

CITY OF NEWPORT

ORDINANCE NO. 2202

**AN ORDINANCE AMENDING CHAPTERS 4.25 AND 14.25
OF THE NEWPORT MUNICIPAL CODE RELATING TO
SHORT-TERM RENTALS**

(Newport File No. 5-Z-22)

WHEREAS, with Resolution No. 3857, the City Council established a Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group") to collect and evaluate information related to the implementation of new short-term rental regulations enacted with Ordinance No. 2144; and

WHEREAS, the Work Group was further tasked with summarizing its observations as to the effectiveness of Ordinance No. 2144 in achieving policy objectives, including whether or not the ordinance should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council; and

WHEREAS, the Work Group met on a quarterly basis from August of 2019 through September of 2022, coordinating with staff, taking testimony from the public, and providing periodic reports to the Commission and Council; and

WHEREAS, in the course of performing these tasks, the Work Group determined that a targeted set of amendments to Ordinance No. 2144 is needed to improve its overall functionality and effectiveness; and

WHEREAS, the Work Group's recommendations, outlined in draft Ordinance No. 2202, were forwarded to the City Council for its consideration at a public meeting on October 17, 2022, after which the Council, by motion, elected to initiate the process set forth in Newport Municipal Code (NMC) Chapter 14.36 to amend city regulations put in place with Ordinance No. 2144; and

WHEREAS, the Planning Commission held a public hearing on January 9, 2023, a work session on January 23, 2023, and a second public hearing on February 13, 2023 to consider draft Ordinance No. 2202. The public was afforded an opportunity to provide testimony on the proposed amendments at both public hearings. After considering testimony and due deliberation, the Commission voted to recommend the amendments be adopted; and

WHEREAS, the City Council held a public hearing on March 6, 2023 regarding the question of the proposed amendments and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community; 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 public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above are hereby adopted in support of amendments to Chapters 4.25 and 14.25 of the Newport Municipal Code, as outlined in Sections 2 and 3 of this Ordinance.

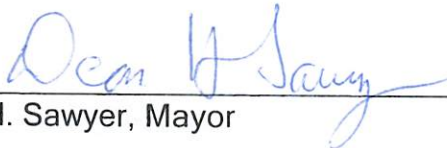
Section 2. Municipal Code Amendment. Chapter 4.25 of the Newport Municipal Code is hereby amended as set forth in Exhibit "A".

Section 3. Municipal Code Amendment. Chapter 14.25 of the Newport Municipal Code is hereby amended as set forth in Exhibit "B".

Section 4. Effective Date. This ordinance shall take effect 30 days after passage.

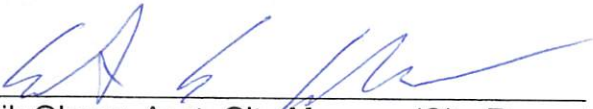
Date adopted and read by title only: March 06, 2023

Signed by the Mayor on March 07, 2023.



Dean H. Sawyer, Mayor

ATTEST:



Erik Glover, Asst. City Manager/City Recorder

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

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(D)(10).
 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 1, 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 1 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 15 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 15 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.

4. Grace Period. In circumstances where a property is sold or transferred and is immediately eligible for vacation rental use pursuant to NMC 14.25.035(A)(1), the new owner shall be afforded a 30-day grace period to apply for a short-term rental business license endorsement. Vacation rental use of the dwelling unit may occur within those 30-days, and during the period of time that the short-term rental business license endorsement is under review.

Staff: Individuals or entities that purchase vacation rental properties within or adjacent to commercial or water related zones, inside the vacation rental overlay, can immediately begin to use their properties for vacation rental purposes provided they obtain a license. Wrapping up a real estate transaction and obtaining a license takes time, and the properties are often booked well in advance by prospective guests creating a situation where bookings can fall into a gap between the change in ownership. At its 4/27/22 meeting, the STR Implementation Work Group supported establishing a grace period that will allow new owners to continue renting properties while they work through the licensing process. The proposed code language addresses the issue.

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 of a vacation rental 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 legible, from an 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. For vacation rentals in condominiums, the number and placement of signs shall be as specified by the City.
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. The City Manager may reduce the required number of rental days, or set aside this provision entirely, in circumstances where a vacation rental, or group of

rentals, cannot be rented for reasons beyond the control of the vacation rental owner.

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 Waiting List

The process for administering a waiting list for the issuance of short-term rental business license endorsements, pursuant to NMC 14.25.030(A)(2), shall include the following:

- A. Upon request, an owner of a dwelling unit will be placed upon the waiting list. The City will note the date and time of the request, owner(s) name, mailing address, phone number, email address and the physical address of the dwelling unit.
- B. At the close of the annual short-term rental business license endorsement renewal period, the City will determine the number of vacation rental endorsements available to persons on the waitlist. This will occur once per calendar year.
- C. Endorsements will be made available to properties in chronological order beginning with the owner on the waiting list for the longest period of time.
- D. For properties that cannot satisfy spacing, or other approval standards in section 14.25.030, the City will inform the owner(s) of their right to seek relief from the standard(s) through the conditional use permitting process as provided in NMC 14.25.010. Those that wish to seek conditional use permit approval will be provided at least 60-days to submit their application. Owner(s) may also choose to forgo the conditional use permit process and stay in their present position on the waitlist, where upon their circumstances will be reevaluated the following calendar year.
- E. Owners of property that can satisfy approval standards in section 14.25.030 will be notified, in writing, that a short-term rental business license endorsement is available and that they have 60-days to apply for the license and endorsement.

F. Those owners that advise the City of their intent to submit a conditional use permit application, or apply for a business license and short-term rental endorsement, by the application deadline and fail to do so will no longer be eligible for a short-term rental endorsement and their names will be removed from the waiting list. If they wish to be added back to the waiting list, then their names will be placed at the end of the list.

G. Owners that submit conditional use permit applications or business license and short-term rental endorsements by the filing deadline will have until August 15th of the following year to complete the permitting process and obtain a license and endorsement.

H. Short-term rental endorsements that are not acted upon will be carried forward and made available to persons on the waiting list following the close of the next annual short-term rental business license endorsement renewal period.

Staff: Ordinance No. 2144 calls for the establishment of a waiting list once the maximum number of vacation rental licenses is reached. That occurred shortly after the ordinance was adopted. The City established an administrative process for managing the waitlist. At its 4/27/22 meeting, the STR Implementation Work Group expressed interest in seeing the administrative process codified. This new subsection accomplishes that objective.

4.25.~~045050~~ Violations

Penalties, as specified in section 4.25.~~050055~~, 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.

F. Any act occurring on the real property upon which the short-term rental is situated where it is established that a civil infraction has taken place under the provisions listed in NMC Chapter 2.15.

Staff: There have been circumstances where non-license related code violations have occurred on properties with licensed short-term rentals. This change will result in such violations also being a "strike" against the short-term rental. The STR Implementation Work Group expressed a desire for the change at its 4/27/22 meeting. It is reasonable for the City to expect that persons operating licensed short-term rentals will manage their properties in line with all city ordinances, not just those directly related to the operation of the rental. This change reinforces that expectation.

4.25.050055 Penalties

Penalties for a violation of subsection 4.25.045050(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.

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.010 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 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 Moore 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. Density. The total number of vacation rentals within the Vacation Rental Overlay shall be ~~capped at~~limited to a level not to exceed 200-176 dwelling units. In the event that number 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.

~~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.~~

Staff: The STR Implementation Work Group, at its 4/27/22 meeting, expressed a desire to eliminate the option of adjusting the license limit by resolution (up to a maximum of 200). Instead, they elected to have a license limit of 176 fixed in the ordinance. This amendment achieves that objective.

- 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.

(Chapter 4.25 was repealed and replaced by Ordinance No. 2144, adopted on May 6, 2019, effective May 7, 2019.)