



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-022

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Memorandum

To: LUPC Commissioners
CC: Stacie R. Beyer, Executive Director
From: Stacy Benjamin, Chief Planner
Date: September 5, 2024
Re: Short-term Rentals – Follow-up and Next Steps

At its August 14, 2024, regular business meeting, the Land Use Planning Commission welcomed two guest speakers: Alex Pugh, Senior Environmental Hydrogeologist and Manager of the Subsurface Wastewater Disposal Program and the Water Protection Section at the Maine Department of Health and Human Services, and Jeff Dennis, Biologist with the Maine Department of Environmental Protection and head of its Watershed Management Unit.

These speakers presented information regarding subsurface wastewater disposal systems and potential impacts on water quality from overused or failing systems. The purpose was to provide background information as Commissioners deliberate regarding regulating short-term rentals in the Commission's service area. The information presented is summarized in the August 14, 2024, meeting minutes, along with Commissioner questions and comments.

After the guest presentations, Commissioners voted to terminate the rulemaking process and postpone further discussions until the following meeting. Staff will present the information prepared for the August meeting at the upcoming September meeting to provide more background information and potential options for going forward. Then, staff will seek guidance from the Commission on the next steps. The August memorandum is attached to this memo for convenience.

Attachment:

August 7, 2024 Commission Memorandum on Short-term Rentals

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Date: August 7, 2024
Re: Short-term Rentals – Updates and Next Steps

Background and Updates

The Commission voted at its June meeting to table the short-term rental rulemaking proposal. During their deliberations, Commissioners commented generally on or had questions about the following:

1. Enforcement and penalties for noncompliance if a notice is not submitted or a standard is not met;
2. Anticipated burdens on short-term rental owners and LUPC staff if the rules are adopted;
3. The proposed occupancy standard;
4. The number and location of short-term rentals in the Commission's service area;
5. Parking standards; and
6. The nature of the complaints regarding short-term rentals.

In particular, Commissioners expressed concern about the proposed occupancy standard. Commissioner Billings suggested that staff from the Maine Department of Health and Human Services Subsurface Wastewater Unit (SWU) attend an upcoming Commission meeting to provide information on the rules for septic systems and potential risks from overuse of septic systems associated with short-term rentals. Alex Pugh, Senior Environmental Hydrogeologist and Water Protection Section Manager of the SWU, is scheduled to attend the August Commission meeting to present information and answer questions regarding septic system rules and permitting requirements. In addition, Jeff Dennis, Biologist III with the Maine Department of Environmental Protection's Water Quality Bureau, will present information about potential impacts on water quality from inadequate or overused septic systems.

Regarding the other discussion items, additional information is provided below.

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- *Enforcement and Penalties for Noncompliance.* The Commission’s [Compliance and Enforcement Response Policy](#) outlines the process for addressing potential violations. Should the Commission move forward with adopting a notice requirement for short-term rentals, the following enforcement mechanisms would be used:
 1. Immediate On-site Resolution (OSR) – If a complaint were received regarding a short-term rental, staff would look for a filed notice and make initial contact with the owner. If a notice had been filed, staff would investigate whether the standards are being met. If no notice has been filed, staff would request that a notice be filed and notify the owner about the standards. If the owner is exceeding the standards, staff would provide information about the permitting requirements to exceed the standards. Staff anticipates that most situations where an owner has not provided a notice for a short-term rental will be resolved in this manner.
 2. Letter of Warning (LOW) – A letter of warning would be issued if an owner failed to submit a notice, comply with the standards, or obtain a permit if required after initial contact by LUPC staff.
 3. Notice of Violation (NOV) – If the owner of a short-term rental does not submit a notice or obtain a permit if required, staff would issue an NOV. Depending upon the nature of the violation or the responsiveness of the respondent, the NOV may or may not be followed by further enforcement action. Further action in the case of a short-term rental violation would depend on the nature of the violation and the degree of actual or potential impact.
- *Anticipated Burden on Short-term Rental Owners and LUPC Staff.* The notice system was developed to minimize the amount of time and resources needed by owners to file and staff to administer when compared with permitting. The draft notice form is relatively short (two pages excluding instructions) and would only need to be completed once. There would be no fee for filing. The vast majority would likely be filed online. The data would be fed directly into our database, and a response email would be automatically generated. To minimize the impact of the anticipated large number of initial filings on permitting staff, a planning staff member would be assigned for the first year to handle paper notices and any issues with the short-term rental notices.

In terms of costs for owners, there may be a cost associated with obtaining a septic inspection in those cases where an owner does not know the capacity of their system or cannot locate an approved plumbing permit. There may also be costs associated with printing safety information or posting signage identifying the property address.

- *The Number and Location of Short-term Rentals in the Commission’s Service Area.* The study of short-term rentals conducted in early 2022 found nearly 570 active rentals spread over 72 minor civil divisions (MCDs) in the Commission’s service area. At that time, 248 MCDs had zero listings. Since that report, AirDNA, the source that compiles data from Airbnb (airbnb.com) and VRBO (vrbo.com) for research on short term rental markets, has changed the availability of their data and the LUPC no longer has access to market data. However, the Maine State Housing Authority (MaineHousing) compiled data on short-term rental activity

state-wide and found that Maine had 23,859 active short-term rental properties between April 2022 and 2023¹. MaineHousing was able to review the AirDNA property listings report for Maine issued on 7/09/2024 and found 7,398 listings for rentals in the zip codes that include the MCDs in the Commission’s service area. The zip codes also include the adjacent towns (e.g., Rangeley, Greenville, and Newry,) so the actual number of current listings in the service area could not be readily calculated with available data.

- *Parking Standards.* LUPC development standards (Chapter 10, Section 10.25), including parking standards, apply only to development requiring a permit. A parking standard for short-term rentals was included in the proposed rule due to comments by participants in the summer 2023 outreach, who cited instances where roads have been blocked to neighbors or emergency vehicles. Title [17 M.R.S. § 3853-C](#), Trespass by motor vehicle, civil violation, includes two provisions: 1) a person cannot park in a private drive or private way in a manner that blocks or interferes with the free passage of other vehicles without the permission of the owner of that private drive or way; and 2) a person cannot park on a public highway in a manner that blocks the entrance to a private driveway, gate or barway. The proposed rules go beyond the statutory provision to ensure adequate space is available to allow emergency vehicle access to the property.
- *The Nature of Complaints Regarding Short-term Rentals.* In addition to the comments collected during the community outreach last summer, staff have received at least nine complaints since 2020 with concerns about the occupancy of a site used as a short-term rental. Staff have also received multiple complaints about sewage smells or overflows, or use of properties for accommodation without septic, though these complaints were not necessarily associated with short-term rentals.

Many of the reported issues with short-term rentals are civil complaints. Providing “best practice” information on the LUPC website and potentially through printed materials is intended to help owners, renters, and neighbors identify who to contact if there is a question, issue, or complaint about a short-term rental. The materials would include contacts for issues like noise, fireworks, ATV use, etc. The proposed standards were identified to provide the Commission with enforceable standards for some of the most common issues reported during the summer 2023 outreach, focusing on safety and environmental impacts.

Next Steps

After the presentations by DHHS and DEP at the upcoming meeting, the staff seek direction on the next steps. Specifically:

- Is additional information or research required regarding short-term rental activity, regulation, or impacts?

¹ See page 31 of the [State of Maine Housing Production Needs Study](#) published in October 2023 by MaineHousing, the Governor’s Office of Policy Innovation and the Future, and the Maine Department of Economic and Community Development.

- Does the Commission wish to begin a new rulemaking initiative based on the prior or an amended proposal, postpone adopting rules, or discontinue regulatory action on short-term rentals?
- Should staff continue efforts to develop and make available information about best practices for hosting or renting short-term rentals in LUPC’s service area?

If more research and discussion are desired, staff request direction from the Commission regarding the topics for research and information that would be helpful as Commissioners deliberate optional approaches. All information presented to date is available on the [project website](#).

If the Commission wishes to pursue a revised redline of potential rule changes, guidance on the preferred regulatory approach is needed. Possible options include:

- Require notification to the LUPC without additional standards or regulatory changes;
- Require notice with fewer standards (e.g., comply with subsurface wastewater disposal rules and identify a rental contact person); or
- Require notice with standards as proposed except for a revised or eliminated occupancy standard (see Attachment A for possible revisions).
- Require notice only in certain circumstances, e.g., within a certain subdistrict or 250 feet of a wetland or water body.

In the interim, staff recommends that the Commission terminate the current rulemaking process. According to the Commission’s Chapter 4 rules, the Commission must act to adopt proposed land use district standards within 90 days of the final date by which data, views, or arguments may be submitted. Since it has been more than 90 days, proceeding with the current rulemaking would not comply with that time limit. Should the Commission decide to proceed with rulemaking for the adoption of short-term rental standards, a new redline version of the rule could be posted for public notice through the Secretary of State’s office when the Commission is ready to take that step.

Attachments:

Attachment A. Potential Occupancy Standards for Short-term Rentals

ATTACHMENT A. Potential Occupancy Standards for Short-term Rentals

Option	Description	Notes
Current Rulemaking Proposal	<p>The maximum allowable occupancy must not exceed two persons per number of bedrooms in the short-term rental dwelling unit. Occupancy and sleeping accommodations are limited to authorized buildings (e.g., dwelling or bunkhouse) or authorized residential campsites. Notwithstanding Section 10.27,T,3 below:</p> <ul style="list-style-type: none"> a. The maximum allowable occupancy for a residential campsite must not exceed 12 persons; and b. For authorized bunkhouses, sleeping accommodations for every two persons counts as one bedroom. 	<p>The Commission could add “plus 2” to the standard, so it is two per bedroom plus two people. Multiple Maine municipalities have taken this approach.</p>
No LUPC occupancy standard	Delete an occupancy standard from the proposed rules.	This was a suggested option at the 6/12/2024 Commission meeting.
Additional guests per bedroom	Increase the maximum allowable occupancy to 3 persons per bedroom.	This was a suggested option at the 6/12/2024 Commission meeting.
Maximum occupancy	Set a maximum occupancy limit for a short-term rental allowed without a permit subject to standards and require a permit if the rental allows more than the maximum.	A 12-14 people cap for all rentals was suggested at the 6/12/2024 Commission meeting.