



TOWN OF KITTERY
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REPORT TO TOWN COUNCIL

Meeting Date: February 10, 2020
From: Kendra Amaral, Town Manager
CC: Dutch Dunkelberger, Planning Board Chair
Subject: Title 5 – Short Term Rental

FOR YOUR INFORMATION

OVERVIEW

Short Term Rental regulation has been listed on the Town Council's and Planning Board's objectives lists for a number of years. The recent Accessory Dwelling Unit ordinance amendments put the Short Term Rental (STR) effort on a critical path.

The proposed ordinance focuses on tracking and monitoring STRs in town, rather than restricting them. It is not conceived as a land-use regulation, rather a licensing requirement. For this reason, the proposal is to amend Title 5 rather than Title 16.

By adopting this ordinance, the Town will be more informed about where and how many STRs exist. That information will allow the Town to more effectively address any issues that arise in the future.

PROCESS

The STR ordinance was developed utilizing examples from municipalities in Maine and New Hampshire and the Town's own existing licensing code. The draft ordinance has been reviewed by the Kittery Land Issues Committee, Code Enforcement and our public safety departments.

More recently, Planning staff met with a group of interested citizens to discuss the proposals and their observations and concerns regarding the proposed ordinance. A member of the group has been invited to join the Council and Planning Board workshop.

PROPOSED ORDINANCE

The STR ordinance was developed to allow short term rental operations in residential dwelling units with the goal of protecting the quality of life of the surrounding residential neighborhood from unreasonable or unsafe intrusions and nuisances inappropriate to a residential setting.

The ordinance would apply to any residential dwelling unit, or portion thereof used for rental of less than 30 days. Rentals that exceed thirty consecutive days, hotels, motels, boarding houses, and other type commercial operations are exempted.

The proposed ordinance requires property owners to license their short-term rental annually. This will allow the Town to record and track how many short-term rentals are in Kittery. The Town staff will utilize technology to determine if there are unlicensed STR units advertised and follow-up with notice and possible enforcement.

The ordinance has generally low-threshold standards for the license including having an emergency contact on file, providing adequate parking for guests, and ensuring rooms are not being overcrowded to a level that is unsafe.

A license can be denied (or denied renewal), suspended or revoked if there are three or more substantiated complaints of criminal or ordinance violations. This provides some recourse to address the concern of noise, disturbing the neighborhood peace, parking intrusions and other issues that are feared from STR units.

The overall intent is to be as permissive as possible with STRs while providing some level of recourse if STRs are a disproportionate cause of disturbance in a neighborhood.

NEXT STEPS

- February – Workshop with Planning Board
- February – Schedule Public hearing on proposed ordinance
- March – Public hearing and vote on proposed ordinance

No action of the Council is required at this time. I encourage you to review the proposed ordinance and provide any questions, concerns, and/or feedback.

ATTACHMENTS

- Proposed Title 5 – Short Term Rental
- Kittery AirDNA data
- Comments and information received from citizens

ADD 5.12 SHORT TERM RENTAL as follows:

1 §5.12.1 Purpose

2 The use and intent of these regulations is to ensure that any home-based short term rental
3 business operates in a manner that respects the neighborhood in which it is situated. The
4 regulations allow short term rental operations in residential dwelling units with the goal of
5 protecting the quality of life of the surrounding residential neighborhood from unreasonable or
6 unsafe intrusions and nuisances inappropriate to a residential setting.

7
8 §5.12.2 Definitions

9 Owner means a person who is the owner of record of real property as documented by deed or
10 other document evidencing ownership recorded at the York County Registry of Deeds.

11 Short-term rental means the use, control, management or operation of a dwelling unit or
12 accessory dwelling unit, in whole or in part for dwelling, sleeping or lodging purposes for
13 periods of less than 30 consecutive days; for compensation, directly or indirectly.

14 § 5.12.3 Applicability

15 A. This Chapter applies to any residential dwelling unit, room within a dwelling unit, or
16 accessory dwelling unit that is rented, in whole or in part, for a period of less than thirty
17 consecutive days, for compensation, directly or indirectly.

18 B. Exclusions. Excluded from this chapter are:

19 (1) Dwelling units used, in whole or in part, for dwelling, sleeping or lodging purposes for
20 periods 30 consecutive days or greater.

21 (2) Lodging establishments such as hotels, motels, bed and breakfasts, inns, boarding or
22 rooming houses.

23 C. Nothing contained in this Chapter shall supersede any condominium, homeowner, or
24 restrictive deed covenants that apply to dwelling unit.

25 § 5.12.4 License Required

26 A. No person shall advertise or operate a short-term rental without a license issued by the Code
27 Enforcement Officer.

28 B. Non-refundable fees for the license are set out in Appendix A.

29 C. Short-term rental licenses must be renewed on an annual basis. Each license issued under
30 this chapter expires one year from issuance.

31 D. Each licensee will receive a certificate issued by the Code Enforcement Officer stating the
32 license number, valid license period, the name and emergency contact information of the
33 operator of the short-term rental and the name and contact information of the property owner.

34 E. Each license issued is not transferrable to any other person, or from location to location, and
35 is valid only at the location and for the person designated. Any change in ownership of the
36 dwelling unit will require a new license.

37 § 5.12.5 Standards

38 A. Owner: Only the owner of the property can register the dwelling unit to be used for short-
39 term rental.

40 B. Occupancy limits. No more than one rental contract is allowed per dwelling unit at any one
41 time. Only two guests per bedroom are allowed.

42 C. Property Taxes Current. No property may be licensed for short-term rental if the property has
43 an existing foreclosure or lien from the Town for non-payment of taxes.

44 D. Assessment. A licensed property must be inspected by the Town Assessor and properly
45 assessed as income-producing for personal property tax purposes.

46 E. Emergency Contact. The owner must provide their emergency contact information or identify
47 a person that will serve as an agent or representative for emergency contact purposes. The
48 emergency contact person must be able to respond to complaints regarding the condition,
49 safety or operation of the dwelling unit as a short-term rental, or the conduct of guests, and
50 take remedial action to resolve such complaints. The owner must notify the Town and
51 provide updated contact information if the contact person or information changes.

52 F. License number. Licenses will be issued with a unique license number. The license number
53 must be displayed within the dwelling unit and in all advertising for the short-term rental of
54 the dwelling unit.

55 G. Parking. The owner must provide sufficient on-site parking to serve the residential dwelling
56 unit(s) and the short-term rental unit(s) on the property. The total number of on-site parking
57 spaces will be the calculated as the number of spaces required for the dwelling unit per
58 Chapter 16.8.9.4 plus one parking space for each short-term rental unit on the property.

59 § 5.12.6 Complaints

60 Complaints of criminal or ordinance violations associated with the operation of short-term
61 rentals brought to the attention of the Code Enforcement Officer or Police Department will be
62 logged and investigated.

63

64 § 5.12.7 Denial, Suspension, or Revocation of License

65 A. Denial. The Code Enforcement Officer may deny a license or license renewal upon failure of
66 the applicant to meet all of the requirements of this Chapter, or for three or more
67 substantiated complaints within the prior twelve months.

68 B. Suspension or revocation. The Code Enforcement Officer may suspend or revoke a license
69 for violation of any provisions of this Chapter, or for three or more substantiated complaints
70 within a twelve-month period.

71 a. A license may be suspended for no longer than six months, during which time the
72 dwelling unit may not be used as a short-term rental.

73 b. A license may be revoked and cannot be reissued for twelve months. The Code
74 Enforcement Officer may authorize the reissuance of a license if they find sufficient
75 corrective action has been taken to prevent the violations in the future.

76 § 5.12.8 Violations

77 A. Any violation of this Chapter will be assessed a penalty of \$500. Each day any violation of
78 this Chapter continues constitutes a separate offense.

79 **AMEND Appendix A as follows:**

80 **Chapter 5.12 SHORT TERM RENTAL**

81 Short term rental license \$100

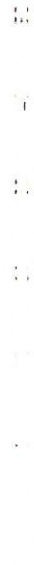
Kittery 03904 – Data from AirDNA website

56 Active Rentals

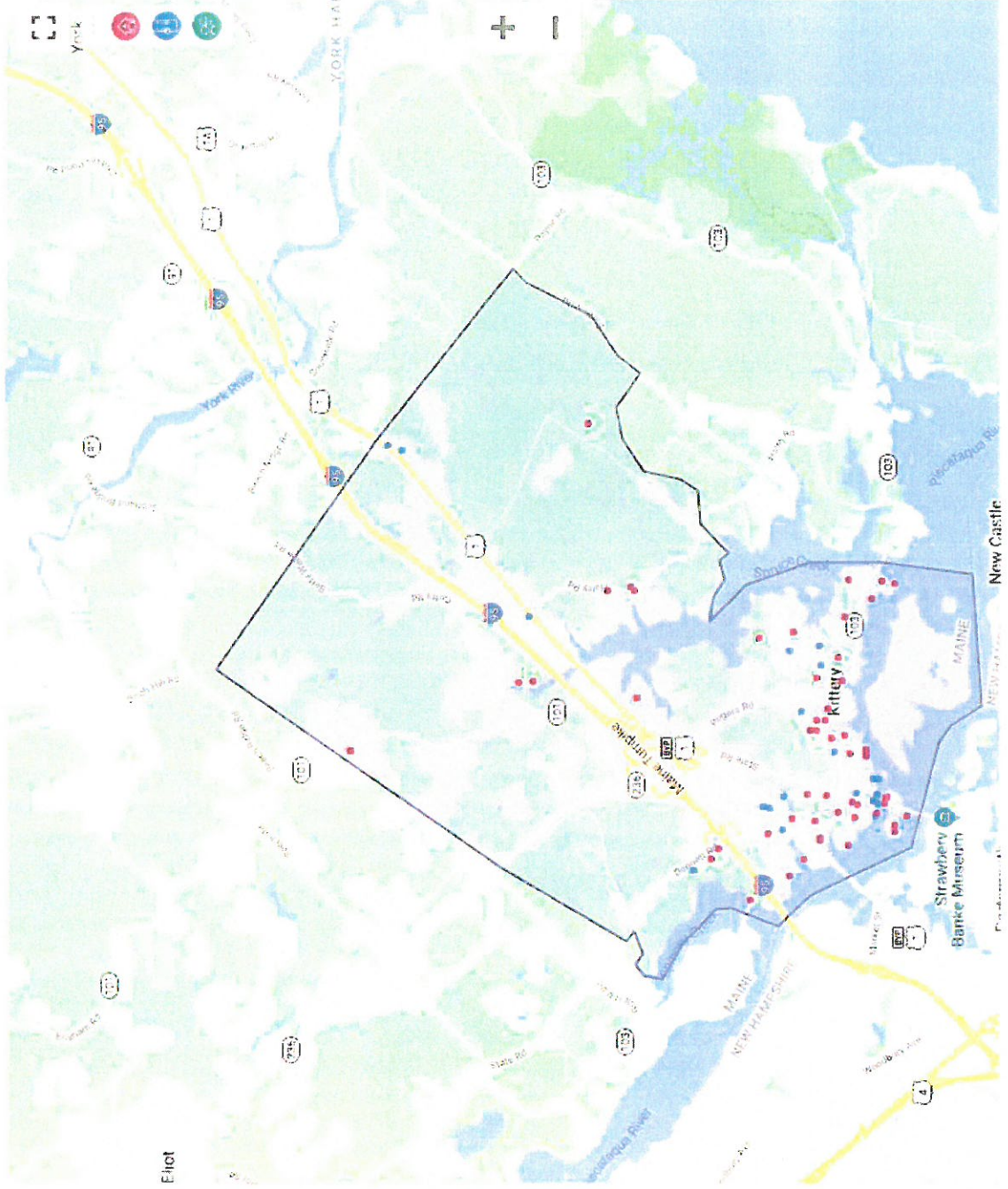
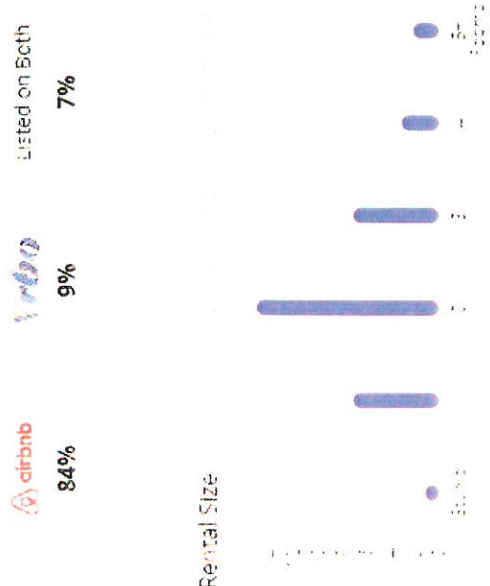
Rental Type



Rental Channel



Rental Size



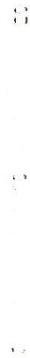
Kittery Point 03905 – Data from AirDNA website

29 Active Rentals

Rental Type



Rental Channel



Rental Size



Kittery AirBNB / Homeaway Statistics

03904

<https://www.airdna.co/vacation-rental-data/app/us/maine/kittery/03904/overview>

63 Active Rentals
46 Entire Home
17 Private Room

1 Studio
10 1-bed
19 2-bed
8 3-bed
5 4-bed
3 5+-bed

38% 1-night minimum stay
44% 2-night minimum stay
10% 3-night minimum stay
4% 4-6 night minimum stay
1% 7-29 night minimum stay
1% 30 night minimum stay

03905

<https://www.airdna.co/vacation-rental-data/app/us/maine/kittery-point/overview>

31 Active Rentals
29 Entire Home
2 Private Room

0 Studio
3 1-bed
8 2-bed
11 3-bed
4 4-bed
3 5+-bed

12% 1-night minimum stay
44% 2-night minimum stay
16% 3-night minimum stay
8% 4-6 night minimum stay
16% 7-29 night minimum stay
4% 30 night minimum stay

Totals

94 Active Rentals
75 Entire Home
19 Private Room

1 Studio
13 1-bed
27 2-bed
19 3-bed
9 4-bed
6 5+-bed



Neighborhood Support

We know that issues can come up in any community. It's usually fastest to communicate directly with your neighbor to address concerns related to home sharing, but you can also call or message us below for additional support. If you have a concern unrelated to your neighborhood, please visit our [Help Center](#).



Is this an emergency?

Call **911** to contact local police or other emergency services if someone is in danger or injured.



Is there a party or disturbance nearby?

Call the Neighborhood Support team at **+1 (855) 635-7754** to report an issue.

You'll be taken outside of Airbnb to call local emergency services. Use of this feature is subject to our policy.

[Read our policy](#)

For non-urgent neighborhood concerns, send us a message

Select a topic to get started. Which of these topics is your concern about?

Noise or party

Neighborhood concerns

Personal safety

Other




Noise or party

We know excessive noise or a party can be frustrating. Complete the form below and we'll get to the bottom of it.

Do you have the link to the Airbnb listing for this home? It'll help us to contact the host faster.

- Yes**
I have the link to the listing
- No**
I only know the address

What happens when you share a concern?

-  After you complete the form, you'll get a confirmation email with a case number.
-  Our team will review your concern. If we match it with an active Airbnb listing, we'll get in touch with the host.
-  We'll follow up with you after additional investigation. If we need to, we'll reach out for more information.

too much time, effort, and money into our renovations to have them destroyed in a weekend. We did decide to deny a booking last year that didn't seem like a good fit.

- We do not allow parties, per our house rules and guests are required to agree to that stipulation prior to renting.
- We provide off-street parking and strongly recommend that guests use it, rather than parking on our narrow street.

It is unfortunate that a few problem rentals might impact what we think are the majority: responsible hosts who are able to diversify their income, in a variety of living situations. We question whether a short-term rental ordinance is really necessary – couldn't the problem rentals be addressed by current city ordinances, related to noise and parking? Could those ordinances be modified, instead of crafting new legislation, to better address current town issues and have penalties that would better encourage responsible rentals? Does the town have the resources available to effectively enforce a short-term ordinance?

We've seen a draft of the short-term rental ordinance from October 2019 and realize that it probably has undergone some revisions since then. We do have some concerns or questions about that version of the ordinance:

1. The restriction of 2 guests per bedroom: this doesn't adequately consider a common rental scenario, that of rentals by families. We find that is one of our more frequent types of rentals, those who want an alternative to a hotel, to be able to make breakfast and lunch at the house, instead of going out to all their meals. Where do children fit in, to the guest limit per bedroom? Will two adults and one child in a bedroom violate the ordinance?
2. When will the ordinance go into effect and how will it be enforced for current hosts, who already have rentals in place? We currently have bookings from April through September 2020 on the books.
3. What specific complaints will be considered a violation? Who will verify the complaint and will hosts have the opportunity to dispute a complaint? We feel this process is going to be very important for hosts, community members, and the town, and should be more clearly outlined, to avoid the need to modify the ordinance in the future.
4. If a property has been renting to more than one group at a time (for example, a room in a home as well as an apartment over a garage) can the owner apply for more than one license, to continue the same revenue stream?
5. If short-term rentals are going to be regulated, in all fairness shouldn't long-term rentals be as well? There could easily be similar noise or parking issues that aren't properly addressed by an absent owner. There should be the same restrictions as far as number of renters per bedroom, requirement to register with the town, required number of

February 3, 2020

I am writing to you today in advance of the planned workshop between the town council and the planning board, re: short term rentals. My husband and I own what we hope to be our retirement home, at 7 Stimson St. We have been following the discussion about short-term rentals because we rent our home part-time on Air BnB, to help defray the cost of renovations and maintenance. We choose not to long-term rent or year-round short-term rent, as we enjoy using the home ourselves, on a weekly basis, throughout the year. After living for 12+ years in a rural setting, we're very much enjoying the city life again, with all that Kittery and the seacoast has to offer.

We understand that there are a few short-term rental properties in Kittery that have not been responsible community members and have resulted in the town council considering new regulations regarding short-term renting in Kittery. We'd like to provide an alternative short-term rental story, to offset the complaints that you've been receiving.

We bought the house in 2017 and jumped right into much-needed renovations. We are currently replacing the windows and siding, with all windows paid for by our rental income from the past summer. It certainly would be taking us much longer to complete necessary work to the house if we didn't have the extra income from short-term rentals. Our project schedule this year prevented us from exploring winter rental options, but that is also something we'd like to consider in the future, for visiting nurses or shipyard workers that need a comfortable place to stay for a month or two. We have also converted the house to have first floor living, with an eye not only towards our later years but also more immediately, in case a parent should need to live close by.

As with any house project, the more we got into it, the more we decided to work on and of course the budget increased. Short-term renting hadn't really been a part of our original intention for the home, but we have been pleased to have that flexibility.

One of the first things we did before starting to rent this past summer was to talk to our neighbors. We've enjoyed the neighborhood we've landed in and don't want to decrease their quality of life in any way. We've encouraged open communication and always check in with them, to make sure there haven't been any problems from our renters. We believe that they feel comfortable enough to text or call us if they have any concerns during a rental and we'd immediately try to address them. There are several long-term rentals on our street as well – it takes all kinds of living situations to form a community. One set of neighbors even used our home for their relatives this past summer, who came to visit for a week.

We think that overall our decision to short-term rent our home hasn't caused a problem in our neighborhood and will strive to continue that in the future. To that end:

- We limit the number of guests in our home to 4, or to families of 5.
- We require that guests request to book, instead of allowing instant booking, so that we can review their profile and previous reviews, ensuring a successful rental. We have put

Kittery Town Council
Short Term Rental Landlord Feedback
January 31, 2020

To the Kittery Town Council,

I am reaching out as a Kittery residence, home owner, and a short/ long term rental landlord. I'd like to share my perspective as a landlord about the important topic of short term rentals. My husband and I take great pride in being landlords and introducing travelers and individuals looking to explore the seacoast to Kittery, Maine.

Specifically, being a short term Airbnb host has allowed us great flexibility as a family. For the past 3 years we have rented our home, our primary residence, on Airbnb almost every weekend of the summer. These two-night rentals have allowed us to take family mini vacations exploring Maine, camping, visiting family, and enjoying the seacoast. Without this additional income we would not be able to take these family vacations and expose our kids to amazing places and experiences.

We have also rented our home to two different couples looking to purchase property in Kittery. They have used Airbnb as a jumping off point to get to know the area while looking for properties to purchase. Both couples are now happy Kittery homeowners and offering value to our community.

I love being an Airbnb host and take great pride in sharing our town and all of my favorite activities, restaurants, and shops with travelers that come through. I know through Airbnb reviews and renter feedback that they take these recommendations and are spending lots of time eating in our restaurants and shopping at our stores. (Spending more money in a weekend than my family would, I'm sure!)

My husband and I are very clear with our house rules that parties are not allowed and review each rental request, ensuring that we bring the best possible renters into our home. I am also open with my neighbors in letting them know we have renters in the house and asking them to reach out to me via phone or email if they ever have any concerns.

We are careful to keep our two-bedroom rental to a maximum of four people. However, in certain situations a family may have three children and we are open to considering a slightly larger group if they are part of one family. I understand you may be considering minimizing the number of people per bedrooms I think you need to take into consideration the fact that a 5 or 6-person family should be able to rent a two-bedroom house.

We have recently moved into a new home in Kittery and have kept our previous home. We have rented our property long term over the winter to a traveling nurse working for Portsmouth Hospital and will continue to rent the property short term over the summer months. The flexibility in maintaining this property as short or long term rental is really

parking spots, a licensing fee to use the property as a rental, and possibility of fines and/or loss of license for violations.

We look forward to observing the workshop on the 10th and continuing to be involved in the short-term rental discussion. Please feel free to reach out with any questions or comments.

Thanks for your time,

1. Do short-term home rentals hurt the “character” of Kittery?

- a. Maine is Vacationland. **15% of homes in Maine are vacation homes**, the highest percentage in the United States, and five times the national average of about 3%. Visitors are an essential part of the character of Maine and Kittery.
- b. **Vacation homes and individual rooms have been rented short-term for decades.** The right to rent out one’s property is a longstanding property right. Airbnb has just made this easier.
- c. Short-term home rentals allow visitors to immerse themselves in the character of our town, and **Kittery depends on these visitors to support and enrich this character** through their participation in our community, economy, and cultural events.
- d. **“Party houses” creating nuisances are out of character** (see #2 below). The vast majority of short-term rental units are not party houses and are consistent with single-family occupancy and the character of residential neighborhoods. Long-term rentals and owner-occupied homes can be party houses as well. Party houses are the problem, not short-term rental.

2. Do short-term home rentals create nuisances?

- a. While homeowners have a right to rent their home to others, **neighbors have a right to quiet enjoyment of their own property.**
- b. Nuisances are the primary cause of concern about short-term rentals, and are a legitimate concern for a small number of problematic “party house” units. The vast majority of home rentals do not cause nuisances. **There are about 100 short-term rental properties in Kittery. How many of these have received neighbor complaints?**
- c. **Airbnb is changing their policies to verify all listings, prohibit party houses, and provide a 24/7 Neighbor Hotline for rapid response to complaints.**
- d. Nuisances can happen at long-term rentals and owner-occupied homes as well.
 - i. Considerate hosts who make efforts to avoid becoming a party house may have occasional noise disturbances, but these should be consistent with the frequency of noise disturbances at other homes in residential neighborhoods.
 - ii. **Any attempts to better enforce noise-based nuisances should apply equally to short-term, long-term, and owner-occupied homes.**
- e. **There are existing building code and business licensure regulations that restrict the number of allowable occupants in any home (see #3 below).** Less occupants generally means less noise and parking problems. There is no specific maximum number, but a party of 12 college kids would almost certainly not be allowable in a single family dwelling unit.
- f. **There are many ways for home rental hosts to address party and nuisance concerns**, by limiting the number of guests, screening guests before accepting

important to us as landlords. It allows us to host our family when they come to visit from out-of-town and also host travelers through the summer months at an increased premium. I would not want this property restricted to only long term rentals and would consider needing to sell the investment if that restriction was put in place.

I understand that you are also considering requiring a short term rental license so that you can track the number of rentals in the area. This is data that we can gather without requiring a license. I worry that homeowners are giving up their rights and the flexibility they have with their homes by requiring such a license.

Alternatively, the town could request that individuals register their rental properties. Indicating if they rent them short term, long term or both. This registration can help you to keep tabs on the number of rentals in the town while not adding restrictions to the home owners through a formal license process.

Please consider how many problems you actually have with short term rentals in the area. Why are short term rentals being called out versus long term or even home owners? It is important that all individuals follow parking rules, noise ordinances and maintaining an appropriate number of guests in a house. Creating a special license for short term rentals does not seem to resolve these problems, it only removes rights that I have on my own property. As a landlord, I take noise, parking and number of guests seriously and work closely with my renters and neighbors to ensure we are being good neighbors. I know a handful of fantastic Airbnb hosts in Kittery and all are also great neighbors.

We use short term rentals to create extra and necessary income for our family. We then reinvest this into the community and our homes.

Thank you for your time and consideration on this important matter. I truly love being a landlord, short term host, and sharing our amazing town with others. I hope this is something I'll be able to do for years to come.

Best,

reservations, prohibiting parties in their rental rules, giving bad reviews to bad guests, prosecuting problems with guests through AirBNB's dispute resolution process, and, if warranted, installing security cameras. Considerate hosts do all of these things, and they work.

- g. **Parking offenses are easy to observe and enforce.** Ticket or tow cars that are parked illegally. Kittery has a very detailed, street by street, hour by hour parking ordinance. **No special parking requirements are required for short-term rentals.** Short-term renters have the same rights to park on public streets as everyone else.
- h. **Noise-based nuisances are difficult to define, observe and enforce.** Chapter 16.9.1.9 of Kittery's Town Charter and Code has a detailed noise ordinance which limits "continuous, regular, or frequent" sources of sound to certain decibel levels within certain districts at certain times of day.
 - i. This may be enforceable for excessive noise but can not mitigate relatively minor but recurring nuisances, such as multiple voices outdoors every Saturday night.
 - ii. Noise-based nuisances are often subjective, difficult to define, and more difficult to enforce. It is generally not just the volume of noise that is perceived to be disruptive, but the nature, content, context, and recurrence of that noise.
 - iii. Ultimately, police power may not be an appropriate or effective means of mitigating relatively minor but recurring noise-based nuisances.
- i. **I am starting a free "Home Rental Mediation" service** to facilitate non-confrontational negotiations between neighbors and hosts to mitigate recurring nuisances while allowing responsible short-term rental of the property (coming soon).
 - i. Neighbors can report complaints anonymously
 - ii. Complaints will be published on a website noting the property address and Airbnb listing.
 - iii. I will contact property owners / hosts, inform them of existing regulations they may not be complying with, and discuss strategies for mitigating nuisances.
 - iv. Mitigation strategies the host has agreed to will be published.
 - v. Neighbors can anonymously indicate whether they accept these strategies, or whether further negotiations are required.
 - vi. Hosts who do not cooperate or do not follow through with their mitigation strategies will have their name, address, and other personal information published, along with a summary of possible offenses, so that neighbors or regulators can take legal action, if warranted.

3. Are there restrictions on the number of occupants in a home rental?

- a. **Maine DHHS requires a state lodging license for rental of 4 or more bedrooms.** This is a business license and has no bearing on the building code occupancy classification.
- b. **NFPA 101 Life Safety Code defines a one-family dwelling as occupied by a "family" or individual plus up to three outsiders.** Dwelling units occupied by a "family" or individual plus 4 or more outsiders, on a short-term or long-term basis, require a change of occupancy to a "Lodging and Rooming House." The primary "family" or individual does

not need to be an owner-occupant, it can be a long-term or short-term renter. **Four rooms rented to four individuals on four separate contracts would be considered a one-family dwelling by NFPA and would not require a change of occupancy.**

- c. The International Building Code (IBC, commercial projects) and International Residential Code (IRC) have a **confusing mess of criteria for whether a Dwelling Unit should be classified as an IRC “Dwelling Unit,” IRC “Lodging House,” IBC “Lodging House,” IBC “R-3 Boarding House,” or IBC “R-1 Boarding House.”** The criteria include whether it is owner-occupied or not, whether some occupants are transient (<30 days) or not, whether it is used as a “single family unit” or not, how many occupants there are, and how many rented “Guest Rooms” there are.
- d. **The Maine Uniform Building and Energy Code (MUBEC)** has added to this confusion by amending the IRC to change the definition of Lodging Houses governed by the IRC. **The intent appears to be to make the IRC consistent with the NFPA “family plus three outsiders” definition.** However, this amendment is not carried through the commercial IBC code and it is not clear when it applies or when more (or less) restrictive criteria of the IBC apply. The requirement in this amendment for the most restrictive “R-1” classification for more than 3 outsiders may be a mistake, “R-3” would be appropriate.
- e. **See the attached “Occupancy Classification of Dwelling Units” chart** for my interpretation of which occupancy classifications should apply to dwelling units depending on various criteria.
- f. **To summarize restrictions on the number of occupants:**
 - i. **Owners offering 4 or more bedrooms for rent require a Maine DHHS business license,** regardless of the number or configuration of occupants. A whole house rental of a 4-bedroom house requires a license.
 - ii. **A dwelling unit rented to a single “family” or individual, short-term or long-term, does not require a change of occupancy.**
 - iii. A dwelling unit with one or more bedrooms rented to a single “family” or individual, plus additional bedrooms rented separately to 3 or fewer separate individuals (“outsiders”) does not appear to require a change of occupancy in Maine (unless Maine’s IRC amendment does not supercede more restrictive IBC classifications). **This means that there can be as many as four separate rental contracts for a single dwelling unit.**
 - iv. A dwelling unit rented to a **single “family” or individual, plus 4 or more “outsiders”** not living with the family in the unit as a family, short-term or long-term, appears to require a **change of use to an IBC R-1 Boarding House** in Maine.
 - v. **There is no reason for Kittery to restrict short-term rental to one rental contract per dwelling unit.** This would be much more restrictive than NFPA and MUBEC, which allow as many as four separate rental contracts for a single dwelling unit. This would prohibit someone with two extra bedrooms from renting them out to two different people. I know of one very responsible host in Kittery who does this in her owner-occupied residence. She might be the only person in Kittery punished by such a needless restriction. Separate renters do not party with each other and do not increase the risk of nuisances or safety concerns.

4. Do short-term home rentals make housing less affordable?

- a. A 2018 study comparing a short-term rental ban in Santa Monica, California to other areas around it showed **no significant effect of the ban on rental prices**.
- b. A 2018 study of short-term rentals in New York City sponsored by NYC's powerful hotel union has been touted as a smoking gun showing that short-term rentals increase long-term rents. The authors performed a "big data" statistical analysis of a questionable dataset from AirDNA.com. They claimed that STRs have taken 5,600 permanent housing units off the market (in a city of 3.4 million housing units with 20,000+ new units built each year), and that **this has increased rents by less than half of one percent per year**. Assuming this is accurate, this is hardly a significant effect in the most mature Airbnb market in the country with a year-round (not seasonal) short-term rental market and highly restrictive homebuilding regulations and costs.
- c. Short-term rentals in **permanent residences, vacation homes used by owners, and owner-occupied homes with bedrooms for rent** would not become available as long-term units if short-term rental were banned.
- d. **Kittery has a very seasonal short-term rental market**. Owners of investment properties may be able to earn more gross rents and net profit from long-term rental than short-term rental. While summer rents are higher, managing short-term rental inquiries and turnovers is a lot of work, and includes **expenses for cleaning, utilities, furnishings, supplies, landscaping, snow clearing, 9% lodging tax, Airbnb fees, increased insurance premiums, etc.**
 - i. Some short-term rental hosts rent short-term in the summer and long-term in the winter, making these units available for shipyard workers, traveling nurses, and other transient workers in winter months.
 - ii. If my wife and I were to rent our property this way, we estimate that we may earn gross rents of \$2,500/mo for winter months (including utilities) plus \$3,000-\$4,000/mo for short-term rental May through September. Accounting for a four-week vacancy, we estimate these gross rents in a good year to be **\$33,000 per year for short-term rental** (including utilities & expenses).
 - iii. If we rented to a long-term tenant on a one-year lease, we may earn \$2,500/mo (including utilities), for total gross rents of **\$30,000 per year for long-term rental** (including utilities & expenses).
 - iv. Few investors would think a **\$3,000 comparative gain in annual gross rents** would be worth the time, hassle, risk, and additional expenses of operating a short-term rental rather than a long-term rental.
- e. The ability to rent your home on a short-term basis when desired creates an opportunity to make an otherwise unaffordable home **affordable to you, the homeowner**.
- f. **Short-term rental creates an excellent incentive for homeowners to build accessory dwelling units**, which could eventually become available as affordable long-term rental units. Unfortunately, against my advice in the Town Council hearing, Kittery has shot this incentive in the foot with its 30-day minimum rental restriction in the new ADU ordinance.

- g. **There are many restrictions in Kittery's Land Use Ordinance that prohibit affordable forms of housing** such as duplexes, townhouses, apartments, boarding houses, micro-units, etc. from being built in most of Kittery. "Minimum lot size per dwelling unit" of a half-acre, acre, or two acres almost guarantees that when housing is built in Kittery, it will be single-family homes built by developers on virgin parcels further into forests and closer to wetlands, rather than smaller incremental additional units built by homeowners on their own developed parcels, infilling existing neighborhoods served by existing roads, sidewalks, utilities, school busses, town services, and walkable amenities. Until Kittery is prepared to remove its misguided artificial constraints on affordable forms of housing, it is a bit disingenuous to pretend that **less than 100 short-term rental units** are a significant cause of housing unaffordability in Kittery.

5. Are short-term home rentals unsafe?

- a. **Building codes do not have different requirements for single-family dwelling units occupied on a short-term basis (<30 days) compared to long-term occupancy.** This suggests that code authors and researchers have not found the risks of short-term occupancy to be substantially riskier than long-term occupancy of dwelling units.
- b. **Short-term rentals may have a different risk profile than single-family homes:**
- i. Smoking is one of the leading causes of deadly residential fires, and **most home rental hosts probably don't allow smoking.**
 - ii. **AirBNB provides free smoke and carbon monoxide detectors to its hosts.**
 - iii. AirBNB hosts can advertise smoke detectors and other safety features on their listing.
 - iv. In Maine, most short-term rentals probably happen in the summer when people aren't using heating equipment or making fires in the fireplace.
 - v. In Maine, Title 22 2501 requires one-family rental hosts to post signage in every bedroom notifying renters that the unit is not inspected by the DHHS, so the renters should be aware that the risks are commensurate with a single-family home, not a licensed and inspected lodging facility.
 - vi. Insurers issuing policies for short-term home rental units may require safety features like smoke detectors.
 - vii. The primary concern with a transient occupancy is unfamiliarity with the building and egress paths, especially in large hotels. **Most single-family dwellings have fairly simple layouts with obvious egress paths.**

6. Are short-term home rentals paying taxes?

- a. Many owners renting out vacation homes probably haven't been paying lodging taxes for decades.
- b. **AirBNB automatically collects and remits the 9% lodging tax** to the State of Maine for every reservation in the State, whether or not the rental host properly files for sales tax reporting.

- c. **Home rental hosts need to report their rental income on their income tax returns.** Airbnb documents gross earnings, which probably makes short-term rental income easier to audit than in previous decades.
- d. Short-term home rental owners who are not permanent residents **pay property taxes in Kittery without burdening the school system and other services** as long-term residents do.
- e. **Short-term home rental properties should not be assessed differently from long-term home rentals.** Both are income-producing. Neither change the configuration or use of the building. Many summer short-term rentals may be long-term rentals in the winter. Any special tax assessment criteria applied to short-term rentals should be applied to long-term rentals as well.

7. Should the Town require licensure for short-term rental hosts?

- a. A license would not provide the Town with any authority or enforcement mechanisms that they don't already have.
 - i. The Town already knows who property owners are and how to contact them from public tax records. If they stopped paying their property taxes the Town would know how to contact them.
 - ii. There is no need for the Town to collect additional emergency contact information. If there is an emergency at a property, police can address it directly with the occupants. The occupants can contact the host if needed. This is no different than a long-term renter. Snowbirds who leave for the winter are not required to provide emergency contact information to the Town when they're away.
 - iii. A licensure requirement is not necessary if all that is desired is emergency contact information. There are only about 100 short-term rental properties in Kittery. **It would take someone about an hour or two to identify all properties listed on Airbnb and Homeaway**, and find contact information for the owners through tax records / GIS and Airbnb listings.
 - iv. Licensure would not change how police respond to complaints. Complaints are not unique to short-term rentals. A license is not needed to log and investigate complaints. This should be done for long-term rental and owner-occupied properties as well. **Licensure could deprive property owners of due process protections** for offenses they are accused of committing.
 - v. **"Substantiated complaints" are not crimes**, unless the offender is charged, tried and convicted for specific offenses.
 - vi. The right to rent one's property to others, long-term or short-term, is a well-established and longstanding property right. **Requiring and then revoking a license without due process for alleged offenses could be construed as a regulatory taking without just compensation.**
 - vii. If a property owner were convicted of multiple crimes as a result of his short-term rental activities, **the Town or neighbors could seek a court order to cease and desist**, and escalate legal actions from there. Neighbors could sue for

tortious damages. There is no clear public benefit that licensure would produce that does not already exist without licensure, other than to create an end run around due process.

viii. How many of the 100 short-term rental hosts in Kittery have been convicted of a crime related to their short-term rental activities?

- b. As noted in #2, police power may not be an appropriate or effective means of mitigating relatively minor noise-based nuisances. Creating more paperwork will not change this.
- c. Licensure gives the appearance of the Town “doing something” without actually doing anything different to address nuisances.

8. What should the Town do to address concerns about short-term rentals?

- a. Recognize the value that short-term home rentals create for homeowners, local businesses, and cultural activities.
- b. Recognize the role of short-term home rentals in showing visitors what a fantastic place Kittery is. Two of our previous renters have now purchased homes in Kittery.
- c. Acknowledge the nuisances that a small number of short-term rental “party houses” create for their neighbors. Acknowledge that it is a *small* number of short-term rental properties creating nuisances.
- d. Inform rental hosts of existing Maine DHHS licensing laws requiring a state business license for rental of 4 or more bedrooms.
- e. Inform rental hosts of code requirements limiting occupancy of a dwelling unit to one “family” or individual plus three or fewer outsiders. Allow as many as four rental contracts per unit, depending on the configuration of guests. Provide guidance and examples of how “family” should be interpreted.
- f. Encouraging or enforcing compliance with licensing and code requirements will limit the number of allowable occupants on any given property, which will reduce nuisances.
- g. Enforce existing parking restrictions.
- h. Consider reviewing the noise ordinance to see if it is possible to better define enforcement of offenses for relatively minor but recurring nuisances, like party houses. Review how police can best respond to party houses.
- i. If people have complaints, refer them to my “Home Rental Mediation” service (coming soon). I will document complaints and offer neighbors and hosts a non-confrontational, anonymous way to negotiate strategies for minimizing nuisances.
- j. Inform all homeowners of the importance of smoke and carbon monoxide detectors in the right locations that are functioning, less than 10 years old, hardwired or 10-year sealed battery units, preferably interconnected, tested frequently, and with batteries changed every 6 months. Inform short-term rental hosts that Airbnb provides free smoke and carbon monoxide detectors to Airbnb hosts. Encourage short-term rental hosts to provide accessible fire extinguishers, first aid kits, and emergency contact information to their guests.
- k. Publish these existing requirements and recommendations on a web page on the Town’s website. I would be happy to write this up.

November 13, 2019

To the members of the Economic Development Committee:

Thanks for the opportunity to inform you of the ways that we use Air BnB on a part-time basis at our vacation home, at 7 Stimson St. We apologize that we couldn't meet with you in person, but a combination of a family health matter and a last minute change of work schedule prevented us from being here.

We had lived about 30 minutes from Kittery for 12+ years and found ourselves coming to the Seacoast at least once a week: to see friends, go out to eat, use the parks, go out on our friends boat, attend an exercise class, etc. Lauren owns an LLC. that is registered in NH and we're not quite ready to leave the country living we also enjoy, but it became apparent to us that we might eventually want to retire to the Kittery area.

We started watching the real estate market in 2017 and when this house became available, we knew it was the right fit for us – now, and in the future. Walking distance to Portsmouth and Wallingford Square, but didn't have the Portsmouth price tag. It had good bones and just needed some renovations and general upkeep.

We jumped right into the project, knowing that by being able to Air BnB during the summer months, we'd be able to off-set some of the cost of these renovations, while still getting to enjoy the house and surrounding area on a regular basis. Having a long-term rental wouldn't allow us to use the space and continue to chip away at projects. We have converted the house to have first floor living, with an eye not only towards our later years but more immediately, in case a parent should need to live closer by.

We are currently replacing the windows and siding, with all windows paid for by our rental income from this summer. It certainly would be taking us much longer to complete necessary work to the house if we didn't have the extra income from short-term rentals. Our project schedule this year prevented us from exploring winter rental options, but that is also something we'd like to consider in the future, for visiting nurses or ship yard workers that need a comfortable place to stay, for a month or two.

We appreciate the flexibility that short-term rental allows us – we can put the income towards renovations and the overall cost of owning the house, so that when the time does come for us to retire, we'll be well set up for it. Plus, we get to use the house and have really enjoyed getting to know our neighbors. We've been very open with them all and have encouraged them to reach out to us if the short-term rentals ever present a problem. One neighbor even used the house for extended family that came to visit during the summer.

We're lucky to have found a vacation home in this area that meets so many of our needs now and hopefully in the future.

Thanks for your time,

"A few more thoughts: I guess what's different about my situation to the others you described (as far as I can tell) is that my property is officially a multi-family ... I rent the apartment both long term (7-9 months, off season) and shorter term (1-6 weeks, summer). This allows a mix of people to enjoy Kittery and the Seacoast, and keeps me, an individual single parent homeowner, able to manage the property (not sell to out of town developers).

We less occasionally rent rooms in our own home for short-term stays to people who enjoy contact with locals and would not be staying in Kittery otherwise (priced out of hotels). Yes the extra income is nice, but I do it as much for the human interactions and lessons in values (hospitality, connection) that it affords me and my son (who is growing up in a not terribly diverse small town but exposed to people from other states and countries).

Being an Airbnb host has restored my faith in humanity (and our commonalities) at a time when our society is being ripped apart by perceived differences."