

**EMERGENCY MORATORIUM ORDINANCE**

**ON NON-HOSTED VACATION RENTALS**

**TOWN OF BAR HARBOR, MAINE**

The Town of Bar Harbor adopts an Emergency Moratorium Ordinance on Non-Hosted Vacation Rentals, as follows:

**WHEREAS**, in 2006, Vacation Rental land use provisions were adopted in the Bar Harbor Code of Ordinances Chapter 125 Land Use Ordinance (LUO) and licensing provisions in Chapter 190 Vacation Rental Ordinance (VRO); and

**WHEREAS**, the LUO does not differentiate between hosted- and Non-Hosted Vacation Rentals; and

**WHEREAS**, a growing number of property owners offer Non-Hosted Vacation Rental without applying for and receiving the required approval from the town and the town has received complaints regarding unpermitted Vacation Rentals; and

**WHEREAS**, there is an emerging trend of people looking to enter the Non-Hosted Vacation Rental market; and

**WHEREAS**, in recent years, the ease of renting houses and dwelling units has increased due to the growth and popularity of websites that facilitate the marketing and booking of Short-Term Rentals, such as, but not limited to, Airbnb and VRBO, has negatively affected the community in ways not previously contemplated; and

**WHEREAS**, houses are being purchased and turned exclusively into Non-Hosted Vacation Rentals, resulting in the loss of affordable housing, negative impacts to adjacent properties, constant turnovers in the high season and dark vacant homes in the low season; and

**WHEREAS**, in 2018, a community conversation began where the town became aware of the impacts and benefits of Short-Term Rentals; and

**WHEREAS**, tourism is a crucial part of the local economy; and

**WHEREAS**, Non-Hosted Vacation Rental regulations are needed to protect the rights and safety of owners, guests, and neighbors by including requirements related to parking, noise, trash, health, safety and welfare; and

**WHEREAS**, the town recognizes that the provisions in the LUO and the VRO regarding Vacation Rentals do not address the current reality of operation and patronage of Non-Hosted Vacation Rentals and may not be in the community’s best interest; and

**WHEREAS**, the town sees problems with land use growth in the town under existing regulations, is debating this growth in general and in specific ways, and finds that unless the town acts immediately, there may be adverse impacts on the town and its residents; and

**WHEREAS**, the town needs time to review its ordinances to determine the implications of Non-Hosted Vacation Rentals to develop reasonable provisions governing the location and operations of such establishments and to address the concerns cited above and, thereby necessitating a moratorium; and

**WHEREAS**, a moratorium is necessary to prevent serious public harm and an overburdening of public facilities that are reasonably foreseeable results of the growth of Non-Hosted Vacation Rentals; and

**WHEREAS**, it is anticipated that such a study, review, and development of recommended changes to existing ordinances or adoption of new ordinances will take at least sixty (60) days from the date this Emergency Moratorium Ordinance on Non-Hosted Vacation Rentals is enacted; and

**WHEREAS**, in the judgment of the Town Council, the foregoing findings and conclusions constitute an emergency requiring immediate legislative action within the meaning of Article III, section C-16 of the Town Charter; and

**WHEREAS**, the town is authorized to enact Moratoria in accordance with 30-A M.R.S.A. §4356;

**NOW, THEREFORE**, based upon the foregoing findings, be it hereby ordained that the Town of Bar Harbor does enact the following Emergency Moratorium on Non-Hosted Vacation Rentals:

**1. Definitions:**

- a) **Dwelling Unit** is defined in the LUO as a room or group of rooms which is designed, equipped and intended exclusively for use as residential living quarters by only one family, which contains independent living, cooking, sleeping, bathing and sanitary facilities, and which is separate and independent from other such rooms or groups of rooms.
- b) **Non-Hosted Vacation Rental** means the Short-Term Rental of a Dwelling Unit for a period of less than 30 consecutive days, which is not the owner's primary residence and is not occupied overnight by such owner during the Vacation Rental period. If more than one Dwelling Unit, attached or detached, is located on the Premises, the Dwelling Unit is considered a Non-Hosted Vacation Rental if the owner is not present in one of the Dwelling Units located on the Premises during the Short-Term Rental period.
- c) **Premises** is defined in the LUO as one or more parcels of land which are in the same ownership and are contiguous, and including all buildings and other structures thereon.
- d) **Primary Residence** means an owner's primary place of residence, as defined by whether the owner carries on basic living activities at the Dwelling Unit and whether such Dwelling Unit is the owner's usual place of return. Reasonable documentation, such as Maine homestead exemption qualification, voter registration, government ID with address, motor vehicle registration, or motor vehicle excise tax payment receipt shall be indicia of primary residence.
- e) **Short-Term Rental** means the use, control, management or operation of a Dwelling Unit, in whole or in part; for dwelling, sleeping, or lodging purposes by Short-Term Rental guests for compensation, directly or indirectly.
- f) **Vacation Rental** is defined in the LUO as the use of a dwelling unit for rent to a family for a period of less than 30 days and a minimum of five days. Time-share

property, as most recently defined in 33 M.R.S.A § 591, is also included in this definition.

2. **Purpose and Applicability:** Upon the effective date, this Ordinance shall apply to all Non-Hosted Vacation Rentals in the Town of Bar Harbor and shall apply retroactively to any pending proceeding, proposal, or application to establish a Non-Hosted Vacation Rental, except that this Ordinance shall not apply to applications for the renewal of pre-existing lawfully permitted or approved Non-Hosted Vacation Rentals or those pending applications found to be complete and which have passed the requisite Life Safety inspection performed by the Bar Harbor Fire Department.
  
3. **Prohibition:** During the time this Ordinance is in effect, no officer, official, employee, office, board, or agency of the Town of Bar Harbor shall accept, process, approve, deny, or in any other way act upon any application for a registration, building permit, certificate of occupancy, site plan review and/or any other permits for a use, control, management or operation of a Non-Hosted Vacation Rental.
  
4. **Effective Date:** This Ordinance shall take effect as of the date of passage and shall remain in effect for a period of sixty (60) days, and shall automatically stand repealed as of the 61<sup>st</sup> day following the date of passage, unless extended, repealed, or modified by the Town Council, if the Town Council determines the emergency still exists and that reasonable progress is being made to alleviate the problem giving rise to the need for the Ordinance.
  
5. **Action by the Bar Harbor Town Council and Planning Board:** During the effective period of this Ordinance, the Planning Board and Council appointed staff shall expeditiously act to review the implications of such use on, and among other things, the health, safety and welfare, traffic, law enforcement, land use, aesthetics, property value, and environmental impacts on the Town of Bar Harbor and its citizens. Toward the end of the Moratorium, the town will hold at least one public hearing and receive input from interested parties. The Planning Board and interested parties shall endeavor to submit

recommendations for permanent action within fifty-nine (59) days of the effective date of the Ordinance.

6. **Violation of this Ordinance:** If Non-Hosted Vacation Rental are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.
  
7. **Severability:** Should any section or provisions of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.