

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 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.

- 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.
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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 on street segments 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.

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.

Commission: A majority of the Commission members favor map alternatives #3 or #4. The rationale behind these two alternatives are different. Map alternative #3 limits vacation rentals to areas in close proximity to tourist commercial uses. Vacation rentals would be permissible in all residential zones located in close proximity to these tourist venues. Alternative #4 prohibits vacation rentals in low and medium density single family residential zones under the premise that commercial enterprises of that nature are incompatible in these residential areas. Vacation rentals would continue to be allowed in medium and high density multi-family zones (R-3 and R-4 districts) and commercial areas.

Members in support of these map alternatives are of the view that vacation rentals, where entire units are rented on a transient basis, are commercial enterprises that are incompatible with, and adversely impact the character of neighborhoods that are exclusively residential and not proximate to tourist commercial areas. There was less agreement as to whether or not such a restriction would have a meaningful impact on the City's supply of needed housing. A minority of the members preferred that none of the map alternatives be adopted.

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.

Commission: For the reasons noted above, a majority of the members prefer Alternative A. 1. Unlike a vacation rental, a home share or bed & breakfast facility has a permanent resident onsite (i.e. the owner), which a majority of the members see as more compatible in a residential setting.

14.25.030 Approval Standards

POLICY ALTERNATIVES

A.1. Density. The total number of vacation rentals shall be capped at level not to exceed five (5) percent of the dwelling

units within the city. A specific cap number shall be established by City Council resolution.

or

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

or

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

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

Commission: Members in support of map alternatives #3 or #4 are inclined to support the establishment of a license limit for vacation rentals in areas where they continue to be permitted. Percentages referenced in this draft code section are based upon the City's entire housing stock, which is roughly 5,500 units. The Commission would like a percentage limit to be based upon the number of dwellings in the permitted areas.

For map alternative #3, there are roughly 2,050 dwellings that fall within the permitted area, with about 7.3% of the units (149) being licensed as vacation rentals. If the Commission were to take an approach similar to the Ad-hoc work group, then a range of 8% (164 units) up to 10% (205 units) would be reasonable, with a specific number being set by Council resolution.

For map alternative #4, there are roughly 3,300 dwellings that fall within the permitted area, with about 4.3% of the units (142) being licensed as vacation rentals. If the Commission were to take an approach similar to the Ad-hoc work group, then a range of 5%

(165 units) up to 7% (231 units) would be reasonable, with a specific number being set by Council resolution.

Commission members will further discuss the appropriate cap level after taking public testimony at the December 10, 2018 public hearing.

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.

Commission: The Commission members support 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. It is important to note that alternative B.1. is only relevant to map alternative #3. There is no need for the spacing standard in map alternative #4, since it would prohibit vacation rentals in R-1 and R-2 zones.

POLICY ALTERNATIVES

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

or

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

or

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

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

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

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

POLICY ALTERNATIVES

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

or

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

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

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

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

14.25.035 **Non-Conforming Short Term Rentals**

POLICY ALTERNATIVES

A. 1. *The 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 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).

Commission: A majority of the members are inclined to support Alternative A.3. There was some disagreement as to whether or not five (5) years provides existing vacation rental operators a reasonable amount of time to bring their units into full compliance with the new rules, with some arguing the number should be lower and others higher. This alternative addresses the handful of units that would need to be phased out because there is more than one vacation rental on a particular street segment. Such language will not be needed if map alternative #4 is selected, meaning the Commission would default to alternative A.2. There was general agreement that the final language should be revised to include a provision that would require units to comply immediately upon change of ownership.