



SHORT-TERM RENTAL ORDINANCE IMPLEMENTATION WORK GROUP AGENDA
Thursday, January 07, 2021 - 3:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

This meeting will be held electronically. The public can live-stream this meeting at <https://newportoregon.gov>. To access the livestream, visit the Short-term Rental Implementation Work Group page at <https://www.newportoregon.gov/citygov/comm/stroiwg.asp>. Once there, an "in progress" note will appear if the meeting is underway; click on the "in progress" link to watch the livestream. It is not possible to get into a meeting that will be livestreamed before the meeting starts. The meeting will also be broadcast on Charter Channel 190.

Public comment may be made, via e-mail, up to four hours before the meeting start time at publiccomment@newportoregon.gov. To make a "real time" comment during a meeting, a request to speak must be received four hours prior to a scheduled meeting. The request to speak should include the agenda item on which the requestor wishes to speak. If the comments are not related to a particular agenda item, the request to speak should include a notation that the request is for general public comment, and the general topic. The request should be e-mailed to publiccomment@newportoregon.gov. Once a request to speak has been received, staff will send the requestor the Zoom meeting link. This link will allow a requestor to participate via video or telephone.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. INTRODUCTIONS
2. REVIEW AND AMEND AGENDA, AS NEEDED
3. APPROVAL OF MINUTES
- 3.A **September 28, 2020 STR Implementation Work Group Meeting.**
[09-28-2020 STR Work Group Draft Minutes](#)
4. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Work Group's attention any item not listed on the agenda. Comments will be limited to three (3)

minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

5. DISCUSSION ITEMS

5.A Update on Licensed Short-Term Rentals, Cap, and Waitlist.

Memorandum

Summary of short-term rental counts, effective 12/22/20

STR Waitlist Update 12/17/20

Detailed list of active and inactive short-term rental properties

5.B Limitations on Regulating Accessory Dwelling Units.

Memorandum

December 2020 email correspondence from Carla Perry

December 14, 2020 email from Cheryl Connell

ORS 197.312

Public Comment - Mona Linstromberg

City Attorney Email Correspondence

5.C Short-Term Rental Enforcement Update.

Memorandum

Memo from CSO Folmar, dated December 22, 2020

Public Comment - Mona Linstromberg

5.D STR Ordinance Implementation Work Group Recommendations (Preliminary Discussion).

Memorandum

5.E Follow-up on Dog Attack Involving Pet Owned by STR Guest.

Email Correspondence

6. FUTURE MEETING SCHEDULE

7. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Work Group's attention any item not listed on the agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

7.A Submitted Public Comment

Public Comment - Traci McDowall

8. ADJORN

Draft MINUTES
City of Newport
Short-Term Rental Implementation Work Group Meeting
City Hall, Council Chambers by Video Meeting
Monday, September 28, 2020

Work Group Members Present: Cynthia Jacobi, Dietmar Goebel, Spencer Nebel, Bill Branigan, and Jamie Michel.

Work Group Members Absent: John Rogers (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; Police Chief, Jason Malloy; Community Service Officer, Jim Folmar; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** The meeting was called to order at 2:09 p.m.
2. **Review and Amend Agenda as Needed.** None were heard.
3. **Approval of Minutes.** Michel noted minor corrections. Motion was made by Jamie Michel, seconded by Cynthia Jacobi to approve the June 8, 2020 Short-Term Rental Implementation Work Group meeting minutes with minor corrections. The motion carried unanimously in a voice vote.
4. **Public Comment.** Tokos noted they were trying to be sensitive to the fact that there were people who did want to provide comment and preferred to provide comment in a more conventional meeting format based off of the testimony the Work Group (WG) received at the last meeting. If the WG's term is extended there would be opportunity for these people to provide testimony in that fashion. Cynthia asked if Carla Perry's letter would be read into the record. Tokos noted that Perry's comments were provided at the end of the agenda. He reported that due to the City of Newport's virtual meeting policy they would not be reading the letter into the record. Tokos noted they would review Perry's letter at the end of agenda.
5. **Committee Discussion Items.**
 - A. **Update on Licensed Short-Term Rentals, Cap, and Waitlist.** Tokos noted they just wrapped up the second year of short-term rental (STR) renewals. He reviewed the summary of licensed units and maps for the geographic distribution of units. Tokos reported that there were 180 licensed STRs city wide, with 136 of these being vacation rental dwellings (VRDs) inside of the permissible area, and 36 VRDs outside of the permissible area. There were eight B&B's and Homeshares that weren't subject to cap limits. Tokos explained that there were properties inside the overlay zone that weren't actively licensed as STRs but had the right to choose to relicense within the 12-month window before their nonconforming use rights went away. These counted against the cap number because they had the nonconforming use right to change their mind and come back. There were also STRs that were transferable where the new owner had 12 months to obtain a license. When considering the 136 licensed units in the cap and the other units that count toward the cap, there are 18 licenses available to properties on the waitlist.

Tokos reviewed the two notification letters to either offer spots in the cap list or notify that the property was disqualified for getting a spot because of spacing standards. He asked for input on changes or additions to the letters. Jacobi thought the letters looked good. Branigan asked if they would be mailing the letters or sending them electronically. Tokos confirmed they would be mailed. He asked if the timeframe of 60 days to apply was reasonable. There were no objections. Tokos noted they would work down the waitlist and then go to the next person when people didn't apply.

Nebel asked when the 12 month period for inactive licenses ended. Tokos explained that this would be 12 months from the time they notified the city they were inactivating a license. If the owner didn't notify the city, it would be August 15, 2021. Tokos explained that they expected most of the 16 VRDs inside the overlay zone to reactivate their licenses.

Tokos noted there was a 20 percent reduction of VRDs outside of overlay zone. Some were due to the COVID-19 pandemic and some chose not to renew. Michel noted the trend was that COVID-19 had a major impact on rentals, some owners were expediting their retirement plans, the housing market was on fire, and what they were seeing economically was making a difference.

Tokos reported that it looked like the close of the annual renewal was the best time to reach out to people on the waitlist for open spaces in the cap list. He noted they were currently working through a third of the waitlist for open spaces. There were 18 on the waitlist who would be offered open spaces and there were three on the list that were ineligible for open spaces because of the spacing standards. If things kept to this pace, people on the wait list could assume it would take up to three years for a space to open up for them. Goebel asked if the spacing standards could be challenged and if residential areas could have wider spacing standards. Tokos explained this would need a change to the ordinance. The spacing standards were very specific in the current ordinance. Tokos noted that condominium buildings such as the Embarcadero could have more than one STR in them.

Nebel asked if people on the waitlist who couldn't get a space would be notified how the spacing standards applied to their not being offered a space. Tokos would add this to the letter. He reminded that there were three people at this time who would get the letter and there may be more when they started working down the list to offer spaces. Nebel asked if there would be a general letter for other on the waitlist who weren't being offered a space. Tokos reported that they wouldn't be contacting others on the list to say where they were at on the list after changes. Nebel thought a letter should be sent to them. Michel thought it would be good to be proactive and do this. She suggested just sending an email notice to these people. Tokos would add this.

- B. Resolution Extending Term of the STR Ordinance Implementation Work Group.** Tokos noted the resolution would go to the City Council at their next meeting to extend the Work Group for 12 months. This would change the wrap up of the Work Group to the end of 2021. Goebel asked if the Work Group could become a standing committee for the city. Tokos confirmed it could potentially but they would need to make a recommendation to the Council to do so. Goebel thought it was an important issue for the city and thought a standing committee would be good. Nebel thought this should be a recommendation from the Work Group for permanent policies going forward and felt it was premature to make it a standing committee.

Motion was made by Dietmar Goebel, and seconded by Bill Branigan to make a recommendation to the City Council to extend the Short-Term Implementation Work Group term for 12 months and then transition the committee to a permanent committee. The motion carried unanimously in a voice vote.

Michel asked when the committee could talk to the Council about what they learned, how the ordinance was working, and how they might think the ordinance should be adjusted to work better based on their findings. Tokos reported this would happen in the middle of 2021. Nebel noted they could do some interim recommendations as well. Michel was glad to have another summer to review. She reported that the July and August rental rates were up in 2020 over 2019. Jacobi asked what these rates were. Michel reported the Chamber of Commerce had the STR occupancy rates for hotels and STRs to compare this year to last year. Goebel asked if hotel rentals were up. Michel didn't know about hotel rates but thought the Chambers would know this. Nebel noted the Chamber report was shared with the Council but he didn't remember this information on their reports. Michel could look into getting a sense of the rentals through her management company and give a report. Goebel asked what the reasons were for the increase in rentals. Michel noted reasons such as renters not being able to fly for their vacations who were staying local, and renters who set aside larger budgets for travel and chose to come to the coast for longer periods of time instead. She also noted that there were a lot of people who weren't going back to school and offices who were choosing to rent. Michel felt there was a different trend now and STRs catered to this.

Tokos noted the resolutions and the recommendation that the Work Group become a full time committee would be presented at next Council meeting.

- C. Short-Term Rental Enforcement Update.** Folmar reviewed his report and noted the majority of calls for complaints were in the "others" category. He noted that when people chose the option to call online they would

go directly to the Police Department (PD) without going through the call center. They needed to look at LodgingRevs online complaints and see if the emergency contacts needs to be contacted at that time.

Folmar noted there was a small number of parking and noise issues. He noted that they didn't find anything when responding to fireworks complaints. The parking and noise issues weren't being called into the emergency call center and were given to the Community Service Officers (CSO) and waiting for them to respond. Folmar noted they were receiving photos of cars parked in driveways and on the street. He asked if a car left, and one of the required off-street parking spaces was open, would it be a violation if another vehicle didn't move from the street to the off-street parking space. Folmar didn't want to hit someone with a first time violation for something they couldn't control. Michel noted this was why she thought the ordinance should be more cut and dry to say they either required all off-street parking or not. She thought this created a gray area and suggested it be an area to fine tune in the ordinance going forward. Branigan thought this was a gray area as well. He wouldn't hold the renter accountable for the example that CSO Folmar talked about. If someone went out of the space one day and the next day it was still open, it should be a violation. Michel thought this would still be challenging. Folmar noted he had to prove that their intention was to leave the space open and was where it got a bit dicey to issue citations for first and second strikes. It was the same problem when dealing with overflowing garbage cans. The question was if they could hold an owner who was not onsite accountable for another adult. Michel didn't want them to separate this class of renter or user from any other class. She thought that if there was a concierge requirement for garbage there wouldn't be problems. Michel felt this was something to consider down the road. Tokos explained that if there was an overflowing trash can it wouldn't be a strike. If they were leaving them out and not bringing them back to a shielded area that was the problem. The ordinance could force owners with these problems to do valet service. Folmar noted garbage was a nuisance violation. He asked if the owner or the renter would be charged for the violation. Folmar noted the PD would have to get a warrant or subpoena to get the renter's information. Michel reported that if the PD called about a nuisance, the manager would take care of it. The city's relationship was with the land owner. Michel thought they should have a discussion with the manager and owner. Folmar noted some owners didn't have managers and were out of the area. Michel thought it was the responsibility of the landlord then and felt this would be on the owner. She noted that in Yachats they only wanted to know on the application who the owner was and all of the local contact's information. Branigan thought they could alleviate some of the problems by requiring STRs to have large trash cans instead of the skinny ones. Michel thought that Folmar could ask owners use larger trash cans before requiring them to have the concierge service.

Jacobi asked for clarification on the city ordinance for fireworks. Malloy noted the PD went along with Oregon State law for fireworks which was anything that jumped off the ground more than six feet and exploded was against the law. The PD received frequent complaints for these and the problem was finding the source. When they did find the source, most of the time the approach was to counsel them, seize the fireworks, and give the fireworks to the Fire Department for disposal.

Michel noted that under the three noise complaints, only two were possible STR issues. She pointed out that the PD was taking calls that should go to managers and they should take note of that. Branigan noticed that 171 NW 71st Ct was on the list five times without any response from the owner. He asked if this should count as a strike. Folmar noted the one open was because they were waiting for a response from the complainant. Without this he was hindered to go forward. A lot of the times the complainant wouldn't response and that meant they couldn't proceed. Michel thought this was a pattern to look at. She thought this might be an area where there were neighbors who were watching for problems. They had to be fair, but a well-managed STR should not be that impactful on the neighbors. She felt repetitive disregard was a problem. Folmar noted there were a few STRs that had neighbors who had bad blood with them. He had to weed through these to see what complaints had teeth and address them accordingly. The determination wasn't usually tipped to the complainants' view because they wanted to see more enforcement action where it couldn't happen because they didn't have enough information or there was no basis for the complaint.

Jacobi asked for clarification on the 1330 NW Spring St dog bite complaint. Folmar said this went to CSO Ballentine and the owner said they didn't know the renter had a dog. The victim of dog bite didn't follow up with CSO Ballentine and she had nowhere to go with this. Goebel asked if 73rd Street was wide enough to park on the street and if there was a law against parking on the road. Folmar explained there was enough room to park on

the street and if there were cars parked across from each other it did narrow it down. He noted he didn't find any basis for the complaint about parking off of the asphalt on dirt area where they thought it was compromising the water and sewer lines.

- D. **Good Neighbor Guidelines.** Tokos noted the guidelines were provided because of a request by the Work Group. This was shared out to STR owners through license renewals and new applications to acknowledge they are providing it to renters in the rental book, online or posted in a prominent location on the premises. Michel noted the garbage disposal guidelines superseded her management guidelines. She didn't want to put the guidelines up to tell the renters about garbage when they had concierge service. There needed to be a way to get her management policy to supersede the guidelines. She also wanted the 24 hour contact information to say the guest should call management instead of the 24 hour hotline. Tokos noted the guidelines said that the 24-hour number be posted within the unit or on the property. It was saying either one should be called. Michel just didn't want the PD to be taking calls for things such as plumbing problems in the rental. Nebel thought it needed to be more clear on the 24 hour contact information.
- E. **Vacancy on Short-Term Rental Ordinance Implementation Work Group.** Tokos asked the Work Group to share with people they knew that there was an opening on the Work Group.
- F. **Update on STR Online Payment and Billing Solution.** Tokos acknowledged the report Mike Murzynsky in the Finance Department submitted.
- 6. **Future Meeting Schedule.** Tokos noted the next meeting would be held in the next quarter and he would send out a poll for the best dates.
- 7. **Public Comment.** Goebel asked if the unit on Spring Street that was noted in Carla Perry's letter was the one that was newly built that was not a vacation rental. Tokos reported it was and the unit was never a rental. Goebel asked how they could make this problem go away. Folmar reported that the PD found that this unit was a long term rental and the other was a short-term rental. The people renting this unit were able to show they were renting more than 30 days. Folmar reported they found out everything they investigated was aboveboard. Goebel noted the photos Perry submitted showed a lot of changes to the cars. Folmar would look at photos and go from there.

Jacobi asked about the requirement to report the status of a complaint to the complainant after the resolution was made. Folmar reported that they usually did this if the complainant provided their contact information. Sometimes things fell through the cracks, but the goal was to contact the complainant and homeowner on what the decision was.

Goebel asked what the rules were for when someone rented a unit for a couple months and chose to sublet it. Tokos said they didn't regulate subletting. He explained that if someone was subletting for under 30 days for money it was considered a short-term rental and they would have to have a license. A discussion ensued regarding how people could circumvent the 30 day use rules.

Tokos would add an agenda item to the next meeting to start putting together issues the Work Group wanted to address and to decide whether they wanted to include these in a package of recommendations. Nebel requested that staff get together with the City Attorney to review enforcement issues.


- 8. **Adjournment.** The meeting adjourned at 3:21 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

Memorandum

To: Short-Term Rental Ordinance Implementation Work Group

From: Derrick I. Tokos, AICP, Community Development Director 

Date: December 22, 2020

Re: Update on Licensed Short-term Rentals, Cap, and Waitlist

Enclosed is a detailed list and summary of licensed and inactive short-term rentals as of December 22, 2020. There are 188 licensed units in good standing with the City. They are listed as “active” and include 144 vacation rentals inside the overlay zone, 36 vacation rentals outside the overlay, and 8 bed and breakfast establishments or home shares. Additionally, there are 14 inactive, non-conforming short-term rentals inside the overlay. These properties will fall off of the list if not reactivated within 12-months of when they ceased to be actively licensed rentals (NMC 14.32.060(A)(2)).

Non-conforming vacation rentals within the overlay, both active and inactive, count towards the density limit (i.e. license cap) that the City Council established as 176 licenses (NMC 14.25.035(A)(1)). As illustrated in the attached summary, there are 18 licenses available for qualifying properties on the waitlist.

Staff has worked about a third of the way down the waitlist, and number of those individuals have applied to obtain licenses. Enclosed is a brief write up identifying where things stood as of 12/17/20 regarding the waitlist.

- Attachments:
- Summary of short-term rental counts, effective 12/22/20
 - STR Waitlist Update 12/17/20
 - Detailed list of active and inactive short-term rental properties

Short-Term Rental Counts as of 12/22/2020

| | |
|--|------------|
| Active Vacation Rentals INSIDE Overlay Zone | 144 |
| Inactive, Nonconforming Vacation Rentals INSIDE Overlay Zone | 11 |
| Sold Transferable Vacation Rental Licenses INSIDE Overlay Zone Held Open 12 Months For New Owner | 3 |
| Available Licenses INSIDE Overlay Zone on the Short-Term Rental Waitlist | 18 |
| Total STR Licenses INSIDE Overlay Zone | 176 |

| | |
|---|-----------|
| Active Vacation Rentals OUTSIDE Overlay Zone | 36 |
| Inactive, Nonconforming Vacation Rentals OUTSIDE Overlay Zone | 7 |
| Active B&B AND Home Shares Licenses | 8 |
| Inactive B&B and Home Share Licenses | 2 |

STR Waitlist Update - 12/17/2020:

There was a total of eighteen (18) Short-Term Rental licenses that became available at the end of the renewal period. Here is a summary of what has transpired when offering licenses to owners on the Short-Term Rental waitlist:

- **Five (5)** of the dwellings on the Short-Term Rental waitlist sold. These were removed from the list.
- **Two (2)** of the dwellings on the Short-Term Rental waitlist did not meet the spacing standards. They are still currently on the waitlist and were not offered licenses.
- **Two (2)** of the dwellings on the Short-Term Rental waitlist chose not to accept the offer for a license. Both were placed at the bottom of the waitlist.
- **Four (4)** of the dwellings never applied for the Short-Term Rental license they were offered by the November 30, 2020 deadline. They were all removed from the waitlist.
- **Twelve (12)** of the dwellings applied for Short-Term Rental licenses. They are all currently working to complete the application and inspection process to gain a Short-Term Rental license.
- **Six (6)** licenses are now currently available. This number includes 2 spots for the ones that gave up the license they were offered, and 4 spots for the ones that never applied. These licenses will be offered to the next eligible dwellings on the Short-Term Rental waitlist in the coming months.
- Currently the Short-Term Rental waitlist has **47** names on it.

2020-2021 Active Vacation Rentals INSIDE Overlay Zone

| | Street Address | VRD, B&B, or Homeshare |
|----|-------------------------------------|-----------------------------------|
| 1 | 1000 SE Bay Blvd #117 (D-4) | VRD |
| 2 | 1000 SE Bay Blvd #146 (G-8) | VRD |
| 3 | 1000 SE Bay Blvd #208 (C-21) | VRD |
| 4 | 1000 SE Bay Blvd #225 (E-10) | VRD |
| 5 | 1000 SE Bay Blvd #308 (C-21) | VRD |
| 6 | 1000 SE Bay Blvd #405 (B-4) | VRD |
| 7 | 1000 SE Bay Blvd #532/632 (K-9) | VRD |
| 8 | 1000 SE Bay Blvd #G-245/345 (G-19) | VRD |
| 9 | 1000 SE Bay Blvd Unit #140 (Bldg G) | VRD |
| 10 | 105 NW Coast St | VRD |
| 11 | 109 NW Cliff St Unit 6 | VRD |
| 12 | 109 NW Cliff St, Unit 7 | VRD |
| 13 | 109 NW Cliff St, Unit 8 | VRD |
| 14 | 1125 NW Spring St #A-103 | VRD |
| 15 | 1125 NW Spring St #C201 | VRD |
| 16 | 1125 NW Spring St C-2 (c102)* | VRD |
| 17 | 1125 NW Spring St Unit A 203 (A-6) | VRD |
| 18 | 1125 NW Spring St Unit A-201 | VRD |
| 19 | 1125 SW Spring St #C303 (C-9) | VRD |
| 20 | 1126 SW 8th St | VRD |
| 21 | 1130 NW Hurbert St | VRD |
| 22 | 1130 SW Martin St | VRD |
| 23 | 1140 NW Hurbert St | VRD |
| 24 | 1156 SW Mark St | VRD |
| 25 | 129 SW Dolphin St Unit 129 | VRD |
| 26 | 129 SW Dolphin St Unit 133 | VRD |
| 27 | 129 SW Dolphin St Unit 137 | VRD |
| 28 | 129 SW Dolphin St Unit 139 | VRD |
| 29 | 134 SW Bay Blvd | VRD |
| 30 | 134 SW Elizabeth St | VRD |
| 31 | 135 SW Coast St | VRD |
| 32 | 137 SW 12th St | VRD |
| 33 | 144 SW 26th St #1 | VRD |
| 34 | 144 SW Elizabeth St | VRD |
| 35 | 165 SW 26th St | VRD |
| 36 | 232 SW 27th St | VRD |
| 37 | 242 SW 27th St | VRD |
| 38 | 252 SW 27th St | VRD |
| 39 | 255 NW Cliff St | VRD |
| 40 | 257 NW Cliff St | VRD |
| 41 | 258 NW Coast St, Unit C | VRD |
| 42 | 258 NW Coast St, Unit D | VRD |
| 43 | 2612 SW Brant St | VRD |
| 44 | 2614 SW Brant St | VRD |
| 45 | 2616 SW Brant St | VRD |
| 46 | 2638 SW Brant St | VRD |
| 47 | 28 SW Brook St #B | VRD |
| 48 | 28 SW Brook St #C | VRD |
| 49 | 28 SW Brook St #D | VRD |

| | | |
|-----|----------------------------|-----|
| 50 | 28 SW Brook St #E | VRD |
| 51 | 28 SW Brook St #F | VRD |
| 52 | 28 SW Brook St #G | VRD |
| 53 | 29 SW Coast St Unit A | VRD |
| 54 | 29 SW Coast St Unit B | VRD |
| 55 | 29 SW Coast St Unit C | VRD |
| 56 | 311 NW 58th St | VRD |
| 57 | 325 NW Coast St, Unit E | VRD |
| 58 | 33 SW Elizabeth St | VRD |
| 59 | 35 SW Hurbert St | VRD |
| 60 | 39 SW Elizabeth St | VRD |
| 61 | 4 SW High St | VRD |
| 62 | 406 NW High St | VRD |
| 63 | 407 NW High St | VRD |
| 64 | 413 NW Hurbert St | VRD |
| 65 | 419 NW Hurbert St | VRD |
| 66 | 420 NW High St | VRD |
| 67 | 423 SW Elizabeth St | VRD |
| 68 | 424 SE 4th St | VRD |
| 69 | 435 NW 58th St | VRD |
| 70 | 507 NW Alpine St, Unit 103 | VRD |
| 71 | 507 NW Alpine St, Unit 107 | VRD |
| 72 | 507 NW Alpine St, Unit 108 | VRD |
| 73 | 507 NW Alpine St, Unit 203 | VRD |
| 74 | 507 NW Alpine St, Unit 205 | VRD |
| 75 | 507 NW Alpine St, Unit 207 | VRD |
| 76 | 507 NW Alpine St, Unit 208 | VRD |
| 77 | 507 NW Alpine St, Unit 302 | VRD |
| 78 | 507 NW Alpine St, Unit 303 | VRD |
| 79 | 507 NW Alpine St, Unit 308 | VRD |
| 80 | 510 SW Minnie St | VRD |
| 81 | 511 SW 3rd St | VRD |
| 82 | 526 NW Coast St, Unit E | VRD |
| 83 | 526 NW Coast St, Unit G | VRD |
| 84 | 532 SE 2nd St | VRD |
| 85 | 537 NW Alpine St | VRD |
| 86 | 539 SW Woods St | VRD |
| 87 | 540 NW Alpine St | VRD |
| 88 | 543 SW 5th St | VRD |
| 89 | 545 SE 4th St | VRD |
| 90 | 546 SW Smith Ct | VRD |
| 91 | 553 SW 5th St | VRD |
| 92 | 554 SE 2nd St | VRD |
| 93 | 580 NW 6th St | VRD |
| 94 | 582 NW 3rd St | VRD |
| 95 | 589 W Olive St | VRD |
| 96 | 607 SW Woods St | VRD |
| 97 | 610 NW 9th St | VRD |
| 98 | 645 SE 4th St | VRD |
| 99 | 700 W Olive St | VRD |
| 100 | 701 NW Coast St #107 | VRD |
| 101 | 701 NW Coast St #108 | VRD |

| | | |
|-----|-------------------------|-----|
| 102 | 701 NW Coast St #109 | VRD |
| 103 | 701 NW Coast St #201 | VRD |
| 104 | 701 NW Coast St #207 | VRD |
| 105 | 701 NW Coast St #209 | VRD |
| 106 | 701 NW Coast St #210 | VRD |
| 107 | 701 NW Coast St #211 | VRD |
| 108 | 701 NW Coast St #303 | VRD |
| 109 | 701 NW Coast St #305 | VRD |
| 110 | 701 NW Coast St #306 | VRD |
| 111 | 701 NW Coast St #310 | VRD |
| 112 | 707 NW High St | VRD |
| 113 | 709 NW High St | VRD |
| 114 | 715 NW 3rd St | VRD |
| 115 | 723 NW 2nd Ct | VRD |
| 116 | 728 SE 5th St | VRD |
| 117 | 731 NW 2nd Ct | VRD |
| 118 | 736 NW 3rd St | VRD |
| 119 | 745 NW Beach Dr | VRD |
| 120 | 745 NW Lee St | VRD |
| 121 | 748 NW Lee St | VRD |
| 122 | 748 SW Bay Blvd, Unit A | VRD |
| 123 | 748 SW Bay Blvd, Unit B | VRD |
| 124 | 748 SW Bay Blvd, Unit C | VRD |
| 125 | 750 NW 2nd St | VRD |
| 126 | 753 NW 2nd St | VRD |
| 127 | 757 NW Coast St #5 | VRD |
| 128 | 757 NW Coast St #6 | VRD |
| 129 | 757 NW Coast St #7 | VRD |
| 130 | 757 SW 6th St | VRD |
| 131 | 801 NW Coast St, #1 | VRD |
| 132 | 814 SW Bay St | VRD |
| 133 | 821 SW 12th St | VRD |
| 134 | 832 SW 13th St | VRD |
| 135 | 859 SW Bay Blvd | VRD |
| 136 | 890 SE Bay Blvd #205 | VRD |
| 137 | 902 SW Mark St | VRD |
| 138 | 903 SW Coast Hwy | VRD |
| 139 | 905 SW Coast Hwy | VRD |
| 140 | 912 NW Coast St | VRD |
| 141 | 914 SW 2nd St | VRD |
| 142 | 927 SW 11th St | VRD |
| 143 | 946 NW High St | VRD |
| 144 | 955 NW Spring St | VRD |

2020-2021 Active Vacation Rentals OUTSIDE Overlay Zone

| | Street Address | VRD, B&B, or Homeshare |
|----|--------------------------------|------------------------|
| 1 | 10 NW 42nd St | VRD |
| 2 | 11 NW 42nd St (Unit A - upper) | VRD |
| 3 | 11 NW 42nd St (Unit B - lower) | VRD |
| 4 | 1235 NW Spring St | VRD |
| 5 | 1245 NW Spring St | VRD |
| 6 | 125 NW 77th Ct, Unit A | VRD |
| 7 | 128 NW 73rd Ct | VRD |
| 8 | 1332 NW Thompson St | VRD |
| 9 | 135 NW 77th Ct | VRD |
| 10 | 140 NW 77th Ct | VRD |
| 11 | 1452 NW Spring St | VRD |
| 12 | 1522 NW Spring St | VRD |
| 13 | 1535 F NW Hurbert St | VRD |
| 14 | 1610 NW Spring St | VRD |
| 15 | 171 NW 73rd Ct | VRD |
| 16 | 185 NW 70th St | VRD |
| 17 | 2003 NW Oceanview Dr | VRD |
| 18 | 224 NE 55th St | VRD |
| 19 | 2725 NW Pacific Pl | VRD |
| 20 | 2755 NW Pacific Pl | VRD |
| 21 | 3360 NW Oceanview Dr Unit A | VRD |
| 22 | 3380 NW Oceanview Dr Unit B | VRD |
| 23 | 375 NE 70th Dr | VRD |
| 24 | 411 NW 60th St | VRD |
| 25 | 424 NW 59th St | VRD |
| 26 | 449 SE Scenic Loop | VRD |
| 27 | 457 NW 56th St | VRD |
| 28 | 457 NW 57th St | VRD |
| 29 | 4718 NW Cherokee Ln | VRD |
| 30 | 5053 NW Agate Way | VRD |
| 31 | 520 NW 23rd St | VRD |
| 32 | 535 NW 16th St | VRD |
| 33 | 555 NW 56th St | VRD |
| 34 | 556 NW 56th St | VRD |
| 35 | 5608 NW Meander St | VRD |
| 36 | 626 NW 54th Ct | VRD |

2020-2021 Inactive, Nonconforming Vacation Rentals INSIDE Overlay Zone

| | Street Address | VRD, B&B, or Homeshare |
|----|-------------------------|------------------------|
| 1 | 107 SW Coast St | VRD |
| 2 | 1125 NW Spring St #C101 | VRD |
| 3 | 145 SW Hurbert St #1 | VRD |
| 4 | 145 SW Hurbert St #2 | VRD |
| 5 | 238 SW 27th St | VRD |
| 6 | 3749 NW Oceanview Dr | VRD |
| 7 | 502 SW 7th St | VRD |
| 8 | 524 SE 4th St, Unit A | VRD |
| 9 | 701 NW Coast St #111 | VRD |
| 10 | 722 NW 1st St | VRD |
| 11 | 732 NW 2nd Ct | VRD |

2020-2021 Inactive, Nonconforming Vacation Rentals **OUTSIDE Overlay Zone**

| | Street Address | VRD, B&B, or Homeshare |
|---|---------------------------------------|------------------------|
| 1 | 124 NW 54th St | VRD |
| 2 | 1330 NW Spring St | VRD |
| 3 | 145 SW 27th St | VRD |
| 4 | 1542 NW Spring St | VRD |
| 5 | 3914 NW Cherokee Ln | VRD |
| 6 | 640 NW 54th Ct | VRD |
| 7 | 688 NE 20th Pl (Downstairs Area Only) | VRD |

Sold **Transferable VRD Licenses Inside Overlay Zone Held Open 12 Months For New Owner**

| | Street Address | Date New Owner Has to Get New License |
|---|----------------------|---------------------------------------|
| 1 | 13 NW High St | 5/29/2021 |
| 2 | 626 NW 3rd St | 5/8/2021 |
| 3 | 701 NW Coast St #309 | 5/14/2021 |

2020-2021 Active Homeshares and B&B's

| | Street Address | VRD, B&B, or Homeshare |
|---|---------------------------|------------------------|
| 1 | 2126 SE Marine Science Dr | B&B |
| 2 | 1144 SW Mark St | Home share |
| 3 | 630 SW Fall St, Unit N | Home Share |
| 4 | 946 SW 8th St | Home Share |
| 5 | 4920 NW Woody Way | B&B |
| 6 | 105 NW 77th Ct | Home Share |
| 7 | 5518 N Coast Hwy | Home Share |
| 8 | 7055 NE Avery St | Home Share |

2020-2021 Inactive Homeshares and B&B's

| | Street Address | VRD, B&B, or Homeshare |
|---|----------------------|------------------------|
| 1 | 4925 NW Woody Way | B&B |
| 2 | 1346 SE Rio Vista Dr | Home Share |

City of Newport

Community Development Department

Memorandum

To: Short-Term Rental Ordinance Implementation Work Group
 From: Derrick I. Tokos, AICP, Community Development Director
 Date: December 22, 2020
 Re: Limitations on Regulating Accessory Dwelling Units

At its December 14, 2020 work session, the Planning Commission received emails from Carla Perry and Cheryl Connell requesting that an owner occupancy requirement be imposed in cases where a property is developed with a single-family dwelling and accessory dwelling unit.

The Commission is in the process of updating the City's land use regulations to comply with HB 2001 (2019), which involves allowing additional housing types in lower density residential areas. The changes they are working on do not pertain to short-term rentals, and some Commission members thought the issue here might be enforcement related; rather, than a need to update the code. The Commission asked that staff forward the information to the STR Ordinance Implementation Work Group for its consideration.

State law requires that cities with a population in excess of 2,500 allow an accessory dwelling unit for each detached, single family dwelling subject to reasonable local regulations relating to siting and design. In 2019, the legislature amended the law to indicate that owner occupancy requirements and requirements to construct additional off-street parking are not "reasonable local regulations related to siting and design." The City amended its code to comply with the new law.

Newport's short-term rental regulations do not establish owner occupancy requirements. A unit that is owner occupied with up to two rooms being rented on a transient basis is a homeshare, a type of short-term rental that is not subject to license caps or locational limitations. The maximum number of licenses for whole unit rentals (i.e. vacation rentals) is capped and new units must be within the vacation rental overlay zone and meet spacing requirements. A principal dwelling and detached accessory dwelling unit on the same lot cannot both be licensed as vacation rentals. It would not satisfy the spacing standards. A principle dwelling with an attached accessory dwelling unit could be licensed as two vacation rentals provided they are located within the overlay and meet the city's other development standards. The City could amend its code such that a principle dwelling would have to be owner occupied if an attached accessory dwelling unit is a vacation rental. It cannot; however, require the opposite where the accessory dwelling must be owner occupied if the principle dwelling is used as a vacation rental. Authority to establish that type of regulation was taken away by the legislature. (ref: ORS 197.312(5)). State law does allow cities to require an accessory dwelling unit be owner-occupied if it is being used as a vacation rental. This would be a small homeshare arrangement which is allowed under the City's short-term rental regulations.

Attachments:

December 2020 email correspondence from Carla Perry, with staff response and attachments
 December 14, 2020 email from Cheryl Connell
 ORS 197.312

Derrick Tokos

From: carla perry <perry.carla@gmail.com>
Sent: Monday, December 14, 2020 6:01 PM
To: Derrick Tokos
Cc: 'cheryl connell'; Sherri Marineau; David Allen; jim & Joann Hanselman; Bob Berman; Bill Branigan
Subject: Re: Public Comment for PC Work Session, Monday Dec. 14

Hi, Derrick,

One point I'll like to clarify -- I did not mean to imply the City authorized two short-term rentals at 1330 NW Spring Street. However, the ADU at that location operates as a rental for visitors, generally with the maximum length of stay of 30 days.

-Carla

On 12/14/2020 2:42 PM, Derrick Tokos wrote:

Hi Carla,

Your email will be included as public comment, along with this staff response. Attached is a copy of the NMC 14.03.050 table that I'll be reviewing with the Commission. I updated it to, among other things, accurately reflect the Council's decision with Ord. 2144. The Commission will also receive a copy of our most recent email correspondence on this topic for context (attached).

The provision you are requesting in bold under (I) cannot be added back to NMC Chapter 14.16, which regulates Accessory Dwelling Units (ADUs) generally. That would violate ORS 197.312(5), as amended by Section 7 of HB 2001 (2019), which was why the language was removed in the first place. ORS 197.312(6), added by that same bill, makes it clear that local governments can require ADU's that are used for vacation occupancy to be owner occupied or that they provide off-street parking. HB 2001 does not require local governments to amend their short-term rental regulations, it just reserves certain authority in that regard.

Newport regulates short-term rentals under NMC Chapter 14.25. These regulations apply to any dwelling that is used for vacation occupancy, be it an ADU or a principal dwelling on a property. Chapter 14.25 already has owner occupancy provisions for dwellings used for vacation occupancy... they are home shares. Chapter 14.25 also requires that off-street parking be provided for any unit that is used for vacation occupancy. The City can change these rules or build upon them; however, that is outside the scope of this particular package of amendments and is more squarely the purview of the Short-Term Rental Ordinance Implementation Work Group that the Council established.

Lastly, the City has not authorized two short-term rentals at 1330 NW Spring Street. The principal dwelling is a short-term rental; however, the ADU is not, nor can it be permitted for short-term rental use given that it is located outside of the permissible area boundary established with the current short-term rental ordinance.

Derrick I. Tokos, AICP
 Community Development Director
 City of Newport

169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: carla perry <perry.carla@gmail.com>
Sent: Sunday, December 13, 2020 2:47 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Jim & Joann Hanselman <jj_oregon@yahoo.com>;
Bob Berman <CindyAndBob@earthlink.net>; Bill Branigan <phantom41@gmail.com>; Spencer Nebel
<S.Nebel@NewportOregon.gov>; David Allen <D.Allen@NewportOregon.gov>; Cheryl Connell
<cheryl.connell@gmail.com>; Sherri Marineau <S.Marineau@NewportOregon.gov>
Subject: Public Comment for PC Work Session, Monday Dec. 14

Please include the following Public Comment letter in the Planning Commission Work Session agenda packet for the meeting scheduled on Monday, December 14, 2020.

Thank you,
-Carla Perry

To the members of the Planning Commission
RE: Work Session scheduled for Monday, December 14, 2020 to address Municipal Code Amendments Implementing HB 2001.

I have two recommendations for consideration::

1. Section 14.03.050. Add **Short-term Rentals** to this list. Bed and Breakfasts, Hotels, and Hostels, are listed as separate line items regarding uses NOT allowed in R1 and R2 zones. To clarify that short-term rentals are also NOT allowed, they should be included in this section as a separate line item.

1. 14.16.050 (B): Replace the paragraph that was deleted from this section earlier this year.

14.16.050 Development Standards "Accessory Dwelling Unit Standards"
<skipping sub-paragraphs A-H)

I. Either the primary residence or Accessory Dwelling Unit shall be owner-occupied. The property owner shall prepare and record a covenant or deed restriction in a form acceptable to the city, providing future owners with notice of this requirement.

NOTE: In an October 30, 2020 email to me (cc'd to Spencer Nebel and David Allen), the Newport Planning Director/Community Development Director stated that he had deleted the above provision to comply with the new State law (HB 2001), but when I researched the new law, I saw that the State specifically made an exception for ADUs when the primary dwelling was a short-term rental. **The State left the decision to require owner-occupancy for ADUs connected to short-term rentals to each local municipality.**

(See HB 2001 and HB 2003 Frequently Asked Questions Updated on March 25, 2020: "The new law prohibits jurisdictions from requiring owner-occupancy or off-street parking for ADUs. However, such regulations may be applied if the ADU is used for

vacation occupancy." And... SECTION 7. ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read: 197.312. ... (6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.)

A review of the 2020 Planning Commission meeting notes from when the Municipal Code updates were considered do not indicate the removal of owner-occupancy was discussed before that paragraph was deleted from the Municipal Code. The purpose of HB 2001 is to (1) allow for more housing choices; (2) provide a wider variety of housing; (3) allow residents to remain in their homes as needs change; and (4) increase affordable housing options. **The combination of a vacation rental and an ADU serving as a short-term rental of just 30 days is the antithesis of the intent of HB 2001.** The property at 1330 NW Spring is an example of a short-term rental and an ADU used for additional short-term rentals of 30 days, at most. Neither dwelling on this property is owner-occupied, and neither dwelling provides housing options for residents.

Please consideration re-instating the owner-occupancy language requirement in section 14.16.050 as indicated above.

Thank you,
-Carla Perry

CITY OF NEWPORT**ORDINANCE NO. 2144****AN ORDINANCE AMENDING CITY OF NEWPORT
SHORT-TERM RENTAL REGULATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS; the Council further finds that the new regulations strike a reasonable balance between the need to limit short-term rental options within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others who are in need of housing for a limited durations; and

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

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

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

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

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

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

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

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

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

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

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

Section 7. The definition for "Vacation Rental" in Newport Municipal Code Section 3.25.010(l) is hereby deleted.

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

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

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

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

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

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

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

Signed by the Mayor on the 7th day of May, 2019.



Dean H. Sawyer, Mayor
ATTEST:



Margaret M. Hawker, City Recorder

Approved as to form:



Steven E. Rich, City Attorney

Newport Municipal Code

| | | R-1 | R-2 | R-3 | R-4 |
|-----|---|-----|-----|-----|-----|
| A. | Residential | | | | |
| | 1. Single-Family | P | P | P | P |
| | 2. Two-family | X | P | P | P |
| | 3. Multi-family | X | X | P | P |
| | 4. Manufactured Homes* | P | P | P | P |
| | 5. Mobile Home Park | X | P | P | P |
| B. | Accessory Dwelling Units | P | P | P | P |
| | (B. was added on the adoption of Ordinance No 255 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.) | | | | |
| C. | Accessory Uses | P | P | P | P |
| D. | Home Occupations | P | P | P | P |
| E. | Community Services | | | | |
| | 1. Parks | P | P | P | P |
| | 2. Publicly Owned Recreation Facilities | C | C | C | C |
| | 3. Libraries | C | C | C | C |
| | 4. Utility Substations | C | C | C | C |
| | 5. Public or Private Schools | C | C | C | P |
| | 6. Child Care Facilities | P | P | P | P |
| | 7. Day Care Facilities | C | C | C | C |
| | 8. Churches | C | C | C | C |
| F. | Residential Care Homes | P | P | P | P |
| G. | Nursing Homes | X | X | C | P |
| H. | Bed and Breakfast Inns | X | X | C | C |
| I. | Motels and Hotels | X | X | X | C |
| J. | Professional Offices | X | X | X | C |
| K. | Rooming and Boarding Houses | X | X | C | P |
| L. | Beauty and Barber Shops | X | X | X | C |
| M. | Colleges and Universities | C | C | C | C |
| N. | Hospitals | X | X | X | P |
| O. | Membership Organizations | X | X | X | P |
| P. | Museums | X | X | X | P |
| Q. | Condominiums | X | P | P | P |
| R. | Hostels | X | X | X | C |
| S. | Golf Courses | C | C | C | X |
| T. | Recreational Vehicle Parks | X | X | X | C |
| U. | Necessary Public Utilities and Public Service Uses or Structures | C | C | C | C |
| V. | Residential Facility* | X | X | P | P |
| W. | Movies Theaters** | X | X | X | C |
| X. | Assisted Living Facilities*** | X | C | P | P |
| Y. | Bicycle Shop**** | X | X | X | C |
| Z. | Bed and Breakfast Facility (subject to endorsement requirements of 14.25) | P | P | P | P |
| AA. | Vacation Rental (subject to endorsement requirements of 14.25) | P | P | P | P |

Dwelling, Townhouse. means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on a single lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a “rowhouse,” “attached house,” or “common-wall house.”

Townhouse project. means one or more townhouse structures constructed, or proposed to be constructed, together with the lot, parcel, or tract where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and the commonly owned property, if any.

Staff: A definition for “townhouse” is presently contained in NMC Chapter 14.31. It will be moved to the chapter that contains all other definitions and has been revised to align with the definition contained in DLCD’s draft Model Code for Large Cities. The definition for “townhouse project” is new and substantially conforms with language in the same model code. It is necessary to make some adjustments to the townhouse provisions in order to distinguish them from duplexes.

The following changes are proposed to NMC 14.03.050, Definitions:

14.03.050 Residential Uses.
The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted uses in the City of Newport’s R-1, R-2, R-3 and R-4 zone districts subject to requirements of Chapter 14.25 Section 14.25.

- "P" = Permitted uses.
- "C" = Conditional uses; permitted subject to the approval of a conditional use permit.
- "X" = Not allowed.

| | | R-1 | R-2 | R-3 | R-4 |
|--|--|-----|-----|-----|-----|
| A. | Residential | | | | |
| | 1. Single-Family | P | P | P | P |
| | 2. Two-Family | XP | P | P | P |
| | 3. Townhouse | X | P | P | P |
| | 4. Cottage Cluster | X | X | P | P |
| | 35. Multi-Family | X | X | P | P |
| | 4-6. Manufactured Homes *1 | P | P | P | P |
| | 57. Mobile Home Manufactured Dwelling Park | X | P | P | P |
| B. | Accessory Dwelling Units | P | P | P | P |
| (B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.) | | | | | |

| | | | | | |
|---------------|---|---------------|--------------|--------------|--------------|
| C. | Accessory Uses | P | P | P | P |
| D. | Home Occupations | P | P | P | P |
| E. | Community Services | | | | |
| | 1. Parks | P | P | P | P |
| | 2. Publicly Owned Recreation Facilities | C | C | C | C |
| | 3. Libraries | C | C | C | C |
| | 4. Utility Substations | C | C | C | C |
| | 5. Public or Private Schools | C | C | C | P |
| | 6. Child Care Facilities | P | P | P | P |
| | 7. Day Care Facilities | C | C | C | C |
| | 8. Religious Institutions/Places of Worship | C | C | C | C |
| F. | Residential Care Homes | P | P | P | P |
| G. | Nursing Homes | X | X | C | P |
| H. | Bed and Breakfast Inns | X | X | C | C |
| H. | Motels and Hotels | X | X | X | C |
| J. | Professional Offices | X | X | X | C |
| K. | Rooming and Boarding Houses | X | X | C | P |
| L. | Beauty and Barber Shops | X | X | X | C |
| M. | Colleges and Universities | C | C | C | C |
| N. | Hospitals | X | X | X | P |
| O. | Membership Organizations | X | X | X | p |
| P. | Museums | X | X | X | P |
| Q. | Condominiums² | XP | P | P | P |
| R. | Hostels | X | X | X | C |
| S. | Golf Courses | C | C | C | X |
| T. | Recreational Vehicle Parks | X | X | X | C |
| U. | Necessary Public Utilities and Public Service Uses or Structures | C | C | C | C |
| V. | Residential Facility* | X | X | P | P |
| W. | Movies Theaters** | X | X | X | C |
| X. | Assisted Living Facilities*** | X | C | P | P |
| Y. | Bicycle Shop**** | X | X | X | C |
| Z. | Short-Term Rentals (subject to requirements of Chapter 14.25) | P | P | P | P |

1. Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

2. Limited to dwelling types otherwise permitted pursuant to subsection (A).

(Section 14.03.050 was amended by Ordinance No. 2144, adopted on May 6, 2019; effective May 7, 2019.)

Staff: Two-family dwellings will now be allowed in R-1 zones. It is required to comply with HB 2001 (2019) since single-family dwellings are allowed on lots and parcels in this zone. Townhouse and cottage cluster development options have been added. The Commission may want to consider whether or not "cottage clusters" should be allowed in the R-2 as well. The townhouse allowance in the R-2, R-3, and R-4 zone districts is consistent with what the City presently allows pursuant to NMC 14.31.030. Mobile homes, by definition, are manufactured units constructed between 1962 and 1976. No new parks for these units are being built, so the provision for mobile home parks is being removed and replaced with "Manufactured Dwelling Parks." as a cleanup item. Existing mobile home parks are non-

Derrick Tokos

From: cheryl connell <cheryl.connell@gmail.com>
Sent: Sunday, December 13, 2020 5:18 PM
To: carla perry
Cc: Derrick Tokos; Jim & Joann Hanselman; Bob Berman; Bill Branigan; Spencer Nebel; David Allen; Sherri Marineau
Subject: Re: Public Comment for PC Work Session, Monday Dec. 14

Thank you, Carla, for your thoughtful research and well-reasoned request of the Planning Commission. I concur with you that the Planning Commission must consider reinstating the owner-occupancy language requirement in section 14.16.050.

Therefore, I request of Sherri Marineau that this response, which is also copied to the members of the Planning Commission and other relevant City officials, be included as public comment for the December 14th Newport Planning Commission Work Session meeting.

With best regards,
 Cheryl S. Connell
 Newport Resident--43 Years

On Sun, Dec 13, 2020 at 2:47 PM carla perry <perry.carla@gmail.com> wrote:

Please include the following Public Comment letter in the Planning Commission Work Session agenda packet for the meeting scheduled on Monday, December 14, 2020.

Thank you,
 -Carla Perry

 To the members of the Planning Commission

RE: Work Session scheduled for Monday, December 14, 2020 to address Municipal Code Amendments Implementing HB 2001.

I have two recommendations for consideration::

- Section 14.03.050. Add **Short-term Rentals** to this list. Bed and Breakfasts, Hotels, and Hostels, are listed as separate line items regarding uses NOT allowed in R1 and R2 zones. To clarify that short-term rentals are also NOT allowed, they should be included in this section as a separate line item.
- 14.16.050 (B): Replace the paragraph that was deleted from this section earlier this year.

14.16.050 Development Standards "Accessory Dwelling Unit Standards"
 <skipping sub-paragraphs A-H)

I. Either the primary residence or Accessory Dwelling Unit shall be owner-occupied. The property owner shall prepare and record a covenant or deed restriction in a form acceptable to the city, providing future owners with notice of this requirement.

NOTE: In an October 30, 2020 email to me (cc'd to Spencer Nebel and David Allen), the Newport Planning Director/Community Development Director stated that he had deleted the above provision to comply with the new State law (HB 2001), but when I researched the new law, I saw that the State specifically made an exception for ADUs when the primary dwelling was a short-term rental. **The State**

left the decision to require owner-occupancy for ADUs connected to short-term rentals to each local municipality.

(See HB 2001 and HB 2003 Frequently Asked Questions Updated on March 25, 2020: "The new law prohibits jurisdictions from requiring owner-occupancy or off-street parking for ADUs. However, such regulations may be applied if the ADU is used for vacation occupancy." And... SECTION 7. ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read: 197.312. ... (6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.)

A review of the 2020 Planning Commission meeting notes from when the Municipal Code updates were considered do not indicate the removal of owner-occupancy was discussed before that paragraph was deleted from the Municipal Code. The purpose of HB 2001 is to (1) allow for more housing choices; (2) provide a wider variety of housing; (3) allow residents to remain in their homes as needs change; and (4) increase affordable housing options. **The combination of a vacation rental and an ADU serving as a short-term rental of just 30 days is the antithesis of the intent of HB 2001.** The property at 1330 NW Spring is an example of a short-term rental and an ADU used for additional short-term rentals of 30 days, at most. Neither dwelling on this property is owner-occupied, and neither dwelling provides housing options for residents.

Please consider re-instating the owner-occupancy language requirement in section 14.16.050 as indicated above.

Thank you,
-Carla Perry

197.312 Limitation on city and county prohibitions. (1) A city or county may not by charter prohibit from all residential zones attached or detached single-family housing, multifamily housing for both owner and renter occupancy or manufactured homes. A city or county may not by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing.

(2)(a) A single-family dwelling for a farmworker and the farmworker's immediate family is a permitted use in any residential or commercial zone that allows single-family dwellings as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of a single-family dwelling for a farmworker and the farmworker's immediate family in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other single-family dwellings in the same zone.

(3)(a) Multifamily housing for farmworkers and farmworkers' immediate families is a permitted use in any residential or commercial zone that allows multifamily housing generally as a permitted use.

(b) A city or county may not impose a zoning requirement on the establishment and maintenance of multifamily housing for farmworkers and farmworkers' immediate families in a residential or commercial zone described in paragraph (a) of this subsection that is more restrictive than a zoning requirement imposed on other multifamily housing in the same zone.

(4) A city or county may not prohibit a property owner or developer from maintaining a real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for the sale of lots or dwelling units that remain available for sale to the public.

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection:

(A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(B) "Reasonable local regulations relating to siting and design" does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.

(6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking. [1983 c.795 §5; 1989 c.964 §7; 2001 c.437 §1; 2001 c.613 §3; 2011 c.354 §4; 2017 c.745 §6; 2018 c.15 §7; 2019 c.639 §7]

January 4, 2021

STR Ordinance Implementation Work Group – January 7, 2020

Public Comment – Agenda Item 5.B Regulating Accessory Dwelling Units (Amending Short-term Rentals under NMC 14.25).

Reading through the Memorandum for this agenda item and the email chain pertaining to this topic made my head swim. Tying HB 2001 to ORS 197.312 to municipal code provisions and all the resulting implications had me wondering why, only now and through dogged dedication to preserving the quality of neighborhoods negatively impacted by short-term rentals, are we just learning “(t)he City could amend its code such that a principal dwelling would have to be owner occupied if an attached accessory dwelling unit is a vacation rental.” (see Memorandum)? Mr. Tokos continues “It cannot, however, require the opposite where the accessory dwelling must be owner occupied if the principal dwelling is used as a vacation rental. Authority to establish that type of regulation was taken away by the legislature. (re: ORS 197.312(5)). Eventually, I determined my head was swimming because the latter statement made by Mr. Tokos is patently wrong.

The Planning Director’s statement that the jurisdiction cannot regulate principal dwellings used as vacation rentals is inconsistent with the plain language of ORS 197.312(6). The Planning Director is incorrect in stating the legislature eliminated such authority.

The Planning Director misconstrues ORS 197.312(6), which distinguishes the "reasonable local regulations relating to siting and design" for ACCESSORY DWELLING UNITS which **shall be allowed** under particular circumstances pursuant to (5)(B) from regulations a local government **may enact** to regulate VACATION OCCUPANCIES, as defined in ORS 90.100, including to require owner-occupancy or off street parking. (all emphases added)

The PD's interpretation frustrates the four stated goals of HB 2001:

- 1) allow for more housing choices;
 - the PD interpretation will limit housing choices
- (2) provide a wider variety of housing;

- the PD interpretation will encourage 'a wider variety' of so called housing to be converted into vacation rentals

(3) allow residents to remain in their homes as needs change;

- the PD interpretation will encourage people to find ways to generate income from vacation occupancies

(4) increase affordable housing options.

- the PD interpretation will have the effect of escalating housing prices as choices are diminished

This Work Group's attention must not be confused by Mr. Tokos' misinterpretation which flies in the face of HB 2001 (legislative intent) and ORS 197.312(5) and (6) (plain language). This Work Group's attention must not be diverted from the fact that City code regarding owner-occupancy requirements for short-term rentals with an ADU can be amended. City code included that provision prior to it being deleted from the Municipal Code. ORS 197.312(6) in no way prohibits that provision. My recommendation to the Work Group is to issue a report to the City Council requesting it to immediately take remedial action in consultation with the Newport City Attorney or send back to the Planning Commission for discussion and recommendation to reinstate the deleted code relating to vacation occupancies.

Thank you for your attention,

Mona Linstromberg
Family home: 1442 NW Spring St.
Newport, OR 97390
541-265-7581

Sherri Marineau

From: Derrick Tokos
Sent: Wednesday, January 06, 2021 8:16 AM
To: Sherri Marineau
Cc: David Allen; Spencer Nebel
Subject: FW: STR Work Group Jan. 7, 2021 Agenda Items 5.B and 5.C

Hi Sherri... could you please add this email from the City Attorney as an attachment under agenda item 5.b?

Thank you,

Derrick

From: David Allen
Sent: Tuesday, January 05, 2021 6:43 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Sherri Marineau <S.Marineau@NewportOregon.gov>
Cc: Spencer Nebel <S.Nebel@NewportOregon.gov>
Subject: Re: STR Work Group Jan. 7, 2021 Agenda Items 5.B and 5.C

Derrick - I just read Mona's public comment for agenda item 5.B. and the comment, "The Planning Director's statement that the jurisdiction cannot regulate principal dwellings used as vacation rentals is inconsistent with the plain language of ORS 197.312(6). The Planning Director is incorrect in stating the legislature eliminated such authority." However, in reading through your Dec. 22, 2020 memo to the STR work group for this agenda item, you indicated, "The City could amend its code such that a principal dwelling would have to be owner occupied if an attached accessory dwelling unit is a vacation rental." Mona's public comment also raised other issues, but I wanted to at least address this particular point. Thanks, and feel free to include this as part of the information provided to the STR work group for the Jan. 7 meeting. --David

From: Derrick Tokos
Sent: Monday, January 4, 2021 8:18 AM
To: Sherri Marineau <S.Marineau@NewportOregon.gov>
Cc: Spencer Nebel <S.Nebel@NewportOregon.gov>; David Allen <D.Allen@NewportOregon.gov>; Cynthia Jacobi <C.Jacobi@NewportOregon.gov>; Dietmar Goebel <D.Goebel@NewportOregon.gov>; Bill Branigan <phantom41@gmail.com>; Mona Linstromberg <lindym@peak.org>; Jamie Michel <jamie@sweethomesrentals.com>; 4jtroggers@gmail.com; dvr.snr@charter.net; Jason Malloy <J.Malloy@newportpolice.net>; Jim Folmar <J.Folmar@NewportPolice.net>
Subject: RE: STR Work Group Jan. 7, 2021 Agenda Items 5.B and 5.C

Hi Sherri,

Could you please post the attached documents with the rest of the January 7th meeting materials? They relate to agenda items 5.b and 5.c.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

From: Mona Linstromberg <lindym@peak.org>

Sent: Sunday, January 03, 2021 7:16 PM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Cc: Spencer Nebel <S.Nebel@NewportOregon.gov>; David Allen <D.Allen@NewportOregon.gov>; Cynthia Jacobi <C.Jacobi@NewportOregon.gov>; Dietmar Goebel <D.Goebel@NewportOregon.gov>; Bill Branigan <phantom41@gmail.com>; Sherri Marineau <S.Marineau@NewportOregon.gov>

Subject: STR Work Group Jan. 7, 2021 Agenda Items 5.B and 5.C

Please enter the two attachments into the record. Please also distribute to those members not included above.

Thank you,
Mona Linstromberg

Sent via my totally safe HARD WIRED internet connection

Memorandum

To: Short-Term Rental Ordinance Implementation Work Group

From: Derrick I. Tokos, AICP, Community Development Director

Date: December 22, 2020

Re: Short-Term Rental Enforcement Update

Enclosed is a memo from Community Service Officer (CSO) Jim Folmar, summarizing incidents reported and enforcement actions taken since the last Short-Term Rental Ordinance Implementation Work Group meeting in September. CSO Folmar and/or Chief Malloy will be available at the meeting to field questions you may have related to enforcement of the City's short-term rental ordinance.

Additionally, I pulled all of the incident reports filed since the City launched LodgingRevs at the end of August 2019 to provide the work group a sense of the issues that have been raised. The information is summarized as follows:

Incidents reported: 122 (55 online form, 67 hotline)

Complaints: 95

Guest Issues 27 (40% of hotline calls)

Breakdown of Complaints

| | | | |
|--------------------|----|---------------------|----|
| Illegal Rental: | 33 | Trash: | 9 |
| Exceeds Occupancy: | 12 | Noise: | 4 |
| Parking: | 21 | Other: ¹ | 16 |

¹ Includes complaints related to signage, violation of COVID-19 protocols, and trespass.

The bulk of the complaints received have been directed at dwelling units located outside of the Vacation Rental Overlay Zone: 74 (78% of total complaints). A significant number of the complaints have been filed by a relatively small number of people. Five households account for 46 of the 95 complaints received (48% of the total). With respect to short-term rental units, a handful have garnered a disproportionate number of complaints with five units accounting for 41 of the 95 complaints the City has received (43% of the total).

Attachments:

Memo from CSO Folmar, dated December 22, 2020



Noble
Professional
Dedicated

Newport Police Department
Memorandum

One Team - One Future

Date: December 22, 2020

To: Chief Malloy, Derrick Tokos

From: CSO Folmar

Subject: STR Enforcement Activity 09/28/2020 to Present

This is a summary of STR Enforcement actions undertaken since 09/28/2020.

- 1.) Cease & Desist Letters for Non-renewal of License: 2
- 2.) Citation letters w/citation (Operating a STR w/o a valid license): 3 (Hines/Neff)

On 10/01/2020, I issued a citation for each property (1330 NW Spring St, 107 SW Coast St, 238 SW 27th) for violation of NMC 4.025.045; Operating a Short-Term Rental without a valid endorsement. The registered owners of the properties, Roy Neff III & Lauri Hines, had failed to renew their business license by the August 15, 2020 deadline. The citations were sent via certified mail. The civil penalty was \$500.00 for each violation.

Recently, the certified letters were returned by the Post Office as "Unclaimed". I was recently advised that Lauri Hines has retained Traci McDowall as legal counsel. I have been attempting to contact McDowall in order to ascertain if she is willing to accept service of the citations for Hines/Neff.

- 3.) Cease & Desist Letter-Use Prohibited: 2
- 4.) Complaints filed with LodgingRevs: 6

Noise Complaint. Date: 11/01/2020 @ 12:35 a.m. Complaint was incorrectly routed. Address was for Newport Beach, CA. Closed.

(Subject)

(Date)

Page 2

Parking Complaint. Date: 12/19/2020 @ 5:11 p.m. Vehicle blocking the roadway at 5053 NW Agate Way. No emergency contact. Under Review.

Parking Complaint. Date: 12/20/2020 @ 08:58 a.m. Vehicle still blocking @ 5053 NW Agate Way. Unable to reach emergency contact. Under Review.

Parking Complaint. Date: 12/20/2020 @ 1056 a.m. Vehicle still blocking @ 5053 NW Agate Way. Unable to reach emergency contact. Under Review.

Parking Complaint. Date: 12/20/2020 @ 12:33 p.m. Vehicle still blocking @ 5053 NW Agate Way. Unable to reach emergency contact. Under Review.

Parking Complaint. Date: 12/20/2020 @ 12:33 p.m. Duplicate of previous complaint.

January 4, 2021

STR Ordinance Implementation Work Group – January 7, 2021

Public Comment – Agenda Item 5.C Short-term Rental Update, Memo from CSO Folmar (Citation letters w/citations reference to NMC 4.025.045 should read NMC 4.25.045(A) and, possibly, (E))

First, I request that Officer Folmar provide an update for the interim period subsequent to the December 22, 2020 date of his report regarding the Neff/Hines letters of citation/citations. He references code for operating a Short-Term Rental without a valid endorsement (NMC 4.25.045(A), but Neff/Hines are also violating NMC 4.25.045(E):

*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.*** (emphasis added).

In addition, Officer Folmar states the civil penalty was \$500 **for each violation** but neglects to cite code:

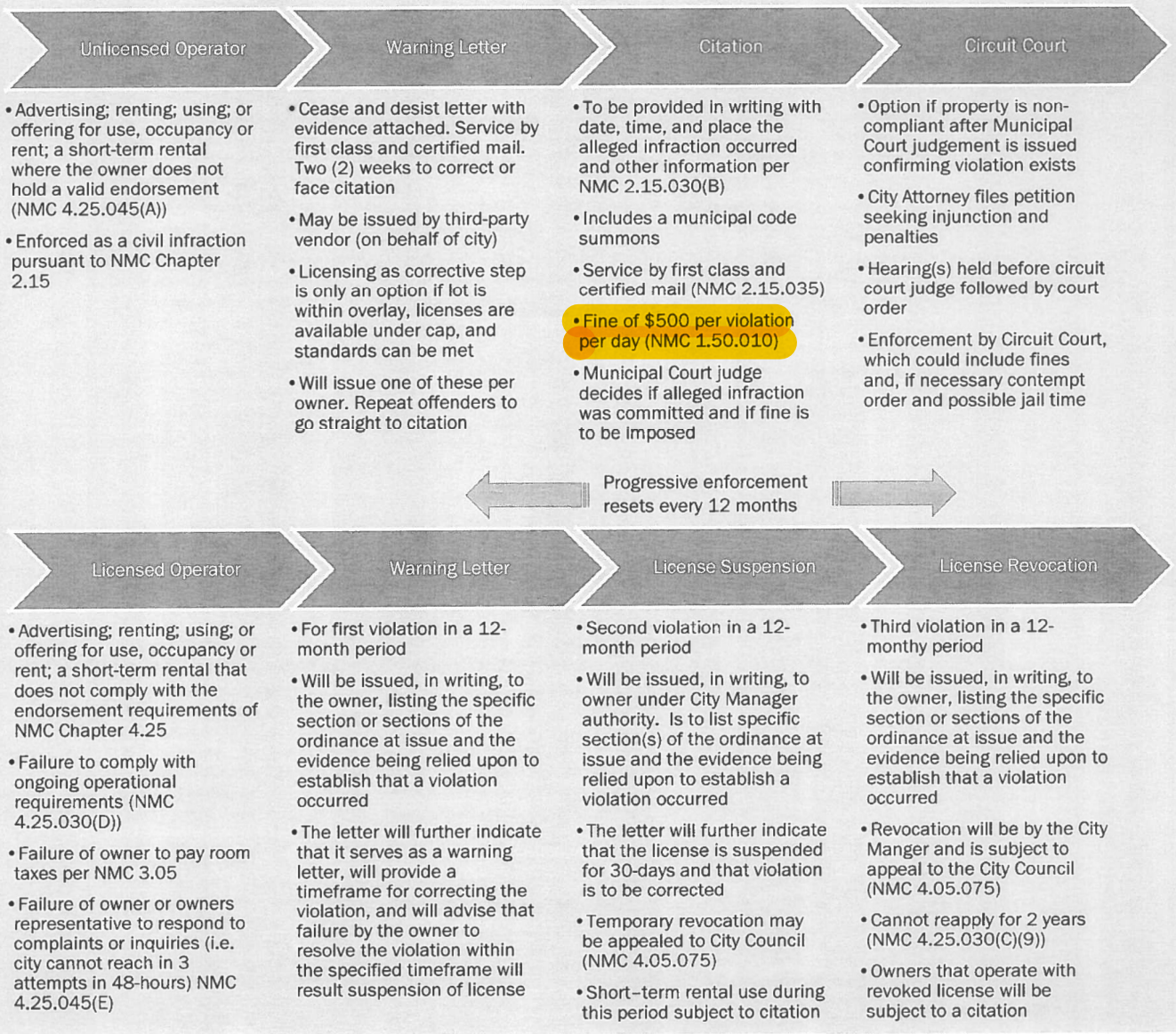
*NMC 1.50.010 Default Penalty: Except as otherwise specified, the penalty for violation of any provision of this code or other ordinance shall be a civil penalty of \$500. If the violation is of a code provision or ordinance that is identical to a state statute, the city may elect to proceed on the basis of the state violation or the city violation. **Each calendar day on which violation occurs or remains uncorrected constitutes a separate violation.*** (emphasis added).

This issue (***each calendar day on which violation occurs or remains uncorrected constitutes a separate violation***) has been addressed at prior work sessions and often in conjunction with the Municipal Court Judge’s predilection to ignore this City code. Currently, when issuing citations, is the City, in addition to Judge Pridgeon, also ignoring this code (see attached Chart)?

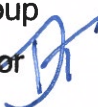
Because my family's home is also on Spring Street, I can speak to violations at 1330 NW Spring Street. Numerous neighbors, myself included, and other residents of Newport have reported infractions, documented infractions, made public comment, and attended municipal court sessions where Mr. Neff/Lauri Hines failed to appear. And why, if they have not had a valid short-term license since August 15, 2020, are all three of their illegal short-term rentals still allowed to continue operating?

Given the lack of code implementation and enforcement, repeat offenders have no incentive to apply for a license or to follow any other requirement. Which is exactly what is happening. My recommendation to the Work Group is to issue a report with recommendations to the City Council to take remedial action immediately and get its own house in order.

Thank you for your attention,
Mona Linstromberg
Family home: 1442 NW Spring St.
Newport, OR 97390
541-265-7581



Memorandum

To: Short-Term Rental Ordinance Implementation Work Group
From: Derrick I. Tokos, AICP, Community Development Director 
Date: December 22, 2020
Re: STR Ordinance Implementation Work Group Recommendations (Preliminary Discussion)

At your last meeting we talked about scheduling some time for the Work Group to begin its discussion about topics it would like to see included as part of its recommendation to the City Council. One such recommendation was to establish a standing short-term rental advisory committee. Beyond that, this agenda item serves as a placeholder for work group members to discuss topics they want to cover, and information they want to see, for more in-depth review and deliberation at upcoming meetings.

Sherry Marineau

From: Derrick Tokos
Sent: Monday, January 04, 2021 6:22 PM
To: Sherry Marineau
Subject: FW: Follow up questions on Duquette's dog attacked at STR

Hi Sherry... Please add this as an agenda item for the STR Work Group Meeting and include the email below as an attachment. It can be titled "Follow-up on Dog Attack Involving Pet Owned by STR Guest."

Let me know when it is posted and I'll pass the information along to the group.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Spencer Nebel
Sent: Monday, January 04, 2021 1:42 PM
To: Cynthia Jacobi <C.Jacobi@NewportOregon.gov>
Cc: Jason Malloy <J.Malloy@newportpolice.net>; Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: FW: Follow up questions on Duquette's dog attacked at STR

Hi Cynthia: Attached is an email from Jason regarding the dog attack. Derrick will place this on the January STR Work Group agenda for discussion. - Spencer

From: Jason Malloy
Sent: Thursday, December 31, 2020 3:22 PM
To: Spencer Nebel <S.Nebel@NewportOregon.gov>
Subject: RE: Follow up questions on Duquette's dog attacked at STR

I talked with Jovita and reviewed the County Animal Services report. Jovita initially had contact with Elaine Karnes, via email, not Ms. Duquette. Elaine told Jovita in the email about a dog attack, but that the STR renters were no longer at the residence. Jovita encouraged Elaine to have Ms. Duquette contact dispatch. Ms. Duquette did contact dispatch and an animal services deputy responded to her complaint. The animal services deputy spoke with Ms. Duquette and handled the investigation. NPD did not handle any part of the investigation. I reviewed the emails Ms. Duquette and Elaine Karnes sent. Based on the emails, it appears Ms. Duquette believed she had talked with CSO Ballentine, when all of her contact was actually with Animal Services Deputy Irene Bailey.

I know that animal services made arrangements for the dog owner and Ms. Duquette to connect if needed to discuss vet bills and a possible civil compromise.

Per procedure, NPD does not handle vicious dog or dog bite calls. The Sheriff's Office Animal Services Division handles these types of calls. If animal services is unavailable, NPD will respond if dispatched. In these cases, NPD will take the initial report and refer the report to the County for investigation or follow-up.

Thank you,

Jason Malloy
Chief of Police
City of Newport
169 SW Coast Highway
Newport, Oregon 97365
541.574.3348 office
541.574.0643 fax
www.newportpolice.net



From: Spencer Nebel
Sent: Saturday, December 26, 2020 9:28 AM
To: Jason Malloy <J.Malloy@newportpolice.net>
Subject: FW: Follow up questions on Duquette's dog attacked at STR

Hi Jason: Can you did out the information on this so that I can forward it to Cynthia. It sounds like this is still unresolved based on Carla's email. - Spencer

From: Spencer Nebel
Sent: Saturday, December 26, 2020 9:26 AM
To: Cynthia Jacobi <C.Jacobi@NewportOregon.gov>; Derrick Tokos <D.Tokos@NewportOregon.gov>; Dietmar Goebel <d.goebel@newportoregon.gov>; Dean Sawyer <d.sawyer@newportoregon.gov>
Subject: RE: Follow up questions on Duquette's dog attacked at STR

Hi Cynthia: The dog attack was handled by Lincoln County Animal Control, not Newport Police. I don't remember the rest of the details but I will get you additional details next week. I thought that this issue was closed, but will check on that as well. - Spencer

From: Cynthia Jacobi
Sent: Thursday, December 24, 2020 1:16 PM
To: Spencer Nebel <S.Nebel@NewportOregon.gov>; Derrick Tokos <D.Tokos@NewportOregon.gov>; Dietmar Goebel <D.Goebel@NewportOregon.gov>; Dean Sawyer <D.Sawyer@NewportOregon.gov>; Cynthia Jacobi <C.Jacobi@NewportOregon.gov>
Subject: Follow up questions on Duquette's dog attacked at STR

Get [Outlook for iOS](#)

Dear Spencer and Derrick,
I'm sending this to Dietmar, member of STR, and Mayor. Please see below the letter from Carla Perry.
What has been the response from the city to Ms. Duquette's tragic loss of her dog?

Perhaps i missed that information.

Apparently, there has not been satisfactory closure of the incident to people involved.

Is there a public report available on CSO Ballentine's investigation?

I request an agenda item be added to the next STR meeting. Please clarify city ordinance regarding animal control and leash laws. Who is responsible at STRs?

Please clarify the perceived discrepancy in the incident report of CSO Folmar and CSO Ballentine noted by Carla Perry.

Is there not an Obligation for NPD to follow up with a dangerous animal report in the owner's town of residence? Was this done? If not, i find it quite concerning that a vicious dog attack was not reported where the dog resides.

Thank you for looking further into this most unfortunate incident.

Cynthia Jacobi

Newport City Councilor

From: carla perry <perry.carla@gmail.com>

Sent: Wednesday, December 23, 2020 3:02 PM

To: Cynthia Jacobi

Subject: Re: STR Ordinance Oversight Work Group meeting next week

Thank you, Cynthia.

I appreciate calling Spencer's attention to the fact that the City never responded to Ms. Duquette after the promise to respond was made by both Spencer and Jason Malloy. This particular dog attack DOES concern the City since it is the STR property owner who is responsible for their guests, and because the City that issued the permit for them to operate. Ms. Duquette had no way of knowing the name or contact information for the owner of the dog that caused her dog's death since they left town shortly after the attack occurred.

Also, Jim Folmer's report to the STR Ordinance Oversight Work Group should still be corrected when the Minutes are approved at the January 7 meeting. He provided erroneous information to the Work Group. Either he did not know that CSO Jovita Ballentine had done a thorough investigation of the dog attack, or he knew but chose to provide misinformation.

The public is still hoping to have access to the LodgingRev incident reports and resolutions. Public access to that information was requested by the Vacation Rental Work Group as part of the services LodgingRev would provide. When the company was hired as consultants, we were assured that the public would have internet access to all complaint information, minus confidential details. Access to all incident reports and resolutions was noted as forthcoming (by Derrick) at several of the STR Work Group's meetings because residents kept requesting it. But the public still has no access to any of that information, even when we are the person who filed the incident report. At one Work Group meeting, when the public still could show up at City Hall, Folmer expressed

surprise that the public did NOT have online access to his reports. He said he assumed we did. Derrick clarified that we do not, but that he'd work out a way to do so. But nothing has changed... we file an incident report and it goes into a black hole where nothing comes out. Information would go a long way in easing resident's concerns about problem short-term rental properties.

Thank you again,

-Carla

=====

On 12/22/2020 8:21 PM, Cynthia Jacobi wrote:

> Hi Carla,

>

> I confirm receipt of your letter.

> I did ask Spencer about the incident to which you refer. He said that dog attacks are civil matters between owners of the animals.

> I'm certainly not qualified to give a legal opinion. Ms. Duquette needs to contact Spencer to go forward on this.

> I will call to his attention that the tragedy is apparently not yet resolved.

> I plan to clarify the city dog restraint law and what is the responsibility of a STR owner for uncontrolled animals on their property.

> Thank you.

> Cynthia

>

> Get Outlook for iOS<<https://aka.ms/oOukef>>

>

> From: carla perry <perry.carla@gmail.com>

> Sent: Tuesday, December 22, 2020 6:58:57 PM

> To: Cynthia Jacobi <c.jacobi@newportoregon.gov>

> Subject: STR Ordinance Oversight Work Group meeting next week

>

> Hi, Cynthia,

>

> At the last STR Ordinance Oversight Work Group meeting you asked for an

> update on the dog bite incident regarding 1330 NW Spring Street. The

> Minutes from that meeting state:

>> Jacobi asked for clarification on the 1330 NW Spring St dog bite

>> complaint. Folmar said this went to CSO

>> Ballentine and the owner said they didn't know the renter had a dog.

>> The victim of dog bite didn't follow up with

>> CSO Ballentine and she had nowhere to go with this.

> However, as you know, the owner of the dog that was killed, Toni

> Duquette, responded by email stating that report was erroneous. She

> provided a detailed letter to you, to the City Manager, and to the Chief

> of Police, explaining what actually happened and an account of her

> numerous conversations with CSO Ballentine. She asked for the record to

> be corrected and to receive a written response from the City when their

> investigation into this matter was concluded. Both Spencer Nebel and

> Jason Malloy responded by email saying they would investigate and get

> back to Ms. Duquette.

>

> But apparently the record was not corrected because the unmodified

> original minutes are part of the Agenda for the January 7, 2020 meeting.

- > And Ms. Duquette is STILL waiting for a written response from the City.
- > Certainly the "investigation" has concluded by now.
- >
- > My request to you, Cynthia: could you again ask for clarification about
- > the dog bite complaint so that the record can be corrected and Ms.
- > Duquette can get some closure? It would be great, too, if someone from
- > the City would provide a written response to her as well.
- >
- > Cynthia, I'm sending this email to your City of Newport account. I would
- > appreciate it if you would confirm that you've received it.
- > Thank you for all your efforts with the City...
- > -Carla

Sherri Marineau

From: Traci McDowall <traci@yaquinalaw.com>
Sent: Thursday, January 07, 2021 9:33 AM
To: Public comment
Subject: STR Work Group Meeting (1/7/21) Public Comment
Attachments: 210107 Public Comment Letter.pdf

Please see the attached letter to be included as public comment for the meeting scheduled for today at 3pm.

Thank you,
Traci



Traci P. McDowall
Attorney at Law
traci@yaquinalaw.com
PO Box 1987 | 380 SW 2nd St. | Newport, OR 97365
t. 541.272.5500 | f. 541.265.7633



*Confidentiality Notice: This email message is privileged, confidential, and is intended only for use by the intended recipient. Unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender immediately and destroy all copies of the original message.

**Tax Advice Notice: IRS Circular 230 requires us to advise you that, if this communication or any attachment contains tax advice of any kind, the advice is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties or for promotion, marketing or determining tax obligations.



January 7, 2021

City of Newport
STR Ordinance Implementation Work Group
Meeting January 7, 2021

PUBLIC COMMENT

Dear Work Group Members,

I represent short term vacation rental (STR) owners Lauri Hines and Dr. Roy Neff. This letter is meant to address several items asserted in the packet you received for your meeting on January 7, 2021.

1. Agenda Item 5.A

- a. In the information you received related to this agenda item you will see that STRs located at 1330 NW Spring St., 107 SW Coast St., and 238 SW 27th St. have all been put on “inactive” status. Officer Folmar explains in his memorandum under the enforcement section of your materials that this is due to my client not renewing the business license and endorsement by the August 15, 2020 deadline for all three STRs. The problem is that my client has provided proof to Officer Folmar, the City of Newport Finance Department, and the City of Newport Community Development Department that the fees related to all three STRs were paid between June 22 and June 29, 2020. These STRs should have never been moved to inactive status and we are working with the City of Newport to promptly resolve this issue.

2. Agenda Item 5.C

- a. Mr. Tokos explains in his memorandum that a “significant number of the complaints have been filed by a relatively small number of people.” In fact, this is true for my client as for complaints related to her STR located at 1330 NW Spring St. This STR is located near Nye Beach and close to the neighborhoods of many extremely vocal citizens who have seemingly made it their life’s work to oppose STRs. This STR has received 17 complaints just through LodgingRev, all of which have been filed by Carla Perry (12) or Elaine Karnes (5). It is apparent that neither Ms. Perry nor Ms. Karnes wish to contact the emergency contact listed for the property, rather, they would prefer to continue badgering the City of Newport in hopes that the City will cave and STRs will be banned. We urge the work group and the City to recognize the problems with Ms. Perry’s and Ms. Karnes’ repeated and often time unfounded/unactionable complaints. This type of behavior clogs the system and diminishes resources that should be allocated to true problems the City must address. People like Ms. Perry and Ms. Karnes should not be allowed to continue their misuse of the systems the City has put in place; similar to filing a false police report,

filing a false complaint against a STR should be punishable. We urge the work group to consider what the reality has become with reporting STRs since the enactment of NMC Chapter 14 and 4 and develop a recommendation to present to City Council for addressing misuse of the systems implemented.

- b. In regard to Officer Folmar's memorandum, the paragraph above addressing Agenda Item 5.A applies here as well. The properties owned by Mr. Neff and Ms. Hines should have never been made inactive, the owners should have never been sent cease and desist letters, citations should have never been issued. Ms. Hines provided proof of payment to Officer Folmar, the City of Newport Finance Department, and the City of Newport Community Development Department and thought the issue had been resolved. We are following up on this with the City of Newport to promptly resolve this issue.

3. Agenda Item 5.D

- a. In her correspondence dated December 22, 2020 to Cynthia Jacobi, Ms. Perry asserts that "the owner said they didn't know the renter had a dog." How Ms. Perry could possibly know this is a mystery, as my client was never contacted regarding an issue of a dog at her STR. Furthermore, there is absolutely nothing that would make the owner of an STR responsible for the actions of a guest's dog. Finally, neither Ms. Perry nor Ms. Karnes, who also contacted NPD, were directly or indirectly impacted by this incident. Again, this a case of unsavory neighbors who don't agree with the City of Newport allowing STRs of any sort. This is another attempt by Ms. Perry and Ms. Karnes to target my client and use her STR located in their neighborhood to force the City to take action where no action is necessary or warranted.

In conclusion, we would like to point out that the harassment my clients have endured has not been limited to unpleasant neighbors. The City of Newport itself has continually created undue stress on my clients through the issuance of unwarranted letters and citations. The ongoing harassment has led to additional stress and panic attacks resulting in emergency room visits for my clients. These rentals are Ms. Hines' and her husband's, Dr. Neff's, only source of income since Dr. Neff lost his job due to the COVID-19 pandemic.

When the City of Newport passed the Short-Term Rental Ordinances, the City took on the responsibility to enforce the ordinances in a fair and even-handed way. The City of Newport has utterly failed in its obligation to Ms. Hines and Dr. Neff, having caused them to incur thousands of dollars in legal fees to defend themselves from these baseless accusations. Ms. Hines and Dr. Neff are currently reviewing available legal remedies to stop this harassment and unfair treatment that has been occurring for over a year.

Thank you for your time and consideration.

Sincerely,



Traci P. McDowall
Attorney at Law
Enclosures