term rentals.

Commented [NM1]: What about guest houses

**OWNER** — An individual person or persons or an entity that is the owner of record of real property as documented by deed or other document evidencing ownership recorded at the Hancock County Registry of Deeds.

**RESIDENTIAL\_DWELLING UNIT** — As defined in the Town of Mount Desert Land Use Zoning Ordinance.

**SHORT-TERM RENTAL** — The use, control, management or operation of a legally existing dwelling unit offered, in whole or in part, for rent for transient occupancy for dwelling, sleeping or lodging purposes for fewer than ~~30~~28 consecutive daysnights, for compensation, directly or indirectly, excluding motels, hotels, bed-and-breakfasts, inns, and ~~residential rental accommodations-hosted home stays~~. A short-term rental does not include legally existing dwelling units that are rented no more than twice per calendar year and for less than a total of 14 days in a calendar year.

**SHORT-TERM RENTAL GUEST** — Any person who rents, licenses, occupies or has the right to occupy a dwelling unit for less than ~~30~~28 consecutive daysnights.

## V. Requirements

- A. License required. No short-term rental shall be advertised, rented, or operated without first obtaining a short-term rental license. A short-term rental license shall be valid for the calendar year for which the license is issued. The property must remain in compliance with the short-term rental license for the calendar year in which the license is issued.
- B. Registration Procedure.
  1. All applications, and associated fees, for short-term rental licenses shall be filed with the Town on forms provided for this purpose.
  2. The applicant shall provide all the information requested on the short-term rental registration application form, including, ~~but not limited to,~~ the following information: owner or owner's representative contact information, property information, number of tenants allowed, and emergency contact information.
  3. A proposed short-term rental may only be registered by the legal owner of the proposed short-term rental unit or an authorized representative.
  4. Non-refundable fees for a short-term rental registration/renewal shall be as adopted, by order of the Board of Selectmen for the Town of Mount Desert, and may be amended from time to

time. Such fee must be submitted with the registration form at the time of registration and/or renewal.

5. A registration number will be given to each unit registered. Registrations are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

6. The Board of Selectmen shall establish fees for the licensure of short term rentals.

- C. Inspection. Anytime that a short-term rental application is submitted for a property, the short-term rental applicant shall certify on the short-term rental application that the proposed short-term rental property complies with the short-term rental standards in this ordinance and with applicable Building Code requirements. The Code Enforcement Officer may inspect the licensed premises to determine compliance with the short-term standards. However, said inspection shall not be required as a condition of license issuance.
- D. Short-term rental license renewal. Short-term rental licenses shall expire on December 31 of each calendar year. Short-term rental license holders may renew such license by submitting a renewal application, via a renewal process established by the Town. After the effective date of this ordinance, any duly licensed short-term rental may continue operating as long as the license is current and renewed for the current calendar. If the license is not renewed by the expiration date the license expires, and this protection clause no longer applies. Any renewal application received after the advertised deadline for submission shall be considered late and deemed a new application.
- E. Transferability.
  1. Short term rental licenses issued under this ordinance shall not be transferable to a new owner or location. Any change of ownership shall require a new license. Short term rental licenses issued under this ordinance shall be transferable to a new owner as of the day the new owner acquires possession of the property and shall expire on December 31. A new license shall be required the following year.
- F. Notice. The short-term rental license holder must post in plain sight near the entrance to the short-term rental a notice that identifies the short-term rental license number and the name, address, phone number(s), and email address of the owner of the short-term rental and/or the owner's local contact person.

**Commented [NM2]:** Add clarity if needed as to when the CEO would inspect.

## VI. Standards

- A. At the time of issuance of a license, the property taxes and any applicable water and/or sewer fees associated with the property to be rented as a short-term rental shall not be in arrears.
- B. Street number per Town 911 standards
- C. Smoke alarms. Smoke alarms shall be installed in each bedroom, outside each separate sleeping area in the immediate vicinity of the bedrooms, and on each additional story of the dwelling (including basements and habitable attics).

- D. Carbon monoxide alarms. If a house has an attached garage or a fuel-fired appliance, a carbon monoxide alarm shall be installed outside each bedroom in the immediate vicinity of the bedrooms.
- E. Gas alarms per state rules
- F. Portable fire extinguishers. At least one appropriately sized portable fire extinguisher shall be mounted in a prominent location.

~~G. Sanitary waste disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Maine Subsurface Wastewater Disposal Rules or that the property is served by public sewer. This shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. The total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate.~~

- H. Parking. Tenants and guests of short-term rentals are prohibited from parking in a manner that impedes access by emergency vehicles to the property or any other property in the neighborhood. The owner must provide sufficient off-street parking for all overnight guest vehicles. The number of guest vehicles allowed at the short-term rental shall be limited to the number of off-site parking spaces designated by the applicant. Garage parking spaces not allowed for tenant use shall not be used to meet this short-term rental parking requirement.
- I. Trash shall be removed on a weekly basis while the property is being rented as a short-term rental.
- J. Occupancy limits. The maximum tenant occupancy of a short-term rental shall be limited to no more than two tenants per bedroom, plus two additional tenants total for the entire dwelling unit. By way of example, the maximum tenant capacity for a three-bedroom dwelling short-term rental is eight tenants (i.e., three bedrooms multiplied by two tenants, plus an additional two tenants, for a total of eight).

## VII. Suspension and Revocation of License

A license for a short-term rental may be conditioned, suspended, or revoked by the Board of Selectmen after a public hearing if the Board of Selectmen determine that a violation of this Ordinance, any applicable statute, ordinance, or regulation, or short-term rental license certification, condition, or criteria has occurred.

- A. Violations of this chapter. Violations of this chapter include, but are not limited to, the following:
  - 1. Providing false or misleading information on an application, or renewal application, for a short-term rental license;
  - 2. Failure to comply with the parking provisions of this ordinance;
  - 3. Failure to acquire and/or display the required short-term rental license number or include the license number in any advertising of the licensed premises;
  - 4. Violation of any short-term rental license certification, condition, or criteria;
  - 5. Violation of any statute, ordinance, or regulation applicable to the short-term rental property.

**Commented [NM3]:** Confirm decision to leave this in now that the sanitary waste section was being deleted

**Commented [NM4]:** Public Comment: will this create an illegal listings issue with the places that are exempt due to advertising

- B. Complaints concerning short-term rentals. The Code Enforcement Officer shall establish and maintain a log of all complaints for each short-term rental received and substantiated by the Town. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the short-term rental license holder.
- C. Suspension or revocation of license. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the short-term rental license, the Code Enforcement Officer shall provide a report of the same to the Board of Selectmen for its consideration. The Board of Selectmen may condition, suspend, or revoke a short-term rental license, following a public hearing, on the basis of the licensee's noncompliance with this chapter, any applicable law, ordinance, or regulation, or short-term rental license certification, condition, or criteria. Registrants who have previously had a registration(s) revoked pursuant to this Ordinance, shall be allowed to obtain a license for the subject property in the future only by order of the Board of Selectmen.
- D. Appeal. Any person aggrieved by the decision of the Board of Selectmen to suspend or revoke a short-term rental license may appeal the decision of the Board of Selectmen to Superior Court, pursuant to Maine Rule of Civil Procedure 80B, within 30 days of the Board of Selectmen's decision.

#### **VIII. Violations and penalties; enforcement**

- A. In the event the owner or owner's short-term rental guests violate this chapter or the terms and conditions of the license, the Town, in addition to the suspension or revocation of the then-current license pursuant to Section VII above, may also prohibit the owner from licensing the dwelling unit for 12 months following the current licensing expiration date, after which the owner may submit a new application for licensure.
- B. Violations shall also be subject to fines and penalties as set forth in this section and in a penalty schedule established by the Board of Selectmen.
- C. Any such fines or penalties may be in addition to any suspension or revocation imposed in accordance with the provisions of this ordinance.
- D. The Town may institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this chapter. In any court action, the Town may seek injunctive relief in addition to or instead of fines/penalties. The Town shall be entitled to recover its costs of enforcement, including its reasonable attorneys' fees.

#### **IX. Additional regulations.**

The Board of Selectmen may adopt regulations implementing the provisions of this chapter.

**Commented [NM5]:** Reviewing this section with Town's attorney

**Commented [NM6]:** Working on revisions language to clarify that amendments would need to go to town meeting