

CHAPTER 14.25 SHORT-TERM RENTAL LAND USE REGULATIONS

14.25.005 Purpose

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

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

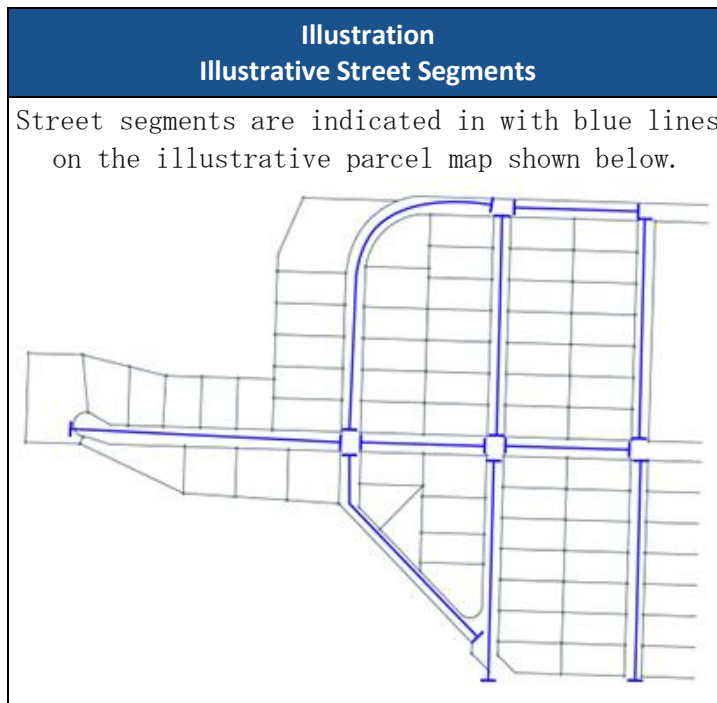
(Staff note: the following definitions will be added to, or will update terms defined in Chapter 14.01. They are included here for reference.)

14.01.010 Definitions

The following definitions apply in this chapter.

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

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



- I. ~~Transfer. Means the addition or substitution of owners not included on the original business license endorsement application, whether or not there is consideration. If multiple owners exist on a license, individual owners may be removed from the license without constituting a transfer.~~ Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in

survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).

Exceptions:

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

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

Staff: Definitions for bed and breakfast facility, home share, short-term rental, sale or transfer, and vacation rental revised to matchup with equivalent definitions in Chapter 4.25.

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 ~~or parcels~~ front the street. In such cases, no more than one vacation rental may be permitted for every five lots ~~or parcels~~ fronting the street.
- E. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of section 14.25.030 shall serve as evidence that standards have been satisfied so that the Director can sign the land use compatibility statement.

Staff: It is our recommendation to apply spacing standards only in R-1 and R-2 zones for reasons outlined below; therefore, a conditional use option to allow more than one vacation rental on long street segments would be limited to those areas.

14.25.015 Submittal Requirements

Land use compatibility statements shall be submitted on a form provided by the Community Development Department, and shall include the following:

- A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations.
- B. Floorplan of the dwelling unit that identifies the rooms dedicated to short-term rental use.
- C. If the dwelling unit is within a residential zone, a calculation of the percentage of front yard and total lot area maintained in landscaping.
- D. If the dwelling unit relies upon shared parking areas, a copy of a covenant or other binding legal instrument detailing unit owner rights and responsibilities related to the parking areas.

14.25.020 ~~Establishment of a Vacation Rental Overlay Zone~~

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

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

Staff: We recommend that a zoning overlay not be adopted at this time as a tight license cap, coupled with spacing standards for low density areas, is likely to be more effective at protecting the character of neighborhoods and the City's supply of needed housing, which are the policy objectives that could support an overlay.

All four map alternatives would prohibit vacation rentals from areas where they have been historically allowed, with alternatives #3 and #4 impacting 25% to 30% of the existing licensed vacation rentals. Uses should be prohibited only if it can be shown that less restrictive measures cannot achieve policy objectives, because the end result is the elimination of a property right that many have relied upon when purchasing and investing in their properties. Map alternatives #1 and #2 are of limited value because they apply to areas that are far enough away from the beach and tourist-oriented commercial districts that they are not attractive for vacation rental use. Map alternatives #3 and #4 prohibit vacation rental uses in some residential neighborhoods and not others without a clear explanation as to why the character of some neighborhoods need to be protected through such a prohibition and others do not. This is problematic if the policy objective is to protect the character of all residential neighborhoods. Concerns expressed by several Nye Beach area residents relate to this issue, as they are rightfully concerned that the adoption of one of these alternatives will lead to further concentration of vacation rentals in their neighborhoods.

With respect to needed housing, map alternatives #3 and #4 appear to favor the prohibition of vacation rental use of higher priced dwellings while allowing them to continue on residential properties that are more affordable (see attached summary of Vacation Rental Market Values). A fair amount of testimony has been submitted expressing concern that vacation rentals are taking away units that would otherwise be available as month to month rentals or as homes that would be available to the local workforce. Vacation rentals in R-1 and R-2 zoned areas, which these map alternatives are largely directed at, have a median

market value of \$418,821 (per Zillow estimate). This is a very narrow slice of the City's needed housing, as this price point is outside of the range of what most of the City's workforce can afford, and may be most attractive to dual income working professionals and persons retiring to Newport from more affluent markets.

If map alternative #3 or #4 is adopted, then somewhere between 50-60 vacation rental operators could be required to wind down their operations, most of which have been renting their properties without documented complaints. It is likely that the City would need to invest in additional code enforcement staff, in addition to a third-party contract, to ensure that the rentals are taken off the market and to police the areas on an ongoing basis. An additional code enforcement staff person, with benefits, could cost the city around \$100,000 a year. Elimination of such a large number of vacation rentals, without some other off-set, is likely to result in a reduction in room tax collections in the amount of \$125,000 to \$150,000. Fiscal impacts of this nature, where costs are added at the same time revenues are constricted, is a significant considerations for city policymakers.

14.25.025 Allowed Locations

POLICY ALTERNATIVES

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

and

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

or

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

Staff: For the reasons noted above, we are not recommending that one of the map alternatives be adopted; therefore, alternative A.2. would be the appropriate option to select.

14.25.030 Approval Standards

POLICY ALTERNATIVES

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

or

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

or

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

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

Staff: We recommend Alternative A.1. and suggest the Council set the initial cap number at a figure equivalent to the number of vacation rentals currently licensed, or in the process of being licensed. That initial cap number would be less than the 5% maximum that could be established by resolution, and if adopted at the same time the Council acts on Ordinance No. 2144, would effectively put in place a moratorium until a new resolution is adopted. This would give the City time to roll out the new rules. Once the new rules are in place, the Council could, over time, incrementally increase the cap number to account for new residential development. This type of active management will prevent rapid increases in the number of vacation rentals being

licensed and allows the Council to link increases in the number of vacation rental licenses to the health of the housing market, consistent with the policy objective of protecting the city's supply of needed housing. Additionally, a tight cap furthers the policy objective of protecting the character of residential neighborhoods because it limits the growth of vacation rentals without favoring certain neighborhoods over others.

Alternative A.1. prohibits the Council from establishing a cap level in excess of five (5) percent of the dwelling units within the city. This provides policy makers with a reasonable amount of flexibility. The five (5) percent threshold is also in line with what other cities, with a diverse economic base, have imposed.

POLICY ALTERNATIVES

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

or

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

Staff: We recommend alternative B.1. This will require a handful of vacation rentals to be phased out of R-1 and R-2 zoned areas. This policy alternative will prevent vacation rentals from being concentrated on a particular residential street segment or block, which impacts livability and character of residential areas. The Commission received testimony from persons worried about vacation rentals being concentrated on a particular street segment or block, and this alternative addresses that concern. Alternative B.2. extends the same principal to R-3 and R-4 zone districts; however, this method of trying to disperse units is not as effective when applied to mixed density areas and could prohibit townhouse and condo developments that were specifically

designed for use as short-term rentals (see problem street segment example on the street spacing maps).

POLICY ALTERNATIVES

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

or

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

or

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

Staff: We recommend alternative C.1. in light of the fact that this standard is now the maximum occupancy of the unit at any time, as opposed to just maximum overnight occupancy. Most concerns raised related to occupancy were related to potential nuisance impacts attributed to large parties, which would exceed the occupancy allowance under C. 1.

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

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

Staff: This change incorporates the five (5) guest bedroom limitation

POLICY ALTERNATIVES

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

endorsement that the authorization may be revoked if the street is improved and driveway shortened.

or

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

Staff: We recommend alternative E.2. The City has established a handful of parking districts where it provides public parking in lieu of requiring businesses construct off-street parking. In such cases, vacation rentals should have a right to use on-street spaces in the same manner as other commercial uses.

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

G. Landscaping. For short-term rentals situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements.

14.25.035 Non-Conforming Short-Term Rentals

POLICY ALTERNATIVES

A.1. *The non-conforming use provisions of NMC Chapter 14.32 shall apply to all short-term rentals that received endorsements prior to the effective date of this ordinance.*

or

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

or

A.3. *The 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: for a period of five (5) years, after which dwelling units shall comply with all applicable provisions of this chapter. In cases where there are two or more vacation rentals along a street segment, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement of subsection 14.25.030(B).~~*

A.3.1. Vacation rentals that do not satisfy the spacing requirement of subsection 14.25.030(B). In such cases, the vacation rental with the oldest endorsement date shall be acknowledged as satisfying the spacing requirement. Other vacation rentals on that same street segment may continue to operate for a period of five (5) years, after which vacation rental use of the units shall cease if the spacing requirement cannot be satisfied.

Staff: We recommend an adjusted version of Alternative A.3. With this alternative, bed and breakfast facilities, home shares, and vacation rentals licensed under prior rules will become non-conforming if they do not comply with all of the provisions of this chapter. Such short-term rentals would be allowed to continue as long as the use is not discontinued for a period of one year (12 continuous months). Non-conforming uses that are discontinued may only be reestablished if they meet current rules. This alternative includes provisions to require compliance with the spacing standards in R-1 and R-2 zoned areas within five (5) years to address testimony that the concentration of transient rentals in these low density areas compromises the character of the neighborhoods.

2017 Assessor's Real Market Values for Vacation Rentals

All Rentals Count: 203	Low: \$42,438 High: \$1,714,300 Median: \$283,100	Rentals R-1/R2 Zones Count: 60	Low: \$131,340 High: \$991,720 Median: \$390,930
Single Family Dwellings Count: 108	Low: \$131,340 High: \$1,714,300 Median: \$346,680	Rentals R-3/R-4 Zones Count: 70	Low: \$42,438 High: \$1,116,420 Median: \$303,130
Condos/Duplexes Count: 95	Low: \$42,438 High: \$743,420 Median: \$195,620	Rentals C-2/W-2 Zones Count: 73	Low: \$71,780 High: \$1,714,300 Median: \$176,970
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,438 High: \$684,410 Median: \$302,930		

2018 Zillow Estimate of Real Market Value

All Rentals Count: 203	Low: \$42,284 High: \$1,714,300 Median: \$312,555	Rentals R-1/R2 Zones Count: 60	Low: \$142,210 High: \$1,100,852 Median: \$418,821
Single Family Dwellings Count: 108	Low: \$141,140 High: \$1,714,300 Median: \$379,240	Rentals R-3/R-4 Zones Count: 70	Low: \$42,284 High: \$1,282,223 Median: \$331,628
Condos/Duplexes Count: 95	Low: \$42,284 High: \$743,420 Median: \$232,328	Rentals C-2/W-2 Zones Count: 73	Low: \$91,446 High: \$1,714,300 Median: \$228,528
Condos/Duplexes (Excluding C-2/W-2) Count: 38	Low: \$42,284 High: \$684,410 Median: \$316,522		

Note: Real market estimates from the County Assessor or Zillow do not necessarily align with the asking price of dwellings that are listed for sale. For example, one of the vacation rentals has an assessor's real market value of \$437,120 and Zillow estimated value of \$568,002, but is being marketed for sale at \$749,000.

Zillow estimates were available for 184 of the 203 vacation rentals (91%). In those cases where an estimate was not available, the County Assessor's 2017 real market value was used.