

Commission to Increase Housing Opportunities in Maine by Studying Land Use Regulations and
Short-term Rentals
Meeting #3 – Municipal Issues Panel¹
October 3, 2022

Nate Rudy, Town Manager, Gray

Change of use and increased STR development has an impact on roads and water quality on traditional camp roads surrounding Sebago Lake that are part of the watershed network when not lakefront. A blanket restriction on local STR regulation or pressure for increased development at the State level would work against their ability to sensitively balance municipal obligations to residents and property owners and often state required obligations to enact resource protection ordinances protecting public trust rights, and the drinking water source for the Portland region.

Kerry Leichtman, Town Assessor, Rockport

Assessment of STR investment properties purchased in the past few years and the impact on adjacent residential properties. STRs cannot be assessed differently under existing allowable categories, which may lead to inflating the assessed value of residential homes which in turn, may impact tax rates on residential properties. Maine Revenue Services provides the framework for the calculation of value for apartments, lodgings, etc. Defining these investments based on their use would allow assessors to remove their often-inflated sale price and investment values from the similar residential property calculations next door.

Kevin Sutherland, Town Manager, Bar Harbor

Bar Harbor enacted a 9% cap on allowable STR's based on a percentage of available property in town. When registration went into effect 15.5% of the residential dwellings were STR's. This approach, over time, will reduce STR's in Bar Harbor, but has pushed the "housing as an investment vehicle" (REIT) market into surrounding, often more affordable communities impacting their residential properties. The impact of the current market that views housing as an investment vehicle places pressure on available workforce and year-round housing as well as municipal resources and services and is very different than traditional seasonal rentals. Kevin will share some lessons learned and the benefits of implementing a cap.

Werner Gilliam, Director of Planning and Development, Kennebunkport

Kennebunkport recently adopted a STR license cap, which goes into effect January 1, 2023; the total number of licenses issued in each calendar year is set annually by the board of selectman based on a formula based in part upon a percentage of the total number of residential dwelling units in the Town of Kennebunkport. Seventy-three (73) percent of Kennebunkport's short-term rental owners live elsewhere.

Rebecca Graham, Maine Municipal Association

There are some areas where municipalities have extremely limited authority to regulate moorings on waters of the State. The multi-jurisdictional reality of these waters and rural nature of these small towns makes STR regulation of houseboats a challenge without State tools.

Registered vessels are considered water-dependent and cannot be regulated by municipalities as structures, though they may be used as a residence in some instances and may anchor anywhere not

¹ Summary of panelist issue areas provided by Maine Municipal Association.

in the navigational channel or approved mooring. Floating homes (not be confused with houseboats) have been determined to be non-water dependent uses, require enormous lifts to enforce and adopt ordinances to protect the public trust rights on water. They are often registered as boats by the State placing them in the registered vessel category.

The mooring laws in Title 38 (for tidal waters) are an exception to the general authority of the State over these submerged lands. The State submerged land program has regulations as to what things need a permit from them, but they specifically exempt “moorings” and “water dependent uses which in total occupy less than 500 square feet of submerged land” from their permit requirements. (See 01-670 CMR chapter 53, Submerged Lands Rules §1.5.) Given the extent of State control over submerged lands and great pond surface waters, a model ordinance and permit program under submerged land rules would be helpful in delineating where new transient uses such as these can be assessed and managed or prohibited.

Example: <https://thefloatingnomad.com/>

Recent Legislation related to Houseboats²

130th Maine Legislature – LD 626 – An Act To Clarify Temporary Mooring Privileges for Moorings on Inland Waters (Agriculture, Conservation and Forestry (ACF) Committee **Resolve 2021, chapter 147 – Resolve, To Direct the Department of Agriculture, Conservation and Forestry To Develop Recommendations Regarding Nonwater-dependent Floating Structures on Maine’s Waters**

- Various agencies have regulatory authority over watercraft, docks and floats, waterway markers, and submerged lands.
- Because LD 626 touches on several regulatory and statutory elements, both DACF and DIFW recommend a resolve directing DACF to lead an interagency group, alongside DIFW and with input from MMA and the Maine Harbor Masters Association. Submit recommendations, including suggested statutory changes, to the 131st Second Regular Session (January 2024).

² Summary of recent legislation related to houseboats provided by OPLA.