

CHAPTER 4.25 SHORT-TERM RENTAL BUSINESS LICENSE ENDORSEMENTS

4.25.005 Purpose

A short-term rental business license endorsement is a permission to operate a short-term rental on property within the City of Newport. This chapter provides an administrative framework for licensing the annual operation of a short-term rental, in order to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; protect the City's supply of needed housing; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and nuisances (e.g. accumulation of refuse, light pollution, etc.).

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

4.25.010 Definitions

The following definitions apply in this chapter.

- A. Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.
- B. Bed and Breakfast Facility. A ~~single-family dwelling used as a~~ short-term rental where the operator resides on the premises and meals are provided for a fee ~~on a daily or weekly room rental basis~~.
- C. Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

- D. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- E. Home share. A short-term rental, other than a Bed and Breakfast Facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight for the duration of the rental.
- F. Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.
- G. Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person ~~on a day to day basis or~~ for a period of less than thirty (30) consecutive nights.
- H. Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner’s death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner).

Exceptions:

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

2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license termination.
- I. Vacation Rental. A short-term rental, ~~other than a Bed and Breakfast Facility or Home Share~~, where the entire dwelling unit is rented ~~for less than 30 consecutive days~~.

Staff: The definitions of Bed and Breakfast Facility, short-term rental, and vacation rental have been revised to ensure the terminology is consistent and that they align with the Planning Commission recommendation. A definition for sale and transfer is included because staff recommends a license cap as a means of managing the growth of vacation rentals (more specifically discussed below).

4.25.015 Annual Short-Term Rental Business License Endorsement Required

No owner of property within the Newport city limits may advertise, offer, operate, rent or otherwise make available for occupancy or use a short-term rental without a business license with a short-term rental endorsement. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

4.25.020 Application Information and Filing Fee

- A. Applications for short-term rental business license endorsements are to be on forms provided by the City, and shall include the following:
 1. Owner Information. Owner's name, permanent residence address, telephone number, email address (if available) and short-term rental address and telephone number.
 2. Authorized Agent. The name, telephone number, mailing address and email of a property management company or other entity or person who has been designated by the owner to act on their behalf.
 3. Representative Information. The name, telephone number, mailing address and email of a local representative who can be contacted concerning use

of the property or complaints related to operation of the short-term rental. For the purposes of this requirement, local means the representative's address is within 30 minutes travel time of the subject property.

4. Liability Insurance. Letter of intent to insure (for new applications) or certificate of insurance (for renewals) establishing that the owner will have, or has, liability insurance which expressly covers the vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Where letters of intent to insure are provided, certificate of insurance shall be submitted to the city prior to use of the unit as a short-term rental.
5. Land Use Authorization. A land use compatibility statement, signed by the Community Development Director or designee and that is current within 90-days, indicating that the short-term rental satisfies the land use standards for short-term rentals listed in NMC Chapter 14.25.
6. Occupancy. Occupancy limits and number of bedrooms (as specified in the Land Use Authorization).
7. Parking. Statement that required off-street parking spaces are available, with a photo(s), dated within the last 90 days, of interior and exterior parking spaces. A site plan including a parking diagram of the parking spaces shall also be provided.
8. Proof of Residential Use (for Home shares and Bed and Breakfast Facilities). At least two of the following items shall be submitted as evidence that the dwelling is the primary residence of the owner.
 - a. A copy of the voter registration
 - b. A copy of an Oregon Driver's License or Oregon Identification Card
 - c. A copy of federal income tax return from last tax year (page one only and financial data should be redacted)
9. Good Neighbor Guidelines. ~~Written Acknowledgement acknowledgement of receipt and review of that~~ a copy

of the good neighbor guidelines has been reviewed and. ~~In addition, evidence that the good neighbor guidelines has been effectively~~ relayed to short-term rental tenants, by incorporating it into the rental contract, including it in the rental booklet, posting it online, providing it in a conspicuous place in the dwelling unit, or a similar method.

10. Listing Number. For renewals, the listing numbers or website addresses of where the short-term rental advertises.

11. Fire Safety. Completed checklist identifying that the unit complies with the fire safety standards listed in NMC 4.25.030(C)(5).

12. Structural Safety. Completed checklist identifying that the unit complies with the Structural safety standards listed in NMC 4.25.030(C)(6).

13. Waste Management. Proof of garbage service as required in NMC 4.25.030(C)(7).

14. Other Requirements. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.

B. Incomplete Application. If a license application does not include all required materials, the application will be considered incomplete and the City will notify the applicant, in writing, explaining the information required. If the applicant provides the missing required information within 30 calendar days of the date of the notice, the application will be reviewed. If the applicant does not provide the required information, the application will be deemed withdrawn and the City will refund the application fee.

C. License Fee. The fee for the application of a short-term rental business license endorsement, and any of its components requiring city action, shall be established by resolution of the City Council.

4.25.025 Term of Annual Business License Endorsement and Transferability

- A. Term. A short-term rental business license endorsement shall be issued for a period of 12-months, effective July 1st of each year, and may be renewed annually by the owner provided all applicable standards of this chapter are met.

POLICY ALTERNATIVES

B.1. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is not transferable.*

or

B.2. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is transferrable only in those cases where the property is commercially zoned.*

or

B.3. Transferability. *The business license endorsement shall be issued in the name of the owner(s) and is transferrable in those cases where the property is within, or across the street from, a commercial zone.*

Staff: Transferability is relevant if the city limits the total number of annual licenses it issues and it is our recommendation that such a limit be put in place. The justification for limiting transferability is to avoid circumstances where use of a dwelling for commercial purposes in a residential neighborhood becomes permanent, potentially impacting the supply of needed housing and the character of residential areas. Eliminating license transferability in residential areas would serve as a disincentive to anyone looking to purchase units for exclusive use as a vacation rental while, at the same time, it would not impose a barrier to those looking to operate a vacation rental for a period of time before they transition to Newport on a more permanent basis (assuming there is license availability under a cap).

It is difficult to apply this rationale to areas that are transitioning to or are entirely within commercial zones, as

there is an expectation in these areas that dwelling units would be built for the sole purpose of being used for transient rental purposes and may lack the functional amenities (e.g. storage, office space, etc.) that persons would need if they were living in the units on a long term basis. Alternative B.3. balances these interests.

4.25.030 Business License Endorsement and Endorsement Renewal

- A. Endorsement Must Be Obtained: An endorsement to a business license for a short-term rental shall be obtained and renewed as required in this section. The ability to operate a short-term rental in the City of Newport shall be discontinued for failure to obtain or renew an endorsement to operate as provided in this chapter.
- B. Application and Renewal Application Process: A person engaging in a short-term rental who has not yet obtained a business license endorsement, or who is required to renew an existing endorsement, shall do so as follows:
1. Time of Application.
 - a. Existing Non-Conforming Short-Term Rentals. A business license endorsement renewal application completed in accordance with the provisions of NMC 4.25.020, is due on July 1st, 2019 and annually every year thereafter.
 - b. New Short-Term Rentals. A business license endorsement for a short-term rental shall be obtained before beginning operations. Endorsement applications, completed in accordance with the provisions of NMC 4.25.020, may be submitted and issued at any time. The endorsement may be renewed annually thereafter on July 1st of each year.
 - c. Sale or Transfer of Property. For business license endorsements that are eligible to be transferred pursuant to NMC 4.25.025(B), it is the obligation and responsibility of the new owner to obtain a new endorsement in order to operate the short-term rental. The new owner shall have 60 days from the

date of ownership (closing of the sale) to apply for and receive a new business license endorsement. The business license endorsement obtained by the prior owner shall remain in effect during the 60-day period within which the new owner must obtain an endorsement.

2. Notice. On or about July 1st of each year, the City shall send notice to owners of property with short-term rental endorsements informing them that the endorsement must be renewed no later than August 15th of each year and that failure to do so will result in expiration of the endorsement. Notice shall be sent by first-class mail to the address the owner provided with the endorsement on file with the City.
3. Expiration of Endorsement. Failure of an owner to renew an endorsement by August 15th shall result in expiration of the endorsement, and the ability of the owner to operate shall be conclusively presumed to be discontinued with no further action by the City. For new owners, once the 60 day grace period to apply for a license expires, as referenced in NMC 4.25.030(B)(1)(c) of this section, the ability to operate shall be conclusively presumed to be discontinued with no further action by the City.

C. Approval Standards.

The owner or authorized agent has the burden of proof to demonstrate compliance with standards for the approval or renewal of an endorsement. The approval standards also serve as continuing code compliance obligations of the owner. To receive approval, an owner or authorized agent must demonstrate that the approval standards listed below have been satisfied:

1. Zoning. The property is in compliance with requirements of NMC Chapter 14.25.
2. Contact Information. The owner or authorized agent has provided information sufficient to verify a qualified person will be available to be contacted about use of the short-term rental during and after business hours. The qualified person shall be available to be contacted

by telephone to ensure a response to the short-term rental address at all hours (24 hours a day, seven days a week) while the dwelling unit is occupied for rent. The qualified person must be able to reach the premises within 30 minutes. The individual identified as the “qualified person” may be changed from time to time throughout the term of a license. To do so, the license information shall be revised with the city at least 14-days prior to the date the change takes effect, except when the failure to do so is beyond the owner or authorized agent’s control. In an emergency or absence, contact forwarding information to a qualified person may should be provided to-by the owner or authorized agent. In the case of home shares, the contact person shall be the permanent resident who will be hosting the transient accommodations.

3. Notice to Neighbors. The owner or authorized agent shall post a ~~small,~~ non-illuminated sign on the premises, between 1 and 2 square feet in size, containing the owner and/or representatives contact information. Such sign shall be placed in a location clearly visible from the adjacent street. In the event the City establishes a 24/7 hotline for dispatching calls to operators of short-term rentals, then the contact information contained on the placard or sign shall be that of the firm providing the dispatch service.
4. Electronic Availability. The City will make a database electronically accessible within which any person can enter in an address of a short-term rental and obtain the owner, authorized agent, and/or representative’s name, telephone number, and email address.
5. Fire and Emergency Safety. A completed checklist for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, unobstructed exits, etc.) shall be required with each new endorsement and renewal. The owner or authorized agent shall be responsible for completing the fire safety checklist and ensuring continued compliance. Verification by the City of Newport Fire Marshall shall be required prior to issuance of a new endorsement and may be required for renewals at the City Manager’s discretion.

6. Structural Safety. A completed checklist, signed by the City of Newport Building Official, indicating that the short-term rental has been inspected and complies with the building safety standards listed below. Such checklist shall be completed prior to issuance of a new endorsement and may be required for renewals at the City Manager's discretion.
 - a. Bedrooms shall have an operable emergency escape window or exterior door with a minimum opening size of 5.7 sq. ft. (5.0 sq. ft. at grade floor), with minimum net clear dimensions of 20-inches in width and 24-inches in height and having a sill height not more than 44-inches above the finished floor.
 - b. All stairs with 4 or more risers shall have a handrail on at least one side. Handrails shall be secure, continuous, and have returns at each end.
 - c. The open sides of stairs, decks, porches or other walking surfaces more than 30-inches above grade or the floor below shall have guardrails configured such that a 4-inch sphere cannot pass through.
 - d. Windows within a 24-inch arc of doors and glass within bathtub or shower enclosures shall be safety glazed, or have an equivalent means of protection.
 - e. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required.
 - f. Electrical plug-ins and light switches shall have faceplates.
 - g. Electrical breaker boxes shall have all circuits labeled, and empty breakers spaces must be plugged.
 - h. GFCI (Ground Fault Circuit Interrupter) protection shall be provided for exterior outlets, kitchens, garages, laundry areas, and bathroom receptacles.

- i. Functioning smoke detectors shall be installed in all bedrooms and outside each bedroom in hallways or other rooms providing access to bedrooms, and on each story including basements. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarms.
 - j. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarms.
 - k. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.
 - l. A 2A10BC fire extinguisher shall be provided on each floor.
 - m. Address numbers shall be posted and visible from the street.
 - n. Any violation of applicable codes that the Building Official determines to be hazardous shall be corrected prior to use of the dwelling as a vacation rental.
7. Proof of Use. For renewals, room tax remittance records must show that the unit has been rented at least 30 days within the 12 month fiscal year.

8. Room Tax Compliance. The unit shall be in compliance with room tax requirements of Chapter 3.05 of the Newport Municipal Code.
9. Violations. A short-term rental business license endorsement that is ~~suspended or~~ revoked shall not be renewed. An owner whose endorsement has been revoked shall not be eligible to reapply for a new endorsement ~~involving the same property~~ for a period of two years.

Staff: Violation language revised to align with Commission recommendation.

D. Additional Ongoing Operational Requirements

1. Complaints. The owner or representative shall respond to neighborhood complaints within one hour and shall maintain a written record of complaints, the dates they were received, and efforts taken to resolve issues that have been raised. The written record shall be provided to the City upon request.

POLICY ALTERNATIVES

2.1. Guest Registry. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency responders upon request.

or

2.2. Guest Registry. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. This information shall be provided to emergency

responders and non-emergency city personnel upon request.

Staff: Emergency responders need access to guest registry information so that, in the event of a catastrophic event, they can identify who was in the unit. That same information can be useful in enforcement actions and room tax auditing purposes, both of which are legitimate government activities. Online intermediaries, such as Airbnb, are not required to provide cities with room tax reports that track back to individual units; therefore, the City will need tools like this if it is to perform its own auditing. For these reasons, staff recommends the Commission select alternative 2.2.

3. Mandatory Postings. The short-term rental business license endorsement issued by the City shall be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The endorsement will contain the following information:
 - a. A number or other identifying mark unique to the short-term rental endorsement which indicates that it was issued by the City of Newport, with date of expiration.
 - b. The name of the owner and authorized agent and a telephone number where the owner and authorized agent may be contacted.
 - c. The property address.
 - d. The number of approved parking spaces.
 - e. The maximum occupancy permitted for the short-term rental.
 - f. Any required information or conditions specific to the operating license.
 - g. The City of Newport official logo.
4. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster,

power outage, or other emergency. Required information includes, but is not limited to:

- a. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - b. Phone numbers and addresses for emergency responders and utility providers.
 - c. Other information as established by resolution of the City Council.
5. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code.
6. Nuisance. The short-term rental shall not be used in a manner that creates a public nuisance as defined in Chapter 8.10 of the Newport Municipal Code.
7. Required Parking. Off-street parking spaces approved for short-term rental use shall be available and are to be used by tenants at all times that the unit is rented. A parking diagram illustrating the location of the approved parking spaces shall be provided to tenants and be available in a prominent location within the short-term rental dwelling.
8. Occupancy. Maximum occupancy shall be limited to that which is specified in the Land Use Authorization.
9. Landscaping. Where the Land Use Authorization indicates landscaping is Required such landscaping shall be maintained. Changes may be made to the type and location of required landscaping as long as 50% of the front yard, and 40% of the total lot area remains landscaped.
10. Solid Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied as a short-term rental. The owner or authorized agent shall provide for regular garbage removal from the premises, and trash receptacles shall be stored or screened out of plain view of the street.

City may require that an owner or authorized agent utilize solid waste collection valet service in circumstances where there have been verified complaints that a short-term rental is not adhering to these requirements. For the purpose of this section, valet service means the collection driver retrieves the cart from where it is stored, rolls it out for service, and then places it back in its original location.

11. Liability Insurance. Liability insurance is required that expressly covers vacation rental operations on the subject property in the amount of \$1,000,000 combined single limit for bodily injury and property damage.
12. Group Events. Company retreats, weddings, rehearsal dinners, family reunions and similar gatherings are permitted on the premises of a short-term rental during periods of transient use provided the total number of individuals does not exceed occupancy limits at any time during the rental period.

4.25.035 Inspections

Dwelling units for which a short-term rental business license endorsement is being sought, or has been obtained, shall be subject to initial inspection, and periodic re-inspection, by the City to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the City's discretion and available resources.

4.25.040 Appeals

A decision on a new short-term rental business license endorsement application, renewal of an endorsement, or the revocation of an endorsement may be appealed as provided in NMC 4.05.075.

4.25.045 Violations

Penalties, as specified in section 4.25.050, shall be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental where the owner does not hold a valid endorsement issued pursuant to this section.

- B. Advertising; renting; using; or offering for use, occupancy or rent; a short-term rental in a manner that does not comply with the endorsement requirements of NMC Chapter 4.25.
- C. Failure to comply with the endorsement standards and operational requirements of NMC Chapter 4.25.
- D. Failure by the owner to pay the transient room tax required by NMC Chapter 3.05.
- E. Failure of the owner or owner's representative to respond to tenant, citizen or City complaints or inquiries. "Failure to respond" occurs if City staff is unable to reach the owner or designated representative after three attempts within a 48-hour period, using the information that the owner or designee has on file with the City.

4.25.050 Penalties

Penalties for a violation of subsection 4.25.040(A) shall be a civil infraction to be enforced pursuant to the provisions listed in NMC Chapter 2.15. Where the owner possesses a valid short-term rental endorsement, the penalties for violations of subsections 4.25.040 (B-E) shall be as follows:

- A. For the first violation within a 12-month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner's short-term rental endorsement for 30 days.
- C. For the third violation within a 12-month period: 1) City shall revoke owner's short-term rental endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under section 14.52.150.