



PLANNING COMMISSION REGULAR SESSION AGENDA
Monday, January 14, 2019 - 7:00 PM

The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MINUTES
 - 2.A Approval of the Planning Commission Work Session Meeting Minutes of December 10, 2018.
[Draft PC Work Session 12-10-18.pdf](#)
 - 2.B Approval of the Planning Commission Regular Session Meeting Minutes of December 10, 2018.
[Draft PC Minutes 12-10-18.pdf](#)
 - 2.C Approval of the Planning Commission Work Session Meeting Minutes of January 8, 2019.
[Draft PC Work Session 01-08-19.pdf](#)
3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A Election of the Planning Commission Chair and Vice Chair.

4.B Applications for Planning Commission Citizens Advisory Committee.

[PC Advisory Comm App - Braulio Escobar.pdf](#)

4.C File No. 5-Z-17 (Continued Deliberation): Newport Short-Term Rental Ordinance Amendments (Draft Ordinance No. 2144).

[Staff Memo.pdf](#)

[New Chapter 4.25 01-14-19.pdf](#)

[New Chapter 4.25 01-14-19 Clean.pdf](#)

[Amended Chapter 14.25 01-14-19.pdf](#)

[Amended Chapter 14.25 01-14-19 clean.pdf](#)

[Building Official Email.pdf](#)

[Updated Map Alternative 3.pdf](#)

5. PUBLIC HEARINGS

5.A File No. 5-CUP-18: Approval of a Request to Grant Relief of the Two Off-Street Parking Spaces Required to Operate a Two-Bedroom Vacation Rental. (Note: To Be Continued on the January 28, 2019 Planning Commission Regular Session Meeting)

[File 5-CUP-18.pdf](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
December 10, 2018
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, Bill Branigan, and Jim Hanselman.

PC Citizens Advisory Committee Members Present: Dustin Capri

Public Members Present: Michelle Geltner, and Madeline Shannon.

City Staff Present: Community Development Director (CDD) Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
2. **Unfinished Business.** No unfinished business.
3. **New Business.**
- A. **Status of Proposed Revisions to Flood Insurance Rate Maps.** Tokos reviewed his memo and explained the dates of the last map updates. He noted FEMA used LIDAR data to do more accurate updates to the maps. Tokos reviewed the timeline on the updates and open houses since 2016. The maps were used to regulate development within in the City of Newport. Tokos noted there had been appeals by property owners who were successful in showing how the maps weren't accurate for their properties. He stated that in September of 2018 FEMA approved the change for these properties.

Berman asked what the implications for property owners were for being in or out of the flood plain. Tokos explained that if they were to build within a 100 year flood plain they would have to build at least one foot above base point flood elevation and they couldn't develop in a floodway. They would have to build on piles and there would be special considerations for septic systems. Berman asked if property owners would be required to get flood insurance. Tokos said typically flood insurance was tied into this and explained the rules and exceptions. Tokos said there wasn't much exposure in Newport and there was only 621 notices sent out to property owners. Berman asked what the PC's role was and what they had to do with maps. Tokos said the PC would have to formally adopt an overlay. If they failed to adopt the maps, people would lose the ability to get flood insurance. Tokos noted that property owners were waiting for the updates to the maps because there were less properties that were impacted by the maps than before the updates were done.

- B. **Review Standards for Manufactured Dwellings and Tiny Homes on Residential Lots.** Tokos said he reached out to Frank and Michelle Geltner to come to the current meeting since they were interested in implementing tiny homes on their property. He reviewed his memo concerning the standards and how they applied to manufactured dwelling and tiny homes inside and outside of mobile home parks. He explained how tiny homes were a new thing and they wouldn't be seen outside of parks because they didn't meet building codes. Tokos said that the Building Codes Division decided to make changes to their reach code to include separate standards for tiny homes.

Tokos thought the new code might mean the city would see more tiny homes. Berman asked what the impediment would be currently for someone who wanted to put a community of tiny homes on a R-3 or R-4 zone. Tokos said nothing if they met the lot density requirement. He said there had been a discussion on what constituted a tiny home. Tiny homes would have to have sanitation, bathing, and cooking facilities in order to be an accessory dwelling unit, and would also have to meet the density requirements for the lot in the zone. Berman asked if people could still do an accessory dwelling unit on a lot. Tokos said yes, as long as there was a main dwelling on the lot. Branigan asked if someone could do more than one accessory dwelling unit on a lot. Tokos said not in Newport, but some jurisdictions allowed up to two.

Croteau asked for the difference between a tiny home and a park model in a mobile home park. Tokos said a park model would be towed in and subject to the RV code. Manufactured homes would be subject to Federal HUD standards. He said a tiny home wasn't built to any particular code but had to meet the plumbing, electrical, and possibly mechanical provisions. Tokos said they would also be subject to system development charges.

Franklin asked if a tiny home had to meet earthquake standards. Tokos said if they were in a geologic hazards area they would be subject to the requirements for all new builds.

Berman asked if the city should look at some incentives to encourage tiny homes. Tokos said the city was more likely to see more tiny homes coming in the city. They should consider how the city should be responding through the land use regulations and asking if they should be clustered on residential lots, be accessory dwelling units, be subject to some compatibility standards, or if the city should revisit the manufactured dwelling standards and pull them away. Franklin wanted more information on what Portland was struggling with and wanted to see how it was working for them. Croteau thought there should be some compatibility standards. Michelle Geltner addressed the PC and noted that there was a stigma between a RV park compared to a tiny home village in some social structures and felt this would be a factor. Tokos said what he was hearing was the PC wanted to see more on the issue, including compatibility standards and more information on what was currently being done in other jurisdictions.

Capri asked if someone could have a tiny home village as a hotel. Tokos said this would be different because the units would be considered transient. A discussion ensued on the current rules for accessory dwelling units. Branigan asked if tiny homes met the fire code. Tokos said the reach code was created to cover this.

Capri thought that Public Works would have some input on the plumbing standards. Tokos said the connection to city sewer would be up to the plumbing code. A discussion ensued regarding how tiny homes were plumbed when they were on wheels versus when they were on foundations. Franklin was concerned about tiny homes that were parked for a few months and then they were moved. He felt these were more like RVs. Tokos said there were provisions in the reach code on how units were used as an RV compared to being permanent. Capri thought if someone was putting a tiny home in as a residence, they needed to be considered permanent. Geltner stated that many people who were building tiny homes were putting them on wheels. She said the trend was going this way and tiny homes were an alternative to RVs. Tokos said what he was hearing was the PC wanted to have a discussion in a future work session meeting to walk through what the allowances were for connection types. He noted that if a connection type was authorized under a building type code that the city had adopted, this would be a standard that would be applied and the city couldn't deviate from it. A discussion ensued regarding how tiny homes were bolted down. Tokos referenced the Oregon Reach Code, Section R101.4, that stated that if a local Building Official was not required to accept a permit application for a tiny house under this code if the local municipality had adopted an ordinance prohibiting tiny house structures, their use, installation, set-up, or any other matter consistent with planning and zoning standards adopted for that community. Tokos said the city could put in place some siding standards for siding. He said what he what he heard was the PC wanted him to bring some specific standards for an upcoming work session and include details on siding standards for tiny homes. He said he would also look at what other jurisdictions were doing.

4. **Director's Comments.** No Director comments.
5. **Adjournment.** Having no further discussion, the meeting adjourned at 6:46 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

***Draft* MINUTES**
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
December 10, 2018

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Rod Croteau, Mike Franklin, Jim Hanselman, and Bill Branigan.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Hardy, Berman, Croteau, Patrick, Franklin, Hanselman, and Branigan were present.

2. **Approval of Minutes.**

A. Approval of the Planning Commission work session meeting minutes of November 26, 2018.

Tokos reported the Jamie Michel had submitted a request for corrections to the November 26 work session meeting minutes.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Planning Commission work session meeting minutes of November 26, 2018 with minor corrections, including corrections requested by Jamie Michel. The motion carried unanimously in a voice vote.

B. Approval of the Planning Commission regular session meeting minutes of November 26, 2018.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve the Planning Commission regular session meeting minutes of November 26, 2018 with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **File No. 6-MISC-18-A.**

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman to approve the Final Order and Findings to deny the appeal for File 6-MISC-18-A as presented. The motion carried in a voice vote. Franklin and Hardy were a nay.

5. **Public Hearings.** At 7:04 p.m. Chair Patrick opened the public hearing portion of the meeting.

Chair Patrick read the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman noted that he had filed complaints on VRDs in the past. Croteau said he had no conflicts of interests and his views on VRDs had been given over the last year. He stated he was open to revisions of his opinion based on public testimony. Franklin, Hardy, Hanselman and Branigan reported no conflicts. Patrick noted the previous comments he gave on VRDs. He stated he had no conflicts on the other agenda items.

Patrick called for objections to any member of the Planning Commission hearing any agenda items. Don Andre, member of the VRD Advisory Committee (AC), addressed the PC. He stated in relation to item 5.C of the agenda, he had questions for Hanselman on fairness and objectivity while participating on this process. Andre said that at an AC meeting, Hanselman had stated, “those of us who live and work in Newport need to stick together.” Andre felt Hanselman approached the topic in an adversarial point of view and he took a “us versus them” stance. He said the members of the AC that were VRD owners and managers were treated as outsiders and as less valued. Andre asked

Hanselman if he still believed that the people who lived and worked in Newport were a different class, subject to different rights, and asked him to explain what he meant. Hanselman said his intention was not to suggest there was a different class. Andre asked Hanselman was asked to be open minded with the process. Hanselman said his intent was to be open minded. Andre asked if Hanselman if when he was assigned to the AC, was he asked to be open minded and consider other people's points of view. Hanselman stated his role as a AC member was to be as open minded as he could and this was his intent. Andre asked if he was able to truly hear and consider other people's concerns, such as VRD owners, and how the change in rules could create unintended hardships and challenges for them. He said he didn't have the sense that Hanselman was giving thoughtful consideration for VRD owners. Hanselman stated he tried to consider many points of view and many discussions with the AC were from different points of views. He said that if he appeared to be biased or not open minded he wished it had been raised at that time. Andre said he did address a defensive, aggressive undercurrent at the time. He appreciated that Hanselman wanted to have an open mind. Andre wanted the public to know it wasn't a tidy process and stated he was not objecting to Hanselman.

Norm Ferber addressed the PC. He said he was on the AC and submitted a letter to the City Council about the last PC work session meeting. He said the audio tapes of all the AC meetings demonstrated an outright prejudice of Hanselman. Ferber stated he objected to Hanselman hearing the matter and didn't think he was capable of an object decision making process.

Patrick asked how to proceed. Tokos said the PC would take Ferber's testimony and it was up to Hanselman to decide if he wanted to be a part of the process. Hanselman wasn't legally required to step down. Patrick asked Hanselman if he wanted to continue to serve. Hanselman said it was his intention to serve.

Patrick called for objections to the Commission as a whole hearing these matters. None were heard.

A. File No. File 4-NCU-18.

Tokos noted that the hearing had been continued due to concerns raised by Cristi Fritz. He reported that he had mailed Fritz the Final Order and Findings because she had only provided her mailing address. He noted that the Final Order had a revision stating the three previous park model units were categorized as permanent residences and this new one was done as a permanent residence as well. Tokos said that a copy of a revised Final Order was supplied to the PC at this meeting.

Proponents: Dennis Bartoldus addressed the PC. He said that park models were categorized as RVs. This addition was intended as a permanent park model and they didn't want any confusion in the future that it would be a permanent space. Berman asked if anyone had heard from Fritz. Tokos reported that he had not heard from Fritz. Bartoldus stated that the Final Order indicated that all the property along 5th Street that she objected to were excluded from the park.

Opponents: None heard.

The hearing was closed at 7:18 p.m. Hardy, Berman, Croteau, and Franklin stated they had no problems approving. Hanselman thought the boundary had been delineated properly and it was satisfactory for the parties interested. Branigan and Patrick stated they had no concerns.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve File No. 4-NCU-18 with conditions. The motion carried in a unanimous vote.

MOTION was made by Commissioner Croteau, seconded by Commissioner Hardy to approve the Final Order and Findings for File No. 4-NCU-18 as written. The motion carried in a unanimous vote.

B. File No. 4-CUP-18.

Tokos gave his staff report noting the renovations to the Sylvia Beach Hotel was consistent with their previous conditional use application.

Proponents: Justin Luckini addressed the PC. He agreed with the staff report and noted they were keeping this phase to the same standards as the last approval. He noted these changes would be happening over a period of time and wanted to include everything in a package at one time. Berman asked about if all the items on 6 would be immediately done with the rest being completed over a period of time. Luckini confirmed this.

Wendy Engler addressed the PC and stated she was on the City Council but was addressing the PC as a citizen. She noted that in the staff report there was an omission which failed to add that the hotel was located in the C-2 zone and in the Nye Beach Overlay District. She thought disregarding this could lead to unintended consequences and wanted it added.

Opponents: None were heard.

The hearing was closed at 7:26 p.m.

Branigan stated he appreciated Engler's words for the overlay and didn't have a problem with giving his approval. Hanselman stated he supported the project. Franklin wished the applicants didn't have to ask permission every time they made repairs but had no problem approving. Croteau said he had no problem giving approval and wanted it noted the property fell within the Nye Beach Overlay. Berman thought an approval was appropriate. He asked how the wording in the final order could be changed to include that it was in conformance to the Nye Beach Overlay. Tokos said the Nye Beach Overlay wasn't material in this decision but it could be included as background information in the Final Order and Findings. Hardy noted that the property wasn't the Sylvia Beach Hotel. It was owned by Sylvia Beach Hotel Inc and was the old Gilmore Hotel. She felt any attempt to improve this structure wouldn't violate anything. Patrick didn't have any objections and said the problem with procedures was that the PC had to review these changes every time.

MOTION was made by Commissioner Croteau, seconded by Commissioner Franklin to approve File No. 4-CUP-18 with the notation of the Nye Beach Overlay language and conditions. The motion carried in a unanimous vote.

Luckini noted the painting of the hotel that was previously approved hadn't happened because they were waiting until the next improvements were done.

C. File No. 5-Z-18.

Tokos gave his staff report and noted the additional public testimony that had been received. He gave an overview of what had transpired since the last public hearing. Patrick asked the PC for their thoughts on continuing the hearing. Berman was in favor of a continuance. Croteau wanted to take public testimony and thought the evening would be an appropriate time to close public testimony. Branigan thought they should have a work session to work through the changes.

Patrick opened the hearing for additional public testimony at 7:29 p.m.

Tracey McDowell, attorney for Norm Ferber, addressed the PC and said she was there to answer any questions on Ferber's letter. Berman asked if she had seen the staff report. She stated she had. Berman asked for her input on the additional option for transferability that was suggested. She said she reviewed the staff report but said this didn't solve the problem. Patrick asked her to explain her reference to case law. She explained that Oregon case law was very clear that VRDs were a residential use.

Keith Turner addressed the PC. He submitted written testimony and was a VRD operator who empathized with other VRD owners. He asked the PC to consider enforcement and asked them to give comments on enforcement when solving this problem. Croteau said he agreed that enforcement was an issue and was important.

Rob Hildebrand addressed the PC. He reviewed how he built a house at Newport with local vendors. He asked the PC to remember that the 50 who might lose their VRD licenses people were still people and he didn't want the new rules to destroy folks. He suggested grandfather clauses.

Glen Stockton addressed the PC. He stated he waived his right to testify and said he was present to hear the process.

Tom Huff addressed the PC. He thought enforcement and fines were great but thought they should not penalize owners unless there was an issue. He thought VRDs were a smaller factor in affordable housing. Huff suggested a tax on VRDs to contribute to affordable housing. He supported the staff recommendation to do a cap. Huff was concerned about Alternatives 3 and 4 pushing higher concentrations of VRDs into other regions. He suggested the PC consider a survey of Newport and possibly a ballot measure to consider these changes.

Joanne Ronzio addressed the PC. She said that people didn't buy in residential zones to have commercial in them. Ronzio wanted it noted that volunteers lived in R-1 and R-2 zones, and more than 70 percent of VRDs are owned by out of towners who didn't spend money in community. She was pro neighborhood and felt VRDs didn't belong in R-1 and R-2 neighborhoods.

Anne Sigleo addressed the PC. She stated she agreed with the previous testimony. She thought there needed to be restrictions on VRDs so the residents who lived in these neighborhoods didn't feel like outsiders. Sigleo wanted enforcement done and thought a survey of Newport should be done. She wanted to see the number of vehicles restricted as well, especially on streets that were small and hard to maneuver on.

Don Andre addressed the PC. He said his intent was that the City took the concerns of VRD owners seriously. He supported the short term recommendation by staff and felt it was important to protect the right of an individual who worked hard and wanted to transfer their asset. He was opposed to the PC recommendation. Andre didn't feel it would solve any long term VRD concerns and could result in litigation. He thought it was inappropriate to tie concerns to one group of people. He stated there had been a disagreement with the AC on what livability was, and stated it was different for tourists and for residents.

Martha Winsor addressed the PC. She wanted the PC to look at what the density of VRDs would be when they made their decisions. Alternative 3 would be concentrated in the Nye Beach areas and north of the bridge. This would bump up Nye Beach to have 30 percent of the VRDs and would kill neighborhoods. Winsor felt that recognizing the density when considering map alternatives was important and asked the PC to consider the outcome.

Wendy Engler addressed the PC and stated she was testifying as a public member. She noted that she lived in Nye Beach and the district has been recognized by the city as a thriving mixed use neighborhood. Engler thought the City needed to protect Nye Beach from VRDs being dominant in the neighborhood. She thought there had been a disregard for the Nye Beach Overlay and felt it was being used as a dumping ground for VRDs. She thought they needed to update the plan for the neighborhood and felt Alternatives 3 and 4 would have a devastating impact on the Nye Beach district. Engler supported R-3 and R-3 spacing requirements. She wanted the PC to look at the C-2 zone and felt there needed to be a refinement plan for Nye Beach. Engler asked the PC to consider specific spacing and density, and thought that long term rentals would be a possibility. Berman asked if there were specific provisions in the Nye Beach overlay for the VRDs in Alternative 4 for mitigation. Engler said yes, the provisions were: protecting neighborhood livability, creating an environment conducive to cottage industry, and preservation of housing. She said VRDs weren't residences or mixed use. Croteau said he had read all of the reports going back to the GLICK report in the 1990's and said they were more qualitative in nature as to what the neighborhood would look like rather than quantitative as a zoning law might be. Engler said prior to the online booking platforms, no one ever considered VRDs would become a big industry. She said if they addressed the Nye Beach core zone proposal that the PC agreed to take a look at in August of 2017, they could delve deeper into the founding documents and develop a new vision. Engler also noted that the City of Newport Vision 2040 identified mixed use neighborhoods which meant diversity, not having neighborhoods be all VRDs.

Scott Lackner addressed the PC. He stated he was a VRD owner and had no problems with his neighbors. He asked the PC to consider the VRDs that didn't have problems. Lackner felt the VRDs that weren't following the rules needed to be dealt with.

Nyla Jebousek addressed the PC. She asked the PC to consider the fact that VRD uses were like hotels. The behaviors of tourists was different than residents as they came and went a lot more than residents. The industry was new and the PC had to think about the long term effect on the community. Jebousek stated she wasn't opposed to VRDs. She asked the PC to look at the bigger picture on how things played together, and how fast things changed and would impact the area.

Norm Ferber addressed the PC. He said he was a part of the cottage industry and was the first in Newport to convert buildings into VRDs. Ferber wanted it noted that Engler had built two VRDs which had only two parking spaces. He noted that in 2002 the city determined that he was a business and he was unhappy that he couldn't sell his business when he chose to. Ferber noted he was personally attacked as a member of the AC but was told after the meetings that he wasn't the problem. The PC needed to look at VRDs who didn't operate correctly. It was up to them to figure out a solution for all the members of the community, not just the vocal ones.

Ona McFarland addressed the PC. She noted she was a permanent resident and surrounded by VRDs. Because of the VRDs by her house, she was on guard. McFarland said the people who owned VRDs were making money at her expense.

Patty Lee addressed the PC. She understood the concern about density in residential areas. She said her VRD was a good rental. Lee appreciated the parking restrictions for VRDs. She hoped the city looked at what really attracted people to come to Newport and to cultivate others to share in this community.

Jamie Michel addressed the PC. She served on the AC and said her recommendation was to urge the PC and City Council to take the decision in steps. The ordinances in place weren't enforced as strongly as they should have been. She was a VRD manager and believed the first step should be to tighten up the good neighborhood policy and tie it in with parking and occupancy so impact to neighbors was kept to a minimum. This would allow the city to knock the bad players out of the neighborhood. Michel suggested they come back in a year to revisit the discussion and look at deeper recommendations such as limiting density. She thought the city needed to be careful when taking or limiting people's uses. Michel recommended making changes in stages and reinforcing a good neighborhood policy.

Vince Pappalardo addressed the PC. He noted he lived between two VRDs without any problems. VRDs played into people's decision on coming to Newport and they wouldn't come to Newport if VRDs went away. Pappalardo looked into homeshares and asked the PC to clarify how they were going to do these. He thought they were viable options and didn't want this thrown out. Pappalardo didn't think a phased in enforcement approach was better. The VRDs who were bad should lose their license. He also thought a cap was good to be able to evaluate where the city was now.

Susan Davidson addressed the PC. She noted that she used to live in a small unit she rented for \$800 in Newport that was turned into a VRD and was making three times more than what the owners were making as a long term rental. She said that Newport had a declaration to end homelessness in 2007 which stated it would be gone in 2017. Davidson said this had not happened and homelessness had quadrupled since then. She noted that VRD owners were contributing to local livability but they were taking away business from Newport. She said the recent sale of the Agate Beach RV park meant 40 families were displaced, and the County was also using housing for transitional offenders which took away from viable long term renters. She asked the PC to take a look at all the pieces of the puzzle because they were interconnected.

Patrick closed the public testimony of the hearing at 8:52 pm.

Tokos said the PC would be looking at either the 3rd, 8th or 9th of January for a work session meeting, then they would reconvene the hearing on January 14th.

MOTION was made by Commissioner Berman, seconded by Commissioner Franklin to continue the deliberations for File 5-Z-18 to the January 14, 2019 Planning Commission regular session meeting with a work session meeting scheduled before this date. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.

7 **Unfinished Business.** None were heard.

8. **Director Comments.** Tokos noted that the city had advertised for the Planning Commission Advisory Committee members but had not received any applications.

Patrick requested that staff provide all of the combined public testimony submitted for the VRD ordinance amendments given to the PC as a packet. Berman asked to have them labeled as different attachments. Tokos said the labels were staff intensive but would compile all testimony into one document.

Tokos noted that the City was partnering with the County on a regional housing study and would be kicking it off in the next weeks. They would have meetings over the next six months and would wrap in June of 2019. A discussion ensued regarding upcoming meetings.

Croteau wanted it noted that he did try to come up with transferability compromises for the VRD amendments.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:21 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
January 8, 2019
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Bob Berman, Mike Franklin, Rod Croteau, Bill Branigan, and Jim Hanselman.

Planning Commission Citizens Advisory Committee Members Present: Dustin Capri

Public Members Present: Norm Ferber, Mona Linstromberg, Frank DeFilippis, Jamie Michel, Tracey McDowell, and Adam Springer.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:00 p.m.
2. **Unfinished Business.**
- A. **Commission Deliberation on Short-Term Rental Ordinance No. 2144.** Patrick opened the discussions and informed the public who were present that there would not be any public testimony taken at the meeting because the hearing had been closed for public testimony at the December 10, 2018 meeting. Tokos reviewed his staff memo and noted the letter that was submitted by Croteau. Croteau asked if the Commission would be reviewing the late testimony that had been submitted. Tokos said the hearing had been closed and any further testimony would be directed to the City Council.

The Commission discussed how they would like to do deliberations and decided to discuss the topics section by section. Hardy said that the Purpose statement in Chapter 4.25.005 was flawed. She said she had issues with respect to character of neighborhood being subjective, and the types of things that were enforcement heavy were issues that weren't things the city could handle. Patrick agreed with Hardy and said what they were dealing with was behaviors and he wasn't sure if they could zone for behaviors. He noted there was a movement in Portland to remove restrictions on single family units because they were underusing properties. He felt the city would end up having the same problem when it came to VRDs. Patrick said they needed constraints around behaviors. Hardy noted that the behaviors were universal and shouldn't be differentiated in terms of enforcement treatment. Patrick stated he didn't think the changes to the ordinance were the best way to do it but was willing work on finding the best compromise. Branigan asked what an alternative would be. Patrick didn't know. Hardy said the alternative would be to enforce the rules in place currently and make sure the City Council budgeted for it. Croteau didn't have a problem with the Purpose statement as it was written because it wasn't supposed to be a constitutional document. Hardy said there was no definition of terms included for things such as character of neighborhood. Tokos said purpose statements weren't intended to be clear and objective, they were more to frame why the code was set a certain way. Hardy stated she had a problem with this.

Croteau was concerned about VRDs adding congestion and wanted "traffic" added. Branigan and Hanselman agreed. Franklin didn't think it was worth putting it in the code. Capri agreed that it wasn't really traffic. A discussion ensued regarding what the traffic problems were for VRDs. Tokos said parking regulations were part of both the current and new codes. Berman said the new code stated that renters were required to use off-street parking before the use on street parking. Hardy was concerned this would separate classes. Berman felt this was an argument about businesses. A discussion ensued regarding the amount of traffic of VRDs versus residents. Croteau and Hanselman wanted to see something added about traffic. The majority of the Commission were not inclined to add traffic.

Tokos opened the discussion on Definitions. Patrick asked how a building that was part long-term rental and part VRD would be defined. Tokos said it depended on if the VRD was a dwelling unit. If it was a dwelling unit, it would be a VRD. If it was just a room, it would be a home share and would be outside of the context of the requirements. Patrick wanted a definition of a single family home added. Tokos said a dwelling unit clearly defined this.

Berman wasn't sure that liability insurance should be included and thought the City didn't have a right to require someone to have liability insurance. Capri asked if any other businesses had to have liability insurance. Tokos said there were a few businesses, like taxi cabs, that were required to have it. Hardy said the benefit was for the citizens not the city. Croteau was fine with including it and felt it protected the people. Branigan, Franklin, Hanselman stated they were ok with this. The Commission was in general agreement to leave the language as is.

Berman thought that under Proof of Residency, they should add “a recent utility bill within 90 days, in the name of the primary resident”. Hanselman said the utility bills didn’t always have the address on it. Hanselman suggested adding a tax statement. The Commission was in general agreement to leave it as is.

Tokos opened the discussion on License Transferability. Franklin didn’t think it was fair for a group of people to have a license for life. He said he was in favor with Alternative B.3 for transferability because it was more about commercial zones and protected the culture of Nye Beach as a VRD area. Croteau felt that was a land use issue not a license transfer issue. He said it prevented people who had been waiting in line to get a license together and he saw it as unfair. Croteau said this was why he came up with the compromise with caps. Berman suggested talking about caps and then coming back to the transferability discussion.

Croteau asked the Commissioners how they felt about caps. He said he was concerned about caps creating an influx of VRDs in neighborhoods. Croteau thought the problem wasn’t a proximity problem. Hardy said that actual occupancy rates needed to be looked at instead of just assuming people wanted to come to Newport. Hanselman stated he had asked for this information when he was a part of the Advisory Committee and the City said they couldn’t provide it. Hardy cautioned the Commission to be careful on making assumptions. Berman said he wanted to eliminate the caps and have spacing requirements in the permitted areas. He was in favor with Alternatives 3 or 4, but preferably wanted Alternative 3. Patrick thought that whether there was a cap or not, there would still be a transferability problem because when they reached saturation they would be right back to the same thing. Croteau said this would be the case for VRDs that were in restricted areas, and saturation kinetics would mean they would reach a spacing limit that was self-limiting. If citywide transferability was allowed, it would be open ended. Branigan said if they did spacing limits, this would mean licenses would be phased out. Tokos noted the spacing requirements for single family areas was more straight forward compared to mixed density.

Hardy asked Tokos to explain “investors as opposed to persons who purchase a dwelling” statement under transferability. Tokos said the language was intended to cover the concern about properties being bought up by investors if they had a special class of transferable licenses for VRDs. Hardy said it needed to be rewritten because it sounded like it was saying investors were different from people who invest.

Patrick questioned if transferability for LLCs would be a way to get around the rules. Tokos said there was language to handle this. Croteau liked moving forward that the recommendation was for Alternative 3 and then include a list of other alternatives that the Commission considered. Berman liked Alternative 3. Branigan liked Alternative 3. Franklin and Patrick stated they were for no map alternatives at all. Hanselman said he liked Alternative 3. He requested that better interpretation of the map be presented to show what was prohibited and allowed. Hardy stated she wasn’t for any of the map alternatives. Tokos said what he heard was the majority of the Commissioners were for Alternative 3.

Tokos asked the Commission for their thoughts on spacing and density. Croteau said density would work with Alternative 3 with a spacing alternative. Branigan asked for clarification on the phasing out of VRDs over five years. Tokos explained that the City Attorney determined a five year phase out would be optimum. Berman thought everyone needed to conform with the spacing standards and the mechanism written in the ordinance would decide who was phased out. Tokos asked Berman if what he was saying was that he liked Alternative 3 with a cap and spacing standards. Berman confirmed this was what he was saying.

Branigan stated that he wanted Alternative 3. In the permitted zones, he would go with transferability on a one time basis with spacing requirements applied to any new VRD. Berman thought if there was going to be a five year phase out in the permitted areas there needed to be a phase out in all areas to make all remaining VRDs left be in conformance. Franklin stated he wasn’t a fan of spacing requirements. This was a behavioral issue and the problem was a lack of enforcement. He feared the city was going too far on restrictions. If the city enforced the laws that were in place currently, they would see a change and he thought that should be given a shot. Franklin thought the license fee needed to be raised to get people to be more serious and to enforce the rules. A discussion ensued regarding how the Police Department prioritized VRD enforcement low on their list, and how a third party vendor could help with enforcement. Hanselman reminded the Commission that there were a lot of neighbors that didn’t currently have recourse with problem VRDs. Tokos said if the concern was enforcement and the lack of compatibility in residential zones, they could apply some of the license fees toward enforcement, which would be a reasonable argument to make. Tokos said the Police Department talked about adding an additional enforcement officer and utilizing a third party vendor. Berman said an enforcement officer wouldn’t be on duty at all times of the day. He said they needed a complaint and a violation definition, and they needed to determine when the violation section of the code kicked in. Capri said the alternative maps would take out VRDs in areas near loud noises and asked why they worried about this. Patrick said there was a concern about livability, and about adding VRDs to the Nye Beach areas. Capri questioned why spacing requirements

were needed in the areas where VRDs were permitted, especially when there would be a genuine thought to improve enforcement.

Patrick said he could see the reason to have spacing requirements, but thought the Commissioners weren't thinking about unintended consequences. Tokos explained the concept of the street face concept that allowed a number of townhouses and adjoining condos units to be counted as one unit, and then a single family home would be counted as one unit. He cautioned that this could lead to some unintended consequences. Tokos said the example of what Durango was doing for street faces was more for residential zones. A discussion ensued regarding how a one time transfer of a license would not benefit an owner because the next owner couldn't transfer the license. Patrick said there was a second home problem in Newport and didn't think units would become full time rentals or permanent residents if they weren't VRDs. He felt the city was bucking a trend and they could legislate against VRDs but they would still be around. Patrick cautioned the Commission to not make rules they couldn't enforce. Tokos asked Patrick for his feeling on Alternative 3 if it went thorough. Patrick said if they went this way, they should leave everything open. Tokos said there might be problems that arise and it got complicated for areas like South Beach that had properties clustered together that were designed specifically for transient use and more seasonal housing. Croteau agreed that it was an enforcement issue but said the only tool the city had was prohibition as a way of enforcement. Patrick reminded the Commission that people were complaining about the same things at the last ordinance update in 2012. Tokos noted that he had also heard from the public that there were concerns about enforcement and a compatibility issue. He said the public testimony wasn't exclusively about enforcement. Croteau said enforcement couldn't address compatibility. Franklin asked if spacing in the R-1 zones would help. Tokos said his staff recommendation was to put spacing requirements in R-1 and R-2 zones and try to manage growth with a cap. Franklin thought spacing would help in these zones. Croteau said spacing didn't help in his neighborhood and would only increase VRDs in his area.

Berman asked if the Commission would consider grandfathering in the existing VRDs, imposing spacing requirements on new VRDs, and making a real effort to try and enforce the provisions of the new ordinance in the permitted areas on Alternative 3. This meant not phasing out current VRDS because of spacing requirements. Hardy asked if they would have unlimited transferability of licenses. Tokos said they set it up as the ones that are existing would be nonconforming with the spacing standards applied. The ones that were nonconforming would be entitled to continue as long as the use was not discontinued for a 12 month period. Spacing requirements could be applied to any new VRDs for Alternative 3. Franklin said he could get behind this. Croteau and Hardy were also in agreement. Berman asked if it was a typical 12 months period or would it be tied to the 30 day requirement. Tokos said it was easier to do the 12 months because it would sync up with how the city did other nonconforming uses and it tied in with the license. Berman asked how this related to the provision that VRDs would lose their license if they didn't report 30 days of income. Tokos said the Commissioners could consider taking away this provision if they were doing a cap or keep it to ensure owners used their licenses. Croteau said it was worth it to insure some level of competition for people waiting for a license. He said this was good without a cap because spacing requirements would ultimately reach a limit making licenses limited. Franklin asked what the number of VRDs would be if the spacing requirements were in Nye Beach. Tokos said it was hard to factor this. He gave an example of when a condo unit had one VRD, the rest of the complex could be VRDs making it hard to count not knowing if others would want to be VRDs. Berman asked if there was a way to monitor nonconforming uses. Tokos said there was and the provision said they would have to use the unit. A general majority of the Commissioners felt that if Alternative 3 was used, transferability would be gone. There was a minority of the Commissioners who didn't want map alternatives.

Franklin asked if the Commission agreed with raising the cost of the license for enforcement. Tokos said the Commission would have a first motion to move an alternative forward and then a second motion to speak to if the Commissioners wanted to support a third party vendor. Croteau thought the City Council should be the one to weigh in on what the third party vendor cost would be. Tokos said what he was hearing was that there was general agreement by the Commissioners to have a third party vendor to do enforcement.

Croteau noted that in Chapter 4.25 Approval Standards, under Contact Information, "may" should be changed to "should" when talking about forwarding information to the owner or authorized agent. Croteau also noted that the word "small" be taken out in the context of posting a sign under Notice to Neighbors because the dimensions of a sign was already given. Croteau said that "Additional Operational Requirements" should be changed to "Ongoing Operational Requirements". Berman asked if violations could have minor violations and major violations. He was concerned about how it applied to violations such as when someone wasn't putting their trash away on multiple occasions. Tokos said there was a provision included that could be used as a tool to say that the city could require a valet service for trash.

Hanselman said on Chapter 4.25, under Violations, it stated that an owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement involving the same property for a period of two years. He remembered that the Advisory Committee discussion had been about these owners not being about to reapply for all properties, not just the one property. He felt that owners shouldn't be able to reapply for a license on a different property if they lost

your license for two years on another. Franklin thought this was over kill. Capri suggested taking out “involving the same property” in the statement. Patrick said to take out “suspended”.

Croteau said in Chapter 14.25, under the Home Share section, it should say the homeowner should be present “for the duration of the rental”. Berman said that the Vacation Rental section should say “or Home Share” in the statement. Croteau said under the Guestroom Limitations section they needed to include “B&Bs” on the list. Tokos said the limitations were more complicated for B&Bs and there hadn’t been any problems with B&Bs.

Berman wanted to leave the requirement in that stated that renters had to use off-street parking first. Franklin asked if they could look at the grandfathered VRDs who currently had conditional uses for parking, and reduce the number of parking spaces given to them. Tokos said they could and noted that if the Commissioners were looking to do nonconforming uses for VRDs, the current VRDs would be considered nonconforming as they were. Croteau thought there needed to be clarification on if VRDS would be allowed to have conditional uses outside of parking districts. Tokos said this would be solved by the parking district changes. He asked the Commission if a current VRD didn’t meet the parking standards under the new draft, were they saying the unit would be nonconforming on just the spacing or the parking. Franklin thought that if they were nonconforming for parking they would need to meet parking district rules.

Tokos said what he had heard was that a majority of the Commissioners supported the preferred alternative map concept and preferred Alternative 3. In the permissible areas, existing VRDs would be nonconforming relative to spacing standards moving forward. The cap concept would go away and transferability was permissible with the 12 month nonconforming provision. The Commission was in general agreement on this.

Hardy asked if the draft would be legally vetting before the final draft was given to the Commissioners. Tokos said the draft would include what the Commissioners recommendations were. He said if there was any legal reason the draft needed to be changed between the Planning Commission and City Council meetings, the City Attorney would articulate this in writing as to what the change would be. Tokos added that what he heard that outside of the permissible areas there would be a five year phase out. Patrick wanted language about enforcement and the third party vendor to pass along to the City Council. Tokos said he would mock up a motion for the Commissioners for the next meeting. Croteau wanted the complaint registry included as part of the enforcement issue. Tokos confirmed the registry was already included.

Tokos said the new draft would be given to the Commission at the January 14, 2019 hearing continuation.

3. **New Business.** No new business.
4. **Director’s Comments.** No Director comments.
5. **Adjournment.** Having no further discussion, the meeting adjourned at 8:47 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Sherri Marineau

From: Melanie Nelson
Sent: Wednesday, December 19, 2018 8:12 AM
To: Sherri Marineau
Cc: Peggy Hawker; Gloria Tucker; Cheryl Atkinson
Subject: FW: Committee Application

Hi Sherri:

Here is an applicant for you.

Thanks,
Melanie

-----Original Message-----

From: CommitteeApp@newportoregon.gov [mailto:CommitteeApp@newportoregon.gov]
Sent: Tuesday, December 18, 2018 6:35 PM
To: Melanie Nelson <M.Nelson@NewportOregon.gov>; Cheryl Atkinson <C.Atkinson@NewportOregon.gov>; Peggy Hawker <P.Hawker@NewportOregon.gov>; Gloria Tucker <g.tucker@newportoregon.gov>
Cc: braulio.escobar@gmail.com
Subject: Committee Application

Application for City Council - Email Application

Date: 12/18/2018

Commission/Committee of Interest: Planning Committee Citizen's Advisory Committee

Name: Braulio Escobar

Address: 1055 NE 7th Drive, Newport, OR 97365 or PO 747 Newport, OR 97365

Workphone: 541 265 7717

Homephone:

Email: braulio.escobar@gmail.com

Occupation: Attorney

Employer: Self Employed

Why do you think you are qualified to be a Committee member?

I recently served on the ad hoc committee on Vacation Rentals. I learned that there are an abundance of very talented people in our community who are able to express themselves in a polite and thoughtful manner. I also learned that there may not be one "right" way to resolve a problem and the consideration of diverse views is important in a open government.

I would like an opportunity to stay involved in some manner with the City. I bring no prior governmental service to the table. My qualities are a willingness to listen and continue to learn.

State your educational background.

1967, HS Diploma, West Philadelphia Catholic High School 1975, BA in Political Science and a psychology minor, University of Colorado, Boulder 1978, JD from University of Oregon Law School.

Have you ever served on a community committee? If so, what kind?

Yes, the ad hoc vacation rental committee and the City's Retirement Advisory committee.

Do you agree with consensus decision making?

Yes. Democracy may not be efficient but the process results in sound policy the community can accept.

Are you willing to attend regularly scheduled meetings for your term of office?

Yes

Would you make decisions based on the facts and standards even though you may not agree with the ultimate decision?

Yes, that is the nature of my training. Find the facts, apply the correct rule and that determines the result.

Do you anticipate having many conflicts of interest that may disqualify you in making decisions, due to personal and/or business relationships?

No.

List all other pertinent information/background for this position.


I can't think of anything else the committee may find helpful, but I am willing to respond to questions.

City of Newport

Community Development Department

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director 

Date: January 11, 2019

Re: Short-Term Rental Ordinance No. 2144 - Commission's Preferred Alternatives

Enclosed are mark-up and clean copies of draft Chapters 4.25 and 14.25 with changes to sections discussed at the Planning Commission's January 8, 2019 work session. Additionally, I have enclosed a revised version of map alternative #3 with cleaned up line work and updated statistics. The Commission requested feedback from the Building Official regarding the occupancy limits of bed and breakfast facilities and his response is included as well.

This meeting is a time for the Commission to continue its deliberation on the draft ordinance. Two motions will be needed. The first would reflect the Planning Commission's recommendation related to the draft ordinance, which could read as follows:

"I move to recommend the City Council adopt Ordinance No. 2144 in the manner outlined in draft Chapters 4.25 and 14.25 presented this evening, and that findings be prepared to support the changes in a manner that aligns with the Commission's reasoning as articulated in the mark-up versions of these documents. The Commission recognizes, and supports, minor changes to other code sections that may be needed to fully implement these recommendations."

A second motion would address enforcement, which could read as follows:

"I move that the Commission convey to the City Council that it supports the Ad-hoc Work Groups recommendation that the city further evaluate, and possibly retain, the services of a third-party vendor to develop a centralized complaint system that facilitates transparency and citizen access to information, and that the Council take such other steps, as it deems necessary, to improve enforcement of short-term rentals."

Commission members are certainly welcome to modify the motions as they deem appropriate. Minor changes to other codes would include updates to the permitted use lists in NMC 14.03.050 and 14.03.060 and any other land use chapters where there are references to vacation rental use that would conflict with draft Chapters 4.25 and 14.25. A graphic illustration of the recommended Vacation Rental Overlay Zone will also be prepared for the Council.

The staff recommendation will be amended to include elements of the Commission recommendation where the concepts are aligned, and it will be provided to the Council along with public comment, and other background materials.

Attachments

- Mark-up and Clean Copies of Ordinance No. 2144 Chapters 4.25 and 14.25
- Email from Joseph Lease, Building Official, dated 1/10/19
- Updated Map Alternative #3

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A ~~single-family dwelling used as a~~ short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short-term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, "present" means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.

~~H. Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).~~

~~Exceptions:~~

- ~~1. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to license termination so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the license held by the transferor shall terminate.~~
- ~~2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license termination.~~

- I. Vacation Rental. A short-term rental, ~~other than a Bed and Breakfast Facility or Home share,~~ where the entire dwelling unit is rented ~~for less than 30 consecutive days.~~

Commission: A majority of the members do not support a fixed limit on the number of licenses issued for vacation rental dwellings, preferring instead to utilize a zoning overlay to establish areas where vacation rentals will be permitted coupled with spacing standards that will limit the number of vacation rentals allowed on a particular street segment. Existing vacation rentals that do not meet the spacing standards will become non-conforming, meaning that they would be allowed to continue as long as the vacation rental use is not terminated for more than 12-months. Land use authorizations for vacation rentals within permitted areas, be they non-conforming or conforming to the spacing standards, will run with the land, with new owners being able to obtain licenses in accordance with the City codes. Given the above, it is not necessary retain code language addressing the transferability of licenses. Definitions for vacation rental, home share and bed and breakfast facilities have been amended to ensure the terminology is consistent. These definitions have not been changed substantively.

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
1. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.

2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.
4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.
5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration

- b. A copy of an Oregon Driver's License or Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)
9. Good Neighbor Guidelines. Acknowledgement of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.
10. Listing Number. For renewals, the listing numbers or website addresses of where the short-term rental advertises.
11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).
12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).
13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).
14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.

- C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

- A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.

POLICY ALTERNATIVES

- B.1. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable.***

or

- B.2. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable only in those cases where the property is commercially zoned.***

or

- B.3. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is transferrable in those cases where the property is within, or across the street from, a commercial zone.***

Commission: The ability of a vacation rental operator to transfer a license is relevant if the city limits the total number of annual licenses it issues. At this time, a majority of the Commission members do not support the use of a license limitation or "cap" in areas where vacation rentals are permissible. Alternative B.1. requires that a new owner obtain a business license endorsement for a short-term rental, which is appropriate given that they will need to understand city requirements that they must follow.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - ~~c. Sale or Transfer of Property. For business license endorsements that are eligible to be transferred pursuant to NMC 4.25.025(B), it is the obligation and responsibility of the new owner to obtain a new endorsement in order to operate the short-term rental. The new owner shall have 60 days from the date of ownership (closing of the sale) to apply for and receive a new business license endorsement. The business license endorsement obtained by the prior owner shall remain in effect during the 60-day period within which the new owner must obtain an endorsement.~~

Commission: At this time a majority of the members do not support transferability of business license endorsements, in which case this provision is not needed.

2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the “qualified person” may be changed from time to time

throughout the term of a license. To do so, the license information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent's control. In an emergency or absence, contact forwarding information to a qualified person ~~may~~should be provided to the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a ~~small~~, non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short-term rental and obtain the owner, authorized agent, and/or representative's name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new

endorsement and may be required for renewals at the City Manager's discretion.

- a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.
- b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
- c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
- d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
- e. 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.
- f. Electrical plug-ins and light switches shall have faceplates.
- g. Electrical breaker boxes shall have all circuits labeled, and empty breakers spaces must be plugged.
- h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.
- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements.

- j. 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.
 - k. 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.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.
8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is ~~suspended or~~ revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement ~~involving the same property~~ for a period of two years.

Commission: Violation language has been clarified such that the two year cooling off period for revoked licenses applies to any residential property in the city, not just the property associated with the original license.

D. ~~Additional~~Ongoing Operational Requirements

1. Complaints. The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.

POLICY ALTERNATIVES

2.1. Guest Registry. 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 emergency responders upon request.

or

2.2. Guest Registry. 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 emergency responders and non-emergency city personnel upon request.

Commission: Emergency responders need access to guest registry information so that, in the event of a catastrophic event, they can identify who was in the unit. That same information can be useful in enforcement actions and room tax auditing purposes, both of which are legitimate government activities. Online intermediaries, such as Airbnb, are not required to provide cities with room tax reports that track back to individual units; therefore, the City will need tools like this if it is to perform its own auditing. For these reasons, the Commission believes that alternative 2.2 is the appropriate choice.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:
 - a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
 - b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
 - c. The property address.
 - d. The number of approved parking spaces.
 - e. The maximum occupancy permitted for the short-term rental.
 - f. Any required information or conditions specific to the operating license.
 - g. The City of Newport official logo.
4. 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:
 - a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - b. Phone numbers and addresses for emergency responders and utility providers.
 - c. Other information as established by resolution of the City Council.

5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Required landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street. City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.
11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.

12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental 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 short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.
- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to

respond” occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (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 short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner’s short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons,

including permanent provisions for living, sleeping, eating, cooking and sanitation.

- E. Home share. A short-term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Vacation Rental. A short-term rental where the entire dwelling unit is rented.

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
 - 1. Owner Information. Owner’s name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
 - 2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.

3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.
4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.
5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration
 - b. A copy of an Oregon Driver's License or Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)

9. Good Neighbor Guidelines. Acknowledgement of receipt and review of a copy of the good neighbor guidelines. In addition, evidence that the good neighbor guidelines has been effectively relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.
 10. Listing Number. For renewals, the listing numbers or website addresses of where the short-term rental advertises.
 11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).
 12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).
 13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).
 14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.
- B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.
- C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

- A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.
- B. Transferability. The business license endorsement shall be issued in the name of the owner(s) and is not transferable.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
 - 1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - 2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of

the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.

3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the "qualified person" may be changed from time to time throughout the term of a license. To do so, the license information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent's control. In an emergency or absence, contact forwarding information to a qualified

person should be provided to the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short-term rental and obtain the owner, authorized agent, and/or representative's name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
 - a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in

width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.

- b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
- c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
- d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
- e. 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.
- f. Electrical plug-ins and light switches shall have faceplates.
- g. Electrical breaker boxes shall have all circuits labeled, and empty breakers spaces must be plugged.
- h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.
- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements.
- j. 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.

- k. 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.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.
8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement for a period of two years.

D. Ongoing Operational Requirements

- 1. Complaints. The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.
- 2. Guest Registry. 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 emergency responders and non-emergency city personnel upon request.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:
 - a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
 - b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
 - c. The property address.
 - d. The number of approved parking spaces.
 - e. The maximum occupancy permitted for the short-term rental.
 - f. Any required information or conditions specific to the operating license.
 - g. The City of Newport official logo.
4. 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:
 - a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.

- b. Phone numbers and addresses for emergency responders and utility providers.
 - c. Other information as established by resolution of the City Council.
5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Required landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street. City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.

11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.

12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental 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 short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.

- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to respond" occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (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 short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner's short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

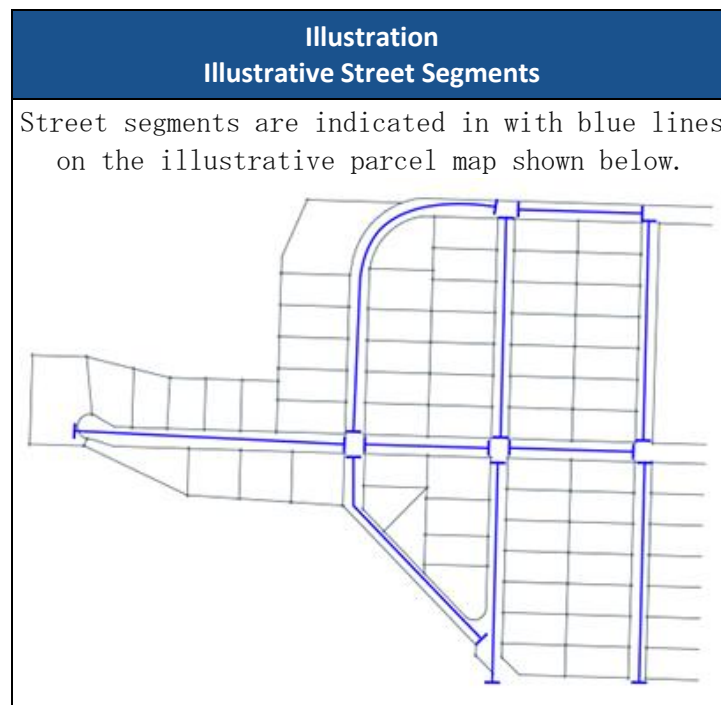
(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

14.01.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. ~~An owner-occupied, single-family dwelling where~~ A short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis, ~~not to exceed 30 consecutive days.~~
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- E. Home share. A short-term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Street Segment. A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. *See Illustration: Illustrative Street Segments, below.*



- ~~I. Transfer. Means the addition or substitution of owners not included on the original business license endorsement application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.~~
- J. Vacation Rental. A short-term rental, ~~other than a Bed and Breakfast Facility~~, where the entire dwelling unit is rented ~~for a period of less than thirty (30) consecutive days~~.

Commission: At this time a majority of the members do not support transferability of business license endorsements; therefore, a definition for this term is being deleted. The definitions for short-term rental, vacation rental, and home share have been revised to ensure terminology is consistent. The substance of these definitions is the same.

14.25.010 Approval Authority

- A. Upon receipt of a request by an owner or authorized agent to complete a land use compatibility statement for a short-term rental the Community Development Director, or designee, shall determine if the request satisfies the standards of section 14.25.030. If the request satisfies the standards, then the Director shall sign the statement confirming that short-term rental is a permitted use. Such action is ministerial and, as a non-discretionary act, is not subject to appeal.
- 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 section 14.25.030, then the land use compatibility statement shall not be signed.
- C. If one or more of the standards under section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process, pursuant to section 14.34.010. Such an application is subject to review by the Planning Commission via a Type III decision making process, consistent with section 14.52.010, and is to be limited in scope to those standards that cannot be satisfied.
- D. A Conditional Use Permit may authorize more than one building for vacation rental use on street segments where ten or more lots ~~or parcels~~ front the street. In such cases, no more than one ~~vacation rental building~~ may be permitted for vacation rental use for every five lots ~~or parcels~~ fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

Commission: Language setting out an option for conditional use permit to authorize additional vacation rental use on long street segments has been modified to align with the new spacing requirement language in NMC 14.25.030.

14.25.015 Submittal Requirements

Land use compatibility statements 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. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.
- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 Establishment of a Vacation Rental Overlay Zone

(Staff note: this subsection is only required if one of the four map alternatives, or a variation of one of the maps, is selected as the basis of an overlay. It will be removed if policy makers decide that an overlay is not needed.)

A Vacation Rental Overlay Zone is hereby established to identify areas within the city limits where vacation rentals are ~~have been identified as~~ compatible uses and, by exclusion from the overlay, areas where ~~they~~ vacation rentals are prohibited in order to protect the City's supply of needed housing and character of residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.

The Vacation Rental Overlay Zone shall be indicated on the Zoning Map of the City of Newport with the letters VROZ and is the area described as follows:

Real property lying within the corporate limits of the City of Newport beginning at the southwest corner of the intersection of NW 12th Street and US 101; thence west along the south line of NW 12th Street to the statutory beach line of the Pacific Ocean; thence southerly along the statutory beach line of the Pacific

Ocean to the north line of SW 95th Street; thence east along the north line of SW 95th Street to its intersection with US 101; thence south along the west line of US 101 to a point opposite the south line of SE 98th Street; thence east across US 101 to the southeast corner of the intersection of US 101 and SE 98th Street, such point being coterminous with the Wolf Tree Destination Resort Site incorporated into the Newport Urban Growth Boundary pursuant to City of Newport Ordinance No. 1520; thence southerly, easterly, northerly, and westerly around the perimeter of the Wolf Tree Destination Resort Site to a point at the northeast corner of the intersection of SE 98th Street and US 101; thence north along the east line of US 101 to its intersection with SW Naterlin Drive; thence north and east along the south line of SW Naterlin Drive to SW Bay Street; thence south and east along the south line of SW Bay Street to the Mean Higher High Water(MHHW) line of Yaquina Bay; thence easterly and northerly along the MHHW line to its intersection with the Newport Urban Growth Boundary; thence northerly along the Urban Growth Boundary line to the south line of the Yaquina Bay Road; thence west along the south line of the Yaquina Bay Road to the point where it transitions into SE Bay Boulevard; thence west along the south line of SE Bay Boulevard to SE Moore Drive; thence north and west along the east line of SE More Drive to US 20; thence west along the south line of US 20 to the west line of SE Grant Street; thence north across US 20 to the west line of NE Grant Street; thence north along the west line of NE Grant Street to NE 1st Street; thence west along the north line of NE 1st Street to US 101; thence north along the east line of US 101 to the north line of NE 12th Street; thence west across US 101 to the point of beginning.

Commission: A majority of the Commission members favor map alternative #3, which limits vacation rentals to areas in close proximity to tourist commercial uses. The perimeter of the overlay, described above, identifies areas within the city where vacation rentals will continue to be permitted. It is a refined version of the area shown in blue in a manner consistent with the map alternative. New vacation rentals will be prohibited, and existing vacation rentals phased out, on land within the city that is outside of the overlay.

Members in support of this map alternative are of the view that vacation rentals, where entire units are rented on a transient basis, are commercial enterprises that are incompatible with, and adversely impact the character of, residential neighborhoods that are not proximate to tourist commercial areas. They do not view home shares or bed & breakfast facilities the same way because a permanent resident is on the premises to monitor guests.

A minority of the Commission members are of the opinion that none of the map alternatives should be adopted. They do not view vacation rentals as inherently incompatible in residential neighborhoods, preferring instead to address concerns related to the operation of vacation rentals with enhanced enforcement.

At the December 10, 2018 public hearing a majority of the Commission members had narrowed their preference to map alternative #3 or #4. After reflecting upon additional testimony and feedback from staff, members settled upon alternative #3 as their preference, viewing it as the alternative most in line with the stated purpose of the regulations. This is both in terms of protecting the character of residential neighborhoods and the City's supply of needed housing.

14.25.025 Allowed Locations

POLICY ALTERNATIVES

A.1.a. Home share and Bed & Breakfast Facility use of a dwelling unit is permitted in all residential and commercial zone districts.

and

A.1.b. Vacation rental use of a dwelling unit is permitted ~~in those areas where they are identified as allowed uses on~~ within the Vacation Rental Overlay MapZone (Select Map Alternative).

or

A.2. Short-term rental use of a dwelling unit is permitted in all residential and commercial zone districts.

Commission: For the reasons noted above, a majority of the members prefer Alternative A.1. Unlike a vacation rental, a home share or bed & breakfast facility has a permanent resident onsite, which a majority of the members see as more compatible in a residential setting. The vacation rental overlay map will limit vacation rentals to the areas where they are identified as permitted on map alternative #3.

14.25.030 Approval Standards

POLICY ALTERNATIVES

~~A.1. Density. The total number of vacation rentals shall be capped at level not to exceed five (5) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.~~

~~or~~

~~A.2. Density. The total number of vacation rentals shall be capped at level not to exceed four (4) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.~~

~~or~~

~~A.3. Density. The total number of vacation rentals shall be capped at level not to exceed three (3) percent of the dwelling units within the city. A specific cap number shall be established by City Council resolution.~~

(Staff Note: The density limit alternatives are specific to vacation rentals and would not apply to home shares or bed and breakfast facilities. The Ad-hoc work group discussed establishing a hard cap between 200 and 300, which is roughly 4- 5% of the City's housing stock. This option allows the Council to specify the specific number and adjust it from time to time as additional housing units are constructed. At its 10/22/18 work session, the Planning Commission put forth a third option of 3%, which is about 165 units or 80% of the number of short-term rentals currently licensed in the city. Alternative approaches include adjusting the percentage, applying the cap to specific geographic areas, or not imposing a density limit.)

Commission: A majority of the members believe that a zoning overlay restricting vacation rentals to areas close to tourist commercial venues, coupled with spacing standards to disperse rentals in these areas, will serve as a de facto limit on the total number of vacation rentals that can be licensed. They see this as a way of addressing concerns that longer tenancy residential uses will be pushed out of the "permitted areas" while also avoiding the administrative complexities inherent to the license "cap" concept. Given the above, the Commission is not recommending that density limits be adopted.

POLICY ALTERNATIVES

B.1. Spacing. In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot that abuts a street segment. For corner lots, this standard applies to both street segments that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection.

or

B.2. Spacing. ~~In the R-1 and R-2 zones, not more than one vacation rental shall be located on a parcel or lot~~ Vacation rental use shall be limited to a single building on a lot, or group of lots, that abuts a street segment. All dwelling units contained within the building are eligible for vacation rental use. For buildings on corner lots, this standard applies to both street segments, that abut that corner lot and only one vacation rental is permitted on the corner lots that abut the intersection. ~~In R-3 and R-4 zones, where both sides of the street segment are zoned for residential use, the same standards apply as those specified for R-1 and R-2 zones with the exception being that one multi-family dwelling or single dwelling is permitted per street segment.~~

Commission: A majority of the Commission members support this modified version of Alternative B.2., designed to disperse vacation rentals within mixed density areas. It applies to all commercial and residential areas within the overlay where vacation rentals are permitted. A "building" includes detached single family homes, attached single family homes (e.g. townhomes), and multi-family dwellings.

POLICY ALTERNATIVES

C.1. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.

or

C.2. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, excluding children under three (3) years of age.

or

C.3. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom.

Commission: A majority of the members believe that C.1. is appropriate, in light of the fact that this standard is now the maximum occupancy of the unit at any time, as opposed to just maximum overnight occupancy. Many of the concerns raised by the public regarding occupancy were related to potential nuisance impacts attributed to large parties, which would exceed the occupancy allowance under C.1.

D. Guestroom Limitations. The following limitations apply to the number of bedrooms within a dwelling unit that may be occupied by guests staying at a short-term rental.

1. Vacation Rentals and Bed and Breakfast Facilities. A maximum of five (5) guest bedrooms.
2. Home shares. A maximum of two (2) bedrooms.

Commission: A five bedroom limitation has been added for Bed and Breakfast facilities to ensure that the mass of the buildings is not out of character in residential areas.

POLICY ALTERNATIVES

E.1. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

or

E.2. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use, unless the dwelling unit is within a parking district as defined in section 14.14.100, in which case on-street parking may be used to meet the one (1) space per bedroom requirement provided the parking is allocated in accordance with the requirements of the parking district. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.

Commission: The members are in general agreement that alternative E.2 is the appropriate standard. The City has established a handful of parking districts where it provides public parking in lieu of requiring businesses construct off-street parking. In such cases, vacation rentals should have a right to use on-street spaces in the same manner as other commercial uses.

F. Shared Access. Short-term rentals that rely upon use of shared access and parking areas may only be permitted if a covenant or other binding legal instrument establishes that the owner of the unit maintains exclusive use of the required parking space(s).

G. Landscaping. For short-term rentals 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.

14.25.035 Non-Conforming Short-Term Rentals

POLICY ALTERNATIVES

A.1. ~~*The For bed and breakfast facilities and home shares, the non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals dwelling units that received endorsements licensed by the city prior to the effective date of this ordinance.*~~

or

A.2. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals licensed prior to the effective date of this ordinance for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter, except the spacing requirements of subsection 14.25.030(B).*

or

A.3. ~~The For vacation rentals, the non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals-dwelling units licensed by the city prior to the effective date of this ordinance for a period of five (5) years, after which the dwelling units shall comply with all applicable provisions of this chapter, except: In cases where there are two or more vacation rentals along a street segment, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement of subsection 14.25.030(B).~~

A.3.1. Vacation rentals in areas where the Vacation Rental Overlay Zone identifies vacation rental use as permissible. Such non-conforming vacation rentals may continue pursuant to the provisions of NMC Chapter 14.32.

Commission: A majority of the members are inclined to support these modified versions of Alternatives A.1. and A.3. Bed and breakfast facilities and home shares licensed under prior rules, that do not meet all of the provisions of this chapter, will become non-conforming. They would be allowed to continue as long as the use is not discontinued for a period of one year (12 continuance months). The same non-conforming use allowance applies to existing vacation rentals in areas where they will continue to be permitted. Non-conforming uses that are discontinued may only be reestablished if they meet current rules.

Vacation rental dwellings in areas where they will no longer be permitted will be phased out over a period of five (5) years to allow those operators a reasonable return on their investment.

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

This chapter establishes criteria by which short-term rental uses may be permitted in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

It is the intent of these regulations to strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited duration.

(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

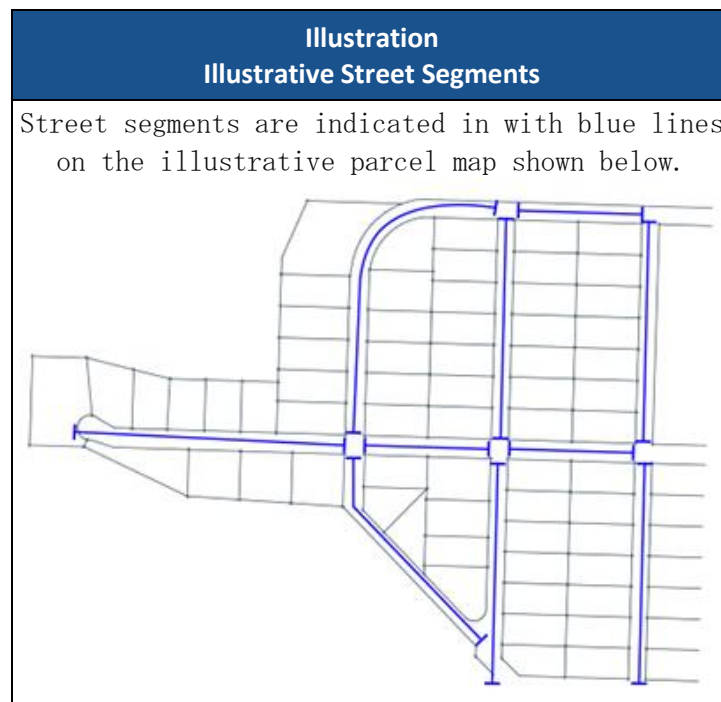
14.01.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A short-term rental where the operator resides on the premises and meals are provided for a fee on a daily or weekly room rental basis.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.
- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short-term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented

while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight for the duration of the rental.

- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person on a day to day basis or for a period of less than thirty (30) consecutive nights.
- H. Street Segment. A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. *See Illustration: Illustrative Street Segments, below.*



- I. Vacation Rental. A short-term rental where the entire dwelling unit is rented.

14.25.010 Approval Authority

- A. Upon receipt of a request by an owner or authorized agent to complete a land use compatibility statement for a short-term rental the Community Development Director, or designee, shall determine if the request satisfies the standards of section 14.25.030. If the request satisfies the standards, then the Director shall sign the statement confirming that short-term rental is a permitted use. Such action is ministerial and, as a non-discretionary act, is not subject to appeal.

- 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 section 14.25.030, then the land use compatibility statement shall not be signed.
- C. If one or more of the standards under section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process, pursuant to section 14.34.010. Such an application is subject to review by the Planning Commission via a Type III decision making process, consistent with section 14.52.010, and is to be limited in scope to those standards that cannot be satisfied.
- D. A Conditional Use Permit may authorize more than one building for vacation rental use on street segments where ten or more lots front the street. In such cases, no more than one building may be permitted for vacation rental use for every five lots fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

14.25.015 Submittal Requirements

Land use compatibility statements 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. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.
- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 Establishment of a Vacation Rental Overlay Zone

A Vacation Rental Overlay Zone is hereby established to identify areas within the city limits where vacation rentals are compatible uses and, by exclusion from the overlay, areas where vacation rentals are prohibited in order to protect the City's supply of needed housing and character of residential neighborhoods. The sole purpose of the Vacation Rental Overlay Zone is to identify where vacation rentals are permitted uses and does not alleviate a vacation rental from having to satisfy requirements that are otherwise applicable under the Newport Municipal Code.

The Vacation Rental Overlay Zone shall be indicated on the Zoning Map of the City of Newport with the letters VROZ and is the area described as follows:

Real property lying within the corporate limits of the City of Newport beginning at the southwest corner of the intersection of NW 12th Street and US 101; thence west along the south line of NW 12th Street to the statutory beach line of the Pacific Ocean; thence southerly along the statutory beach line of the Pacific Ocean to the north line of SW 95th Street; thence east along the north line of SW 95th Street to its intersection with US 101; thence south along the west line of US 101 to a point opposite the south line of SE 98th Street; thence east across US 101 to the southeast corner of the intersection of US 101 and SE 98th Street, such point being coterminous with the Wolf Tree Destination Resort Site incorporated into the Newport Urban Growth Boundary pursuant to City of Newport Ordinance No. 1520; thence southerly, easterly, northerly, and westerly around the perimeter of the Wolf Tree Destination Resort Site to a point at the northeast corner of the intersection of SE 98th Street and US 101; thence north along the east line of US 101 to its intersection with SW Naterlin Drive; thence north and east along the south line of SW Naterlin Drive to SW Bay Street; thence south and east along the south line of SW Bay Street to the Mean Higher High Water(MHHW) line of Yaquina Bay; thence easterly and northerly along the MHHW line to its intersection with the Newport Urban Growth Boundary; thence northerly along the Urban Growth Boundary line to the south line of the Yaquina Bay Road; thence west along the south line of the Yaquina Bay Road to the point where it transitions into SE Bay Boulevard; thence west along the south line of SE Bay Boulevard to SE Moore Drive; thence north and west along the east line of SE More Drive to US 20; thence west along the south line of US 20 to the west line of SE Grant Street; thence north across US 20 to the west line of NE Grant Street; thence north along the west line of NE Grant Street to NE 1st Street; thence west along the north line of NE 1st Street to US 101; thence north along the east line of US 101 to the north line of NE 12th Street; thence west across US 101 to the point of beginning.

14.25.025 Allowed Locations

- A. Home share and Bed & Breakfast Facility use of a dwelling unit is permitted in all residential and commercial zone districts.
- B. Vacation rental use of a dwelling unit is permitted within the Vacation Rental Overlay Zone.

14.25.030 Approval Standards

- A. Spacing. Vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. All dwelling units contained within the building are eligible for vacation rental use. For buildings on corner lots, this standard applies to both street segments.
- B. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.
- C. Guestroom Limitations. The following limitations apply to the number of bedrooms within a dwelling unit that may be occupied by guests staying at a short-term rental.
 - 1. Vacation Rentals and Bed and Breakfast Facilities. A maximum of five (5) guest bedrooms.
 - 2. Home shares. A maximum of two (2) bedrooms.
- D. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to short-term rental use, unless the dwelling unit is within a parking district as defined in section 14.14.100, in which case on-street parking may be used to meet the one (1) space per bedroom requirement provided the parking is allocated in accordance with the requirements of the parking district. Parking spaces shall comply with the dimensional standards of subsection 14.14.090(A). Off-street parking on driveways that extend into underdeveloped rights-of-way may be used to satisfy this requirement provided a stipulation is placed on the endorsement that the authorization may be revoked if the street is improved and driveway shortened.
- E. Shared Access. Short-term rentals that rely upon use of shared access and parking areas may only be permitted if a covenant or other binding legal instrument establishes that the owner of the unit maintains exclusive use of the required parking space(s).

- F. Landscaping. For short-term rentals 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.

14.25.035 Non-Conforming Short-Term Rentals

- A. For bed and breakfast facilities and home shares, the non-conforming use provisions of NMC Chapter 14.32 shall apply to dwelling units licensed by the city prior to the effective date of this ordinance.
- B. For vacation rentals, the non-conforming use provisions of NMC Chapter 14.32 shall apply to dwelling units licensed by the city prior to the effective date of this ordinance for a period of five (5) years, after which the dwelling units shall comply with all applicable provisions of this chapter, except:
1. Vacation rentals in areas where the Vacation Rental Overlay Zone identifies vacation rental use as permissible. Such non-conforming vacation rentals may continue pursuant to the provisions of NMC Chapter 14.32.

Derrick Tokos

From: Joseph Lease
Sent: Thursday, January 10, 2019 3:26 PM
To: Derrick Tokos
Subject: Bed & Breakfast

Derrick,

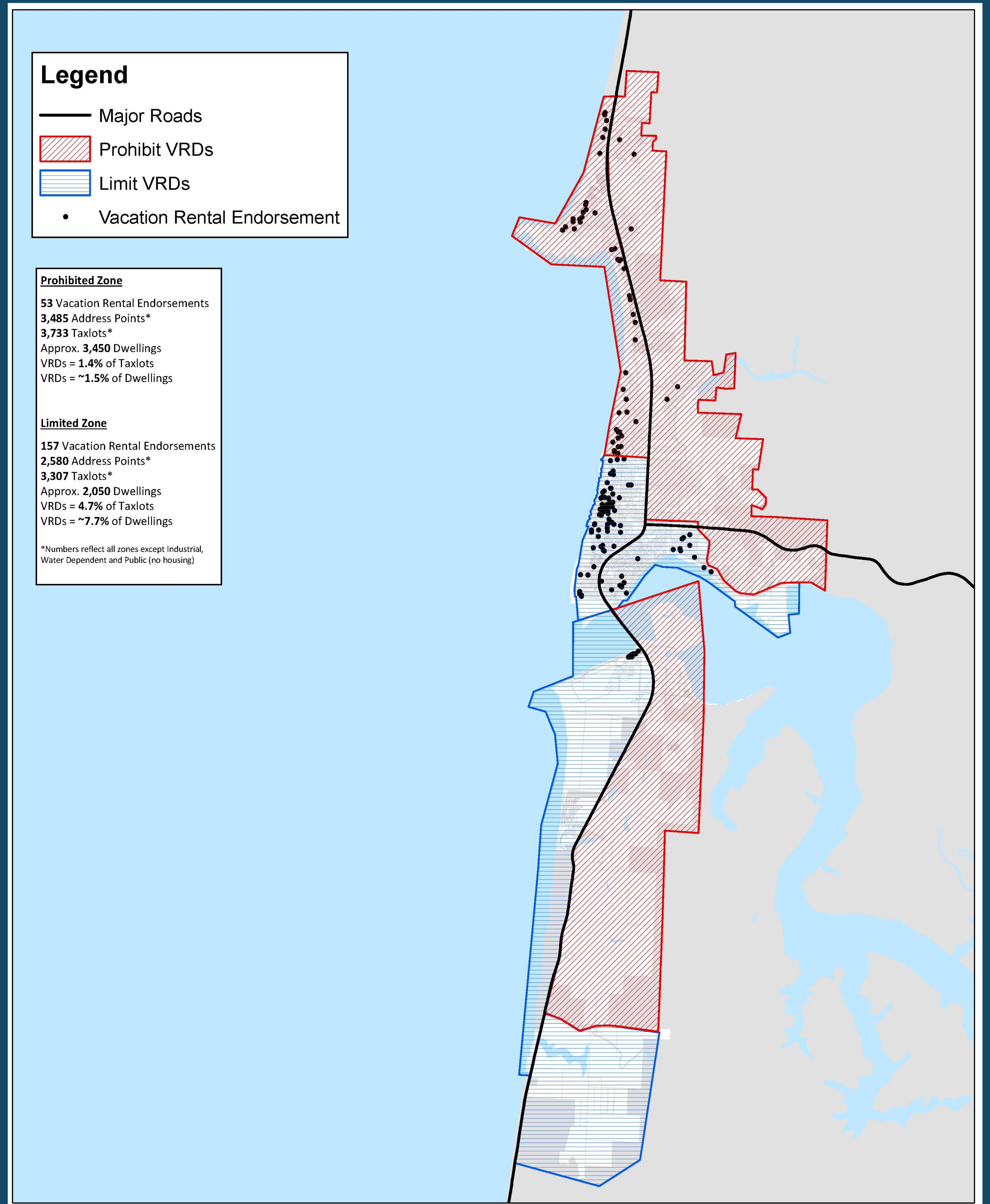
You have asked how large is a Bed & Breakfast (B&B) permitted to be under the Oregon Codes. In accordance with the Oregon Residential Specialty Code (ORSC) a B&B is a “lodging house” and can fall under the single-family residential standards when limited to 5 guestrooms and a maximum of 16 guests (Ref: ORSC R202 definition of “lodging house”). A B&B that exceeds these limitations would not fall within the scope of the ORSC Section 101.2, and therefore would become subject to the more stringent requirements of the Oregon Structural Specialty Code (OSSC), including but not limited to, fire sprinklers and sleeping room fire separations. In this instance it would be considered an R-1 Boarding House (transient occupancy) and subject to the same requirements as hotels and motels (OSSC 310.3).

Thank You,

Joseph Lease, Building Official
Community Development Department
169 SW Coast Highway
Newport, Oregon 97365
j.lease@newportoregon.gov
(541) 574-0627

MAP ALTERNATIVE III

- LIMITS VRDs TO AREAS CLOSE TO TOURIST COMMERCIAL USES
- CAP AND SPACING REQUIREMENTS TO BE APPLIED WHERE VRDs ARE ALLOWED
- SIGNIFICANT NUMBER OF EXISTING VRDs IN PROHIBITED AREAS WHERE THEY WOULD BE PHASED OUT OVER TIME



Derrick Tokos

From: Rian Palfrey <rianpalfrey@gmail.com>
Sent: Thursday, January 10, 2019 5:17 PM
To: Derrick Tokos
Subject: Re: Continuance of Public Hearing on Conditional Use Application (5-CUP-18)

Hello Derrick,

Yes, I confirm the schedule change and will be there on the 28th instead.
 Thank you,

Rian Palfrey

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On Thu, Jan 10, 2019 at 4:51 PM Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Rian,

Per our conversation, please confirm that you would like the hearing on your conditional use application, seeking relief from vacation rental dwelling off-street parking requirements, to be continued to January 28, 2019 at 7:00 pm.

If you respond in the affirmative, then there will be no need for you to attend the January 14th meeting, as the Planning Commission will automatically continue the matter.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov