

CITY OF NEWPORT

ORDINANCE NO. 2032

AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) RELATING TO
VACATION RENTALS AND BED AND BREAKFAST FACILITIES

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria that apply to the use of dwelling units as vacation rentals or bed and breakfast facilities inside the City of Newport. The criteria are found in Section 2-1-1.101 ("Definitions"), Section 2-2-1 ("Zoning Districts") and Section 2-4-11 ("Bed and Breakfast Facilities") of the Ordinance.
2. These criteria set out the terms and procedures by which vacation rental and bed and breakfast uses may be permitted for the purpose of ensuring the safety and convenience of renters, owners and neighboring property owners; protecting the character of residential neighborhoods; and addressing potential negative effects such as excessive noise, overcrowding, illegal parking, and accumulation of refuse.
3. The City of Newport Planning Commission and an Ad-Hoc Work Group of community volunteers completed a comprehensive review of these code sections and determined that amendments are needed because the existing rules are difficult to interpret and enforce and, in the case of conditional uses, have led to inconsistent application and implementation of the requirements over time.
4. The City of Newport Planning Commission and the Ad-Hoc Work Group further find that creating clear and objective criteria to allow vacation rentals and bed and breakfast facilities in all residential zones is a more effective method of achieving the purpose of the regulations than existing requirements that limit vacation rentals or bed and breakfast uses through the imposition of discretionary criteria or arbitrary occupancy limits.
5. The Ad-Hoc Work Group, in consultation with the Newport Planning Commission, met seven (7) times between March and November of 2011 to develop draft amendments (File No. 1-Z-11). The Planning Commission met six (6) times in work session during this same time period to review the amendments. Following public hearings on January 9, 2012 and February 27, 2012, the Planning Commission voted to recommend adoption of the proposed amendments.
6. Prior to the Planning Commission hearings, a public workshop was held on September 12, 2011 at which the general public was provided an opportunity to comment on the proposed amendments. Mail notice of the workshop was provided to persons that will be subject to these regulations with an August water billing mailing. A stakeholder list compiled by the city of persons operating vacation rentals also received the notice.

7. The City Council held a public hearing on March 19, 2012 regarding the question of the proposed revisions and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
8. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings are hereby adopted as support for the Council's Land Use Code amendments, below.

Section 2. Definitions for the terms "Bed and Breakfast Facility," "Hotel," "Motel," and "Residential Unit," of Section 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions, are amended as follows:

- A. **Bed and Breakfast Facility.** An owner occupied single-family dwelling containing not more than five (5) guest rooms, where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
- B. **Hotel.** A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), with or without cooking facilities, and where more than 50 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days. A bed and breakfast facility or a vacation rental conducted in a single family dwelling or individual dwelling unit is not a hotel use.
- C. **Motel.** A building or group of buildings in which lodging is provided for guests for compensation, containing guest units with separate entrances from the building exterior, with or without cooking facilities, and where more than 40 percent of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days. A bed and breakfast facility or a vacation rental conducted in a single family dwelling or individual dwelling unit is not a motel use.
- D. **Residential Unit.** See definition of "Dwelling Unit."

Section 3. A definition for the term "Vacation Rental" is added to Section 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions, as follows:

Vacation Rental. A dwelling unit containing not more than five (5) guest rooms that is rented for less than 30 consecutive days.

Section 4. Definitions for the terms "Pre-existing Time Share Project," "Time Share Interest," "Time Share Project," and "Weekly Rental," of Section 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions, are deleted.

Section 5. Subsection 2-2-1.025(11) of Ordinance No. 1308 (as amended), Zoning Districts/Residential Uses is amended to list a "Bed and Breakfast Facility" and "Vacation Rental" as permitted uses in all residential zone districts subject to endorsement requirements of Section 2-4-11.

Section 6. Section 2-4-11 of Ordinance No. 1308 (as amended), Bed and Breakfast Facilities, is repealed in its entirety and replaced with a new Section 2-4-11, as shown in Exhibit "A".

Section 7. This ordinance shall take effect on July 1, 2012.


Adopted on April 2, 2012.

Signed by the Mayor on April 3, 2012.



Mark McConnell, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

Section 2-4-11. BED AND BREAKFAST AND VACATION RENTAL FACILITIES

2-4-11.005. Purpose. This section establishes the terms, criteria and procedures by which bed and breakfast and vacation rental uses may be permitted to ensure the safety and convenience of renters, owners and neighboring property owners; protect the character of residential neighborhoods; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and accumulation of refuse.

2-4-11.010. General Provisions.

- A. Vacation rental and bed and breakfast use of an existing dwelling unit is permitted in all residential and commercial zone districts subject to a business license endorsement (“endorsement”) pursuant to the provisions of this section;
- B. An endorsement for a vacation rental or bed and breakfast use is specific to the owner of a dwelling unit. When the holder of an endorsement sells or transfers the real property, the new owner shall obtain an endorsement before using the dwelling unit as a vacation rental or bed and breakfast facility. However, if a vacation rental or bed and breakfast use was in existence on such real property as of the effective date of subsection 2-4-11.010(D), that subsection shall apply to the transferee as well;
- C. Vacation rental or bed and breakfast endorsements shall remain in effect so long as a valid business license is maintained for the rental use and the property is not sold or transferred;
- D. Each vacation rental and bed and breakfast use in existence as of the effective date of this section shall be subject to the provisions of this section.
 - (1) A business license endorsement shall be applied for within one hundred twenty (120) days of the effective date of the ordinance enacting this section. In the event an owner previously established a vacation rental or bed and breakfast facility use in accordance with applicable City of Newport land use codes, the City shall permit the existing land use to continue without requiring compliance with standards listed in subsection 2-4-11.025 relating to maximum overnight occupancy, parking, landscaping, and shared access. The exemption to standards in subsection 2-4-11.025 listed herein shall not apply to vacation rentals operated not more than ten times in a calendar year.
 - (2) A prior land use approval shall be voided and the standards of 2-4-11.025 complied with if:
 - (a) an owner fails to apply for an endorsement within one hundred twenty (120) days of the effective date of the ordinance; or
 - (b) a business license lapses for at least 12 consecutive months.

(3) The provisions of this subsection 2-4-11.010 govern, notwithstanding NZO Section 2-5-1, governing Nonconforming Uses, Structures, and Lots;

E. If one or more of the standards under subsection 2-4-11.025 cannot be met, an owner may seek approval of a vacation rental or bed and breakfast use as a Conditional Use, pursuant to Section 2-5-3 of this Ordinance. A Conditional Use Permit may allow relief from one or more of the endorsement standards of subsection 2-4-11.025, but does not excuse the general NZO Section 2-4-11 endorsement requirement.

2-4-11.015. Approval Authority.

A. Upon receipt of an application for a vacation rental or bed and breakfast endorsement, the Community Development Director, or designee shall determine if the request satisfies the standards of subsection 2-4-11.025. If the request satisfies the standards, then the Director shall issue the endorsement and provide notice per subsection 2-4-11.035. Such action is ministerial and, as a non-discretionary act, is not subject to appeal. The endorsement is effective upon satisfaction of the inspection requirements of subsection 2-4-11.030.

B. In the event that the Community Development Director or designee determines that an application does not meet one or more of the standards of subsection 2-4-11.025, an endorsement shall not be issued.

C. A Conditional Use Permit application for a vacation rental or bed and breakfast use shall be submitted to the Community Development Director, or designee, and shall be reviewed by the Planning Commission via a Type III decision making process, consistent with NZO Section 2-6-1, Procedural Requirements.

D. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of subsection 2-4-11.025 shall satisfy the standards of subsection 2-4-11.025 and permit the Director to issue the endorsement.

2-4-11.020. Application Submittal Requirements. An application for a vacation rental or bed and breakfast endorsement shall be submitted on a form provided by the Community Development Department, and shall include the following:

A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations;

B. Lincoln County Assessor's map showing the subject property and notification area; and

C. Names and addresses of property owners within 200' of the subject property (or outline of property that is held in common), as shown in the records of the County

Assessor. If the property is within a Homeowners Association, then contact information for the Association shall also be provided.

2-4-11.025. Standards for Vacation Rental or Bed and Breakfast

Endorsement. An application for a vacation rental or bed and breakfast use shall comply with the following standards:

- A. **Maximum Overnight Occupancy.** Maximum overnight occupancy shall be two (2) persons per bedroom, plus two additional persons per property;
- B. **Maximum Building Occupancy.** The maximum number of individuals permitted within a vacation rental or bed and breakfast is subject to the limitations of the Uniform Fire Code or such other provisions of said code as may be applicable;
- C. **Parking Standards.** One (1) off-street parking space per bedroom that is dedicated to the vacation rental or bed and breakfast use. The location and design of parking spaces shall comply with NZO Section 2-3-6, and designated spaces shall be available at all times to guests;
- D. **Waste Management.** Weekly solid waste disposal service shall be provided while the dwelling is occupied for vacation rental or bed and breakfast use;
 - (1) Owner or designee shall provide for regular garbage removal from the premises; and
 - (2) Trash receptacles shall be stored or screened out of plain view of the street.
- E. **Landscaping.** For vacation rental and bed and breakfast uses situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements;
- F. **Guest Register.** Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to City emergency responders upon request;
- G. **Contact Information.** Owner or designee shall maintain on file with the City the name, telephone number, mailing address and email address (if available) of a contact person responsible for responding to questions or concerns regarding operation of the vacation rental or bed and breakfast. The contact person or designee must accept calls on a 24 hour basis and respond to inquiries from a tenant, complainant or the City within 24 hours. For the purpose of this subsection “respond” means an attempt

to contact the person or persons that made the inquiry to address their questions or concerns;

- H. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster, power outage, or other emergency. Required information includes, but is not limited to:
- (1) A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - (2) Phone numbers and addresses for emergency responders and utility providers.
 - (3) Other information as established by resolution of the City Council;
- I. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code;
- J. Posting. A copy of the business license endorsement shall be located within the vacation rental or bed and breakfast and its location shall be posted inside the dwelling unit's primary entrance. In addition to the endorsement, such information shall include occupancy limits; a phone number and address for the designated contact; a diagram of the premises with parking locations; the maximum number of vehicles that can be parked on-site; instructions for trash pick-up, storage and recycling; emergency information; and the noise limitations of Section 8.15.015 of the Newport Municipal Code. This information shall be maintained and current at all times;
- K. Shared Access. Written consent is required from affected owners for applications that rely upon shared driveway, parking or beach access;
- L. Signs. Signs shall conform with applicable provisions of Title X of the Newport Municipal Code;
- M. Business License Required. A business license for the rental use shall be obtained pursuant to Chapter 4.05 of the Newport Municipal Code; and
- N. Room Tax. Owner or designee shall adhere to the room tax requirements of Chapter 3.05 of the Newport Municipal Code.

2-4-11.030. Inspections.

- A. A dwelling unit proposed for a vacation rental or bed and breakfast use shall be inspected by the Building Official or designee to determine its conformance with the endorsement standards of subsection 2-4-11.025 and the following basic health and safety elements:

- (1) Bedrooms shall have an egress window or exterior door that is operable, with a minimum opening size of 5.7 sq. ft., and that is located not more than 44 inches above the finished floor;
 - (2) Interior and exterior hand railing shall be secure with a maximum width of four (4) inches between guard rails on open stairs. Hand and/or guard railing shall be installed for staircases with four (4) or more risers and on decks or porches that are more than 30 inches above grade;
 - (3) Windows within a 24 inch arc of doors shall be safety glazed;
 - (4) Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required;
 - (5) Electrical plug-ins and light switches shall have face plates;
 - (6) Electric breaker boxes shall have all circuits labeled, and empty breaker spaces must be plugged;
 - (7) GFCI (Ground Fault Circuit Interrupter) protected plug receptacles shall be provided for exterior, kitchen, and bathroom plugs;
 - (8) Functioning smoke detectors shall be installed in all bedrooms and in hallways between a potential fire source and sleeping areas.
 - (9) Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.
 - (10) Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.
- (B) If the Building Official or designee requires alterations, the identified deficiencies must be corrected as follows:
- (1) In circumstances where the unit is already subject to a rental agreement the Building Official or designee may allow continued use, provided corrective action is taken within 30 days, or an alternative timeline acceptable to the Building Official.

(2) For units undergoing an initial inspection prior to vacation rental or bed and breakfast use, corrective action shall be undertaken before the dwelling unit can be rented.

(C) Dwelling units with an endorsement for vacation rental or bed and breakfast use shall be subject to periodic re-inspection by the Building Official or designee at the City's discretion to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

2-4-11.035. Notice Requirements. Upon issuance of an endorsement, the City shall provide notice to property owners within 200' of the subject property (or outline of property that is held in common) and a Homeowners Association, if one is established where the dwelling unit is located, advising that an endorsement for a vacation rental or bed and breakfast use has been issued. Such notice shall include the address of the dwelling unit that received the endorsement, a location where additional information can be obtained about the nature of the endorsement, and the name, phone number, mailing address, and email address (if available) of the owner or designated contact.

2-4-11.040. Complaints. The designated contact identified in subsection 2-4-11.025(G) above, is the initial point of contact for complaints regarding the use of the dwelling unit. That individual shall maintain a written log documenting the nature of all complaints related to endorsement standards, the dates they were received, and efforts taken to resolve issues that have been raised. The written log shall be provided to the City upon request.

2-4-11.045. Violations. Penalties, as specified in subsection 2-4-11.050, may be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a vacation rental or bed and breakfast facility where the owner does not hold a valid endorsement issued pursuant to this section;
- B. Advertising; renting; using; or offering for use, occupancy or rent; a vacation rental or bed and breakfast facility in a manner that does not comply with the endorsement requirements of subsection 2-4-11.025;
- C. Failure to comply with the endorsement standards and operational requirements of this NZO Section 2-4-11;
- D. Failure by the owner to pay the transient room tax required by Chapter 3.05 of the Newport Municipal Code; or
- E. Failure of the owner's designated contact to respond to tenant, citizen or City complaints or inquiries. "Failure to respond" occurs if City staff is unable to reach

the designated contact after three attempts, using the information that the owner or designee has on file with the City.

2-4-11.050. Penalties. Penalties for a violation of subsection 2-4-11.045.A shall be as established in NZO Section 2-6-8. Where the owner possesses a valid endorsement or land use permit, the penalties for violations of 2-4-11.045.B-E shall be as follows:

- A. For the first violation within a 12 month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner's vacation rental or bed and breakfast endorsement for 30 days.
- C. For the third violation within a 12 month period: 1) City shall revoke owner's vacation rental or bed and breakfast endorsement; and 2) where an endorsement includes a Conditional Use Permit, City shall also initiate the revocation procedure as outlined under NZO Section 2-6-1.075.