

(Language in underline or ~~striketrough~~ has been added since the 4/15/19 City Council meeting. Explanatory notes, in *italics*, are provided for context and will not be included in the adopted code.)

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.

Explanatory Note: This section is as it was presented in the Planning Commission recommendation.

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.

Explanatory Note: This section is as it was presented in the Planning Commission recommendation.

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.

Explanatory Note: This section is as it was presented in the Planning Commission recommendation.

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 More Drive to US 20; thence west along the south line of US 20 to the west line of SE Grant Street; thence north across US 20 to the west line of NE Grant Street; thence north along the west line of NE Grant Street to NE 1st Street; thence west along the north line of NE 1st Street to US 101; thence north along the east line of US 101 to the north line of NE 12th Street; thence west across US 101 to the point of beginning.

Explanatory Note: At the April 1, 2019 work session, a majority of the City Council members requested that the zoning overlay recommended by the Planning Commission be added back to the draft ordinance. The rationale for the overlay is that vacation rentals, where entire units are rented on a transient basis, are akin to hotel/motel uses that are incompatible with, and adversely impact the character of, residential neighborhoods that are not proximate to the City's key tourist commercial areas.

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.

Explanatory Note: A majority of the City Council accepts the Planning Commission's rationale that bed & breakfast facilities and home shares are akin to, and compatible with, other permitted uses in residential areas because in both cases at least one permanent resident lives in the unit. This is as opposed to a vacation rental, which is entirely transient and more closely associated with hotel/motel uses commonly located in or near commercial areas.

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 ~~four (4) percent of the 200 total number of dwelling units within the city. For the purpose of this sub-section "total number of dwelling units" shall be the estimated number of dwelling units listed in the most current, publicly available U.S. Census Bureau publication.~~
- 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.

Explanatory Note: At its April 1, 2019 work session, the City Council asked that a license cap, added after the March 8, 2019 work session, be retained and altered to apply to the total number of vacation rentals permitted within the vacation rental overlay zone. On April 15 2019 the Council asked that the not to exceed figure be represented as a number (as opposed to a percentage of housing).

The city's four (4) licensed bed and breakfast facilities and five (5) licensed or in-process home share units would not be subject to a license limitation.

A waiting list would be created once a cap limit is reached, to be administered on a first come, first served basis. The concept of a waiting list was discussed with the ad-hoc work group and Commission, but not formally added to the code until after the March 8, 2019 work session.

- 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.

Explanatory note: All other standards in this section are as they were recommended by the Planning Commission.

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.

Explanatory Note: This section only applies to short-term rentals licensed under the rules this draft code is intended to replace. The Commission recommended that bed & breakfast facilities and home share units throughout the city, and vacation rental units within the zoning overlay, be treated as non-conforming uses. Such uses are allowed to continue without having to comply with this new Chapter 14.25, as long as they are not discontinued for a period of 12 consecutive months. The only exception is that vacation rentals within the overlay count against the license cap, with those units in or adjacent to commercial or water-related zones being exempt from the wait list provisions.

The Commission recommended that vacation rentals outside the zoning overlay be phased out in 5 years. At its April 1, 2019 work session, a majority of the Council members indicated that they were uncomfortable with phase out language shorter than 10 years. Phasing out units at the time they are sold or transferred was also discussed. A number of individuals that own vacation rentals outside the overlay have testified that they need to use

their homes as short-term rentals to offset expenses until they can transition to Newport on a full time basis. The Council asked for a longer phase out period in response to that concern, and others where vacation rental owners expressed that they have made substantial investments in their properties that they should be allowed to recover. At their April 15, 2019 meeting, the Council asked that the draft ordinance include language phasing out dwelling units outside the overlay at time of sale or transfer.

- 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.

Explanatory Note: This addresses circumstances where the owner of a short-term rental believes the ordinance has adversely impacted their property value, and requires they address the issue with the City before pursuing other remedies. Council members, at the March 8, 2019 work session, asked that this type of language be added to the ordinance and agreed to keep it in the ordinance at the April 1, 2019 joint work session with the Planning Commission.