

**CITY OF NEWPORT**

**ORDINANCE NO. 2144**

**AN ORDINANCE AMENDING CITY OF NEWPORT  
SHORT-TERM RENTAL REGULATIONS**

**WHEREAS**, in the fall of 2017, the Newport City Council received a significant amount of public testimony that City's regulations for short-term rentals needed to be updated to protect the character of residential neighborhoods and to preserve the City's long-term housing supply; and

**WHEREAS**, short-term rentals include bed & breakfast facilities, home share arrangements, and the rental of entire dwelling units (i.e. vacation rentals) where the tenancy is less than 30 days; and

**WHEREAS**, in response to the public testimony, the City Council directed the Planning Commission to assess how the rules could be improved and the Commission, in turn, pulled together an Ad-Hoc Work Group of interested persons to assist the city in developing a package of recommended changes; and

**WHEREAS**, the Ad-Hoc Work Group met 15 times between January and October of 2018 to review the City's rules, evaluate best management practices employed by other jurisdictions, and to develop policy options for revising the city's codes; and

**WHEREAS**, policy options developed by the Ad-Hoc Work Group were informed by feedback received at public open houses held on August 15, 2018 and August 22, 2018; and

**WHEREAS**, the Planning Commission met in work session on October 8, 2018 and October 22, 2018 to further refine the policy options provided by the Ad-Hoc Work Group; and

**WHEREAS**, the Planning Commission held an initial public hearing on November 13, 2018 to obtain public input on the proposed changes to the City's short-term rental regulations, such hearing occurring after citywide notice was provided to property owners pursuant to ORS 227.186; and

**WHEREAS**, the Commission held a work session on November 26, 2018, a second public hearing on December 10, 2018, and a work session on January 8, 2019, before making a recommendation to the City Council on January 14, 2019; and

**WHEREAS**, the City Council held work sessions on October 15, 2018, January 22, 2019, March 4, 2019 and a joint work session with the Planning Commission on April 1, 2019; and

**WHEREAS**, the City Council held public hearings on February 19, 2019, March 18, 2019 and May 6, 2019, with public testimony received at the hearings and work sessions resulting in a number of revisions to the proposed regulatory changes; and

**WHEREAS**, considering the Planning Commission recommendation, staff analysis, and public testimony, both oral and written, the City Council, at the close of its May 6, 2019 public hearing, took up the question of the proposed revisions to the City's short-term rental regulations and voted in favor of their adoption; and

**WHEREAS**, in adopting these revisions to the City's short-term rental regulations, the City Council finds that the changes are necessary and further the general welfare of the community by establishing criteria limiting the location, number and manner in which short-term rentals are permitted, to protect the character of residential neighborhoods, the City's supply of needed housing, and to address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances; and

**WHEREAS**; the Council further finds that the new regulations 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 durations; and

**WHEREAS**, information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council hearings; and

**WHEREAS**, the continued peace, health, and safety of the citizens of the City of Newport is furthered by emergency adoption of this ordinance, with the initial date the City will accept applications under the ordinance being July 1, 2019, as this provides a reasonable amount of time for public informational materials to be developed, administrative procedures prepared, and staff trained to implement the new requirements.

**THE CITY OF NEWPORT ORDAINS AS FOLLOWS:**

**Section 1.** The above findings are hereby adopted as support for the amendments, below.

**Section 2.** Newport Municipal Code Chapter 4.25, Short-Term Rental Business License Endorsements, is hereby established as shown in Exhibit "A."

**Section 3.** Newport Municipal Code Chapter 14.01, Purpose and Definitions, is hereby amended to include new and revised definitions in Section 14.01.020 as listed in Exhibit “B.”

**Section 4.** Newport Municipal Code Chapter 14.25 is hereby repealed and replaced as shown in Exhibit “C.”

**Section 5.** Newport Municipal Code Section 3.25.010(E)(2)(ii), a component of the definition of “Multiple-unit housing,” is hereby amended to read:

“The structure must not be designed or used as transient accommodations, including but not limited to hotels, motels, and short-term rentals.”

**Section 6.** Newport Municipal Code Section 3.25.010, Definitions, is hereby amended to include the following definition:

“**Short-Term Rental.** A dwelling unit, or portion thereof, that is rented to any person for a period of less than thirty (30) consecutive nights.”

**Section 7.** The definition for “Vacation Rental” in Newport Municipal Code Section 3.25.010(I) is hereby deleted.

**Section 8.** Newport Municipal Code Section 3.25.070(D), Project Compliance, is hereby amended to read:

“During the exemption period, the owner or a representative shall submit annual documentation, in the form of standard lease agreements or equivalent, showing that units are not being used as short-term rentals.”

**Section 9.** Newport Municipal Code Section 14.03.050(Z), Residential Uses, related to Bed & Breakfast Facilities is hereby deleted.

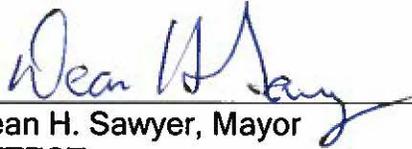
**Section 10.** Newport Municipal Code Section 14.03.050(AA), Residential Uses, related to Vacation Rentals is hereby deleted.

**Section 11.** Newport Municipal Code Section 14.03.050, Residential Uses, is hereby amended to include short-term rentals as permitted uses in the City of Newport’s R-1, R-2, R-3 and R-4 zone districts subject to requirements of Chapter 14.25.

**Section 12. Declaration of Emergency.** It is hereby adjudged and declared that existing conditions are such that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Newport, and an emergency is hereby declared to exist and this Ordinance, and all provisions modifying the Ordinance referred to herein, shall take effect in full force and effect when signed by the Mayor, with the first date for which a license may be applied for pursuant to this ordinance being July 1, 2019.

Adopted by the Newport City Council on May 6, 2019.

Signed by the Mayor on the 7<sup>th</sup> day of May, 2019.



Dean H. Sawyer, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

Approved as to form:



Steven E. Rich, City Attorney

## 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.
- 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 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:
1. A change of ownership in real property where title is transferred pursuant to a declaration of right of survivorship as recognized in ORS 93.180.
  2. A transfer of ownership in real property to a trust, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity so long as the conveyance does not result in any new individuals possessing titled or equitable interest in the property.
  3. A transfer of ownership between titled interest holders.
  4. A transfer of ownership between, or to include spouses, domestic partners, or children.

-----

Examples: The following scenarios serve as examples of some, but not all, of the types of transactions that will or

will not constitute a sale or transfer as defined in this chapter:

- Title is held by a married couple or domestic partnership at the time the license is obtained. Partner dies and survivor retains license? This would not constitute a sale or transfer (Exception H.1).
- An individual owns a parcel subject to a declaration of right-of-survivorship to their children at the time a license is obtained. The individual dies and title is transferred pursuant to that provision? This would not constitute a sale or transfer (Exception H.1).
- Married couple possesses title to property at time license is obtained. They later elect to convey property into an irrevocable trust and retain a life estate in the deed? This would not constitute a sale or transfer (Exception H.2).
- A corporation consisting of three shareholders owns a parcel at the time a license is obtained. They later convert the corporation to a limited liability company controlled by two of the original three shareholders? This would not constitute a sale or transfer (Exceptions H.2. and H.3).
- A limited liability company is formed with four individuals possessing ownership interest at the time a license is obtained. A fifth person later obtains an ownership interest in the company? This would constitute a sale or transfer.
- Four tenants in common own a parcel at time license is obtained. An owner sells their 1/4 interest to one of the other existing owners? This would not constitute a sale or transfer (Exception H.3.) Alternatively, what if they sell their 1/4 interest to a new person? That would constitute a sale or transfer.
- Title is held by a married couple at time license is obtained. They later acquire a home equity line of credit to repair the home, which lender secures with a deed of trust. Lender subsequently forecloses after a

default under the term(s) of the security agreement?  
The instrument the lender uses to obtain possessory interest is a sale or transfer.

- Two married couples possess ownership interest in an LLC at the time a license is obtained. One of the couple's divorces and one of the partners drops off the title. Remaining partner remarries and the new spouse is added to the LLC? This is not a sale or transfer (Exception H.4).
- Property is held by an individual at time license is obtained. The individual dies and children inherit property (no right of survivorship)? This would not constitute a sale or transfer (Exception H.4).
- An individual possesses title to the property at the time a license is obtained. He/she later adds their domestic partner to the title to the property? This would not constitute a sale or transfer (Exception H.4).

---

I. 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. In circumstances where the owner is a legal entity, a copy of the articles of organization or equivalent shall be provided identifying ownership interest holders in the short-term rental property.

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 Oregon 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. Written acknowledgement that a copy of the good neighbor guidelines has been reviewed and 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 by 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. 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 alarms.
- 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 alarms.
- 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 vacation rental 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 city finance and code compliance personnel when requested for enforcement or audit purposes. Guest registry information is to be treated as confidential to the extent allowed by law.
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. Where the Land Use Authorization indicates landscaping is such 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 4.25.045(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 4.25.045(B-E) shall be as follows:

- A. For the first violation within a 12-month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner's 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 14.01 PURPOSE AND DEFINITIONS

### 14.01.010 Purpose

The several purposes of this ordinance are: To implement the Comprehensive Plan; to encourage the most appropriate use of the land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open spaces for light and air; to lessen the congestion on streets; to allow for orderly growth in the city; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and, in general, to promote public health, safety, convenience, and general welfare. The standards and conditions contained herein have been reviewed and deemed consistent with Comprehensive Plan policies.

### 14.01.020 Definitions

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

**Accessory Dwelling Unit.** An interior, attached, or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

**Accessory Structure or Use.** A structure or use incidental and subordinate to the primary use of the property and which is located on the same lot or parcel as the primary use or is on a contiguous lot or parcel under the same ownership. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

**Adult Recreation Facility.** A facility or that portion of a facility that may have any uses allowed in family recreation facilities. In addition, card rooms, taverns, and bars are also adult recreation facilities. Social gambling, as defined by Oregon law and city ordinance, may occur. Alcoholic beverages may be sold and consumed.

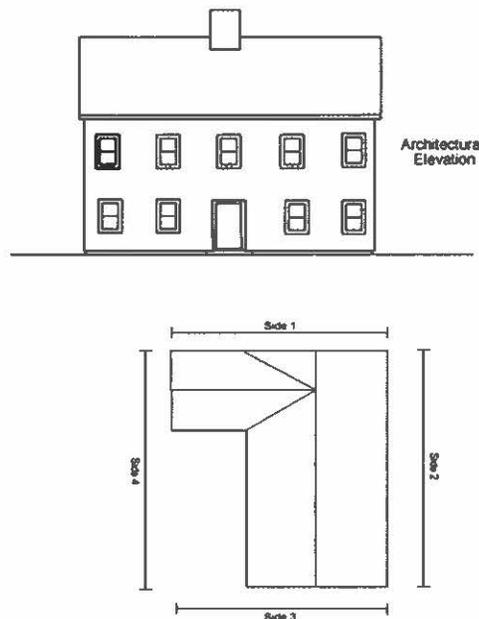
**Alley.** A narrow street 25 feet or less through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street. Frontage on said alley shall

not be construed as satisfying the requirements of this Ordinance related to frontage on a dedicated street.

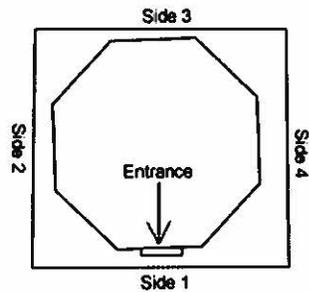
**Apartment House.** A residential structure having multiple residential living units where more than 50 percent of the units are rented for not less than 30 days at a time.

**Applicant.** A person who applies for a land use action or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

**Architectural Elevation.**\*\*\* A scale drawing of the four sides of a building, one each for the front, two sides and rear, from grade to the highest point of the building. The four sides shall show the entire perimeter of the building and shall be centered on each side. The four sides shall be at 90 degrees to each adjacent side.



For a building with many sides or a non-rectangular shape, a rectangle shall be drawn around the outside of the building. Side 1 shall be centered on the entry to the building and each of the other three sides shall be 90 degrees to the adjacent side. Architectural elevations for use in the building height calculation shall be drawn for each side of the rectangle.



**Assisted Living Facility.** A facility licensed by or under the authority of the Department of Human Resources (DHR) per Oregon Administrative Rule 411-56-000, which provides or coordinates a range of services for elderly and disabled persons in a home-like environment. An assisted living facility is required to provide each resident with a separate living unit with a lockable door to guarantee their privacy, dignity, and independence.

**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.

**Automobile Service Station.** A building or portion thereof and land used for dispensing automobile fuel, oil, and accessories. Automobile repairs may be made that do not produce an unreasonable or excessive amount of dust, odor, smoke, fumes, or noise. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

**Bed and Breakfast Facility.** A short-term rental where the operator resides on the premises and meals are provided for a fee.

**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.

**Boarding, Lodging, or Rooming House.** A building or portion thereof containing a single dwelling unit where a group of four or more unrelated persons may live but not more than 20 unrelated persons. A boarding, lodging, or rooming house may be occupied and managed by a family in addition to the four to twenty unrelated persons. Where such a facility has a majority of the residents residing for 30 days or longer, it shall be considered a residential use and a boarding house. If the majority of such

occupancy is for less than 30 continuous days, the facility shall be considered transient and the same as a hostel. Where such a facility is occupied by more than 20 unrelated persons, or where such a facility has more than one kitchen, it shall be considered a hotel or motel.

**Building.** A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**Child Care Facility.** A day care provider who regularly provides day care to 12 or fewer children under the age of 13 in the provider's home in the family living quarters.

**City.** The City of Newport, Oregon.

**Commission.** The City Planning Commission of the City of Newport, Oregon.

**Community Development Director.** The City of Newport Community Development Director/Planning Director or designate.

**Conditional Use.** A use that may be permitted depending upon the individual circumstances. A conditional use permit will not be issued or shall be so conditioned so that neither the public nor neighboring property owners are unduly affected in an adverse way.

**Condominiums.** A form of ownership where buildings are subdivided into individual units such that each owner only owns his own unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party walls, corridors, and services other than those within independent units (such as electrical, water, gas, sewer, etc.) become joint responsibilities of all the owners as tenants in common.

**Court.** An open, unoccupied space on the same lot with the building or buildings and which is bounded on two or more sides by such building or buildings. An open, unoccupied space bounded by one "L" shaped building, which is not a court but a yard.

**Court Apartments.** Multiple dwellings arranged around two or three sides of a court opening upon a street.

**Day Care Facility.** Any facility that provides care, supervision, and guidance on a regular basis to more than 12 children under the age of 13 unaccompanied by a parent, guardian, or custodian during a part of the 24 hours of the day in a place other than the child's home, with or without compensation. A day care facility does not include any of the following:

- A. A facility providing care that is primarily educational, unless provided to a preschool child for more than four (4) hours a day. Such facilities shall be considered a school.
- B. A facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music, or religion. Such facilities shall be considered the same as a school.
- C. A facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. A facility operated by a school district, signs subdivision of the State of Oregon, Lincoln County, the City of Newport, or another governmental agency.
- E. Day care facilities are subject to (1) the rules and regulations established by the State of Oregon Children's Services Division and (2) the following:
  1. Compliance with the requirements of [Section 14.33](#).
  2. The provision of off-street parking at one (1) space per staff member.
  3. A solid fence or hedge at least six (6) feet in height around the rear yard.

**Design Guidelines.** The discretionary design oriented approval criteria with which a project is required to be in compliance. The design guidelines are applicable for applications that do not meet the design standards.

**Design Review.** The process of applying design guidelines and/or design standards

**Design Standards.** Clear and objective design oriented approval criteria with which a project must demonstrate compliance. If a

project does not meet the design standards, then the project is reviewed under the design guidelines.

**Dwelling, Duplex; or Dwelling, Two-Family.** A detached building containing two dwelling units.

**Dwelling, Triplex; or Dwelling, Three-Family.** A detached building containing three dwelling units.

**Dwelling, Fourplex; or Dwelling, Four-Family.** A detached building containing four dwelling units.

**Dwelling, Multi-Family.** A building containing five or more dwelling units.

**Dwelling, Single-Family.** A detached building containing one dwelling unit.

**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.

**Family.** An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or not more than five persons not related by blood, marriage, or adoption living together in a dwelling unit. A family is also five or fewer physically or mentally handicapped persons living as a single housekeeping unit in a dwelling.

**Family Recreation Facility.** A facility designed for active indoor recreation, including a billiard parlor, dance hall, bowling alley, skating rink, teen club or youth center, arcade, indoor swimming pool, indoor tennis court, miniature golf course, and similar uses. No alcoholic beverages may be consumed or sold, nor may gambling occur in a family recreation facility. A supervisory employee must be present at all times, and public restrooms must be provided.

**Footprint.** The total square footage of the area within the perimeter of the building as measured around the foundation of a building.

**Garage, Private.** An accessory building detached or part of the main building including a carport which is intended for and used for storing the privately owned motor vehicles, boats, and trailers of the persons resident upon the premises and in which no

business, service, or industry related to motor vehicles is carried on.

**Garage, Public.** A "public or commercial garage" is a building or part of a building or space used for business or commercial purposes used principally for the repair, equipping, and care of motor vehicles and where such vehicles may be parked or stored.

**Geologic Hazards.** A geologic condition that is a potential danger to life and property which includes but is not limited to earthquakes, landslides, erosion, expansive soils, fault displacement, and subsidence.

**Grade.** The average of the finished exterior ground level at the corners of each architectural elevation of the building. In case an architectural elevation is parallel to and within five feet of a sidewalk or on top of a retaining structure, the grade for that one architectural elevation shall be measured at the sidewalk or base of the retaining structure.

**Gross Floor Area.** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

**Height of Building.** The vertical distance from the "grade" to the highest point of the roof.

**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.

**Home Occupation.** An accessory use of a dwelling unit for gainful employment involving provision or sale of goods and/or services and the creation of handicrafts and artwork and is incidental to the primary use of the building or residence.

**Hospital.** An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

**Hostel.** A single building containing a single dwelling unit where four or more (but not more than 20) unrelated individuals may live for not more than 30 continuous days. A hostel may be occupied and managed by a family in addition to the 4-20 persons renting facilities. If there are more than 20 persons at maximum

occupancy, such a facility shall be considered a hotel or motel for the purposes of this Ordinance except for parking requirements. Hostels shall meet the requirements of the Uniform Building Code for maximum occupancy.

**Hotel (transient).** A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), with or without cooking facilities, and where 50 percent or more of the lodging rooms are for rent to guests for a continuous period of less than 30 days. Short-term rental use of a single family dwelling or individual dwelling unit is not a hotel use.\*

**Hotel (non-transient).** A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), where cooking facilities are provided within individual lodging rooms, or for groups of lodging rooms, and where 50 percent or more of the lodging rooms are offered for rent to guests for a continuous period of 30 days or longer. Short-term rental use of a single family dwelling or individual dwelling unit is not a hotel use.\*

**Junk Yard.** Any property used by a business that deals in buying and selling old motor vehicles, old motor vehicle parts, abandoned automobiles, or machinery or parts thereof, or appliances or parts thereof, or iron, paper, or waste of discarded material.

**Kennel.** A lot or building in which four or more dogs, cats, or animals at least four months of age are kept. Any building containing more than one dwelling unit shall be considered a lot or building for the purposes of this item.

**Land Use Action.** The procedure by which the City of Newport makes a land use decision.

**Land Use Decision.** In general, a final decision or determination that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, or a land use regulation. Specifically, a city decision as defined by ORS 197.015(10).

**Laundromat.** An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

**Loading Space.** An off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading

**Lot.** A parcel or tract of land which is occupied or may be occupied by a structure or a use, together with yards and other open space.

**Lot Area.** The total horizontal area within the lot lines of a lot.

**Lot Corner.** A lot at least two adjacent sides of which but streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

**Lot, Corner, Reversed.** A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear where the lot to the rear is of the prevailing yard pattern.

**Lot Frontage.** The front of a lot is the portion nearest the street. In no case shall the frontage (or front lot line) be less than 25 feet.

**Lot, Interior.** A lot other than a corner lot.

**Lot, Through.** A lot having frontage on two parallel or approximate parallel streets other than alleys.

**Lot Line.** The property line abounding a lot. Where the lot line extends below ordinary high tide, ORS 390.615 shall apply. Where the lot line extends below ordinary high water, ORS 274.025 shall apply.

**Lot Line, Front.** In the case of an interior lot, a straight line joining the foremost points of the side lot lines. The foremost points of the side lot, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding, and, in the case of a corner lot, all sides of a lot adjacent to streets other than alleys shall be considered frontage.

**Lot Line, Rear.** In the case of an interior lot, a straight line joining the rearmost points of the side lot lines, and in the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line, and in the case of through lots, there will be no rear lot line. All corner lots shall have at least a 10 foot rear yard.

**Lot Line, Side.** Any lot line not a front or rear lot line.

**Lot Measurements.**

- A. **Depth** of a lot is the mean horizontal distance between the front lot line and rear lot line of a lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between front lot lines and the respective lot lines opposite each other.
- B. **Width** of a lot is the mean horizontal distance between side lot lines (of side and front lot lines for corner lots) perpendicular to the lot depth.

**Lumber and Other Building Materials Dealer.** Establishment engaged in selling lumber and a general line of building materials to the general public (see State Industrial Code 5211).

**Lumber Yard.** A place of storage in connection with the wholesaling of lumber by a manufacturer such as a planing mill, a sawmill, or a producer of mill work (see S.I.C. 2411, 2421, 2426, 2429, and 2431).

**Manufactured Dwelling.** A manufactured home, mobile home, or residential trailer.

**Manufactured Dwelling Park.** Any place where four or more manufactured dwellings are located on a lot or parcel of land the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

**Manufactured Home.** A structure constructed after June 15, 1976, for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

**Mini-Storage.** Individual small warehouse units.

**Ministerial Action.** A decision that does not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. The review of a ministerial action requires no notice to any party other than the applicant and agencies that the Community Development Director, or designee, determines may

be affected by the decision. A ministerial action does not result in a land use decision, as defined in ORS 197.015(10).

**Mobile Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law at the time of construction.

**Motel (transient).** A building or group of buildings in which lodging is provided for guests for compensation, containing lodging rooms with separate entrances from the building exterior, with or without cooking facilities, and where 50 percent or more of the lodging rooms are for rent to guests for a continuous period of less than 30 days. Short-term rental use of a single family dwelling or individual dwelling unit is not a motel use.\*

**Motel (non-transient).** A building or group of buildings in which lodging is provided for guests for compensation, containing lodging rooms with separate entrances from the building exterior, where cooking facilities are provided within individual lodging rooms, or for groups of lodging rooms, offered for rent to guests for a continuous period of 30 days or longer. Short-term rental use of a single family dwelling or individual dwelling unit is not a motel use.\*

**Nonconforming Lot.** A lot legally existing on the effective date of this Ordinance that does not meet the minimum area requirement of the district in which the lot is located.

**Nonconforming Structure or Use.** A legally established structure or use in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the regulations of the zoning district in which it is located. A use approved under criteria that have been modified or are no longer in effect is considered nonconforming.

**Nursing Home.** A nursing home provides 24 hour direct medical, nursing, and other health services. Registered nurses, licensed practical nurses, and nurses' aides provide services prescribed by resident(s) physician(s). A nursing home is for those persons who need health supervision but not hospitalization. The emphasis of this use is on nursing care, but convalescent, restorative physical, occupational, speech, and respiratory therapies are also provided. The level of care may also include

specialized nursing services such as specialized nutrition, rehabilitation services and monitoring of unstable conditions. The term nursing home is also synonymous with the terms nursing facility and skilled nursing facility.

**Open Porch.** A roofed, open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

**Owner.** Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.

**Parking Lot, Public.** An open, off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge, or as an accommodation for clients and customers.

**Person.** Every natural person, firm partnership, association, or corporation.

**Planned Development.** The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by the ordinance.

**Primary Structure or Use.** A structure or use of chief importance or function on a site. A site may have more than one primary structure or use.

**Public Facilities.** Sanitary sewer, water, streets (including sidewalks), storm water, and electricity.

**Recreational Vehicle (RV).** A vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes and has a gross floor space of not more than 400 square feet in the setup mode.

**Recreational Vehicle Park.** A place where two or more recreational vehicles are located on a lot or parcel of land, the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

**Recreational Vehicle Storage.** Storage for more than two recreational vehicles. No occupancy allowed.

**Residential Care Home.** A residential facility, as defined in ORS 443.400, which provides residential care and/or treatment to five or fewer individuals, excluding caregivers, with mental or other developmental disabilities; mental, emotional, or behavioral disturbances; or alcohol or drug dependence. This definition includes the state definitions of “residential training home” and “residential treatment home.”

**Residential Facility.** A facility licensed by or under the authority of the Department of Human Services (DHS) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Required staff persons shall not be counted in the number of facility residents. This definition includes the state definitions of “residential care facility,” “residential training facility,” and “residential treatment facility.”

**Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.

**Residential Unit.** See definition of Dwelling Unit.

**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:

1. A change of ownership in real property where title is transferred pursuant to a declaration of right of survivorship as recognized in ORS 93.180.
2. A transfer of ownership in real property to a trust, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity so long as the conveyance does not result in any new individuals possessing titled or equitable interest in the property.
3. A transfer of ownership between titled interest holders.
4. A transfer of ownership between, or to include, spouses, domestic partners, or children.

-----

Examples: The following scenarios serve as examples of some, but not all, of the types of transactions that will or will not constitute a sale or transfer as defined in this chapter:

- Title is held by a married couple or domestic partnership at the time the license is obtained. Partner dies and survivor retains license? This would not constitute a sale or transfer (Exception 1).
- An individual owns a parcel subject to a declaration of right-of-survivorship to their children at the time a license is obtained. The individual dies and title is transferred pursuant to that provision? This would not constitute a sale or transfer (Exception 1).
- Married couple possesses title to property at time license is obtained. They later elect to convey property into an irrevocable trust and retain a life estate in the deed? This would not constitute a sale or transfer (Exception 2).
- A corporation consisting of three shareholders owns a parcel at the time a license is obtained. They later convert the corporation to a limited liability company controlled by two of the original three shareholders? This would not constitute a sale or transfer (Exceptions 2. and 3).
- A limited liability company is formed with four individuals possessing ownership interest at the time a license is obtained. A fifth person later obtains an ownership interest in the company? This would constitute a sale or transfer.
- Four tenants in common own a parcel at time license is obtained. An owner sells their 1/4 interest to one of the other existing owners? This would not constitute a sale or transfer (Exception 3.) Alternatively, what if they sell their 1/4 interest to a new person? That would constitute a sale or transfer.
- Title is held by a married couple at time license is obtained. They later acquire a home equity line of credit to repair the home, which lender secures with a deed of trust. Lender subsequently forecloses after a default under the term(s) of the security agreement? The instrument the lender uses to obtain possessory interest is a sale or transfer.

- Two married couples possess ownership interest in an LLC at the time a license is obtained. One of the couple's divorces and one of the partners drops off the title. Remaining partner remarries and the new spouse is added to the LLC? This is not a sale or transfer (Exception 4).
- Property is held by an individual at time license is obtained. The individual dies and children inherit property (no right of survivorship)? This would not constitute a sale or transfer (Exception 4).
- An individual possesses title to the property at the time a license is obtained. He/she later adds their domestic partner to the title to the property? This would not constitute a sale or transfer (Exception 4).

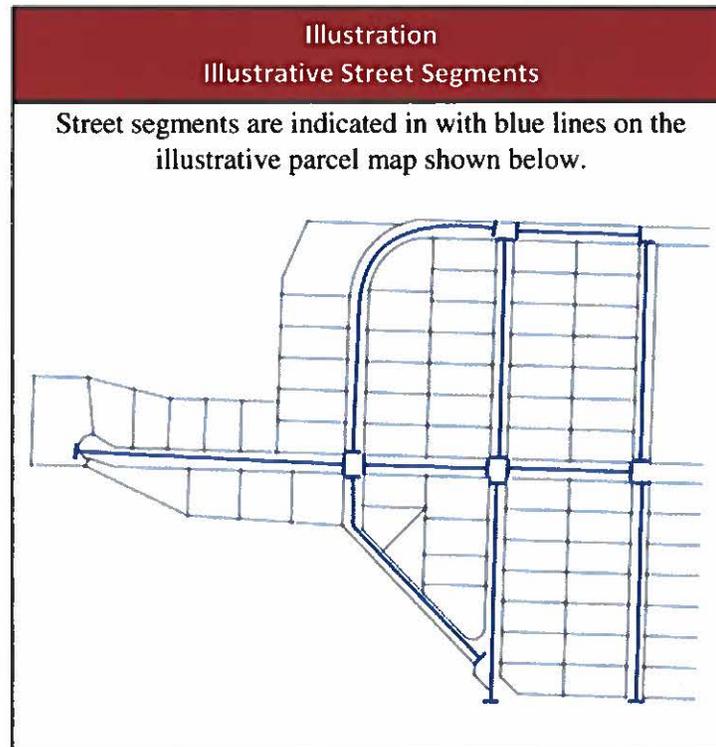
---

**Setback.** The minimum distance required between a specified object, such as a building and another point. Typically, a setback refers to the minimum distance from a building to a specified property line to provide a required yard.

**Short-Term Rental.** A dwelling unit, or portion thereof, that is rented to any person for a period of less than thirty (30) consecutive nights.

**Street.** The term is defined in [Section 13.05.005\(J\)](#) of the Newport Subdivision Ordinance.

**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.*



**Structural Alteration.** Any change to the supporting members of a building including foundation, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.

**Structure.** That which is built or constructed. An edifice or building or any kind of any piece of work artificially built up or composed of parts joined together in some manner and which require location on the ground or which is attached to something having a location on the ground.

**Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- A. before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either of the following:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

**Temporary Structures.** Trailers, mobile homes, prefabricated buildings, or other structures that can readily be moved or which are not attached in a permanent manner to a permanent foundation and are used for residential or business purposes.

**Temporary Vending Carts.** A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self-contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 14.08.050.

**Terrace.** An open porch without a permanent roof and not over 30 inches in height (not requiring a railing according to the Uniform Building Code).

**Town House.** Buildings that are subdivided into individual units such that each owner owns his own unit and also has entitlement to the parcel of land upon which his unit is located.

**Tourist.** A person or group of people who are traveling for pleasure or are of a transient nature.

**Use.** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

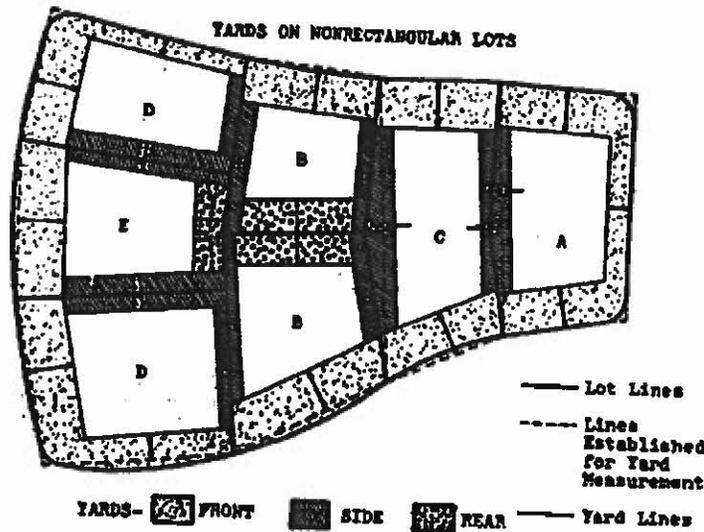
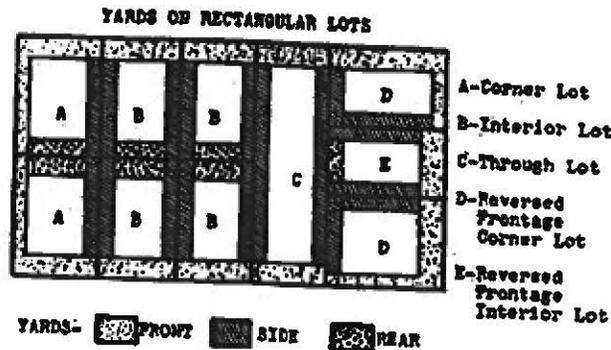
**Vacation Rental.** A short term rental where the entire dwelling unit is rented.

**Wetlands.** Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Yard.** An open space on a lot which is unobstructed by any building from the ground upward, except as otherwise provided in

this ordinance. Yard depth is always measured horizontally and perpendicular to the respective lot line.

**Yard, Front.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lots. In the case of corner lots, front yards shall be required as shown in Illustration A and in Table A.



- 12 -

Newport Zoning Ordinance (No. 1308, as Amended)

**Yard, Rear.** A yard extending across the width of the lot between the inner side yard lines, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from

the inner side yard line of the side yard adjacent to the interior lot to the rear line of the lesser depth second front yard.

**Yard, Side.** A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the normal front yard and lesser depth second front yard have been established shall be considered to be side yards. The accompanying Illustration A indicates the location of yards on rectangular and non-rectangular lots.

*(\*Amended by Ordinance No. 2142 (11-14-18).)  
(Chapter 14.01 was enacted by Ordinance No. 2125, adopted on December 4, 2017: effective January 3, 2018.)*

## 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.

### 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 vacation rental use on street segments in R-1 and R-2 zones where ten or more lots front the street. In such cases, no more than one vacation rental may be permitted 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 its 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 12<sup>th</sup> Street and US 101; thence west along the south line of NW 12<sup>th</sup> 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 95<sup>th</sup> Street; thence east along the north line of SW 95<sup>th</sup> 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 98<sup>th</sup> Street; thence east across US 101 to the southeast corner of the intersection of US 101 and SE 98<sup>th</sup> 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 98<sup>th</sup> 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 1<sup>st</sup> Street; thence west along the north line of NE 1<sup>st</sup> Street to US 101; thence north along the east line of US 101 to the north line of NE 12<sup>th</sup> 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. Density. The total number of vacation rentals within the Vacation Rental Overlay shall be capped at a level not to exceed 200 dwelling units.
1. A specific cap number shall be established by City Council resolution and that number shall serve as the maximum number of business license endorsements the City will issue for vacation rentals.
  2. In the event the cap number established by City Council is reached, the City shall establish a waiting list for the issuance of business license endorsements as they become available on a first come, first served basis.
- B. 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.
- C. Occupancy. Maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus two additional persons per property.
- 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) bedrooms.
  2. Home shares. A maximum of two (2) bedrooms.
- E. 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.

- 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

- A. 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, except:
  - 1. Vacation rentals located inside the Vacation Rental Overlay Zone within, or adjacent to, a commercial or water-related zone shall count towards the specific cap number established pursuant to NMC 14.25.030(A)(1), but are not subject to the density limitation of NMC 14.25.030(A), and may be sold or transferred notwithstanding the waiting list provisions of NMC 14.25.030(A)(2).
  - 2. All other vacation rentals located inside the Vacation Rental Overlay Zone shall count towards the specific cap number established pursuant to NMC 14.25.030(A)(1) and, upon sale or transfer, shall be subject to the density limitation of NMC 14.25.030(A) and the spacing standards of NMC 14.25.030(B).
  - 3. Vacation rental use of dwelling units located outside of the Vacation Rental Overlay Zone shall cease upon sale or transfer of the units.

- B. In the event that a property owner believes they can establish that imposition of these regulations results in a demonstrable reduction in the property's fair market value, such owner may apply to the City for compensation and/or relief from the regulation under ORS 195.310 to 195.314. If the property owner demonstrates with credible evidence a reduction in fair market value the City may provide compensation and/or regulatory relief in a form and amount of its choosing. The property owner may appeal any such final determination pursuant to ORS 195.318.**