

2018-2019
PLANNING BOARD ACTION ITEMS

ITEM #	DATE	BY	ITEM	PRIORITY	ACTION TAKEN	COMPLETE
1	TBD	DD	DEFINE COMMERCIAL RECREATION	Pending	Part of Recodification	
2	TBD	DD	WORKSHOP: Cluster Ordinance needs work USABLE OPEN SPACE RETAIN ROAD FRONTAGE (Buffers) TRAFFIC STUDIES	Pending	Part of Recodification	
3		Staff	HAT - Highest Annual Tide	5	In context of climate change	
5	TBD	Staff	Sign ordinance changes: Message boards/internal & external lights & timers Window/A-frame & portable signs/banners Sign character/appearance/administration & enforcement	3	Staff is working on smaller changes Will come to Planning Board when ready Recodification will address larger issues	
6	TBD	Staff	Parking strategies for Foreside	4	Short-term strategy has been identified	
7	TBD	Staff	<u>Shoreland Zone:</u> Invasive plants; shoreland invasive plant removal Excavation Structure replacement; time periods Shoreland definition	Pending	Jessa will take lead but part of Recodification	
8	TBD	Staff	Shoreland zoning amendments to address certain issues	0	Smaller changes	
9	6/14/2018	Staff	Neighborhood Mixed Use Zone (formerly Business Park) amendments	Done	Public hearing and vote done June 14, 2018	Yes
10	TBD	Staff	Neighborhood Mixed Use Zone (formerly Business Park) boundary changes	1	Discussion July 26, 2018	
11	TBD	IHWG	2 Board members participate in Inclusionary Housing working group (IHWG)	On-going	Russell White and Drew Fitch are members	
12	TBD	Staff	AirBnB and short term rentals	2		
STAFF						
13	TBD		UPDATE DESIGN STANDARDS FOR LED LIGHTING AND SIGNS:	Staff	See Sign Ordinance changes above.	
14	TBD		Definition: Substantially complete re: development vs. building permits	CEO	Staff draft definition differentiating from bldg permits as appropriate	

2018-2019
PLANNING BOARD ACTION ITEMS

15	TBD		Wetland Protection: Review how man-made wetlands are and should be regulated.	Staff	Staff prepare information and possible draft amendment for Board's review at future	
16	TBD		Vision for Route 1 Bypass	NA	Wait on recommendations from the Economic Development Committee	
17	TBD		Fines and Fees (increases?)	Staff	Staff will research	
18	TBD		Route 236 safety	NA	No formal action - studies must be funded and completed.	

2018-2019
PLANNING BOARD ACTION ITEMS

COMPLETED ITEMS						
Complete	8/9/2012		16.10.9.2 REDEFINE FIELD CHANGES; Major/Minor (for May 2015 TC workshop)	2	Staff to draft language for review	
Complete	10/13/2012	TE	DPW PROJECTS COME BEFORE PB; NEED UPDATED LIST	2	CDM to discuss with DPW, report to PB	
Complete	12/12/2013 3/28/2013 2/25/2016		<u>Comp Plan Items</u> - Pedestrian / Bike paths / Bike Racks - CONTINUE WORKSHOP WITH KCPC, KOSC REGARDING 1 - 3 ACRE RR; and future land use regulation; restrict # building permits issued per year - ROADS / SIDEWALKS TO NOWHERE (ROW plans)/Shared Driveways/ROW Standards/Emergency access roads	CPC* - -	CDM will provide existing bike path plan; disc. 12/18; req. input from T. Emerson 1/22/15; input to CPC when appropriate May 15, 2013 Workshop; December 3, 2013 workshop, w Soil Suitability; PB input to CPC* when appropriate	
Complete	3/27/2014	DD	Kittery Historic Resources; historic designation identification	3		
Complete	10/22/2015		Draft language and amend bylaw to require Memun workshop to newly appointed planning board members	Staff	Staff prepare draft version of Bylaw to present to Board	
Complete	1/8/2015		Foreside Review Committee (16.3.2.15.F)	1	Discussed 1/22; Board to discussed results of Foreside Forums 4/23; idea is to hire out design review until Foreside study is complete	
Complete	1/23/2014		Outdoor Seating/Use of Public Way; extend to other zones	Done	PB review: 10/23/14; rev. language 12/18/14; 1/22/15 discussion; <u>Foreside only</u> ; CDM to work w/ NCP/TC to add to Title 5 permanently; ordained by TC 4/27	
Complete	2/27/2014		Approved Plan Expiration; Requests for Extension; Expiration of Wetland Alteration Permit	Done	Reviewed 3/27/14; PB approval 6/26/14; to Council 11/10/14; Effective 2/28/15	
Complete	2/27/2014	AG	List of Committees/Boards to monitor	Done	CDM to place in 2/26 packets	
Complete	11/14/2013	Staff	16.7.3.5.6 Structure replacement <u>outside</u> of shoreland zone (missing from code)	1	Board recommended to Council on 5/28, will be before TC this summer	

*CPC = Comp Plan Committee

2018-2019
PLANNING BOARD ACTION ITEMS

Complete	10/24/2013		16.7.8 Soil Suitability Guide; discontinue; replace with Net Residential Acreage calculations	Done	16.7.8 Land Not Suitable for Development: 10/23/14 PB Review/Recommend to Council for 11/10/14 approval; 5/4/15 TC workshop; recommendation needed 6/25/15
Complete	8/22/2013	Staff	Site dev pre-meeting; CMA construction inspection; Ref: 16.4.4.1.A (for May 2015 TC workshop)	1	Discussed December, 2014; staff drafted language for review, reviewed 3/12/15. Public Hearing and recommendation to Council 3/26/15
Complete	2/27/2014		Flag Lots (16.8.-16.9)	Done	
No longer required	3/13/2014		Septic pretreatment requirement as bonus (See also: VIII.3.i.ii 2015 Code Amendments: Briefing Book, #38)	Done	
Complete	LEGAL NOTICES IN PACKET OR EMAILED TO PB MEMBERS (email to PB @ same time sent to publication)				Complete
4/25/2013	UNBUNDLE ZONING AMENDMENTS				Complete / Ongoing
Complete	BUILDING PERMIT LIST IN PACKETS				Complete / Ongoing
3/25/2013	Amendment: 16.8.24.2 F (LED lights); amended 12/14 (allowing LED lighting)				Ordained: 3/25/2013; ordained 12/14
3/25/2013	DISCUSS PUBLIC NOTICES; ABUTTER'S LIST EARLY, INCLUDE M/L AND PHYSICAL ADDRESS; Sales (assessor) close April 1; system update in Fall				Complete
4/25/2013	Amendment: Speciality Food & Beverage				ordained 6/10/2013
1/24/2014	Foreside workshop with Council				
1/24/2014	REVIEW REPORT TO COUNCIL (RTC) FORMAT				1/24/2013
4/25/2013	PB Workshop Update: training; education; conflict of interest; attendance/voting;				Retreat: January 10, 2014; MMA workshop 3/25/14
4/25/2013	Title 16.11 Marine Development				Ordained: 1/27/2014
2/14/2013	Outdoor Seating/use of public ROW extension period/Title 5 (Seasonal only; extend sunset date)				To Council 6/9/14
Complete	Proposed Ordinance Changes on line				Packets posted online
4/24/2013	ABUTTER'S LIST TO PB EARLY ON, BEFORE PUBLIC HEARING (at sketch plan)				
	Waivers;				January 2014
	Post Building Permits on Web Site				Provided in Board packets
11/14/2013	ByLaw Changes				Adopted 1/22/15
2/28/2015	Approved Plan Expiration; Requests for Extension; Expiration of Wetland Alteration Permit				Effective 2/28/15

2018-2019
PLANNING BOARD ACTION ITEMS

Complete	Outdoor Seating/Use of Public Way; extend to other zones	Effective 5/28/15
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SHORT TERM RENTAL REGULATIONS: A HOT TOPIC FOR MAINE MUNICIPALITIES, BUT CHOICES AND QUESTIONS REMAIN

Made increasingly popular by websites like AirBnB and Home Away, the availability of short term rentals have arguably been a boon to the Maine economy (to the tune of over \$26 million in 2016). Not only does this model within the *sharing economy* allow individuals to rent out unused rooms to supplement their monthly budgets, but they increase the availability of cheaper rooms and apartments for would-be vacationers. Maine does, after all, support a nearly \$6 billion tourism industry.

However, short term rentals present a bevy of problems that municipalities across Maine have only recently begun to tackle. The three most prevalent are:

- 1. Zoning Violations:** Seekers of short term rentals are often attracted by the opportunity to stay in a quiet, established neighborhood, rather than at a generic hotel. Therein lies the problem; short term rentals often violate the neighborhood's underlying zoning. Most units listed on short term rental websites are based in single-family residences, either as the rental of a single room, or more often, the rental of an entire residence – effectively converting single family residences into a lodging houses, a use that is often prohibited in residential districts. This dynamic can also turn quiet residential streets into boisterous ones, with previously-occupied homes morphing into small hotels each and every week, prompting consistent complaints from neighbors.
- 2. Code Violations and Under-regulation:** When they were constructed, most short term rental units were inspected and approved as single-family or multi-family residences. Because of this, local Code Enforcement Officers almost certainly *did not* ensure that the homes were outfitted with the necessary life safety equipment, think smoke detectors and CO detectors, or that they had the necessary points for ingress and egress required of traditional lodging units like hotels, motels, and inns. As such, short term rental units likely create compliance issues that other lodging accommodations would not. Their owners also may not carry sufficient commercial liability insurance to protect them should any issues arise. These complaints are often brought by members of the State's hotel industry, who *do* have to comply with stringent, and often costly, regulation.
- 3. Housing Stock Shortages:** It has been argued that the proliferation of short term rental units has harmed the year-round rental housing markets in Maine's larger towns and cities. For example, consider a real estate investor who purchases a small house in a quiet Portland neighborhood. He or she could rent it to a local resident for \$2,000 a month, or the house could be listed on AirBnB for \$100 a night, leading to a much larger return. This sort of profit margin has prompted out-of-state investors to swoop in and scoop excess housing stock – and while this approach could work for the investor, it leads to that house being taken off the year-round market, leading to a general increase in the price of rental housing. Housing advocates have connected these dots, pointing out that if unchecked, short term rental units could create negative effects for those struggling to find affordable housing.

So what is a municipality to do? Not surprisingly, those Maine towns that have tackled these issues have come up with a number of different approaches. Portland, for example, has recently considered a new set of regulations that would endeavor to rein in the rapid growth in short term rentals. Included would be an annual registration and inspection requirement (to promote safety), and a city-wide cap on units that are not owner-occupied (to combat an ongoing housing shortage). Towns in York County, like Ogunquit, have also added an annual registration requirement and are ramping up enforcement against owners who don't comply. Others, like Rockland, have required planning board approval for any short-term rental of an entire residence, rather than a single room within an owner-occupied house.

Yet not all Towns are going along for the ride. Many coastal and ski-resort towns, that rely heavily on tourism for general revenue, have decided to simply let short term rentals be, judging that a "the more the merrier" approach was best. Instead of adding new regulations, they remain content dealing with issues posed by short term rentals on a case by case basis, and using existing parking, noise, and nuisance ordinances to do the heavy lifting.

The bottom line is that municipalities have only recently begun to grapple with the opportunities and issues that short term rentals present. There is certainly no "one-size-fits-all" approach, but municipalities across Maine should give some thought to this new area of the law. Although most short-term rental issues may seem to only affect larger towns and cities, all municipalities should look at taking steps to better understand the unintended impact that this new type of property can create.

Of course, increasing regulation can also present problems for those who wish to rent their own homes. Regardless of which side of the equation a party is on, Bergen & Parkinson is eager and ready to help.

For more information, contact Ben McCall at 207-985-7000, or by email at bmccall@bergenparkinson.com.

Leave a Reply

Your email address will not be published. Required fields are marked *

Comment

Short Term Rental Application*

City of Rockland Code Enforcement Office

270 Pleasant Street
 Rockland, Maine 04841
 Tel. (207) 594-0308 Fax. (207) 594-9481
 rocklandcode@rocklandmaine.gov
www.ci.rockland.me.us

SECTION A.

Owner's Name	Owner's Phone		
Owner's email address	Owner's Cell Phone		
Owner's Physical Address (while renting)	City	State	Zip
Owner's Mailing Address (if different)	City	State	Zip

SECTION B. Short Term Rental (STR) applies to any residential dwelling or dwelling unit that is rented for periods less than one month.

Short Term Rental (STR) Address	Tax Map #	Zone	# of units	# of onsite parking spaces	
Type of STR				Type	# of Bedrooms Rented
Single-family dwelling, owner's primary residence				STR-1	
Two-family dwelling or approved accessory apartment, one unit owner's primary residence				STR-1	
Two-family dwelling, not owner-occupied				STR-2	
Single-family dwelling whole-house rental				STR-2	
Multi-family dwelling (3 or more units)				STR-3	

SECTION C.

Insurance: Applicant must provide, to the Code Office, evidence or certificate of current insurance providing coverage for the use of the premises as a **short term rental**. Evidence of such insurance must be available for inspection at all times while a unit or structure is used for short term rental.

Insurance Company	Insurance Company Telephone
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SECTION D. (Fill out this section if the use is an STR-2 or STR-3)

- I am a resident of Rockland and will be available at all times while guests are renting this property; or
- I am not a resident of Rockland and I have contracted with a property management company with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, Warren, Camden, Hope, Cushing or St. George, and who will be available at all times while guests are renting this property.

Provide property manager information below.

Property Manager's Name (if not owner)	Property Manager's Phone		
Property Manager's Address	City	State	Zip
Property Manager's email address	Property Manager's Cell Phone		

*Short Term Rental Permits are required when renting a dwelling or dwelling unit for less than a month

Short Term Rental Application

SECTION E.

A checkmark acknowledges that the applicant has read and understands the following STR requirements:

- The occupancy classification of a single-family structure, or a unit in a two-family or multi-family structure, used as a STR shall be in compliance with that of a “one-family dwelling” as described in Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012 (see attachment A**.);
- Short-term rentals shall be to a single individual or family;
- The maximum occupancy (for STR-2) shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- No detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home may be permitted or rented as a short-term rental;
- The use of a dwelling unit as a STR does not violate any applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel;
- Notwithstanding anything to the contrary in Section 19-315, signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a STR is not permitted, either on- or off-site;
- The Permittee must maintain accurate, up-to-date records of all rental transactions in the STR, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request;
- The Permittee must post in plain sight to visitors near the entrance a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the operator of the STR.
- When the STR is not subject to an inspection by the City’s Code Enforcement Officer and Fire Chief, a disclaimer (which will be provided by the Code Office) must be posted in plain sight;
- The Permittee must assure that each advertisement of the STR includes Permittee’s City of Rockland Short-Term Rental Permit number;
- Renters of short-term rentals may not sublease any portion of the short-term rental to another person, family, or entity;
- No food prepared at the STR may be served by or on behalf of the Permittee to guests without current state certification for such food service, when required.
- The Permittee shall maintain permit eligibility in conformance with Sec. 11-210(2)(D) continuously during the permit period. See ATTACHMENT A.

Owner's Signature	Date
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For Office Use Only

This application <input type="checkbox"/> does <input type="checkbox"/> does not require Planning Board Review		
Planning Board Application # _____ <input type="checkbox"/> Approved <input type="checkbox"/> Denied PB Review Date _____		
Code Office <input type="checkbox"/> Approved <input type="checkbox"/> Denied (see letter)	Code Enforcement Officer	Approval Date
Short Term Rental Permit # _____		
Planning Board Fee \$ _____ Date _____ Receipt # _____ Paid By _____ Account # 3250		
STR Permit Fee \$ _____ Date _____ Receipt # _____ Paid By _____ Account # 3256		

Short-Term Rental Application

Page 3

ATTACHMENT A.

Sec. 11-210(2)

D. Eligibility. The City Clerk may accept applications for Short-Term Rentals from only those persons who are eligible to apply, as follows:

- (1) Short-Term Rental Permits may not be granted to a renter, lessee, or other party who is not the owner of the proposed short-term rental or the owner's property manager, and no renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental;
- (2) Where the proposed short-term rental is a single-family structure, the applicant must demonstrate in the application either that (a) the structure is the applicant's primary residence, (b) the applicant's primary residence is at another residence within the City of Rockland, or (c) the applicant has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, Warren, Camden, Hope, Cushing or St. George, which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure;
- (3) Where the proposed short-term rental is an approved accessory apartment, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at the primary structure on the same lot to which the short-term rental is accessory;
- (4) Where the proposed short-term rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either (a) maintains his/her primary residence elsewhere in Rockland or has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure.

**Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012 : The requirements of this chapter shall apply to one and two-family dwellings, which shall include those buildings containing not more than two dwelling units in which each dwelling unit is occupied by members of a single family with not more than three outsiders, if any, accommodated in rented rooms.

Chapter 19 Amendments related to Short Term Rentals

From: Sec. 19-302 Words And Phrases Defined

Short Term Rental (“STR”). The use of all or part of a legally-existing dwelling unit for short-term rental to a person or family unrelated to the owner or lessee of the unit, for consideration, for periods of less than one month.

Sec. 19-309 Special Use Classes

* * *

3. Short Term Rentals.

A. Permitted Short Term Rentals. In any zone, existing single-, two-, and multi-family structures may be used as Short Term Rentals upon the issuance of a Short Term Rentals Permit for the premises pursuant to Chapter 11, Article II, Section 11-210. Notwithstanding anything to the contrary in this section, Planning Board review of Short Term Rentals as a Special Use Class shall not be required when the Code Office is the designated Permitting Authority pursuant to Chapter 11, Article II, Section 11-210(2).

B. Prohibited Short Term Rentals. No person may offer for rent, rent, operate, or otherwise use any parcel in the City of Rockland for Short Term Rentals if:

(1) Such person has not secured or maintained a valid Short Term Rentals Permit for the premises; or

(2) The accommodations are a detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home.

Chapter 11 Amendments related to Short Term Rentals

2. Short-Term Rentals Permit.

A. Purpose. The purpose of the Short-Term Rentals Permit is to authorize the use of legally-existing single-, two-, and multi-family structures for the accommodation of short-term guests, for compensation, for periods of less than one month, while ensuring the safety of the occupants and minimizing the impact of such use on the surrounding neighborhood. Short-Term Rentals Permits and the revenue they make available to homeowners helps makes Rockland affordable for persons on fixed or limited incomes; enhances and diversifies accommodations available to visitors and tourists; and provides travelers with affordable accommodations from which to explore Rockland and the Midcoast region. If not made the subject of appropriate, limited regulations, however, the use of residential properties for short-term rentals may create adverse impacts on surrounding residential uses including, without limitation, increased levels of traffic, parking demand, light and glare, and noise. Such impacts are deleterious to the public health, safety, and welfare of the neighborhood and the City because they impair the livability and desirability of Rockland neighborhoods for year-round residential uses.

B. Definitions. For the purposes of this Subsection¹:

(1) Family. Two or more persons related by blood, marriage, civil union or adoption who reside together as a single housekeeping unit, sharing common kitchen and bathroom facilities. A “family” for zoning purposes may also consist of (1) two or more persons related by blood, marriage, civil union, or adoption and no more than three additional person who are not related, or (2) no more than three unrelated persons, who occupy a dwelling unit as a single housekeeping unit, sharing common kitchen and bathroom facilities.

(2) “Minimum Stay Period” means the minimum number of nights for which a Short-Term Rental may be rented to guests. Guests may stay for less than the minimum stay period provided that the STR remains vacant until the end of the minimum stay period. *(For example, if the minimum stay period is four (4) nights, this does not preclude rental to guests for two (2) nights, provided the unit remains unrented for the two (2) subsequent nights before being occupied again as a short-term rental.)*

¹ See Ch. 19, Art. III, Sec. 19-302 for definitions of words and phrases not defined herein.

(3) "Owner-Occupied" describes a dwelling unit that is such owner's primary residence and is occupied, including overnight, by such owner when any part of the structure is rented as a short-term rental.

(4) "Short-Term Rental" ("STR") means the use of all or part of a legally-existing dwelling unit for rental to a person or persons unrelated to the owner or occupant of the unit, for consideration, for periods of less than one month, as follows:

(a) Short-Term Rental – 1 ("STR-1") means either:

- (i) an owner-occupied single-family structure in which not more than one bedroom is rented or offered for rent to one person or one family for periods of less than one month, or
- (ii) a dwelling unit in a two-family structure in which one unit is occupied by the owner of the entire structure that is rented or offered for rent by one person or one family for periods of less than one month.

(b) Short-Term Rental – 2 ("STR-2") means either:

- (i) a single-family structure that is not occupied by its owner that is rented or offered for rent to one person or one family for periods of less than one month, or
- (ii) one dwelling unit in a non-owner occupied two-family structure rented or offered for rent to one person or one family for periods of less than one month.

(c) Short-Term Rental – 3 ("STR-3") means one dwelling unit in a multi-family or mixed-use structure that is rented or offered for rent to one person or one family for periods of less than one month.

C. Permit Required. Effective November 1, 2016, no person shall operate a Short-Term Rental without first obtaining annually a one-year permit therefor from the Code Enforcement Office.

D. Eligibility. The City Clerk may accept applications for Short-Term Rentals from only those persons who are eligible to apply, as follows:

- (1) Short-Term Rental Permits may not be granted to a renter, lessee, or other party who is not the owner of the proposed short-term rental or the owner's property manager, and no renter or lessee of a dwelling unit may sub-let the rented or leased premises as a short-term rental;
- (2) Where the proposed short-term rental is a single-family structure, the applicant must demonstrate in the application either that (a) the structure is the applicant's primary residence, (b) the applicant's primary residence is at another residence within the City of Rockland, or (c) the applicant has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren, Camden, Hope, Cushing or St. George, which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental of the structure;
- (3) Where the proposed short-term rental is an approved accessory apartment, the applicant must demonstrate in the application that the applicant owns and maintains his/her primary residence at the primary structure on the same lot to which the short-term rental is accessory;
- (4) Where the proposed short-term rental is a unit in a duplex or two-unit condominium, the applicant must demonstrate that the applicant owns and maintains his/her primary residence in the other unit in the duplex or two-unit condominium, or if such unit is not the primary residence of the applicant, that the applicant either (a) maintains his/her primary residence elsewhere in Rockland or has contracted with a property manager with its principal place of business in Rockland, Thomaston, Owls Head, Rockport, or Warren which contract requires such property manager to provide around-the-clock on-site response capacity to address complaints arising from the short-term rental in the structure.

E. Application Fee. The City Council may establish a non-refundable application fee for Short-Term Rental Permits, and/or a permit fee which may include a graduated fee schedule on the basis of the number of rooms of the facility and/or other criteria.

F. Notice. Within seven (7) days of receipt of a complete application for a Short-Term Rental Permit, the City Clerk shall submit the application to the Code Enforcement Officer and, by U.S. Mail, First Class, provide notice of such application to the owner(s) of record of abutting parcels, including owner(s) of record of parcels located directly across a street or other way from the subject parcel, at least seven (7) days prior to issuing such license. Such notice shall include the name, address, and telephone number of the person(s) responsible for management of the STR. Notice is effective upon mailing.

G. Permitting Authority; Review Criteria. The authorized Permitting Authority shall grant, grant with conditions, or deny applications for Short-Term Rental Permits, applying the level of review criteria ("Review Level") as defined below, consistent with Table 11-210(2), no sooner than fourteen (14) days after the Clerk mails notice of such application to abutters pursuant to Subsection E and no later than thirty (30) days when the Code Enforcement Officer is the Permitting Authority, or sixty (60) days when the Planning Board is the Permitting Authority. When the application is for the renewal of a current Short-Term Rental Permit and the permittee is in compliance with this and other applicable Ordinances, the City Clerk may grant an administrative

extension of such current permit for up to thirty (30) days when reasonably necessary to allow the continuance of the accommodations during the permit review and renewal process. All Short-Term Rentals are also subject to the Additional Requirements set forth in Subsection G.

Review Level I:

Applicant shall provide satisfactory evidence of current insurance providing coverage for the use of the premises as a short-term rental and for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR, and Applicant shall cause the City to be named as a certificate holder for each such policy.

Applicant shall provide the name, address, and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces for a single-family structure and three on-site spaces for a two-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

Review Level II:

Applicant shall demonstrate compliance with applicable² building, fire prevention, and life safety codes upon inspection by the Code Enforcement Officer and Fire Chief or their designees.

Applicant shall provide satisfactory evidence of current insurance providing coverage for the use of the premises as a short-term rental and for bodily injury and property damage sustained or caused by the owner, guests, and others admitted to the premises. Evidence of such insurance must be available for inspection at all times while a unit or structure is used as a STR, and Applicant shall cause the City to be named as a certificate holder for each such policy.

Applicant shall provide the name, address and telephone number of the person(s) who will be responsible for management of the STR.

Applicant shall provide two on-site parking spaces if a single-family structure; one and one-half on-site parking spaces for each dwelling unit in a two- or multi-family structure.

Applicant shall not currently be in violation of any applicable law, ordinance, or regulation relating to a short-term rental, lodging house, bed and breakfast establishment, hotel or motel, or other commercial residential facility.

When the Planning Board is the Permitting Authority under Table 11-210(2), it shall grant, condition, or deny the application by taking into consideration the following factors: location, character and natural features of the site and adjoining property; fencing and screening; landscaping, topography, and natural drainage; traffic hazards, vehicular access, circulation and parking; pedestrian circulation; signage, and lighting; compatibility with existing uses; availability of necessary public services; and compliance with applicable requirements of all City ordinances.

Planning Board review of the STR is only required for initial applications, applications where the property at which an STR is located has changed ownership, or applications after an STR license has been suspended. Otherwise, for STR license renewals, the Code Office shall be the Permitting Authority.

Table 11-210(2)

² See Chapter 4 – Buildings, Inspections & Enforcement.

Type of Accommodation	Type of Structure	Minimum Stay Period	Permitting Authority in Residential AA, A, and B Zones	Permitting Authority in Other Zones	Review Level
STR-1	Single-Family (rental of one room in owner-occupied structure or one unit in an owner-occupied two-family structure)	1 night up to less than 1 month	Code Office	Code Office	I
STR-2	Single-Family (whole house)	1-3 nights up to less than 1 month	Planning Board	Code Office	I
	Two-Family (one unit rented monthly and one unit rented less than one month)	1-3 nights up to less than 1 month	Planning Board	Code Office	I
STR-3	Multi-Family or Mixed Use	1-3 nights up to less than 1 month	Planning Board	Planning Board	II

H. Additional Requirements. In addition to the standards set forth in Section 11-106 and other applicable law, ordinance, or regulations, the following criteria shall apply to applications for Short-Term Rentals:

- (1) The occupancy classification of a single-family structure, or a unit in a two-family or multi-family structure, used as a STR shall be in compliance with that of a "one-family dwelling" as described in Chapter 24 § 24.1.1.1 of NFPA 101 Life Safety Code/2012;
- (2) Short-term rentals shall be to a single individual or family;
- (3) The maximum occupancy (for STR-2) shall be limited to two people per existing bedroom plus no more than two additional children under the age of twelve;
- (4) Provided that there are approved fire separations between dwelling units in an existing duplex or condominium structure, each unit under separate, unrelated or affiliated ownership shall be considered a single-family structure for the purposes of Short-Term Rentals Permit provisions. New condominium units established after October 1, 2015, may not be used for Short-Term Rentals;
- (5) Multi-family dwellings must be a permitted use in the zone in which it is located in order to rent any unit as a STR-3;
- (6) An approved functional sprinkler system is required in any multi-family dwelling in which a single unit is used as a STR-3;
- (7) No detached accessory building, recreational vehicle, trailer, tent, or other mobile residential equipment other than a mobile home may be permitted or rented as a short-term rental;
- (8) The use of a dwelling unit as a STR does not violate any applicable condition of municipal approval, covenant, or other lawful restriction on the use of the parcel;
- (9) Notwithstanding anything to the contrary in Section 19-315, signage identifying, advertising, providing wayfinding, or otherwise relating to the use of a dwelling as a STR is not permitted, either on- or off-site;
- (10) The Permittee must maintain accurate, up-to-date records of all rental transactions in the STR, including the number of guests and the duration of their stays. Such records must be available for review by the Code Enforcement Officer upon request;
- (11) The Permittee must post in plain sight to visitors near the entrance a Notice that identifies the name, address, phone number(s), e-mail address, and emergency contact of the operator of the STR, and, when the STR is not subject inspection by the City's Code Enforcement Officer and Fire Chief pursuant to Table 11-210(2), the following disclaimer:

NOTICE

The Operator of these accommodations, [print permittee's name] has been granted a City of Rockland Short-Term Rentals Permit, Permit No. _____, pursuant to Rockland Code of Ordinances, Ch. 11, Art. II, Sec. 11-210(2). THE GRANTING OF THIS PERMIT DOES NOT CONSTITUTE A FINDING BY THE CITY OF ROCKLAND OR OTHER CODE ENFORCEMENT AUTHORITY THAT THE PREMISES ARE IN COMPLIANCE WITH APPLICABLE BUILDING, PROPERTY MAINTENANCE, FIRE PREVENTION, LIFE SAFETY, OR OTHER APPLICABLE CODES OR REGULATIONS. No inspection for compliance with such regulations has been conducted, and none is required for Operator to acquire a Short-Term Rental Permit or to conduct that business at these premises so long as the Operator's use of the premises is in conformance with and does not exceed the scope of the Short-Term Rentals Permit;

- (12) The Permittee must assure that each advertisement of the STR includes Permittee's City of Rockland Short-Term Rentals Permit number;
- (13) Renters of short-term rentals may not sublease any portion of the short-term rental to another person, family, or entity; and
- (14) The Permittee shall maintain permit eligibility in conformance with Sec. 11-210(2)(D) continuously during the permit period.
- (15) No food prepared at the STR may be served by or on behalf of the Permittee to guests without current state certification for such food service, when required.

I. Complaints. Complaints regarding STRs filed with the Police Department shall be brought to the attention of the Code Enforcement Officer as soon as practicable. Any person may also file a complaint with the Code Enforcement Officer. The Code Enforcement Officer shall establish and maintain a log of all complaints for each STR received and substantiated by the City. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Permittee.

J. Suspension, Revocation, or Denial of Permit. The Permitting Authority may deny any Short-Term Rental Permit upon failure of the applicant to meet all regulations set forth in this section. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the STR, he shall provide a report of the same to the City Council for its consideration. The City Council may condition, suspend, or revoke a Short-Term Rental Permit, following a public hearing, on the basis of the licensee's non-compliance with any applicable law, ordinance, or regulation, or license certification, condition, or criteria.

3. Penalties.

A. Operation Without Permit. Whoever operates a lodging house or, after November 1, 2016, a short-term rental without a license or permit therefor shall be penalized with a fine of five hundred dollars (\$500) for the first offense and additional fines of one thousand dollars (\$1,000) for each additional offense, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each rental of any room or other short-term rental shall constitute a separate offense.

B. Violation of Law, Ordinance, or Regulation. A lodging house licensee or short-term rental permittee who violates any applicable law, ordinance, or regulation and who, following notice by the Code Enforcement Officer fails to abate such violation within the period prescribed shall be penalized with a fine of two hundred and fifty dollars for each such violation, to be recovered upon complaint before the Maine District Court in Rockland, for the use of the City. Each day such violation is allowed to continue shall constitute a separate violation.

C. In addition to or instead of such penalty(ies), in the sole the discretion of the City, the City may seek an injunction prohibiting the operation of the lodging house or short-term rental until the offense or violation shall have been abated.

4. Transitional Provisions. Notwithstanding anything to the contrary herein, the provisions in this Ordinance Amendment relating to the permitting of short-term rentals, and penalties for violations of such provisions, shall be implemented as follows:

A. Reservations.

(1) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR is not of a type that may be permitted as a STR-1, STR-2, or STR-3, and who received reservations for short-term rentals at the same premises between January 1, 2016, and May 31, 2016, may honor such reservations and provide such short-term rentals without a permit therefor. No new reservations for short-term rentals may be accepted after the effective date of this ordinance unless such rentals were offered for rent in 2015 prior to December 31, and would fall within

the definition of a STR-1, STR-2, or STR-3.

(2) Persons or entities who operated a short-term rental in Rockland at any time between January 1, 2015, and December 31, 2015, which STR, if permitted, would fall within the definition of a STR-1, STR-2, or STR-3, and who receive reservations for short-term rentals at the same premises for dates between January 1, 2016, and prior to October 30, 2016, may honor such reservations and provide such short-term rentals without a permit therefor.

B. Registration. All parties operating Short-Term Rentals prior to November 1, 2016, are required to register each such Short-Term Rental with the Code Office, utilizing a form therefor provided by the Code Office and providing the requested information, including address, operator, level of occupancy, and emergency contact information. So long as a short-term rental complies with either provision A(1) or A(2) above and registers with the City, an STR permit shall not be required from the City until after October 31, 2016.

C. Permitting. Notwithstanding the foregoing registration requirement, the Code Office shall make applications to operate STR-1, STR-2, and STR-3 accommodations available as of the effective date of this ordinance.

Eff. Date: 05/11/16



2018-03-23 / Community

Rental issue postponed until April meeting

By Duke Harrington
Staff Writer

SOUTH PORTLAND — A months-long, often acrimonious fight over property rights in South Portland, which has degenerated at times into bitter name calling, sidewalk confrontations and at least one restraining order, is now set to enter a new phase.

On Monday, March 19, the city council accepted a petition to overturn a pair of Feb. 20 council votes that limit the ability of those who own homes in residential districts to rent out rooms for periods of less than 30 days.

As required by the city charter, the petition now prompts a public hearing on the ordinances under question, set by the council for April 3. At that session, councilors will have the option to either formally repeal the new rules or send the question to voters. If the later option is selected, the council can set a date for that vote as far out as 15 months, or July 2019. However, the new rules will remain on hold until the matter is settled, meaning those who complained to the council about the rise of short-term rentals made possible by websites like HomeAway and Airbnb will likely have to endure at least one more season subjected to what many have referred to as “party pads” and “virtual hotels” operating in their neighborhoods.

A chief complaint among those who sought to overturn the new rules – which set up a licensing procedure for homeowners engaged in short-term rentals, required that the homeowner be present on site for the duration of any rental, and mandated that properties may be rented to no more than two adults and one infant at any one time – was that the council did not listen to their concerns. In its fervor to appease West End residents who complained of neighborhood disruption caused by a few sites, the council had thrown the same blanket over everyone, regardless of circumstance, they said. Although the council considered the issue at more than half-a-dozen meetings between October and February, some of which lasted to 1 a.m., that work had amounted to listening to a series of short speeches.

Those who opposed the new rules, including Preble Street resident Michael Frabotta, who took out the repeal petition, and Willard Street resident John Murphy, who took a stance in opposition, claimed the council acted almost entirely on anecdotal evidence of noise and traffic, with almost no empirical data on the underlying issues.

In a bit of break with its usual process, Mayor Linda Cohen said Monday the council would not debate or take public testimony on its votes to reconsider the Feb. 20 ordinance votes, sending the question to the April 3 public hearing. About the only comment came from Councilor Maxine Beecher, who said something Frabotta, Murphy, and others said they have been longing to hear.

"I certainly am ready to listen," she said.

Meanwhile, several supporters of the new short-term rental rules urged the council to set a public referendum as soon as possible. Casting the issue as a divide as much over political ideology as public policy, Deake Street resident Peter Stanton claimed his side had the numbers to reaffirm the council action and uphold the new rules.

"We've had all manner of libertarians, absolutists on property rights, and grouchy conservatives run for this council in recent years," he said. "They lost. It wasn't even close."

Meanwhile, Cash Street resident John Wibby faulted both sides.

"I am disappointed in everybody," he said. "I don't know why this has to be an 'Us vs. Them' situation, when it should be 'Us vs. The Problem.' We should all be looking at this as neighbors, to find a compromise."

Frabotta turned in the petition March 12, having collected nearly 1,500 signatures with the aid of Murphy and a small cadre of volunteer circulators. There have been claims leveled online that paid petitioners were employed, but Frabotta said the drive was conducted by about 50 volunteers. Only one person, "who wanted to petition but did not have time," paid someone else to do so in his place, Frabotta said.

According to City Clerk Emily Scully, 12 names were scratched out on the submitted petition forms and 151 were not signed by people registered to vote in the city. That left 1,289 names validated, more than enough to clear the 1,000-name hurdle set by charter – 5 percent of the number of registered to vote at the time of the last city election – to trigger council action.

Petitioning, however, was not done without controversy. Several supporters of the new rental rules, including former Mayor Rosemarie De Angelis, said Frabotta and others lied to residents about what they were doing, and why. One person, Walnut Street resident Sarah Gay, said she was subject to an "aggressive" and "deceptive" sales pitch by Frabotta and Murphy, even as she and her husband were wrestling groceries and three small children "actively having overtired tantrums," into their home.

"We told (Frabotta) it was not a good time, but he insisted he would be quick," Gay recalled in a March 19 email. "That promise was repeated every time we told him he had come at a bad time. While our children were begging to go inside, Mr. Frabotta shared a number of incendiary facts about the situation he was hoping to resolve, all the while moving his clipboard away from our sight and instead showing us a supplemental printed page of information about the petition.

"Even with direct requests to leave materials and go, Mr. Frabotta and his partner continued to insist that we sign before we leave," Gay said. "They even offered to accompany us into our home to help with the groceries or children – which was, frankly, unsettling. Finally, I asked if signing would make them leave, to which they both cheerfully responded yes. We did, and only then did they leave our property.

"I will note that both men were outwardly polite through the whole interaction, which only made us feel more taken advantage of when we learned more about the situation," Gay said.

According to Gay, who said she was largely unaware of the issue that has dominated council agendas for months, Frabotta and Murphy positioned their signature drive as an attempt to resolve a property rights issue, never mentioning that it was, in fact, an attempt to overturn a council action.

"The petition was presented as a new action," Gay said. "He was clear that the petition was addressing existing issues, but that he was proposing something original that would fix and improve things beyond what was already

done.”

Frabotta has never taken in short-term rentals, and said he has no plans to, even though he resides in the Willard Village- Commercial District, a small enclave of 12 lots that are now one of the few places on the east end free of the new restrictions. He only got involved, he said, after watching a council meeting on community access television and hearing councilors caught on open mics scoffing at Murphy and others opposed to the new restrictions. His issue since then, he said, is less with the new licensing process (adopted by a 6-1 council vote) than with an associated amendment made to the city’s zoning regulations (which passed 6-2).

The new zoning text clarifies that any use of residential property not expressly permitted in city code is forbidden. That, Frabotta said, turns on its head the previous presumption by many that homeowners are free to do as they chose, unless a use is specifically denied.

“To me, this is all about property rights – not just for me, but for everyone living in South Portland,” Frabotta said. “This is about how the city council has completely taken away those basic homeowners rights. I despise government trying to take away rights in general, anyway. But I think the process the South Portland City Council went through to do what it did seemed farcical, almost.”

However, City Planner Tex Haeuser said the zoning amendment was made merely to clarify the way things have always been enforced in practice.

“This is what I always understood for years and years to be, that if something was not permitted it was prohibited – that if someone had something that didn’t really fit, they could come in and try to have it added through an amendment process,” he said.

In a March 19 email, Kennebunk attorney Durward Parkinson who specializes in municipal and land use law, and annually trains code enforcement officers and other municipal officials on land use and zoning issues through the Maine Department of Economic and Community Development, backed Haeuser’s interpretation.

Specifying that he is only speaking from his own experience and not on behalf of the Department of Economic and Community Development, Parkinson said, “It could be argued that not allowing short-term rentals (was always) understood because they were not specifically permitted under the ordinance. Adding language to the ordinance clarifying that uses not specifically listed are prohibited is good practice and serves as the proverbial ‘belt and suspenders’ helping guard against legal challenge.”

According to a Maine Municipal Association handbook for planning board members on file in the South Portland office of planning and development, “A zoning ordinance runs counter to the common law, which allowed a person to do virtually whatever he or she wanted with his or her land.” Citing a 1968 court case, *Forest City Inc. vs. Payson*, the handbook reads, “Ambiguity (should be) construed in favor of the landowner.”

Still, Murphy said any ambiguity can be used against unpopular or unconnected homeowners, which is why he and Frabotta cited potential home occupation uses not expressly listed in city codes as now potentially disallowed.

Haeuser, however, said the run-down of allowed home occupations given in city codes is a citation of similar examples only, and not a definitive list.

“It’s all open to interpretation,” Murphy said. “With this new idea that any use not listed is not allowed, what do you think the odds are that something I might want to do might not be deemed ‘similar’ (to the listed uses)?”

"It'll all depends on who you are and how much the city likes you," Murphy said.

At Tuesday's meeting, Winding Way resident Paul Fielding agreed.

"Even if it's right and even if everything there is meant well, and even if all the other towns are doing it, this clause is bad because in the south I have seen people pass vague laws that then get enforced selectively against people they don't like."

Murphy has also claimed the new zoning text is poor policy because "South Portland could never afford the staff it would need to chase down every possible violation."

Even now, it's believed some residents are skirting the law, and not just on short-term rentals. Existing code bans "inns" from residential neighborhoods and several opponents of short-term rentals have claimed this means they were always "illegal" in South Portland. However, Frabotta said the city pointedly did not address that interpretation when crafting its new regulations. Murphy said he and others have engaged in shortterm rental deals for decades – since long before social media created the so-called sharing economy phenomenon – with full knowledge of city officials.

However, what has been a requirement is that home occupations must be registered with the city – and boarding homes were, and still are, listed as an allowed home occupation.

Even so, Simonton Street resident Dan Romano does not have his business, Home Radon Detection Company, registered as a home occupation.

Romano is the one against whom Frabotta took out a restraining order, after confrontations during petitioning. While Romano and De Angelis said they were only exercise their free speech rights when asking people to talk to them before signing Frabotta's petition, Frabotta and Murphy said they were using "brown shirt tactics" to intimidate residents into not signing, interjecting themselves into conversations and allegedly placing signs they carried between the petitioner and potential signer.

Police were called six times to intervene over one weekend and, Frabotta has said Romano was especially combative in his approach, yelling loud enough to scare Frabotta's wife and children and then "stalking" him throughout the city.

On Tuesday, Romano declined to comment on the protection order due to pending court action, other than to deem it "a kind of political character assassination." However, he did acknowledge that his business is not registered as a home occupation, adding it is registered with the state.

"What I've always understood from the state is that a business like mine does not need any municipal approvals," Romano said.

However, Code Enforcement Officer Matt Leconte said Tuesday that even though Romano does not see clients in his home, and even if the business only amounts to a desk and filing cabinet – Romano said he works almost exclusively out of his car – the presence of a business phone line to the home means it should be registered as a home occupation.

"See, right there, that shows exactly what I've said, that the city does not have a prayer of enforcing this new provision only that selectively and by its own whim," Murphy said.

"Most of the people like me who do shortterm rentals, we want to be regulated. We've said that from the beginning," Murphy said. "There should not be 14, 15, 16, people staying in a home for the weekend down here

(near Willard Beach). But what the city has done is they've just gone too far with this (zoning text) change.”

Murphy, Frabotta and several others who spoke Tuesday urged the council to come back April 3 and repeal the ordinance changes, and to then create a task force of stakeholders to create regulations closer to rules recently adopted in Portland Cape Elizabeth.

But others see that as a drawn-out process unlikely to resolve anything, given the growing divide between the two sides.

Like Stanton, D Street resident Melanie Wiker urged the council to send voters the question of whether to uphold the new rules or not. In adopting those changes, the council acted responsibly and appropriately to address a concern raised by a growing number of residents, she said.

“(Short-term rentals) were already illegal,” she said, claiming the new rules at least allow a framework for some limited short-term rental options in residential neighborhoods.

“We have rules. And if you want to live here, you obey those rules,” Wiker said, inviting short-term rental proponents to relocate.

“There are communities that offer a free-for-all,” she said.

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South Portland council repeals new rules for short-term rentals

Councilors plan to make significant changes at an upcoming workshop, encouraged by residents on both sides of the divisive issue.

BY **KELLEY BOUCHARD** STAFF WRITER



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SOUTH PORTLAND — The City Council unanimously repealed divisive new short-term rental regulations with overwhelming support from residents at Tuesday night’s meeting.

At the center of the disputed regulations is a [ban on unhosted stays in residential neighborhoods](#) that councilors said was intended to [stop people from buying and converting single-family homes into whole-house rentals](#).

Following a

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This two-family home on Willard Beach, overlooking Simonton Cove and Casco Bay, is one of a growing number of short-term rental properties in South Portland. *Staff photo by Ben McCanna*

had a basic choice Tuesday to either repeal the controversial rules approved in February or send them to a

referendum.

“Clearly there is more work to do and the council can learn from the critique of the public,” said Councilor Claude Morgan after the vote. “I think we can make some significant improvements.”

Morgan, who represents waterfront districts where short-term rentals have flourished, said the council will likely revisit a two-guest limit on hosted stays and zoning language that appears to limit home occupations. The council plans to make changes at a workshop to be held in the next few weeks.

There are 282 short-term rentals in South Portland offered on websites such as Airbnb and HomeAway, according to a recent count by Host Compliance, a third-party web service. About 200 of them are single-family homes that allow travelers to rent a whole house or apartment for a few days or weeks.

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South Portland is one of the latest U.S. cities to deal with the spread of short-term rentals, along with neighboring Portland and Cape Elizabeth. The city's outright ban on unhosted stays was the most restrictive so far in Greater Portland.

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South Portland council bans unhosted short-term rentals in residential zones

The ordinance was written to protect residential neighborhoods “from the nuisance impacts that are often associated with short-term rentals” and “to prevent long-term rentals from being replaced with short-term rentals.”

The ordinance allowed owner-occupied or “hosted home stays” throughout the city, but it banned from all residential zones any “non-hosted home stays” that don't have an owner on the premises.

All short-term rentals also had to be registered, inspected, insured and subject to fines and possible closure if they didn't follow the rules.

Preble Street resident Michael Frabotta and fellow petitioners [collected 1,289 valid signatures](#)

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require the council to either overturn its 6-1 vote or hold a referendum on the regulations at an upcoming election.

Opponents of the regulations said they wanted to protect landowners' rights and are fighting for a better municipal review process. The council held four workshops and a total of six public hearings before passing the regulations.

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Supporters said they wanted to preserve affordable housing and protect neighborhoods from being overtaken by commercial home rentals that they describe as mini-hotels.

On Tuesday, at the council's seventh public hearing on the issue, residents on both sides appeared united in thinking that sending the regulations to referendum would only deepen animosity.

All but one of about 30 speakers said they favored either repealing the rules or trusting councilors to

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New short-term rental rules will be reconsidered in South Portland

“In no way has this been rushed through,” said Diane Romano of Simonton Street, who supported the regulations. “(The process) has not been one-sided at all. If repealing it will make it better, (then) I’m in favor of you repealing it and making some small changes.”

Opponents of the new rules urged the council to establish a committee of stakeholders to seek “compromise” and develop “reasonable” regulations.

“I implore the council to go back to square one,” said Tony Ickes of Willard Haven Road. “If you send this to referendum, the division in the community is only going to get worse.”

Councilor Kate Lewis was the only councilor to speak on the issue before the 6-0 vote, with Councilor Eben Rose absent. Lewis said she opposed going to referendum because it would attract “corporate” campaign dollars from short-term rental websites.

Lewis and other councilors also indicated after the meeting that they still wouldn’t support establishing an ad-hoc committee because they believe it would intensify community division.

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released study by McGill University researchers concluded that most short-term rentals in New York are illegal and that the practice has fueled a housing shortage and rent increases.

Cape Elizabeth adopted a permitting process for short-term rentals in 2012 that allows the town to revoke the permit if the property is the subject of three complaints within three years.

Portland passed a more involved registration process last April that caps the number of non-owner-occupied rentals citywide at 300.

Kelley Bouchard can be contacted at 791-6328 or at:

kbouchard@pressherald.com

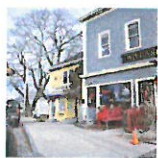
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South Portland council on path to relax proposed short-term rental regulations

By *Juliette Laaka* on April 25, 2018

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— The City Council Tuesday night reached consensus on modifications to a ordinance that would allow vacationing residents to rent out their homes for up to 30 days a year.

The council discussed Tuesday leave the core of the original restrictions intact: non-owner-occupied units would still be barred.

Proposed changes would allow two adults per room, with a cap of six people in an owner-occupied apartment buildings with at least four units would be able to rent out two units if they live in one of the other units, and all short-term rentals would have to be licensed.

The council also changed the language that would have prevented people from renting their homes out while they are on vacation.

The councilman drafted the modifications, which councilors agreed to explore in a first reading. If adopted, people operating short-term rentals would have to be in compliance with regulations by Jan. 1, 2019.

Councilor said the council ended up where it did because of the most extreme cases, where homes were rented on a continual basis without an owner present, which leads to more noise and other behavior.

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Rose said he wants to see language strong enough to close any loopholes in existing zoning language after councilors decided to nix language in a land-use ordinance that said a use is prohibited if it is not expressly allowed.

The prior, short-lived rental restrictions were adopted in February, then repealed early this month after opponents collected enough petition signatures to force the council to revisit the decision.

The council has been working on the issue since last July and has heard more than 12 hours of public comment in addition to emails and phone calls, according to Mayor Linda Cohen. She said the process has been “a dialogue” with the community.

But the divisiveness of the issue remained apparent during public comment Tuesday, with people on both sides staunchly arguing their positions – condemning short-terms rentals as illegal businesses that erode the community, or defending them as a means for people to supplement their incomes and part of a tradition of renting in the city.

The repealed ordinance – aimed at online services like Airbnb, VRBO and HomeAway – would have banned non-owner-occupied rentals in all residential neighborhoods. Hosted stays, where the homeowner is present, would have still been possible in all areas of the city, and stays without owners present would have been allowed only in commercial and mixed-use neighborhoods. Short-term rentals were defined as any stay of 30 days or less.

According to Assistant City Manager Joshua Reny, as of last November, there were 282 short-term rentals listed in South Portland, with 75 percent of those for entire homes. A quarter of the listings were for single rooms in a home. The average price for an entire home in South Portland was \$124 per night, according to Airbnb, he said.

Reny and Daggett will work to incorporate the new model into the original ordinance language, and Planning Director Tex Haeuser will help decide parking issues and how they relate to the number of guests in a home.

Morgan said he was humbled by the petition process, which included enough signatures to force the council to repeal the law or send it to a referendum. Morgan said he was listening to the public when they said the council went too far in restricting rentals.

“I am keenly aware we fell short of some people’s expectations,” he said.

Juliette Laaka can be reached at 781-3661 ext. 106 or at jlaaka@theforecaster.net or on Twitter [@JulietteLaaka](https://twitter.com/JulietteLaaka).

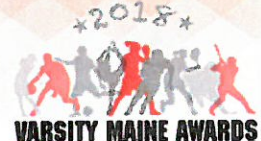


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