

To the Members of the Bar Harbor Town Council:

We, the undersigned voters of the Town of Bar Harbor, petition the Members of the Bar Harbor Town Council to place the following article before the voters of the Town for their consideration:

AN AMENDMENT TO THE TOWN OF BAR HARBOR CODE TO IMPOSE DAILY LIMITS ON CRUISE SHIP DISEMBARKATIONS

The Town of Bar Harbor hereby ordains that Bar Harbor Code Chapter 125, Article VII, Section 125-77 shall be amended as follows (additions are underlined, and deletions are ~~struck through~~):

§ 125-77 **Permit required for certain activities.**

...

H. Disembarking persons from cruise ships on, over, or across any property located within the Town of Bar Harbor.

(1) For the purposes of this section, “cruise ship” has the same meaning as set forth in § 153-22(B) of the Town of Bar Harbor Code.

(2) As determined by the Harbor Master, no more than 1,000 persons, in the aggregate, may disembark on a single calendar day from any cruise ship(s) and come to shore on, over, or across any property located within the Town of Bar Harbor; provided, however, that this subsection shall not apply with regard to any cruise ship reservations that have been accepted by the Harbor Master prior to March 17, 2022.

(3) The Harbor Master shall develop rules and regulations in order to establish (i) a reservation system for cruise ships that transport persons by watercraft for disembarkation in the Town of Bar Harbor; (ii) a mechanism for counting and tracking the number of persons disembarking each day; (iii) a mandatory procedure for reporting violations to the Code Enforcement Officer; and (iv) any other provisions that the Harbor Master deems necessary under this subsection. Any property owner issued a permit under this § 125-77(H) shall comply with all rules and regulations promulgated by the Harbor Master under this subsection.

(4) This subsection shall be enforced by the Code Enforcement Officer in accordance with § 125-100 of this chapter, based on information as to violations provided by the Harbor Master, and property owners in violation of this subsection shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S. § 4452, as the same may be amended, provided that each disembarking person exceeding the permitted daily limit in § 125-77(H)(2) is a specific violation under 30-A M.R.S. § 4452(3)(B), resulting in a minimum \$100 penalty per excess unauthorized person.

(5) Notwithstanding 1 M.R.S. § 302, and regardless of the date on which it is approved by the voters, this subsection will be applicable as of March 17, 2022, and shall govern any and all applications for permits or approvals required under this subsection that were or have been pending before any officer, board, or agency of the Town of Bar Harbor on or at any

time after March 17, 2022; provided, however, that the Town will not take any enforcement action under this subsection with regard to any cruise ship visits occurring prior to the date of adoption by voters at Town Meeting.

PURPOSE:

The purpose of this amendment to the Code is to require a permit to be issued to any property owner wishing to allow for the discharge of cruise ship visitors in the Town of Bar Harbor from their property, and to establish a codified limit on the number of persons who may disembark from cruise ships and be transported to the Town of Bar Harbor per day. Underlying this proposed amendment is the fact that, in recent years, the Town has been a popular port of call for cruise ships of varying sizes, from which individuals disembark via tender boats that offload directly into the downtown area. The large numbers of disembarked persons have overwhelmed the downtown area, resulting in excessive congestion and traffic on public streets and sidewalks, frequent overcrowding of parks and other public spaces, and inundating local amenities and attractions, all of which result in a diminished quality of life for Town residents. The unchecked and continued influx of disembarking cruise ship visitors in the downtown area jeopardizes the Town's ability to deliver municipal services to Town residents and visitors (for example, cruise ship visitors), including the provision of public safety services (police and fire), emergency medical services (EMS), in-patient and out-patient services at local hospitals, pandemic control measures, and public sanitation services, and also impacts the ability of local shops, restaurants, and other businesses to attract and serve customers. A town-wide survey was conducted in 2021, showing that a majority of respondents believe that the volume of individuals disembarking from cruise ships is too high and has a negative impact on the Town and the health, safety and welfare of its residents.

The Town's existing, uncodified limits of 5,500 passengers per day (for May, June, September and October) and 3,500 passengers per day (for July and August) have proven to be insufficient to mitigate the impacts described above, and furthermore, are currently subject to adjustment at the discretion of the Harbor Master without further input from the voters of the Town. This discretion is removed, and the limits herewith are made absolute. In order to protect, preserve and promote the general health, safety, welfare and peace of the community, it is determined to be in the best interest of the Town to amend the disembarkation limit by lowering the cap to 1,000 persons per day, and requiring that all property owners receive a permit from the Code Enforcement Officer that formally imposes such a limit. By statute, 38 M.R.S. § 439-A, the Town is expressly authorized to regulate activities that occur within its own shoreland areas. Further, in accordance with the Town's home rule authority under the Maine Constitution (Article VIII, Part Second, Section 1) and by statute (30-A M.R.S. § 3001) the Town may adopt ordinances to protect the health, safety and welfare of its residents, including Chapter 125 of the Town of Bar Harbor Code, which regulates the use of land and permitted structures in Bar Harbor.

As drafted, the provision is applicable as of March 17, 2022, and the purpose of the retroactive application of the amendment is to provide adequate notice of the daily disembarkation cap to all interested parties prior to the time when reservations are made for future cruise ship seasons. As stated in the amendment, the daily disembarkation cap will not apply to any cruise ship reservation or "booking" that has already been accepted by the Town's Harbor Master prior to March 17, 2022, and the Town will not take any enforcement action with regard to any cruise ship visits occurring prior to the date of adoption of this subsection by voters at Town Meeting.

Petitioning Committee:

Charles Sidman (for all communications), 395 Main St., PO Box 200, Bar Harbor, ME 04609.
Phone: 207-288-0428. Email: csidman@acadia.net.

Amy Sidman, 395 Main St., PO Box 200, Bar Harbor, ME 04609.

Barbara Fenderson, 243 Oak Hill Road., Bar Harbor, ME 04609.

Art Greif, 8 Devon Road, Bar Harbor, ME 04609.

Donna Karlson, 8 Devon Road, Bar Harbor, ME 04609.

Pat Murphy, 13 Arata Drive, Bar Harbor, ME 04609.

Jim O'Connell, 5 Higgins Terrace, Bar Harbor, ME 04609.

For the Committee:

A handwritten signature in cursive script that reads "Charles Sidman".

Charles Sidman

3/17/22