

## Public comment, Rockport Select Board, January 11, 2021

Members of the Select Board,

I come before you today to express my grave concern with regard to the Town's use of the January & February edition of the Rockport Resource to advocate in favor of the proposed Short Term Rental Ordinance. The 2200-word article that appeared in that edition, authored by the Board Chair, was not an information item or update, but was, rather, a one-sided argument in favor of the proposed Ordinance, without any dissenting views described, despite public testimony providing plenty of rationale for opposition. The article puts forward one biased opinion about this controversial matter after another, and if any mention of opposing views is made at all in the piece, it is to minimize or poorly and/or inaccurately characterize those views.

The Board Chair, as a citizen of the Town, is of course welcome to share her opinions on this matter as we all are, but what is gravely concerning is the use of a public, taxpayer-funded newsletter, bearing the seal and the imprimatur of the Town, which is written, edited, printed, and mailed at public expense, as a vehicle for what is essentially political advocacy. My tax dollars are being used by the town I live in to lobby me as a citizen to support a controversial matter that is to come before citizens for their vote. This is entirely inappropriate and if it isn't outright illegal, it is certainly legally suspect. Public dollars cannot be used for political advocacy in this way - pure and simple.

The Rockport Town Charter, which I had a hand in drafting many years ago, states that *"It is the policy of the Town of Rockport that the proper operation of democratic government requires that public officials and members of all boards and committees be independent, impartial and responsible to the citizens; that public service not be used for personal gain; and that the public have confidence in the integrity of its municipal government."* There is no way that the article in question can be read to be anything other than a blatant argument in favor of a controversial matter still to be decided by Rockport citizens. It is far from the independence and impartiality that the Charter calls for. If you have any question of this, I have taken the liberty of attaching an annotated copy of the article, along with my notes identifying what I believe to be areas of clear bias and partiality.

We live in a time of unprecedented mistrust in government. Members of the Board know full well that there is a growing sentiment in Rockport that the "fix is in" on this matter—that the Board, at the behest of their personal friends and nameless special interests, is ramming through an ordinance proposal that does not represent the views

of the town, to solve a problem it is has struggled to identify with anything beyond anecdote and hearsay. Using a taxpayer-funded newsletter—an official public document created by the Town’s employees and paid for by the public—to advocate for a certain political outcome in this controversial matter only makes this lack of trust worse, and gives voice to those who believe fair treatment in this matter is not possible.

In response to this impropriety, I would ask that the board take the following three actions:

1. That the Board issue an apology for the improper use of this taxpayer-funded newsletter for advocacy purposes, acknowledging that its actions were inconsistent with the standards of independence and impartiality called for by the Town Charter.
2. That the Board adopt a clear policy going forward to prohibit the newsletter (or any other taxpayer-funded municipal resource) being used for this purpose in the future, limiting its future use to the unbiased and impartial reporting of information of interest, consistent with the standards described in the Town Charter.
3. That the Board offer opponents of the ordinance, and there is a large and growing group of these citizens organizing as we speak, the opportunity to rebut the claims in this article in the next issue of the newsletter. Opponents should be given “equal time” to present their views in response, and to have that rebuttal distributed in the exact same manner as the original article.

I thank the Board for its attention to this important matter, it is my hope that Rockport can move forward and have a healthy debate about the ordinance in question, without the Town throwing its considerable weight and authority behind one side or the other. The Town is called on to be impartial and I hope that it will be.

Sincerely,

Stephen Bowen  
117 Cross St., Rockport

## Proposed Short-Term Rental Registration Ordinance

By: Debra Hall

Mainers have for decades engaged in the practice of renting their homes, or portions of them, to summer tourists as a supplement to their income. Many times, the same renters came back year after year, themselves becoming a part of the fabric of the community. This practice has changed in recent years due to the Internet, the “shared economy,” and the proliferation of worldwide aggregators like Airbnb, Home Away and VRBO. Thousands of towns and cities across the United States, and worldwide, are struggling with the competing interests that result – owners of short-term rentals (STRs) wanting to maximize income generation from their property and neighbors who want to maintain the character of their neighborhoods and protect the quiet enjoyment of their own homes. Rockport has not escaped this dilemma. As a number of Rockport residents have said publicly but more often privately to Select Board members, pitting neighbors against one another is “not the Maine way.” As a result, many residents that requested the Select Board take on this issue have remained behind the scenes, quietly and privately urging them to draft and place a STR ordinance on the ballot for voters to act on. Although the September 2019 initial workshop held by the Select Board to determine whether to proceed with an ordinance demonstrated the need for one, the two subsequent workshops and Board meetings have been attended predominantly by those who own STRs and oppose any STR regulation. Despite this reluctance to attend the contentious public meetings, many Town residents have conveyed verbal comments or submitted written comments supporting the current draft ordinance or seeking even more stringent regulation of STRs. In addition, a small but growing number of STR owners have either recognized the need for some level of registration / regulation or have indicated that the current draft strikes a fair balance between competing interests. The level of acrimony has been intense. But as a November 19, 2020 editorial in the Village Soup noted “[E]very town in Midcoast Maine should either have a short-term rental ordinance or be working on one...We do not believe members of the Select Board want to drive short-term rentals out of the community entirely. They just want to make sure they are

**Commented [SB1]:** Evidence? Data?

**Commented [SB2]:** Data? How many?

**Commented [SB3]:** Evidence of this? What “need” was established? And using which data and evidence?

**Commented [SB4]:** Opinion. The “and” suggests the only opposition is from owners, which is not true.

**Commented [SB5]:** This is opinion. Evidence? Data?

**Commented [SB6]:** Data? Evidence? How many?

protecting the town moving forward into the future. That is their job...”

According to Airbnb, listings in rural states are on the rise with a 60% increase in 2018 book-ings over 2017 bookings. And Maine leads those rural states with 430,000 bookings in 2018 and 541,900 bookings in 2019, far ahead of its New England rural neighbors. Knox County is essentially tied as the 5th leading county in terms of Airbnb bookings which represents only one of the several online booking platforms. Maine’s Airbnb hosts earned more than \$100 million in 2019 through Airbnb alone, up from \$67 million in 2018. While this income is good news for those who host STRs, for state taxpayers who benefit from the over \$8 million that went to Maine’s General Fund as a result of the 9% lodging tax, and to the local businesses that these guests frequent – the question is at what cost? What cost to our Town’s taxpayers that pay for resulting infrastructure impact? What cost to workers and employers whom industry professionals observe are driven out of the local housing market and further away from their jobs? And at what cost to neighbors where many STRs are operated in the center of what has been zoned, by law, as residential neighborhoods not commercial zones? What cost to the Town’s future growth and vibrancy in losing potential new full-time residents who are priced out of the housing market?

As stated above, host income from Airbnb in Maine for 2019 alone exceeded \$100 million. This represents an economic force that is hard to appreciate and one that understandably creates a strong incentive to fight against any regulation. However, as one public commenter noted, she had recently moved from a town that did not address this issue proactively and lost the battle to preserve their residential neighborhoods and sense of community for their residents, allowing the overwhelming eco-nomic benefits of profitable short-term rentals to prevail. Maine’s state legislature has defeated proposals that would prevent towns from banning short-term rentals, leaving it to the towns to determine what is best for their community. Members of the Select Board and staff have reviewed ordinances that other Maine towns have adopted and are currently proposing. As one town’s planning board stated, STR regulation is necessary to “balance the needs of the Town and protect public interests including housing affordability, health and safety, and neighbor-hood quality, while still allowing for residents to earn supplemental income from vacation rentals.” Another Maine town described “the seeming

**Commented [SB7]:** This is literally citing an opinion piece – Village Soup’s view, which accords with the author’s, gets to be cited here, but why? What about opposing voices?

**Commented [SB8]:** How does Knox county compare in term of hotel bookings? Isn’t this area one of the state’s leading tourist destinations? Wouldn’t we expect to be a leading county in this regard? You are cherry-picking the data.

**Commented [SB9]:** These questions are all leading. Where are the questions around the impact regulations will have on livelihoods?

**Commented [SB10]:** Where is the opposing view to this? Plenty of public commentators have submitted comments in favor, why are those not included?

incompatibility of a peaceful, quiet enjoyment of residential neighborhood properties with short term rental guests.”

Maine towns have also recognized that regulations are important to level the playing field between short-term rentals and more traditional lodging businesses that have to comply with far more regulations at the state and local level than do short-term rentals. The current ordinance draft strikes a balance – not banning STRs but also not permitting uncontrolled growth.

Importantly, whether a STR ordinance is enacted in Rockport is not up to the Select Board – it will be up to Rockport voters. But, in light of the significant adverse effects that could be experienced by a community with unlimited growth in STRs and the strong economic forces favoring STRs, we believe that it is the Select Board’s responsibility to address this issue head-on. As the Village Soup editorial noted – it is our job. Despite suggestions by those who oppose any STR regulation that the Select Board is “obsessed” with the STR issue – it is simply methodically moving through the process of developing a balanced and fair ordinance that reflects the competing public comment made on this issue and the approaches that other similarly situated Maine communities have adopted. Then, it will be up to Rockport voters to decide this very important direction for Rockport.

STR is a Business. Importantly, short-rental is defined as a business use in which owners rent their properties 3 or more times a year with each rental being less than 30 days and more often less than a week according to STR owners. The Select Board is not proposing to regulate in any way the ability of property owners to rent their properties for 30 days or more. STR regulation throughout Maine and the nation is focused on what has become a business activity similar to that of hotels and B&Bs, yet unlicensed and often conducted in residential neighborhoods.

STR Impact on Long-term Rental Market. Those opposing STR registration argue that there is no evidence that STRs negatively impact the long-term rental market. At the initial September 2019 STR workshop, a number of residents expressed concerns about the lack of long-term rentals during the summer months in Rockport and recognition of the existing “housing crisis” in the area – both conditions being exacerbated by the growth of short-term rentals. These were not hypothetical concerns; specific examples were cited

**Commented [SB11]:** Where are quotes from towns who determined NOT to put such regulations in place?

**Commented [SB12]:** This is opinion. It is the town that will decide whether the proper balance has been established, not the author.

**Commented [SB13]:** This is opinion. Where are the facts on these “adverse effects”? Where is the data?

**Commented [SB14]:** Opinion. Defined by who? Business use has a specific meaning.

**Commented [SB15]:** This is opinion. Where is the data on this?

by these residents of their own experiences and that of their friends. This is not surprising as one resident observed, the math does not favor long-term rentals. Forbes has noted that the short-term rental industry is growing faster than the hotel industry - with short-term rentals yielding 30% more profits for homeowners / investors than long-term leases.

**Commented [SB16]:** Opinion. This is anecdotal. Has the town been surveyed on this?

Other Maine towns have come to similar conclusions, one which recently observed “[a]nother concern is the impact short-term rentals have on the town’s housing stock. Short term rentals limit the options for citizens interested in moving to the community, compounding the town’s already slim housing stock.” The CEO of Hospitality Maine notes that short-term rentals are depleting the workforce housing in our communities which “puts a brake on the growth of the [hospitality] industry because we don’t have enough people right now to work in it.”

**Commented [SB17]:** Opinion. Where is the hard data on this?

**Commented [SB18]:** This is an opinion from the lobbying group for the hotel industry. Where is the opposing view??

STR Registration and Database. Residents at the September 2019 workshop spoke about the need for a database to identify how many STRs exist in Rockport and where. Of course, this can only be accomplished by requiring that STRs register with associated penalties for failing to do so. Other Maine towns have followed the same path. Towns that have adopted registration requirements have been surprised at the significant number of STR properties present in their towns, further supporting the importance of gathering this information for Rockport. The November 19th Village Soup editorial noted that an ordinance requiring registration should be a “bare minimum.”

**Commented [SB19]:** Opinion. What about the residents who opposed this – why is only one side’s argument presented here?

**Commented [SB20]:** Again, why is the view of Village Soup included, and no opposing view? This is an opinion.

Focusing on What Works & Doesn’t. As more than one STR owner has urged the Select Board – focus on what works and what doesn’t. Based on the statements from residents at all three Select Board workshops, it is apparent that there are few, if any, problems caused by STRs when the owner is in residence. These STRs – referred to as “owner-occupied” STRs include the rental of rooms within the owner’s residence, as well as the rental of structures on the owner’s property where the owner resides such as cottages or above-garage apartments. It even includes the rental of abutting property next to or across from the owner’s residence. In the current draft, owner-occupied STRs would be required to annually register for a minimal administrative fee with no requirements other than to ensure that they have off-street parking and confirm that they meet basic health and safety

**Commented [SB21]:** This is leading. It suggests that there ARE problems caused by certain STR’s when no evidence of this has been provided.

**Commented [SB22]:** Opinion. Who is to say what is minimal?

requirements. Existing and future owner-occupied STRs would be permitted without further restriction. Some opponents of STR regulation oppose even these **minimal** measures. Non-owner occupied STRs are those where the owner is not present on the rental property and often include second homes of non-residents or can include investment properties. These STRs have been the focus of the current draft ordinance as they are the properties that have **caused the most concern expressed by residents**, not just in Rockport but similarly across Maine. To that end, **some Maine towns have simply banned** non-owner occupied STRs or banned them in residential neighborhoods, while allowing owner-occupied STRs. By contrast, the draft ordinance does not ban non-owner occupied STRs nor does it ban non-owner occupied STRs in residential neighborhoods. Instead, the current draft would maintain those STRs that currently exist but impose a level of control on future growth and even that limitation would be only in the most densely populated areas of Rockport.

**Commented [SB23]:** Opinion. The author does not get to decide what is minimal.

**Commented [SB24]:** Opinion. Based on what data?

**Commented [SB25]:** Cherry-picking the data. Evidence of this? How many?

**Maintaining Current STRs.** In recognition of the fact that the owners of existing non-owner occupied STRs have invested in and are currently generating income from these properties, the draft ordinance proposes to grandfather in existing non-owner occupied STRs **even though proponents of STR regulation believe there is an over-concentration of them in some village neighborhoods**. In one case, there are claimed to be more STRs on one village street than there are non-STRs. STR owners opposing any regulation claim that the Select Board is attempting to take away their current income from STRs, negatively impacting them during the pandemic. **However, the current draft would do the opposite – it would preserve the income generation of current STRs that have been rented as STRs prior to December 31, 2020.** Any impact on future STR growth would not take effect until after June 2021 and be prospective only.

**Commented [SB26]:** Opinion. Data on this? Opposing view?

**Commented [SB27]:** Opinion. The opposite would be to increase revenue generation. What evidence is there of this?

**Recognizing Different Impacts on Rockport Neighborhoods.** Another suggestion that arose out of the September 2019 workshop was that STR regulation be considered in the context of Rockport's differing neighborhoods. **After all, what impacts neighborhoods in the more densely populated downtown and village areas is unlikely to be an issue in the more rural areas of the Town.** For this reason, the draft ordinance limits the further growth of new non-owner occupied STRs in the more densely populated

**Commented [SB28]:** Opinion. There has been no evidence of impact submitted other than anecdotally, so how do we know what the disparate impact is?

areas of Rockport while imposing no limits on future STRs in Rockport's rural areas. While other Maine towns have limited non-owner occupied STRs to commercial areas of town, not allowing what are essentially businesses to be operated in residential neighborhoods, the current draft reflects a middle ground approach by allowing existing non-owner occupied STRs to operate in residential neighborhoods but limiting the growth of new ones in those neighborhoods.

**Commented [SB29]:** Opinion. It is not up to the author to determine what is a middle ground approach here.

The Process. Members of the Select Board, who have experience in drafting ordinances worked with a member of the Ordinance Review Committee with similar experience to take a first cut at a discussion draft ordinance. This draft attempted to balance the competing public comments and interests, as discussed above, as well as considering how other communities in Maine had addressed similar concerns. In addition, Town staff were consulted to ensure the draft ordinance can be implemented consistent with the Town's existing ordinances and staffing levels. Although the majority of the public comments received by the Select Board have been from STR owners opposing any STR registration or regulation and are of a general nature, a number of substantive concerns have been raised by residents and resulted in amendments that will improve the proposed ordinance. The draft ordinance is now in the hands of the Town's outside counsel for revision and finalization. That final draft will be provided to the Select Board for further consideration. The draft ordinance is on schedule to be included on the June 2021 ballot, two years since the Select Board began discussions on the topic.

**Commented [SB30]:** Opinion. Evidence of this?

**Commented [SB31]:** Opinion. This is an unfair characterization of the opposition, who has not had their side conveyed here.

**Commented [SB32]:** Opinion. The amendments could very well make it worse for all we know.