

Chapter 174. Short-Term Rental

Proposed repeal of Ch. 190 Vacation Rental and enact Ch.174 Short-Term Rental

The reason we did not do a repeal and replace of Ch. 190 Vacation Rental is that we wanted to move away from the term VR as an all-encompassing term. ECode360 lists chapters in alphabetical order and therefore using the term STR gets us out of the number 190 and into 174.

§ 174-1. Purpose.

The purpose of this chapter is to ensure that the quality of short-term rentals (herein STR) within the Town of Bar Harbor is adequate for protecting the health, safety and welfare of occupants of STRs and of the community.

§ 174-2. Administration.

A. Authority. The provision of this chapter shall be administered and enforced by the Code Enforcement Officer or their designee (herein referred to as the CEO).

B. Text box aids. The text boxes are not part of this chapter but placed there to assist the reader in understanding and complying with this chapter.

C. Cross-references. Information is cross-referenced for the convenience of the reader. Any omissions or misreferences shall not preclude STRs from having to meet the requirements of other chapters of the Bar Harbor Municipal Code or other applicable regulations.

§ 174-3. Validity and severability.

If any section, subsection, clause or phrase of this chapter shall be found to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of this chapter and to that end the provisions of this chapter are hereby declared severable.

§ 174-4. Definitions.

As used in this chapter, the following terms shall have the following meanings:

Primary residence

As defined in the Land Use Ordinance § 125-109

Registration

A written permission issued by the CEO to a property owner to operate a STR.

Definition of Terms as defined in §125-109 with bracketed notes for clarification

Primary residence: The primary location that a person inhabits and is where the owner resides most of the year. The property owner uses this address as their legal address for tax returns, driver's license, and/or voter registration card.

Short-term rental: Includes vacation rental, vacation rental-1 (VR-1) and vacation rental-2 (VR-2).

Vacation rental (VR): The use of a dwelling unit or portion thereof for rent to a family for a period of less than 30 days and a minimum of five days [4 nights]. Time-share property, as most recently defined in 33 M.R.S.A § 591, is also included in this definition.

Vacation rental-1 (VR-1): A dwelling unit, or portion thereof, that is rented to a person or a group for less than 30 days and a minimum of [3 days] two nights. The rental of a portion of the dwelling, as in a bedroom, must be located in the principal structure housing the dwelling unit.

Vacation rental-2 (VR-2): An entire dwelling unit that is not the primary residence of the property owner and is rented to a person or a group for less than 30 days and a minimum of [5 days] 4 nights.

Family: Two or more persons related by blood, marriage, adoption or guardianship, or not more than five persons not so related, occupying a dwelling unit and living as a single housekeeping unit, such a group to be distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, transient accommodations, short-term rental, employee living quarters, or shared accommodations.

Short-term rental

As defined in the Land Use Ordinance § 125-109

Vacation rental (VR)

As defined in the Land Use Ordinance § 125-109

Vacation rental-1 (VR-1)

As defined in the Land Use Ordinance § 125-109

Vacation rental-2 (VR-2)

As defined in the Land Use Ordinance § 125-109

§ 174-5. Requirements to operate STRs.

- A.** STRs must comply (it cannot be in violation) with Chapter 125 Land Use Ordinance. Refer to Chapter 125 for information on where STRs are allowed, related definitions, and standards.
- B.** No person(s) shall advertise for rent, rent, or operate a STR without a valid registration issued pursuant to this chapter.
- C.** The owner of a STR shall complete and post the emergency information sheet, provided by the CEO, on or about the inside of the front or main door of the dwelling unit for convenient inspection by the occupant. The emergency information sheet shall include, but is not limited to, the following information:
 - 1. Registration number;
 - 2. Physical address of the STR and instruction on how to contact emergency responders;
 - 3. Information on how to file a complaint regarding life safety requirements with the Town of Bar Harbor;
 - 4. The name, mailing address, email address, and telephone number of the owner; and
 - 5. The name, email address, and telephone number of a local contact (if different from the owner) who will be available to respond to problems and emergencies.
- D.** The registration number shall be posted on all advertising including, but not limited to, online platforms.
- E.** At the time of issuance of a registration, the property taxes, town water fees, and/or town sewer fees, associated with the property to be rented as a STR, shall not be in arrears.

VR-1

1. Allowed in 34 districts.
2. In the primary residence or at the location of the primary residence.
3. May be an entire dwelling unit or part of a dwelling unit (room(s)). If renting room(s), all persons or groups renting a portion of the dwelling shall have access to cooking, bathing and sanitary facilities.
4. Minimal rental period of two nights.
5. Maximum number of VR-1 registrations per qualifying property would be two – it may be in the primary residence and/or at the location of the primary residence (i.e., a house and garage apartment).

New VR-2

1. Allowed in 18 districts
2. **In general**, not the owner’s primary residence.
3. Must be an entire dwelling unit.
4. Minimal rental period of four nights.
5. The maximum number of VR-2 registrations issued is not to exceed 9% of the total number of dwelling units town-wide.

For more information about where VR-1s and new VR-2s are allowed and applicable standards, please refer to Ch. 125 Land Use Ordinance.

F. Prior to the issuance of a registration, the dwelling unit to be used as a STR must pass the life safety inspection per §174-8. In between inspections cycles, the property owner shall attest in writing that the dwelling unit complies with the regulations in section §174-8.

G. No person(s) shall be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreational vehicle, accessory structure or other structure of a similar nature.

H. All persons or groups renting a portion of a dwelling in a VR-1 shall have access to cooking, bathing and sanitary facilities.

I. Trash shall be removed on a weekly basis while the property is being rented as a STR.

J. To register as a VR-1, the property owner shall attest and provide reasonable documentation demonstrating that the subject property is the owner's primary residence such as tax returns, driver's license, and/or voter registration card.

§ 174-6. Terms, maximum number of registrations, and transition to VR-1 and VR-2, and Continuance.

A. Terms

1. All registrations expire on May 31 of each year.
2. If there is a change of ownership, the registration remains valid for the dwelling unit, or part thereof, to which it was issued until it expires on May 31.

B. Maximum number of registrations

1. Maximum number of VR-1 registrations

A maximum of two VR-1 registrations per Tax Assessor property identification number for the rental of an entire dwelling unit, or a portion thereof, may be issued. A property owner may only be eligible for a VR-1 registration if that property owner can demonstrate that the dwelling unit or another dwelling unit, on the lot where the VR-1 is located, qualifies as their primary residence.

2. Maximum number of VR-2 registrations (VR-2 Cap)

The town-wide maximum number of VR-2 registrations that may be issued shall not exceed 9% of the town's total number of dwelling units. The total number of dwelling units shall be determined by the Assessor at the start of each calendar year.

C. Transition process from VR to VR-1 or to VR-2.

1. Starting on December 2, 2021, any duly registered VR may continue the use as a VR (to include 4-night minimum and the use of an entire dwelling unit or part

thereof) until May 31, 2022. On or before May 31, 2022, the VR registration must be renewed as follows:

(a) If the VR is operated in a dwelling unit, or in a room in the dwelling unit, which is the owner's primary residence, or on the property of the primary residence, then the owner shall renew the VR registration as a VR-1.

(i) If the owner has more than two VR registrations on the same primary residence property, then the third registration (and any additional registrations) shall be renewed as VR-2s, even if the maximum number of VR-2 registrations (VR-2 cap) is exceeded and even if VR-2s are not allowed in that district.

(b) If the VR is not operated in a dwelling unit which is the owner's primary residence or is not on the property of the owner's primary residence, the VR registration shall be renewed as a VR-2, even if the maximum number of VR-2 registrations (VR-2 cap) is exceeded and even if (new) VR-2s are not allowed in that district.

2. After December 2, 2021, the CEO shall accept applications for, but will not process or issue, any new VR-2 registrations until June 1, 2022. Issuance of new VR-2 registrations after June 1, 2022 shall comply with the maximum number of VR-2 registrations (VR-2 cap).

D. Continuance of registration for VR-1 and VR-2

1. Any duly registered VR-1 or VR-2 may continue the use as a VR-1 or VR-2 and is eligible for renewal but only in strict compliance with the following:

(a) The registration must be renewed annually in accordance with this chapter. Any registration not renewed by the annual expiration date (May 31) will be deemed expired, and will not be eligible for renewal. An applicant whose registration has expired may apply for a new VR-1 or new VR-2 registration and will be required to follow all the requirements for a new VR-1 or new VR-2 registration.

§ 174-7. Procedure for registration, registration renewal, and registration wait list.

A. Applications. All applications for STR registrations shall be filed with the CEO on forms provided for this purpose.

B. Fee. The non-refundable registration fee must be paid at the time the application is filed.

C. Registration Wait list (VR-2 Cap).

1. Notwithstanding §174-6 B. "Transition Process from VR to VR-1 or to VR-2" and §174-6. C "Continuance of Registration for VR-1 and VR-2," the maximum

number of VR-2 registrations (VR-2 cap) shall not exceed 9% of the town's total number of dwelling units.

2. The CEO shall maintain a registration wait list.
 3. To be on the registration wait list, the owner must have submitted a complete registration application.
 4. The CEO will determine at the start of the calendar year if registration slots are available. When registration slots are available, the CEO will inform the applicant(s) at the top of the registration wait list. The applicant(s) will have 120 days to secure the registration including but not limited to passing the required inspection.
 5. If for any reasons, the applicant does not obtain the registration within 120 days, the VR-2 slot shall be offered to the next owner on the registration wait list.
- D.** The Code Enforcement Office shall issue a registration to the property owner if the dwelling unit has met all requirements of this chapter.
- E.** Within 30 days of the issuance of a new registration, the CEO shall send a one-time notification of the STR to all property owners within 50 feet of the outer boundary of the property. Notice shall be deemed received if mailed to an owner's last known address according to the town tax records. This provision does not apply to registrations that are being renewed.
- F.** Having secured a registration does not relieve the property owner from the obligation to obtain any additional permits necessary for the use.
- G.** All issued registrations shall be filed with the building permit files under the management of the CEO.

§ 174-8. Life safety inspections and inspection schedule.

- A.** The registration of a STR shall be subject to an initial inspection of life safety requirements by the CEO, and thereafter, registration renewals shall be subject to an inspection every three years.
- B.** All STRs shall comply with:
1. The following chapters of the NFPA 101 Life Safety Code, as most recently amended and edited, and as applicable:
 - (a) Chapter 4, General
 - (b) Chapter 6, Classifications of Occupancy and Hazard of Contents
 - (c) Chapter 7, Means of Egress
 - (d) Chapter 9, Building Service and Fire Protection Equipment

- (e) Chapter 24, One- and Two-Family Dwellings
- (f) Chapter 30/31, New and Existing Apartment Buildings

2. Chapter 70, Electrical Installations, of the Bar Harbor Municipal Code, as it may be amended, edited and as applicable.

§ 174-9. Violations, penalties and fines

A. Violation of operating without a registration.

It shall be a violation of this chapter for any person to advertise for rent, rent, or operate a STR without a valid registration. If, after investigation, the Code Enforcement Officer finds that a STR is being advertised for rent, or is being rented without a valid registration, written notice shall be given by certified mail, return receipt requested, of such violation to the property owner. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record. This violation shall prohibit the property owner from applying for a STR registration for the property in violation for 12 months from the date of the payment of the applicable fine. The fine for operating without a valid registration shall be \$250 per day for each day of operation without a valid registration as determined by the Code Enforcement Officer.

B. Violation of registration.

The Code Enforcement Officer shall investigate all alleged violations, and enforce the provisions of this chapter and the terms and conditions of the registration. If, after investigation, the Code Enforcement Officer finds that any provision of this chapter or any term or condition of any registration granted under this chapter is being violated, written notice shall be given by certified mail, return receipt requested, of such violation to the owner and to any other person responsible for such violation, indicating the nature of the violation and ordering that action necessary to correct it be taken within a reasonable time determined by the Code Enforcement Officer. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record.

1. If, after notice given pursuant to § 174-9 B. the violation is not abated or corrected within the specified time, the Code Enforcement Officer shall report same to the Town Council. The Code Enforcement Officer's report shall indicate the additional enforcement actions under consideration and whether the Town Attorney has been consulted or will subsequently be involved. At its next meeting, the Town Council shall vote to accept the Code Enforcement Officer's report. The Town Council shall not entertain comment from the person alleged to have violated this chapter nor shall it take any evidence relating to whether a violation has in fact occurred.

(a) Suspension and revocation of registration

- i. **Suspension – Minor Violation.** The Code Enforcement Officer shall suspend a registration for failure to correct a violation, per §174-9.B. The suspension may not exceed three months. Operation of the STR during

the period of suspension shall be a violation subject to a fine of \$500.00 per day.

ii. **Suspension – Major Violation.** After three or more of the following: substantiated disorderly events as defined in Chapter 64 or other violations of this chapter in a 24-month period, the Code Enforcement Officer, shall suspend a registration for a minimum of three months and a maximum of 12 months. Minor and major violations can be either concurrent or cumulative. Operation of the STR during the period of suspension shall be a violation subject to a fine of \$500.00 per day.

(b) **Revocation.** In cases of recurring major violations or in certain cases of criminal activity at the STR property, the Code Enforcement Officer may revoke a registration.

§ 174-11. Appeals

A. In accordance with the process outlined in §125-103, the Board of Appeals may, upon written application of an aggrieved party received by the Planning Department within 30 days of any decision or enforcement action which interprets this chapter, or hear an appeal from such decision. For purposes of this section, the term "decision" is limited to an order, decision, or enforcement action made in writing.