

Temporary Ordinance of the City of Ellsworth Regarding Short-Term Rentals and Non-Resident Visitors During Coronavirus (COVID-19) Outbreak

WHEREAS, there is currently an outbreak of novel coronavirus disease 2019 (COVID-19), a respiratory illness first detected in Wuhan City, China, which has expanded throughout the world, including the United States and Maine; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 health crisis a pandemic; and

WHEREAS, COVID-19 is easily transmitted, especially in group settings, and it is vital that the spread of the virus be slowed in order to protect public safety, as well as preserve the ability of health care providers to handle the influx of new patients resulting from the pandemic; and

WHEREAS, on March 12, 2020, the State of Maine identified and confirmed its first case of COVID-19; and

WHEREAS, Maine and other New England states have seen a dramatic rise in positive COVID-19 tests and deaths related to the COVID-19 virus in recent days; and

WHEREAS, on April 1, 2020, the Maine Center for Disease Control and Prevention (Maine CDC) confirmed the first case of COVID-19 in Hancock County; and

WHEREAS, Maine CDC, the Governor, and health officials anticipate the number of infections and deaths caused by COVID-19 in Maine will continue to rise; and

WHEREAS, on March 15, 2020, the Ellsworth City Council held an emergency meeting to discuss the City's response to the COVID-19 crisis, including restricting public access to City facilities, implementing safety protocols to help protect City employees and the public through social distancing, encouraging proper handwashing, use of remote technology and teleconferencing, managing group size, and early recognition of the symptoms of COVID-19; and

WHEREAS, Governor Mills proclaimed a State of Emergency on March 15, 2020; and

WHEREAS, Governor Mills issued Executive Order No. 14 FY 19/20 dated March 18, 2020, which restricted certain social gatherings and certain use of restaurants and bars, prohibited gatherings of more than ten (10) people that are primarily social, personal, or discretionary events, and strongly recommended use of social distancing to reduce the transmission of COVID-19; and

WHEREAS, Governor Mills issued Executive Order No. 19 FY 19/20 dated March 25, 2020, which restricted the operations of essential and non-essential business in order to further reduce the transmission of COVID-19; and

WHEREAS, Governor Mills issued Executive Order No. 28 FY 19/20 dated March 31, 2020, which orders all persons living in the state of Maine to, effective as of 12:01 AM on April 2, 2020, stay at their homes or places of residence, with exceptions for essential activities and essential businesses and operations; and

WHEREAS, Hancock County is home to Acadia National Park, a major tourism industry, extensive coastal and lake access, and a large and disproportionate number of seasonal homes and short-term rentals, with Ellsworth serving as the County's center for goods and services; and

WHEREAS, there have been numerous sightings by Ellsworth residents of out-of-state license plates in the Ellsworth area, and reports of an influx of non-residents coming to Maine to stay at Airbnbs, hotels, motels, rentals of residential structures, summer/seasonal homes, or similar short-term accommodations, seeking refuge from the coronavirus outbreak; and

WHEREAS, the continued influx of persons to Ellsworth threatens to spread the disease to the resident population; and

WHEREAS, Maine has one of the oldest populations in the United States, and Hancock County has one of the oldest populations in Maine, a demographic that is extremely at-risk for COVID-19; and

WHEREAS, the healthcare facilities in a county of 60,000 people will be greatly strained taking care of local residents during the COVID-19 crisis, and could be overwhelmed by an influx of visitors; and

WHEREAS, Executive Order No. 28 states that the Maine CDC advises that additional social/physical distancing measures are warranted to slow the spread of this life-threatening virus in order to save lives and improve the ability of the health care system to respond; and

WHEREAS, for the above reasons, the City Council has decided to issue temporary and emergency restrictions on seasonal and transient accommodations located in the City to protect public health, safety, and welfare, and to preserve critical resources during this pandemic; and

WHEREAS, the City Council is authorized to take such actions pursuant to the City Charter and its legislative and constitutional home rule authority; and

WHEREAS, the Governor's Orders have not preempted local authority to enact local laws and regulations concerning COVID-19.

NOW, THEREFORE, pursuant to the aforesaid authority and recitals, the **Ellsworth City Council** hereby declares and orders as follows:

1. Short-Term Rentals and Advertising Thereof Prohibited

- a. Renting, letting, or the advertising for rent or lease of units within hotels, motels, bed and breakfasts, campgrounds, or of residential structures for accommodations, as such terms are defined in the Unified Development Ordinance, for any period of time less than sixty (60) days (collectively, "short-term rentals") is prohibited, except that such operations may be allowed to:
 - i. provide short-term rentals for persons located in the City whose residences are subject to quarantine; or
 - ii. provide short-term rentals to recipients of General Assistance; or
 - iii. provide short-term rentals to employees, owners, independent contractors, or workers of essential businesses or operations, or to anyone providing essential governmental or healthcare/public health services, as such terms are defined by Executive Order 19; or
 - iv. provide short-term rentals as overflow space for healthcare operations.
- b. Any contractual arrangements for the aforesaid short-term rentals presently in effect as of the Effective Date shall be terminated pursuant to this section, except to the extent occupancy commenced prior to the Effective Date.

2. Enforcement

- a. In accordance with 30-A M.R.S. § 4452, any person, including but not limited to a landowner or a landowner's agent or a contractor, that violates any provision of this Temporary Ordinance shall be subject to a fine of not less than \$100.00 or more than \$2,500.00 for each such offense.
- b. Each day of prohibited short-term rentals or advertising of prohibited short-term rentals in violation of this Temporary Ordinance shall constitute a separate violation. Any violation of this Temporary Ordinance shall be deemed a nuisance.
- c. If the City is the prevailing party, the City must be awarded reasonable attorney fees and expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
- d. Additional remedies for violations may include immediate injunctive relief. Any violation may also be considered a reason for the denial, suspension, or revocation of the violator's relevant licenses or permits pursuant to section 311 of the Licenses and Permits Ordinance.
- e. The Code Enforcement Officer shall have all investigatory and enforcement powers granted to him or her pursuant to the Unified Development Ordinance. Additionally, such investigatory powers shall include the right to demand reasonable inspection of records of businesses, entities, or persons subject to section 1 of this Temporary Ordinance. The Code Enforcement Officer shall exercise discretion in electing to enforce this Temporary Ordinance.

3. Council Recommendations

- a. Non-residents are strongly encouraged to stay in place and not travel to Ellsworth.
- b. Owners of second/seasonal homes located within the City are strongly encouraged to remain in the location of their permanent residence and/or the dwelling they currently occupy for the duration of this Temporary Ordinance.
- c. Any non-residents visiting Ellsworth are strongly encouraged to self-quarantine for no less than fourteen (14) days immediately upon arrival.
- d. The Governor is strongly encouraged to do all within her powers to discourage visitors to the State of Maine during the COVID-19 crisis, particularly from states or geographic areas considered by health officials to be hot spots of COVID-19 cases.

4. Effective Date and Termination

- a. This Temporary Ordinance shall take effect immediately upon passage by the City Council.
- b. This Temporary Ordinance shall be repealed when the Maine Governor terminates the current state of emergency or May 1, 2020, whichever shall first occur.

5. Severability

If any section, subsection, clause, or phrase of this Temporary Ordinance shall be held to be invalid or unconstitutional, such invalidity shall not affect the remaining provisions of this Temporary Ordinance, and to that end the provisions of the Temporary Ordinance are hereby declared to be severable.

Given under our hands and seal at Ellsworth, Maine this second day of April 2020

Ellsworth City Councilors

Dale Hamilton, Chair

Marc Blanchette

Heather Grindle
Heather Grindle

Robert Miller
Robert Miller

John Moore
John Moore

Michelle Kaplan
Michelle Kaplan

John Philips
John Philips