



ANDROSCOGGIN VALLEY COUNCIL OF GOVERNMENTS:
SHORT TERM RENTALS

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Central Question: What is Short Term Rental?





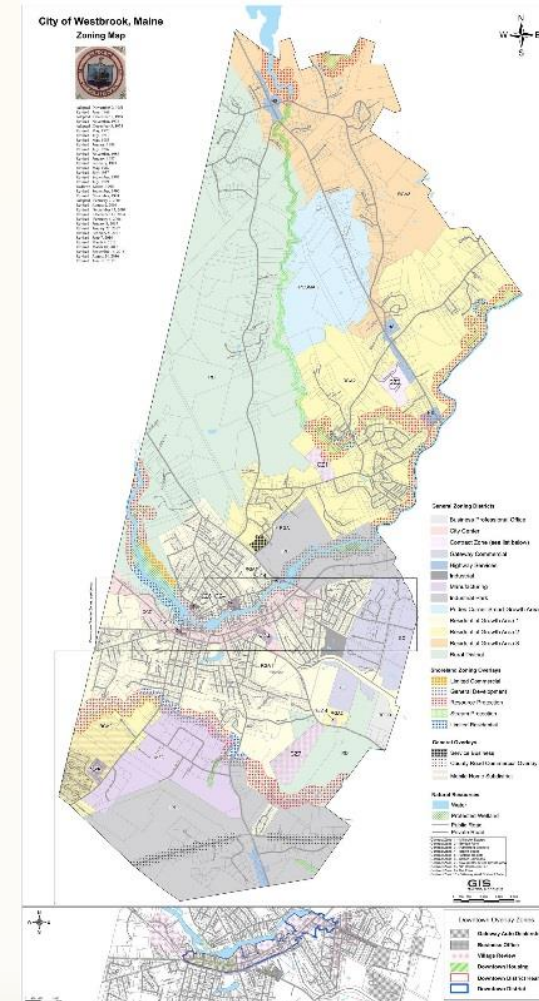
Municipal Home Rule Authority (30-A M.R.S.A. § 3001)

- Municipalities have wide authority to enact ordinances.
 - Room for creativity
- No state regulation of STRs...yet.
 - Note: State does regulate Uber and Lyft, so there is precedent.
- Land use, licensing, building and fire codes
- Or do nothing . . .

Zoning

Pig in a Parlor

- **DEFINITIONS MATTER**
- Commercial use in a residential neighborhood?
- Or natural progression of property rights?
- “Any use not specifically allowed is prohibited.”
 - Define “short term rental” anyway
 - Zone or prohibit
 - Limit number
- Typical definitions are durational, *i.e.*, fewer than 30 days.
- Regulating allows for registration and performance standards



Fines and Penalties

- Zoning STRs allows for fines to be imposed.
- \$100 - \$2,500 per day.
- Disgorgement of profits in excess of \$2,500 a day.
- Separate violations for failure to register, inspection problems, etc.



Licensing

Unlicensed/Regulated Commercial Use

- Unfair competition?
 - STR owners able to operate without regulatory burden.
- Life Safety: NFPA 101 (Section 3.3.55.1)
 - Occupancy limit exceeded
 - Ingress and egress, CO, smoke
- Insurance

Short-term Rental Fees

License.....	\$
Application	\$
Inspection	\$
Re-Inspection.....	\$
Appeal.....	\$

Housing Stock

The “Bigger City” Problem

- STRs transition long term units to short term units.
- Reduce housing stock and increase rents (arguably)
- Portland and South Portland, maybe Lewiston and Auburn next?
- Often dealt with via ban or cap on “non-owner-occupied” units



Legal Pitfalls

- Caps and Quotas:
 - First come, first serve?
- Consistent enforcement
- Recalls, citizen petitions, etc.
 - *See* 30-A M.R.S. 2522
- “Affront to property rights”





Tips

- **Moratorium** – grandfathering can present issues.
 - Annual licensing fee is a potential shortcut. *See LaBay v. Town of Paris.*
- Start with the policy – then transition to the ordinance.
 - Zone out of neighborhoods?
 - Bring up to code?
 - Limit to owner-occupied?
- Deliberative process better than rushing and cutting corners.
- Resist copying others
- Compliance is far better than extracting fines.



Short Term Rentals

Cape Elizabeth and Rockland Maine

Two Perspectives

Why Regulate Short Term Rentals?

Cape Elizabeth

- Party house behavior
- Preserve single family home neighborhoods
- Public health and safety

Rockland

- Ordinance did not permit it
- Emphasis on protection of neighbors & neighborhoods
- Ability to see what is happening and where

What Do We Regulate/Exempt?

Cape Elizabeth

- Rentals of less than 30 days duration
- 2 weeks or less annually exempt
- Each rental is considered a minimum of 1 week

Rockland

- Rentals for less than a month
- No exemptions
- Limit to whole house or one unit in duplex & 1 unit and multi-family. Multi-family must be permitted in zone and meet all codes including sprinkler.
- No minimum stay period

Highlights of Regulations

Cape Elizabeth – 58 STR

- Identify local contact
- Lodging house code compliance for smoke alarms, CO, egress lighting
- Sanitary waste
- Parking
- Limit on rental intensity-lots under 30,000 sq. ft.: 8 + 8
- 3 strikes enforcement

Rockland

- Must have manager 24/7 within 15 miles. Contact info given to abutters
- Must provide proof of insurance for STR and show permit # in ad
- Parking
- No campers, tents, sheds, etc.
- Council can revoke

What is the process for approval?

Cape Elizabeth

- STR Permit from CEO
- Need to install egress lighting
- Inspection
- \$50 annual fee

Rockland

- STR Permit. Owner occupied: through Code Office. Non-owner occupied: One time Planning Board
- Must provide proof of insurance for renting short term
- No inspection
- \$100 annual fee

Time commitment on staff

Cape Elizabeth

- New Permit: 3 hrs CEO, ½ hr staff
- Renewal: ½ hr staff
- 5 year renewal: ½ hr CEO, ½ hr staff
- Inspections/complaints: 10 hrs/yr CEO

Rockland

- Each new permit; 1 HR CEO, 2 hrs staff. Must send notices twice but only upon new application
- Renewal: 1 hr staff (insurance)
- Tracking: 1-2 hrs/mo staff, 1 hr/mo CEO following up
- Inspections 0 hrs. Non-permitted follow-up 10 hr/yr CEO

How long have we been regulating STRs?

Cape Elizabeth

- Adopted December 2012
- Reviewed in 2015 with no changes

Rockland

- Effective November 1, 2016
- Two full seasons (2017, 2018)
- Cap placed on non-owner occupied March of 2018.
- Committee and workshops proposed.

General experience for staff/landlords/residents?

Cape Elizabeth

- Party house complaints virtually eliminated
- Some increase, but also some transition to long-term rentals
- "killed a fly with a sledgehammer"

Rockland

- Other than renting without a permit, no complaints to the Code Office
- Meet at my desk to go over application with each applicant. Both Code and PB enjoyed discussions with applicants
- One challenge to local authority vs. State laws