

Town of Mount Desert
Short-Term/Vacation Rental Licensing Ordinance

I. Purpose

The Town of Mount Desert recognizes that the ability for some year-round property owners to rent their residential dwelling unit and/or 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 increase in number of vacation rentals and the undue impacts they can have on the year-round community and quality of life of the Town. The purpose of this ordinance is to establish a licensing program to enable the Town of Mount Desert to monitor, track, and regulate short-term rentals and vacation rentals in the Town and to institute performance standards intended to protect property owners, renters, and neighbors from potential negative impacts.

II. Applicability

- A. This Ordinance only regulates business licensing of rental units [and does not constitute land use regulation.
- B. For the purposes of this ordinance a seasonal vacation rental shall be treated the same as a short-term rental.
- C. Permitted short-term rentals and vacation rentals. Residential dwelling units may be used as short-term rentals or vacation rentals upon the issuance of a short-term rental or vacation rental license for the premises in accordance with the requirements of this ordinance.
- D. Prohibited short-term rentals and vacation 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 or vacation rentals if such person has not secured and maintained a valid short-term rental or vacation rental license for the premises.
- E. Lodging establishments exempt. The following lodging establishment uses are exempt from the licensing requirements and standards of this chapter: hotels, motels, bed-and-breakfasts, boarding houses, and inns.
- F. A short-term rental or vacation rental does not include dwelling units that are rented for less than a total of 15 days in a calendar year or when relatives and friends stay for no monetary compensation.

III. Validity and Severability

If any provision 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:

LICENSEE – The holder of a license to operate a short-term rental or vacation rental.

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 or Registry of Probate.

RESIDENTIAL DWELLING UNIT — This term shall have the meaning provided for that term in the Town of Mount Desert Land Use Zoning Ordinance, as may be amended from time to time.

SEASONAL VACATION RENTAL - The rental of a seasonal dwelling unit, or portion thereof, for occupancy for dwelling, sleeping or lodging purposes for periods of fewer than twenty-eight (28) consecutive nights, for compensation, directly or indirectly. These structures lack one of more of the basic amenities or utilities required for all-year or all-weather occupancy. are occupied only seasonally. Typically the dwelling unit is occupied or used for less than 180 days per calendar year and water service (either via well or public water) is available only seasonally. ~~do not contain insulation, or whole house heating, ventilation, and air conditioning (HVAC) systems, do not have a year round subsurface wastewater disposal system installed, and the electric service is limited a 100 AMP system. Any heating appliance shall not have a fuel supply attached capable of heating the structure for more than 24 hours.~~ For the purposes of this ordinance a seasonal vacation rental shall be treated the same as a short-term rental.

SHORT-TERM RENTAL — The rental of a dwelling unit, or portion thereof, for occupancy for dwelling, sleeping or lodging purposes for periods of fewer than twenty-eight (28) consecutive nights, for compensation, directly or indirectly. A short-term rental is owned by the licensee as their primary residence.

PRIMARY RESIDENCE – The dwelling unit a person or persons registers as their address for tax and government identification purposes, and where he or she resides for more than half of the year.

VACATION RENTAL – A residential dwelling unit, or portion thereof, that is not a primary residence and is rented to guests for dwelling, sleeping or lodging purposes for periods of fewer

than twenty-eight (28) consecutive nights, for compensation, directly or indirectly, excluding motels, hotels, bed-and-breakfasts, boarding houses, and inns.

V. Requirements

- A. No short-term rental or vacation rental shall be advertised, rented, or operated without the owner first obtaining a short-term rental or vacation rental license. No short-term rental or vacation rental license shall be issued to an owner unless and until the short-term rental or vacation rental is in compliance with the requirements and standards of this ordinance.
- B. A short-term rental or vacation rental license shall be valid only for the calendar year in which the license is issued (i.e. all short-term rental and vacation rental licenses expire on December 31 of each year).
- C. The applicant shall provide all the information requested on the short-term rental or vacation rental license application form(s).
- D. Any time that a short-term rental or vacation rental application is submitted for a property, the applicant shall certify on the application that the proposed short-term rental or vacation rental property complies with the standards in this ordinance.
- E. A short-term rental or vacation rental may only be registered by the legal owner of the property or an authorized representative designated in writing.
- F. Non-refundable fees for a short-term rental licenses or vacation rental licenses shall be as adopted by order of the Board of Selectmen for the Town of Mount Desert, as may be amended from time to time. Such fee must be submitted with the application form at the time of registration and/or renewal.
- G. 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.

VI. License Application

- A. All applications for short-term rental and vacation rental licenses shall be filed with the Town on forms provided for this purpose.
- B. At a minimum, each applicant for a short-term rental or a vacation rental license shall provide the following information:
 - 1. The street address of the property and unit number, if applicable.

2. The name of the owner of the property and the owner's address or the owner's representative address and contact information.
3. The number of short-term rental guests or vacation rental guests allowed.
4. Emergency contact information.
5. Whether the license is for a short-term rental or a vacation rental.
6. Self-compliance affidavit indicating compliance with the standards of this ordinance.

VII. License Procedure – Short-Term Rentals

- A. The first effective license cycle of this Ordinance will be from January 1, 2025 until December 31, 2025. Thereafter, short-term rental license renewals shall be required on an annual basis.
- B. Initial Annual License Cycle Application Period. Prior to the first effective license cycle, short-term rental license applications may be submitted to the Town any time prior to March 1, 2025.
- C. License Renewals. 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. Applications for renewals will be accepted until March 1 of each calendar year. Any renewal applications received after March 1 will be considered late and will be subject to a late fee at a rate established by the Mount Desert Board of Selectmen.
- D. First time applications following March 1, 2025. First time license applications after March 1, 2025, may be completed at any time during a calendar year. For the purposes of this Ordinance "first time applications" shall include property owners wishing to license their short-term rental units for the first time, or after more than one year's lapse of a previously issued license.

VIII. License Procedure – Vacation Rentals.

- A. The first effective license cycle of this Ordinance will be from January 1, 2025 until December 31, 2025. Thereafter, vacation rental license renewals shall be required on an annual basis.
- B. Initial Annual Registration Cycle. The first effective license cycle of this Ordinance will be from January 1, 2025 until December 31, 2025. License applications for vacation rentals may be submitted to the Town any time prior to March 1, 2025. Applications received after March 1, 2025 will be processed as first-time applications, per Section VIII.C on a space available basis until the limits described in Section VIII.E have been reached. After

the initial registration cycle, any duly licensed vacation 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, then the license expires, and the unit then loses the licensed protection provided by the registration.

- C. First time Applications. After the initial annual registration cycle, subject to the availability of vacation rental licenses, first time license applications may be submitted for processing at any time during a calendar year. For the purposes of this Ordinance, “first time applications” shall include property owners wishing to license their vacation rental units for the first time, or after more than one year’s lapse of a previously issued license.
- D. License Renewals. Vacation rental license holders may renew such license by submitting a renewal application, via a renewal process established by the Town. Applications for renewals will be accepted until March 1 of each calendar year. Any renewal applications received after March 1 will be considered late and will be subject to a late fee at a rate established by the Mount Desert Board of Selectmen. Late renewal applications will be processed with first-time applications on a space available basis until the limits described in Section VIII.E have been reached.
- E. Maximum number of vacation rental registrations.
 - 1. The Town-wide maximum number of vacation rental licenses that may be issued shall not exceed 10% of the Town's total number of dwelling units. The total number of dwelling units shall be determined by the Assessor as of April 1 of each year.
 - 2. There will be no cap on the number of applications for vacation rentals in the initial registration cycle. ~~In the event that more applications are received during the initial registration cycle (as described in Section VIII.B above) than the allowable number of licenses, the Board of Selectmen will increase the number of registrations issued, during the first registration cycle only, by order.~~ After the initial registration cycle, any duly licensed vacation 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, then the license expires, and the unit then loses the licensed protection provided by the registration.
 - 3. In the event that the Board of Selectmen receives more applications during any subsequent registration cycle than the allowable number of licenses the town shall establish a wait list. Licenses on the wait list shall be awarded on a space available basis based on the order in which the applications were received. ~~First priority shall be given to renewal applicants who submit a late renewal registration application and shall be awarded on a space available basis based on the order in which the renewal applications were received. First time applications will be given second priority and shall be awarded on a space available basis through a lottery process held by the~~

~~Board of Selectmen after timely renewal and late renewal applications have been approved.~~

IX. Transferability.

- A. Short-term Rental Licenses. 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 at the end of that same calendar year, and shall be subject to treatment as a new "vacation rental" if the ownership and use by the new owner meets the definition of that term.
- B. Vacation Rental Licenses. Vacation 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, except transfers of the real estate and related license in a permitted transfer.
 - 1. A "permitted transfer" is a transfer of the subject real estate and the related license to a permitted transferee. A "permitted transferee" includes 1) another current owner of the subject real estate; 2) the spouse, parent(s), child(ren) and/or grandchild(ren) of a current owner; 3) a trust for the benefit of a current owner, a current owner's spouse or parent(s), a current owner's child(ren) and/or grandchild(ren) of a current owner; or 4) for estate planning purposes, a trust, limited-liability company (LLC), corporation or other entity, as long as the beneficiaries of the trust or owners of the entity, as applicable, are a current owner, a current owner's spouse or parent(s), a current owner's child(ren) and/or grandchild(ren) of a current owner. In the case of a transfer to a permitted transferee, the permitted transferee shall become a "licensee" and an "owner," and the definition of "permitted transferee" shall apply to the new licensee/owner.
- C. Licensees/owners shall be required to certify that they comply with the provisions of this section annually and that they have not engaged in any transfers, or been transferees in any transfers, that are not permitted transfers.
- D. Licenses are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

X. Inspection.

- A. ~~Any time that a short term rental or vacation rental application is submitted for a property, the applicant shall certify on the application that the proposed short term rental or vacation rental property complies with the standards in this ordinance and with applicable Building Code requirements.~~ The Code Enforcement Officer or designee may inspect the licensed premises to determine compliance with the short term standards of

this ordinance. However, said inspection shall not be required as a condition of license issuance.

XI. Notice.

- A. The licensee must post a notice that identifies the short-term rental or vacation rental license number and the name, address, telephone number(s), and email address of the owner's local contact person, and the maximum number of short-term rental or vacation rental guests allowed. This notice shall be readily available inside each dwelling being used as a short-term rental or vacation rental.

VI. Standards

At the time of issuance of a license, and at all times during the continuance of a short-term rental or vacation rental license, the following minimum standards shall be met.

- A. The property taxes and any other applicable town fees associated with the short-term rental or vacation rental property shall not be in arrears;
- B. Street numbers, if applicable, shall be compliant with Town 911 standards.
- C. Smoke alarms. Smoke alarms shall be installed in each bedroom, outside each separate area used for sleeping, and on each story of the short-term rental unit (including in basements and in habitable attics).
- D. Carbon Monoxide Detectors. Carbon monoxide detectors shall be installed in compliance with Title 25 of the Maine Revised Statutes, as may be amended from time to time (25 M.R.S. § 2468, as amended).
- E. Fuel Gas Detectors. Fuel gas detectors shall be installed in compliance with 25 M.R.S. § 2469, as amended.
- F. Subsurface wastewater disposal system. The short-term rental or vacation rental must have a subsurface wastewater disposal system that complies with all applicable standards of the Subsurface Wastewater Disposal Rules.
- G. Portable fire extinguishers. At least one appropriately sized portable fire extinguisher shall be mounted in a prominent location within the short-term rental or vacation rental unit.
- H. Parking. Short-term rental or vacation rental guests and their guests 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 or vacation rental shall be limited to the number of off-site parking spaces designated by the applicant. Garage parking spaces not allowed for short-term rental or vacation rental guest use shall not be used to meet this parking requirement.~~

- I. Advertising. It shall be unlawful to advertise occupancy or use of a short-term rental or vacation rental that has not been licensed. Licensed short-term rentals or vacation rentals in good standing may advertise for use or occupancy beyond the current licensing year. For the purposes of this section, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade, or direct viewers, readers or listeners to contract for units, goods and/or services as may be viewed through various media included, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages. The short-term rental or vacation rental advertising must be consistent with the terms of the short-term/vacation rental license.
- J. Trash shall be removed from the short-term rental or vacation rental unit on at least a weekly basis while the property is being rented as a short-term/vacation rental.
- K. Occupancy limits. The maximum occupancy of a short-term rental or a vacation rental shall be limited to no more than two guests per bedroom, plus two additional guests total for the entire dwelling unit. By way of example, the maximum capacity for a three-bedroom dwelling short-term rental or vacation rental is eight guests (i.e., three bedrooms multiplied by two short-term rental or vacation rental guests, plus an additional two short-term rental or vacation rental guests, for a total of eight short-term rental or vacation rental guests).

VII. Violations and Enforcement

A. Violations and Enforcement

- 1. Violation of operation without a registration. It shall be a violation of this Ordinance for any person to advertise for rent, rent, or operate a short-term rental or vacation rental without a valid license.
- 2. Violation of registration. The Code Enforcement Department shall enforce the provisions of this Ordinance and the terms and conditions of licenses issued hereunder, and the Code Enforcement Officer or designee shall have authority to investigate all alleged violations of this Ordinance or of said licenses. If after investigation, the Code Enforcement Officer or designee finds that any provision of this ordinance or any term or condition of any such license is being violated, written notice of such violation shall be given to the owner and/or to any other person responsible for such violation by certified mail, return receipt requested. Such a

notice shall describe the nature of the violation and the action that needs to be taken within a reasonable time (as determined by the Code Enforcement Officer or designee) to correct the violation, including discontinuance of the illegal use of land, buildings, structures or units. A copy of such notice shall be submitted to the Select Board and shall be maintained as a permanent record.

B. Enforcement; Fines and Penalties

If, after notice given by the Code Enforcement Officer or designee, the violation is not abated or corrected, any person who continues to violate any provision of the Ordinance or license issued hereunder shall be subject to fines and penalties as set forth in a penalty schedule established by the Board of Selectmen. Each day of each violation shall be considered a separate violation. Any such fines or penalties may be in addition to any suspension or revocation imposed in accordance with other provisions of this ordinance. The Board of Selectmen or its authorized agent(s) are hereby authorized to enter into administrative consent agreements for the purposes of eliminating violations of this Ordinance.

In addition to local administrative proceedings to address violations of this Ordinance, the Town may also 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 Ordinance. In any administrative enforcement or court action, the Town may seek injunctive relief in addition to fines and penalties. The Town shall be entitled to recover its costs of enforcement, including its reasonable attorneys' fees, court costs, and out-of-pocket expenses.

C. Appeals

The Board of Appeals may, upon written application of an aggrieved party received by the Town Office within 30 days of any decision or enforcement action by a municipal official or municipal body that interprets or applies this Ordinance, hear appeals from such decision. For purposes of this section, the term "decision" is limited to an order, decision, or enforcement action made in writing by the Code Enforcement Officer or designee.