

# **A REVIEW OF THE CURRENT SHORT TERM RENTAL REGULATIONS**

**RESPECTFULLY SUBMITTED TO  
THE TOWN OF NORTH ELBA  
AND  
VILLAGE OF LAKE PLACID  
June 30, 2022**

By the Land Use Code Subcommittee  
Bill Billerman, Haley Breen, Dean Dietrich (chair),  
Michael Orticelle, Darci Whitney

With special thanks to:  
Liz Clarke, Lori Fitzgerald, Dan Kellerher, Patrick Wells,  
Kathleen Thompson, Art Devlin, Jackie Kelley, Emily Politi  
And  
Lake Placid Central Schools for the use of facilities

# TABLE OF CONTENTS

BACKGROUND.....	3
COMMITTEE PROCESS.....	3
CURRENT REGULATIONS.....	4
LAND USE CODE BASED STRATEGY FOR SHORT TERM RENTALS.....	7
TYPES OF SHORT TERM ACCOMMODATIONS.....	7
Current Permitted Short Term Accommodations	
Current Conditional Use Short Term Accommodations	
Suggested Changes to Definitions	
AREAS SUGGESTED FOR DIFFERENT TYPES OF ACCOMMODATIONS.....	9
General Strategy	
Area Designations for Each Type of Permitted Accommodation.....	9
Hosted Short Term Rentals	
Unhosted Short Term Rentals	
Areas Allowed	
Areas Prohibited	
Areas for Special Consideration:	
South Lake Residential	
Village Center	
Rural Countryside	
From Public Comment	
Zoning Designations for Conditional Use Short Term Accommodations.....	15
TRANSITION TIMELINE.....	15
RENTAL DAY LIMITS.....	17
14 DAY PERMITS.....	17
PLANNED DEVELOPMENTS.....	18
CONDOMINIUM PERMITS .....	19
ENFORCEMENT.....	19
FUTURE ACTIONS.....	20
Capping	
Monitoring	

## **BACKGROUND**

The Comprehensive Plan adopted in 2014 called for an examination into the possibility of regulating Short Term Rentals. The Development Commission, charged with the responsibility of implementing the goals and objectives of the Plan, created the Rental Permit Group to work on the issues. That ad hoc committee first reported their findings to the Town and Village Boards in October of 2015.

As a result of their report the current STR regulations were approved in March of 2020 by the Town of North Elba and the Village of Lake Placid as section 11 of the Land Use Code. The Purpose of those regulations was clearly stated:

Section 11.1 of the 2011 Land Use:

The Village of Lake Placid and Town of North Elba also recognize that the historical nature of the community has been that of a small, residential resort community of owner-occupied dwellings and that extensive short-term rentals endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners. Accordingly, in order to respect the property rights and interests of all homeowners in the Village of Lake Placid and Town of North Elba, this local law seeks to achieve a balance between those who offer their homes as short-term rental properties and those who choose not to do so.

The regulations had two objectives. One was to deal with health, safety, and nuisance issues raised through renting unregulated facilities. They also took the first step at attempting to protect the residential character of the community and balancing the relationship between STR and full-time residences and by limiting the number of rental days for some short-term rental units.

At the time the current regulations became effective the data regarding Short Term rentals was incomplete. No reporting mechanism was in place so it was impossible to obtain an accurate assessment of where STRs were located. The new permit system provided the Code Enforcement Office with the means to gather specific data regarding the number and location of STRs and, to some degree, the rental pattern related to each one. The permit system also allowed for a more accurate method of tracking complaints and enforcement actions associated with STRs.

In March of 2021 the Development Commission, at the request of the Town and Village Boards, created the Land Use Code Subcommittee and charged it with examining the data collected through the permit system. The goal was to determine how well the new regulations were promoting the stated goals of promoting health and safety, protecting the character of residential neighborhoods and whether they were striking a balance between the needs of people who choose to rent their homes and those who did not.

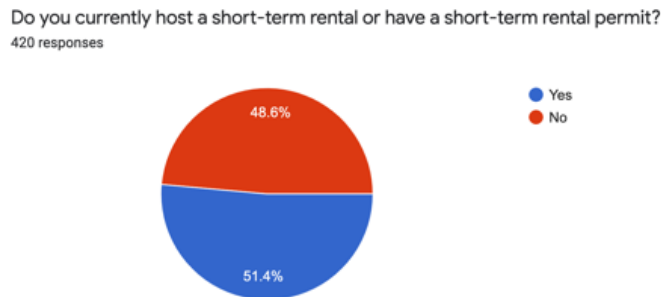
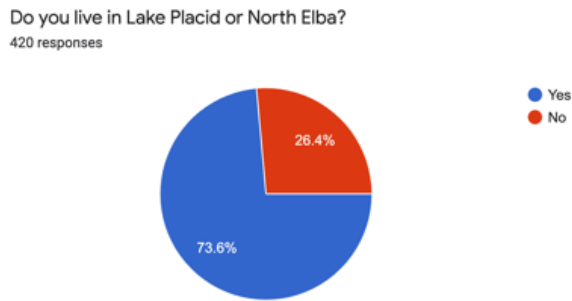
## **COMMITTEE PROCESS**

The Land Use Code Committee examined the data collected through the STR Permit system and developed suggestions regarding where different types of Short Term Rentals might better fit into the existing Land Use Code Districts.

Those suggestions were presented to the community in a virtual presentation on May 5, 2022. The presentation was followed by two public forums where the public was invited to provide comments. These were held at the Lake Placid Middle High School Cafeteria on Saturday, May 14 and Monday, May 16, 2022. Online and paper surveys were available as a way for the public to register their thoughts and comments.

About 150 people attended the public forums and 421 people responded to the survey. The survey results are provided in a separate document. The responses are basically evenly divided between STR permit holders and non-holders.

While there were a significant number of responses to the survey the results cannot be construed as an accurate poll of public sentiment. The methodology used to collect the data was simply not scientific enough. The responses, however, serve as a critical review of the ideas and suggestions which are part of this submission.



## CURRENT REGULATIONS

Are the current regulations adequate? This is the very important threshold question. There is obviously no need to amend regulations if they are already working well.

The survey results indicated the two responding groups were split. Most who held an STR permit felt the regulations were adequate and most who did not hold an STR permit felt the regulations needed improvement.

The Land Use Code Committee finds the decision regarding whether to move forward with amendments to the STR regulations is dependent upon the acceptance or rejection of the notion that STRs affect the character of residential neighborhoods. As such it can only be decided by elected officials based upon their best judgement of the current situation and their vision of the future.

While the LUC cannot quantify support for the following statements based upon comments it appears a substantial number of people in the community subscribe to them.

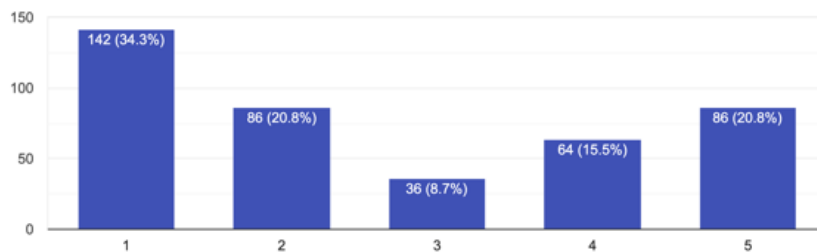
1. Short Term Rentals impact the character of owner-occupied residential neighborhoods.
2. Hosted short term rentals have less of an impact on the character of residential neighborhoods than non-hosted rentals.
3. The use of a dwelling as a Short Term Residence reduces the number of dwellings available for long term residency.
4. Short Term Rentals increase housing prices.
5. Short Term Rentals add to the economic well-being of the community. They are particularly important in bringing family groups as visitors to the area.
6. Short Term Rentals provide an opportunity for people to remain or become long-term residences.
7. Short term rentals provide employment opportunities and increase consumer spending

The Land Use Code Committee also found a substantial number of people in the community subscribe to the belief that the current system of enforcement is inadequate.

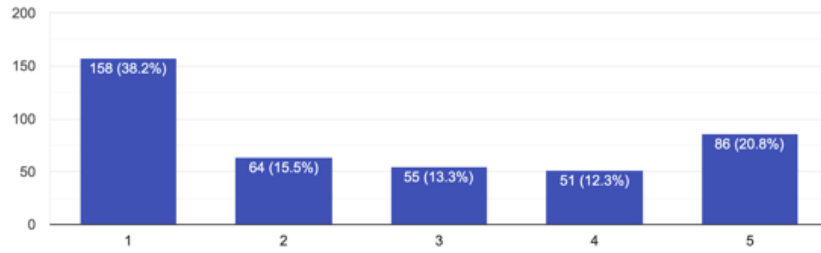
For all histograms included in this report the responses are:

- 1= strongly disagree
- 2= disagree
- 3= no opinion
- 4= agree
- 5 = strongly agree

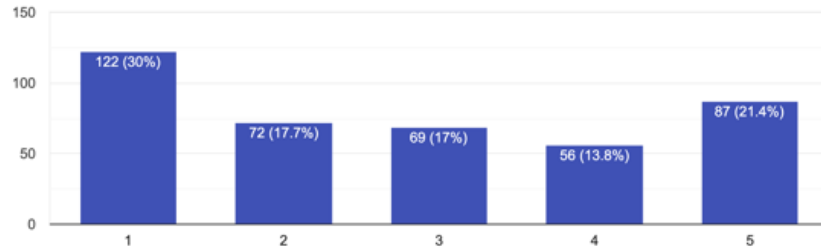
The current STR rules are sufficient and need no changes  
414 responses



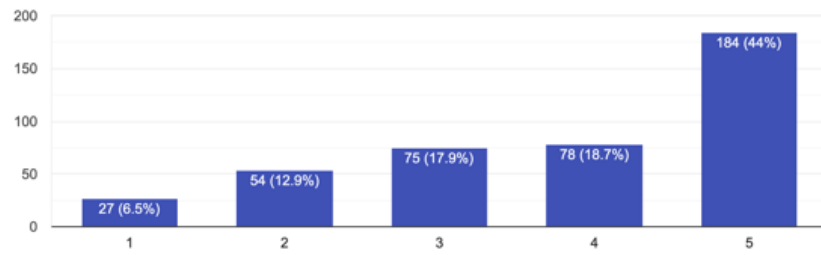
**Current STR rules create a proper balance between full-time and short-term use**  
414 responses



**Current STR rules adequately support long-term residential uses**  
406 responses



**STRs impact neighborhoods**  
418 responses



# **LAND USE CODE BASED STRATEGY FOR SHORT TERM RENTALS**

The following approach to further regulating Short Term Rentals is based upon the supposition the elected officials find the current regulations do not strike a proper balance between the uses of dwellings for short term rental and long term residential purposes.

These strategies reflect the well-established principle embedded in the Land Use Code that different uses of a property with different impacts on neighboring property owners should be allowed in different areas. The strategy adopted by the Land Use Code Committee was to first differentiate the types of short term accommodations based upon those which are generally used by full time residents, and those which are generally more transient in nature.

The second step was to determine the geographic locations where each of those types of short term accommodations best fit. Conditional uses, dimensional standards, and existing patterns of development in the zoning districts served as the basis for deciding where each type of short term accommodation would be allowed to operate.

If this strategy is adopted by the Town and Village Board it will essentially create areas in North Elba where dwelling units are primarily long term residences. The next question then, is which short term rental patterns contain a long term residential component and which short term rental units do not.

## **TYPES OF SHORT TERM ACCOMMODATIONS**

### **Current Permitted Short Term Accommodations**

The following types of short term accommodations are approved through a permit process where the Code Enforcement Office reviews the applications and issues the permit. The property must meet certain health, safety, parking, and nuisance control requirements

Current terms used to determine permits:

- Short Term Rental- "any period of less than 30 nights"
- Dwelling Unit- maintain current language "permit shall be issued to one dwelling unit only"(from existing language)
- Resident- resides in the dwelling at least 184 days a year
- Hosted - owner / operator is present overnight when rented

Current Types of Permits

- Hosted Short Term Rental- Owner /resident is at property during rental periods (67 permits)
- Unhosted Short Term Rental- No Owner / Operator required. Contact person is required
- 14 Day Rental- may be Hosted or Unhosted. Short term rental limited to 14 days per calendar year
- Condominium- may be Hosted or Unhosted. Day limits subject to Homeowners Association
- Corridor - May be Hosted or Unhosted. No day limits for permits in close proximity to Main Street  
May have more than one permit per property

## **Current Conditional Use Short Term Accommodations**

The following types of Short Term Accommodations are approved through conditional review where the Review Board examines the application and may add conditions to the use. These can only occur in the certain of the existing zoning districts.

### BED AND BREAKFAST-

A residential building in which the owner or operator resides and in which rooms are offered for rent on a transient basis, with breakfast typically provided to guests.

### HOTEL/MOTEL

a building or group of buildings where overnight transient guests are lodged for remuneration and designed primarily to accommodate the motoring public. A hotel/motel may offer additional ancillary services such as restaurants, meeting rooms, recreational facilities and laundry services

## **Suggested Changes to Definitions**

### UNHOSTED SHORT TERM

The Land Use Code Committee suggests allowing a non-owner to act as an "operator" of a hosted short term rental. This creates opportunities for full time residencies. An "Operator" may act in that capacity full time or receive reduced rent and be locally employed. It would also mirror the language currently in place regarding Bed and Breakfasts

Operator- resident at the property charged with ensuring renters comply with regulations. An operator must be in residence during all rental periods.

### BED AND BREAKFAST:

Land Use Code Committee suggests adding language to create a scale of operation of between 2-5 units. The lower number to differentiate from Hosted STRs and the higher number (5) to add scale to the operation of a bed and breakfast. As the definition exists the only limits to the operational size of a bed and breakfast would be standards in each zone (setbacks, parking requirements, permeability standards, etc.)

### HOTEL:

The Land Use Code Committee suggests the definition of Hotel should include the fact that a hotel consists of more than one unit for rent. This will differentiate a hotel from an Unhosted short term rental.

The community has a few hotels with 2-5 units. They tend not to have an employee on premise so, in the opinion of the Land Use Code Committee, they function more like multi-unit unhosted rentals. This may create potential problems because no contact person will either be in residence or on call if needed. The easiest way to deal with this issue is to add a requirement to Hotels (Section 5.5.5 of the 2011 Code) which requires either a contact person or a Rental Permit, which in turn requires a contact person.

These new definitions establish different types of short term accommodations based upon their method of operation and the number of units involved.

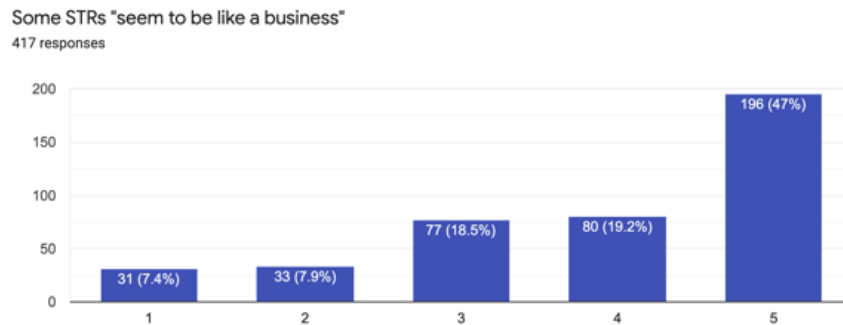


# AREAS SUGGESTED FOR DIFFERENT TYPES OF ACCOMMODATIONS

## General Strategy

The Land Use Code Committee suggests those operational patterns, such as Hosted Short Term Rentals and Bed and Breakfast, which involve a residential component have less of an impact on the character of an area where most dwellings are long term residencies. This is because they have a long term residency component built into their pattern of operation. The logical extension of that suggestion is Unhosted rentals, which do not include a full time residential component, should be limited to those areas where a greater variety of uses already exists or where there would be less impact on the residential character of the neighborhood

We essentially are suggesting that Unhosted STRs are those which operate more like a business.



The following suggestions regarding where each type of use should be allowed are based as much as possible upon the existing Land Use Code. Each existing zoning district has its own set of minimum lot sizes, minimum setbacks, maximum densities and permitted and conditional uses. These have traditionally determined which areas are predominantly residential.

The suggestions of the committee, although closely aligned with existing zoning districts, does not always mirror those districts because it also considered the existing pattern of permits, existing infrastructure, and the propensity for the dwelling units in that area to be purchased or rented by people engaged in the local work force.

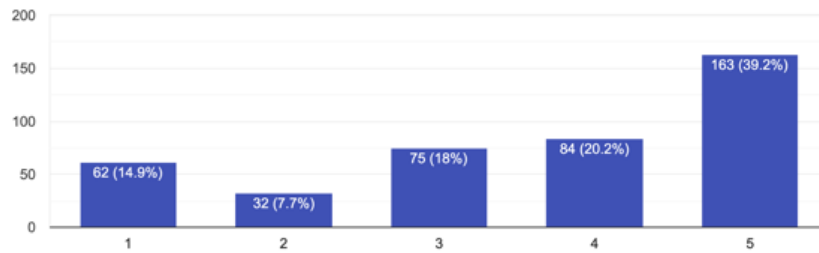
The area designations discussed below are reflected in a series of maps created by the Land Use Code Committee and attached as appendices. These maps were presented in the May presentation and reviewed by the public as part of the Public Forums. The survey results (separate document) are the record of the public's response.

## Area Designations for Each Type of Permitted Accommodation:

### HOSTED SHORT TERM RENTALS: (Currently 67 Permits)

Since these require a residential operator to be present during any rental period the Land Use Code Committee suggested this use of a dwelling unit is compatible with year round residential use. That pattern of use should therefore be allowed in all locations.

Hosted STRs (owner/residence required) should be accepted as a use in all areas  
416 responses



**UNHOSTED SHORT TERM RENTALS** (currently 240 permits)

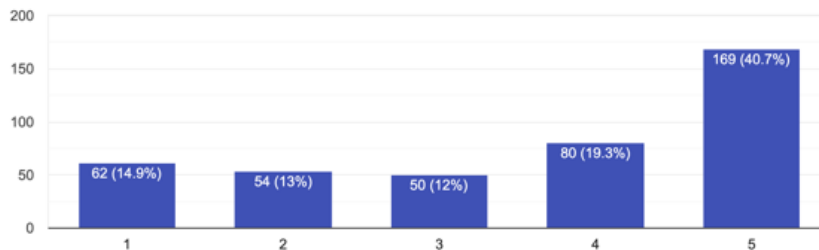
**ZONING DISTRICTS WHERE UNHOSTED SHORT TERM RENTALS SHOULD BE ALLOWED**

The Land Use Committee suggests the following zoning districts, which currently allow a greater variety of conditional and permitted uses, are compatible for both hosted and unhosted short term rental operations;

- Village Center*
- Gateway Corridor*
- Old Military Corridor*

The following survey question focused on areas where hotels are currently a conditional use.

Any form of STR should be allowed in this area  
415 responses

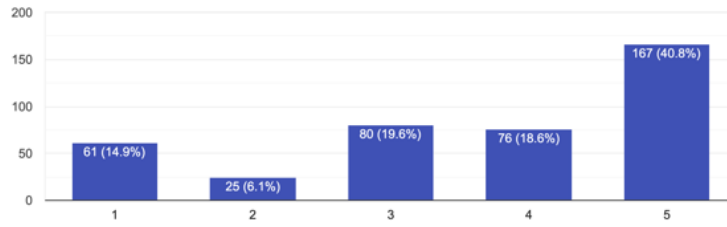


***Rural Countryside***

A minimum lot size of 1 acre is required by the 2011 Land Use Code in the Rural Countryside District. Since most of the district is outside the APA designated hamlet, however, the practical requirements are generally much greater. These are set by the State through APA zoning at approximately either 3, 5, or 40 acres for much of the District.

The Land Use Code Committee suggests Unhosted short term rentals do not affect the character of the neighborhood as dramatically in those areas with larger lot sizes. These areas, then, become more suitable locations for short term rentals.

STRs should be allowed in these areas with lots larger than 1/2 acre  
409 responses

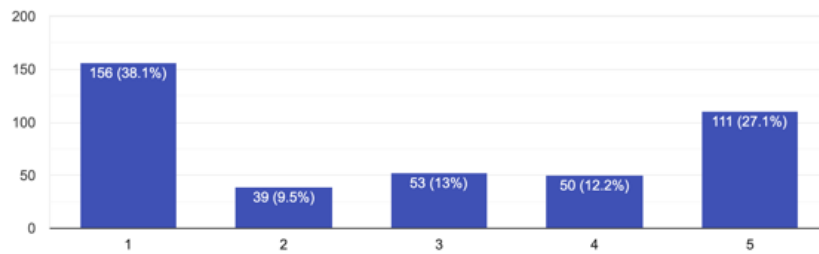


ZONING DISTRICTS WHERE UNHOSTED SHORT TERM RENTALS SHOULD BE PROHIBITED

If the Boards determine Unhosted short term rentals are less compatible in neighborhoods that are predominately long term residential and have smaller lot sizes the Land Use Code Committee suggests they **should not be permitted** in the following zoning districts:

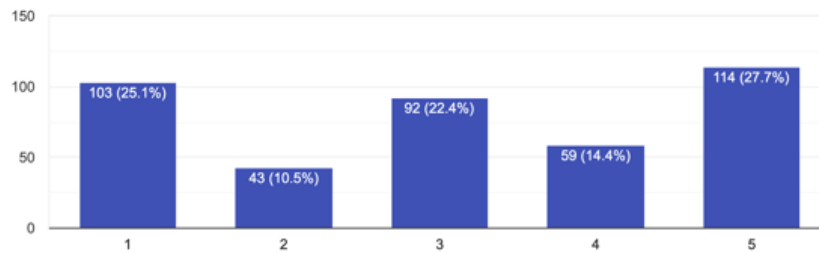
- Village Residential**
- Town Residential**
- South Lake Residential**
- North Lake Residential**

Only hosted STRs should be allowed in those areas where lots are generally less than 1/2 acre  
409 responses



Areas along the northern shore of Lake Placid, which have no sewer and/or road access, should be limited to hosted rentals.

411 responses



## Areas for Special Consideration:

The criteria used in the creating the existing zoning districts was determined long before the current pattern of short term rentals came into play. As a result it does not necessarily match the criteria which should be used to determine the location of Hosted or Unhosted short term rentals. If the additional criteria of existing infrastructure, patterns of development and the propensity for dwellings to be purchased or rented by full time residents is applied to each of the existing Zoning Districts there are areas within zoning districts which have some unique qualities. The Committee suggests these differences should be considered when determining the location of different types of short term rentals.

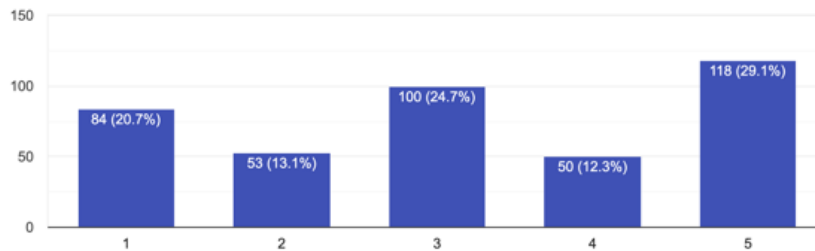
### SOUTH LAKE RESIDENTIAL DISTRICT

Lots along the shore of the South Lake Residential district are required to have 125 ft of shoreline. This means the lots tend to be a bit larger than the minimum .7 acres and less likely to be subdivided. They are also required to have a greater percentage of permeable surfaces and less density of development. As such their development pattern is more widespread. The use pattern is also different in that more seasonal homes exist along the shoreline.

Given this situation the Land Use Code Committee suggest extending the ability to have Unhosted rentals to the following areas:

#### **North Shore of Mirror Lake.**

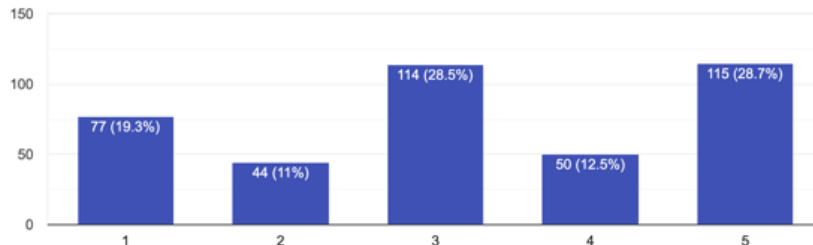
STRs should be allowed on the north side of Mirror Lake based on lot size and value  
405 responses



#### Rousseaumont Way

Properties Affected: Town- 36 properties w/ 5 rental permits  
(3 unhosted / 1 hosted / 1 14 day)

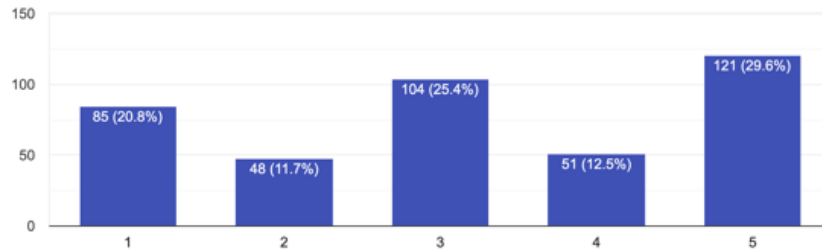
STRs should be allowed on Ruisseaumont Rd based on lot size and value  
400 responses



## Peninsula Way

Properties Affected: Town 57 properties w/ 8 rental permits- all unhosted

STRs should be allowed on the Peninsula Rd based on lot size and value  
409 responses



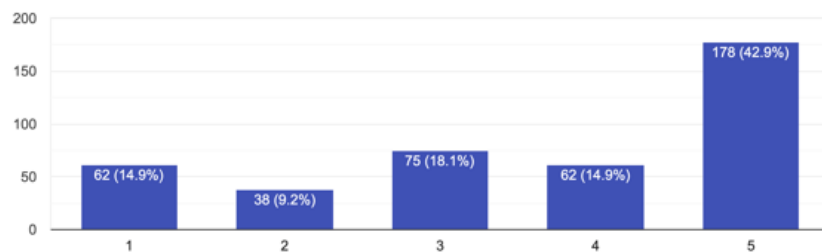
## VILLAGE CENTER DISTRICT

The 2011 Land Use Code extended the Village Center to include the old Lake Placid Club property in one direction and South Main Street to the Mill Hill traffic light and parts of Station Street in the other direction. The goal was to provide an opportunity for the business district to expand.

### **Pedestrian Corridor**

Within that area, however, is what is commonly referred to as the pedestrian corridor. This pedestrian corridor, which we suggest extends from the intersection of Sarapladid Avenue and Main Street to Mill Hill, is a unique attraction to visitors and vital to the economy of the entire area. In order to maintain the character of that corridor the Land Use Code Committee suggests no short term rental accommodations should be allowed on the Main Street Level of any property through that area.

STRs should not be allowed on the street level of Main St (1 Main to Mill Hill light) to retain a shopping and dining district  
415 responses



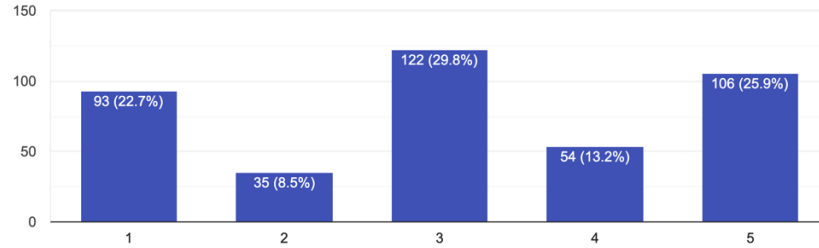
## RURAL COUNTRYSIDE

### **Deerwood Hills**

One area in the Rural Countryside District, where unhosted short term rentals might be allowed, with a unique pattern of development is the Deerwood Subdivision. There are 52 properties which currently include 6 with Short

Term Rental Permits. Those 6 are evenly divided between 3 un-hosted and 3 hosted. The lots in this area are generally smaller than most in the Rural Countryside and the pattern of development is mostly long term residential.

The Deerwood development (off of River Rd) should be limited to hosted STRs only  
410 responses



FROM PUBLIC COMMENTS / REVIEW:

The Public Forums provided an opportunity for members of the public to view maps of the proposed affected areas in detail. This critical review from the public provide comments regarding:

**McKenzie Subdivision**

This 26 lot subdivision is unique because it contains a number of lots with 3 acre APA zoning. As such the lots are larger and it would fit into the category of those areas where Unhosted rentals should be allowed. It also, however, has many lots inside the hamlet designation where the North Elba ½ acre zoning is in effect. Those lots could potentially be subdivided into new residential units.

**Parkside Drive.**

Parkside Drive development patterns are different on either side of the Town Hall.

"Upper Parkside" includes the Village Park and a number of commercial enterprises. It is included in the Village Center District which allows those commercial enterprises.

"Lower Parkside" is approximately 45 single dwelling units. This area is currently within the Village Residential Zone and there are 4 rental permits among those properties. It is somewhat unique in that two of the existing permits allow short term rental of multiple units.

**Hillcrest**

This area has historically been a center of short term accommodations and currently has a fairly high concentration of short term rentals.

**John Brown Roads**

These are rural in nature and connected to the Old Military zoning district where Bed and Breakfasts are allowed.

## **ZONING DISTRICTS SUGGESTED FOR CONDITIONALLY APPROVED SHORT TERM ACCOMMODATIONS**

The Land Use Code Committee suggests the current regulations regarding conditional uses should not be altered at this time.

### **HOTELS**

The current Land Use Code allows Hotels as a conditional use in the Gateway Corridor and Village Center Districts.

Hotels have traditionally been treated as a commercial enterprise limited to certain areas. Continuing the Smart Growth strategy adopted in 2011 would continue to allow hotels as a conditional use in the Gateway Corridor and Village Center.

### **BED AND BREAKFASTS**

The 2011 Land Use Code currently lists Bed and Breakfast as a conditional use in the following Districts:

Town Residential  
Village Residential  
South Lake Residential  
Village Center  
Gateway Corridor  
Old Military Corridor

This designation was partially based upon historic uses of properties in Lake Placid and also part of a strategy to allow long term residents to use their home as a revenue source. It should be noted that the definition of Bed and Breakfast, like Hosted Rental, includes a residency requirement to operate. This is also part of the rationale for allowing hosted rentals in all areas.

Bed and Breakfasts are slightly different from hosted rentals, however, in that can have up to 5 units. The other more profound difference is that Bed and Breakfast is a conditional use and is therefore subject to conditions placed by the Review Board. In that review process neighbors could, for instance, ask the Review Board to limit the number of units, the days of operation, install privacy fencing and screening, or not allow a fire pit before a permit is granted. Since this process would be in place to prevent nuisance issues and since the existence of a Bed and Breakfast would necessitate, at least partially, long term residential use of a property, it would fit into the strategy of continuing to encourage full time residences. As such the Land Use Code Committee suggests Bed and Breakfast should continue as a conditional use in all districts except North Shore residential. That district was left out in 2011 because it is lake access only. That situation has not changed.

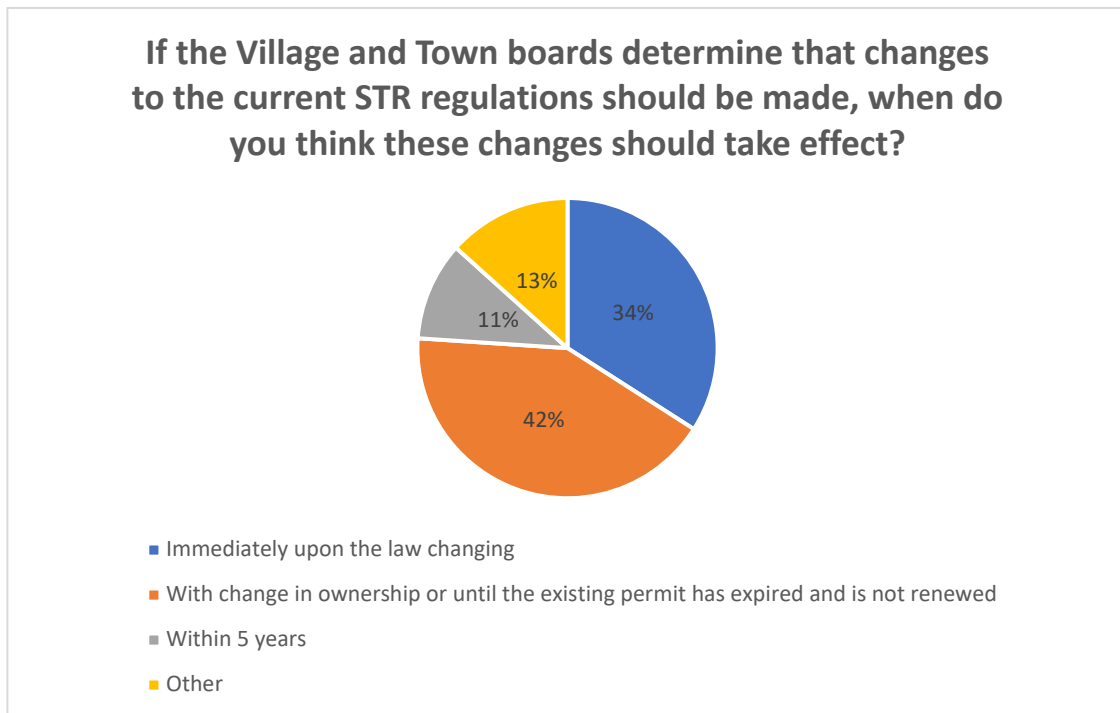
## **TRANSITION TIMELINE**

The strategy as outlined above does not ban short term rentals. It essentially differentiates between the impact of Hosted and Unhosted rentals on the character of a neighborhood and allows for both to exist in designated areas. The information provided by the permit system indicates there are approximately 130 un-hosted short term rental units which would become out of compliance if the suggestions contained in this report are adopted. The desired outcome would be for those units to migrate to areas where the impacts associated with their use was more in line.

There are a number of options associated with the timeline for transition.

1. The municipalities could stop issuing permits after a specific date
2. The municipalities could issue permits until the property changed ownership or the permit was allowed to expire without being renewed.
3. The municipalities could regard the un-hosted STRs similar to a non-conforming use and allow the use to continue until it was abandoned for two years

The community discussion provided an opportunity for the public to weigh in.



This is more of a governmental policy than Land Use Code issue. The decision points are.

1. How quickly the municipalities wish the migration to occur
2. The time needed for owners of the affected short term rentals to amortize the extra expenses associated with becoming a rental
3. The economic impact of the loss of 130 to 140 Short Term rental units as the limits to un-hosted rentals in designated areas takes effect
4. Legal strategies as advised by counsel



## RENTAL DAY LIMITS

The current legislation limits the rental periods of most units in the Town to 120 days and most units in the Village to 90 days. The stated goal was to limit the profitability for Short Term rentals and provide more incentive to use dwelling units as long-term residential uses. We cannot ascertain if that strategy works because we cannot track decisions **not** to purchase a home or use it for short term rental purposes.

The Land Use Code Committee has determined, however, that those requirements are very difficult to enforce. One reason is the structure of the enforcement provisions (see p.19) Another is that the compliance software simply does not provide adequate data for an enforcement action to be successful. The limits are effective mostly because of the voluntary compliance of short-term rental permit holders.

The rationale for the use limits would also be altered if the strategy of designating different areas for different types of rentals was adopted.

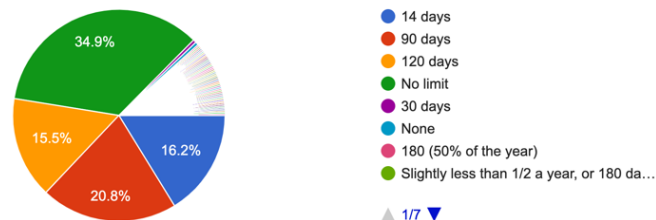
If sections of North Elba / Lake Placid are only going to allow Hosted rentals the goal of creating longer term residencies is essentially achieved. This is because Hosted Short Term Rentals include a residency component. As a result the day limits would no longer be necessary in those areas.

Since Hotels and / or Bed and Breakfasts are allowed to operate in the Gateway Corridor, Old Military Corridor, and Village Center for an unlimited number of days it seems inconsistent to place rental day limits on other types of accommodations such as short term rentals. More importantly this type of transient use is in keeping with the character of those districts.

Rental day limits may make some sense in the areas designated for those Unhosted rentals which may be allowed in the existing Rural Countryside Zoning District. Factors to consider when deciding whether to maintain the rental day limit in that area, in addition to the enforcement concerns, include

1. The economic impact of the loss of 130 to 140 Short Term rental units as the limits to un-hosted rentals in designated areas takes effect
2. The degree of impact on a neighborhood with many larger lots (3, 5 and 40 Acres) and much less residential density
3. The propensity for lots to become long term residences
4. Difficulties of enforcing day limits and their level of compliance
5. The possibility of obtaining software more capable of tracking rental patterns

What is the maximum number of days an unhosted STR should be allowed to rent each year?  
413 responses



## **14 DAY PERMITS**

The current regulations allow for either a Hosted or Unhosted short term rental of a dwelling unit for 14 days each calendar year. These are sometimes referred to as "event permits". Their stated purpose is to enable the community to host major events and to promote long term residency by allowing every homeowner the opportunity to obtain additional income. A permit is required to ensure health and safety requirements are in place but no fee is charged. The latest data obtained by the Land Use Code Committee indicates there are about 50 permit holders.

The main issue for this category of rentals is enforcement. The Code Enforcement Officer has no way to know if the rentals are actually limited to 14 days. This could be changed by requiring the 14 day permit holder to identify the days rented. Since this would necessitate another level of enforcement the Boards may want to consider charging a fee. That decision has more to do with revenue streams than applying the Land Use Code.

## **PLANNED DEVELOPMENTS:**

The current Land Use Code map shows the existence of 8 Planned Developments. These are special zoning districts created through a unique legislative process. The allowed uses and the dimensional standards were established for each Planned Development at the time of their approval. They fit very broadly into two categories.

The first set of Planned Developments were essentially created to allow the various uses associated with a resort hotel. They may have single family dwelling units but they also have hotels, restaurants, golf courses, shops, and, in one case, a marina. These would include:

- Placid Gold PD (Hampton / Historic Lake Placid Club)
- Mirror Lake Inn
- Whiteface Inn Resort
- Crowne Plaza

Since accommodations in these areas are not generally used for long term residential purposes the Land Use Code Committee suggests they be included in the category of designated areas where both Hosted and Un-hosted Rentals are allowed.

The second set of Planned Developments were essentially created for the sole purpose of long term residential use. The management plans for some of these even build in prohibitions for renting the dwelling units. Those Planned Developments would include:

- The Peaks
- Fawn Valley
- McKenzie Overlook
- Fawn Ridge 2

It should be noted that the management of some of these areas plan to establish more restrictive regulations regarding short term rental of a unit.

Since these Planned Developments already limit short term rentals the Land Use Code Committee suggests they be included in the category where only Hosted Short Term Rentals are allowed.

Furthermore, a provision should be added to 7.3 C of the existing Land Use code that will require establishing which type of permits will be allowed as a condition of approval for any future Planned Developments.

## CONDOMINIUM PERMITS

There are approximately 110 Condominium permits. The current Short Term Rental Regulations exempt condominiums, townhouses or developments with an established Home Owners Association from the rental day limits. The sentiment at the time was those Associations could establish their own limits to Short Term Rentals if they wished, and that most residents in those units purchased their properties with the knowledge that the proximate properties were used as short term rentals.

Since that continues to be the case Boards may wish to extend the exemption that already exists.

The situation may arise in the future, however, where a multiple dwelling complex is constructed in an area with mostly long-term residential uses. If the areas are designated for hosted and un-hosted rentals as suggested in this report it may make sense to require the new complexes to comply with whatever land use pattern is determined.

## ENFORCEMENT

Many public comments reflect the belief that, while the regulations in place are acceptable, the enforcement process is not effective. The Land Use Code Committee suggests this is partially the result of the "one size fits all" approach to enforcement.

Section 9.5.2 (C) of the 2011 Land Use Code categorizes all offenses as misdemeanors:

*However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Code shall be deemed misdemeanors and for such purpose only. All provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.*

The language goes on to set the penalties for each violation including fines of up to \$1000 per day and up to 6 months in jail.

These penalties make sense with most violations of the Land Use Code. Ignoring safety and health regulations, building a structure that is too large or in an inappropriate location, or violating the uses associated with a district are serious violations. They require the strong criminal penalties associated with misdemeanor level offenses to provide deterrence and ensure compliance.

The Criminal Procedure Law, which governs how all criminal offenses are prosecuted, includes many requirements for charging and convicting offenders of misdemeanors. These would include specific and timely filings with the Court of jurisdiction and, more importantly, the right to trial by jury. This makes the enforcement process both time consuming and expensive.

The approach does not fit as well with many of the new provisions of the Code. It does not make a lot of sense that failing to attach a sandwich board sign to a wall or a noise violation at an STR should involve a jury trial and be punishable by up to 6 months in jail.

The Land Use Code Committee suggests these issues regarding enforcement, which involve an interplay between police powers and constitutional rights, are best resolved by the people involved in the enforcement process and experts in the field.

## FUTURE ACTIONS

### CAPPING:

The Town and Village Boards requested the Land Use Code Committee to investigate the possibility of capping or limiting the number of permits. It should be noted that this is not a Land Use Code based approach. Land Use Codes, as previously stated, generally determine appropriate areas for different types of uses and then allow the natural development to occur. Codes do not tell one party their appropriate use of an area is OK and another that their appropriate use of an area is not OK. This approach allows for the growth of any use based upon the demands for that use. It also ultimately allows for the growth of economic activity in general.

It is also the reason why, at various times, the community might have felt there were too many T-shirt shops, or too many Mexican restaurants, or too many pizza parlors along Main Street. In each case the market determined the ultimate number of those types of businesses.

It should also be noted the suggestions in this report essentially limit, or cap, the number of single family dwellings which would not have a full-time residential component to zero in most of the existing Town Residential, Village Residential, North Shore Residential, and South Shore Residential Districts. Caps may also not be appropriate in the Village Center, Gateway Corridor, or Bypass Corridor Districts where there is no similar cap or limit to the number of other accommodations such as Hotels and Bed and Breakfasts.

This leaves the Rural Countryside as the one existing zoning district where caps on Unhosted rentals to promote full-time residential patterns may possibly be appropriate. Even that may not be known until the effects of new regulations are in effect for a period of time.

If the Boards decide caps are appropriate the number is essentially a policy decision. How to set that cap is also a policy decision and therefore do not provide any suggestions. We did, however, solicit the following public input:

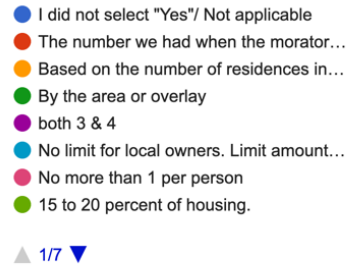
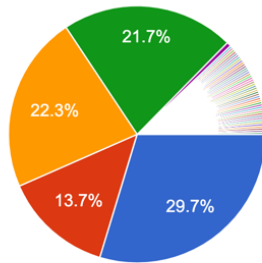
Should there be a maximum number of STR permits issued?

412 responses



If yes, how should that number be determined?

364 responses



## MONITORING CHANGE

The strategy of reserving housing stock in designated areas for long term residential uses does not necessarily determine how the residency will be used. As un-hosted rentals are no longer permitted their future uses may include the following:

-

- Second homeowner where building is empty most of year
- Seasonal use by a retiree or second homeowner
- Full time resident renting or operating STR to stay in area
- Full time resident.
- Unforeseen

Since there is no way to predict what will happen the Land Use Code Committee suggests it will be extremely important to track any changes as they occur over time.

As of now we have baseline information regarding:

- Total Numbers and types of permits
- Number / types of permits located in "No-unhosted" areas
- Numbers / types of permits located in areas where Un-hosted may be permitted
- % habitable dwellings used as short term rentals
- Number of seasonal homes
- Economic impact of visitors staying in STRs
- Number of long term rentals
- Enforcement Actions

We hope to add to this list as the Comprehensive Plan is developed.

The Land Use Code Committee suggests this task should be assigned to the Housing Subcommittee of the Development Commission and included in a yearly report to the Town and Village Boards.