

City of Newport
Department of Planning and Economic Development
Staff Report to the Planning Board

Zoning Amendment

Meeting: February-March 23, 2020
Applicant: City of Newport
Petition: Update definitions and permitted uses within the zoning ordinance for short-term rentals

The growth of the short-term rental marked through online listing platforms has increased competition with the hotel industry, spreading hotel-like functions to residential areas of the city. The City's efforts to regulate this phenomenon have come in fits and starts. A recent court decision (Exhibit A) identified weaknesses in the City's current regulatory framework. Some of these have been addressed with a recent amendment to Title 5 of the City's Code of Ordinance (Exhibit B). Amendments to the zoning ordinance (covered by this proposed amendment) are needed as well.

The proposed ordinance clarifies limits on short-term rentals to five bedrooms per building in Guest Houses and expands Transient Guest Facilities ~~to a minimum of six rooms per building~~. It clarifies that a Guest House can also be an entire dwelling unit. Historic Guest Houses and Vacation guest facilities remain at a maximum of 18 rooms and minimum of ten units, respectively. Additionally, it clarifies that home occupations are limited to the owner's principal residence when the owner is present.

Standards of Review

Purposes of zoning

In making this finding of general consistency with the Comprehensive Plan, the Planning Board must recognize and consider the purposes of zoning, as presented in the Newport Zoning Ordinance, section 17.04.20 of the Newport Code of Ordinances, and Rhode Island General Law § 45-24-30:

(A) Promoting the public health, safety, and general welfare.

- The negative effect of short-term rentals have been well-documented (Exhibit C). They can become party/dark houses that decrease neighborhood safety. The removal of residential units from the housing stock decreases affordability.

(B) Providing for a range of uses and intensities of use appropriate to the character of the city and reflect current and expected future needs.

- See above. Short-term rentals are appropriate for a limited portion of the city, but should not overrun the city's residential history.

(C) Providing for orderly growth and development which recognizes:

(1) The goals and patterns of land use contained in the comprehensive plan;

- The goals and patterns of land use contained in the comprehensive plan serve to protect residential areas from commercial uses like short-term rentals.

(2) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;

- Commercial uses in Newport are tied to more developed areas to protect natural areas.

(3) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;

- Commercial uses in Newport are tied to more developed areas to protect natural areas.

(4) The values of unique or valuable natural resources and features;

- Commercial uses in Newport are tied to more developed areas to protect natural areas.

(5) The availability and capacity of existing and planned public and/or private services and facilities;

- There is an expectation that owner-occupants manage visitors to their property in a manner that is less disruptive than absentee landlords. Commercial zones also have greater services and access to facilities.

(6) The need to shape and balance urban and rural development; and

- This amendment helps to protect rural areas.

(7) The use of innovative development regulations and techniques.

- The companion with the registration process is an innovative development regulation that supports the innovative development techniques of short-term rentals.

(D) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.

- This ordinance strives to prevent noise pollution in sensitive areas.

(E) Providing for the protection of the natural, historic, cultural, and scenic character of the city or areas therein.

- This amendment improves protection of the natural, historic, cultural, and scenic character of the city.

(F) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.

- This amendment will help preserve agricultural production and open space by limiting infiltration of short-term rentals into sensitive areas.

(G) Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.

- The discretionary review will allow for conditions of approval that support investment in transportation, stormwater management, and other public requirements.

(H) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.

- This amendment promotes a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing by more effectively regulating short-term rentals.

(I) Providing opportunities for the establishment of low- and moderate-income housing.

- Restricting short-term rentals will provide more opportunities for the establishment of low- and moderate-income housing.

(J) Promoting safety from fire, flood, and other natural or unnatural disasters.

- Regulating short-term rentals promotes safety from fire, flood, and other natural or unnatural disasters.

(K) Promoting a high level of quality in design in the development of private and public facilities.

- Providing regulations and discretionary review promotes a high level of quality of design in the development of short-term rentals.

(L) Promoting implementation of the comprehensive plan of the city adopted pursuant to Title 45, Chapter 22.2 of the General Laws.

- See the general consistency with the Comprehensive Plan analysis, below.

(M) Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.

- These regulations are an example for other communities.

(N) Provide for efficient review of development proposals, to clarify and expedite the zoning approval process.

- Aligning short-term rentals with transient guest facilities provides for efficient review according to an established process.

(O) Provide for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special-use permits, and, where adopted, procedures for modifications.

- This amendment takes advantage of the provision of variances and special-use permits.

RIGL § 45-24-30 (16) Provide opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, chapter 37 of title 34; the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island Civil Rights of Persons with Disabilities Act, chapter 87 of title 42; and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.

- The amendment contains nothing to explicitly support individuals with defined disabilities.

Required findings

General consistency of the proposal with the Comprehensive Plan including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan

Relevant goals, policies, and actions include:

Goal LU-1 – To provide a balanced city consisting of residential, commercial and employment uses consistent with the character, environmental resources and vision of the community

Policy LU-1.2 – The City shall protect the Ocean Drive neighborhood and southerly portions of the city, by maintaining an emphasis on very low residential uses, conservation and enhancement of exceptional natural resources, and appropriate public recreation.

Policy LU-1.6 – The City shall encourage upgrading, beautification, revitalization, and environmentally appropriate reuse of existing commercial areas.

Policy LU-1.7 – The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.

Action LU-1A – Update City’s Zoning Ordinance to add Mixed Use designations compatible with the designations included in this Comprehensive Plan.

Goal ED-1 – To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base

Policy ED-1.1 – The City shall support key economic drivers while also seeking to attract and grow its technology sector and businesses that represent new and innovative concepts and technologies.

Policy ED-1.5 – The City shall build upon thriving sectors to develop ... a more substantial year-round tourism economy.

Action ED-1F – Collect and evaluate data on home-based businesses.

Goal ED-3 – To provide efficient and effective government services to encourage economic development.

Policy ED-3.1 – The City shall work with the State and advocate for City revenue options which provide a better return between the tax contributions provided by tourism in Newport with the tax revenues returned by the State to the City to pay for the services required to support the large tourism base.

Goal H-1 – To preserve and protect existing housing resources in the community.

Policy H-1.1 – The City will support on-going programs to educate property owners of City plans, codes, standards and other applicable information.

Policy H-1.2 – The City shall make a priority the enforcement of code that relate to the protection of existing housing and neighborhoods.

Policy H-1.3 – The City shall continue to support the repair, revitalization or rehabilitation of residential structures and neighborhoods.

Policy H-1.4 – The City shall encourage resident involvement in identifying and addressing the maintenance of housing in their neighborhood.

Goal H-2 – To preserve and enhance moderate workforce and low moderate income (LMI) housing.

Policy H-2.1 – The City shall emphasize the provision of housing that is priced to meet the needs of Newport’s workforce.

Policy H-2.2 – The City shall track city housing, including permits for new construction and improvements, demolitions, sales, occupancy, and other data.

Policy H-2.3 – The City shall monitor public and private actions to identify potential negative impacts on the supply of workforce and LMI housing.

Policy H-2.4 – The City shall consider the impacts of proposals for rehabilitated housing in regards to meeting the housing needs of workforce and LMI housing.

Action H-2A – Monitor Newport’s housing market data and trends through new development, sales, and other market transactions.

Goal H-3 – To reduce the number of seasonally vacant homes and increase neighborhood stability and vitality.

Policy H-3.1 – The City shall identify and implement actions to limit or reduce the percentage of City homes that are vacant on a seasonal basis, focusing on neighborhoods most affected by these homes.

Policy H-3.2 – The City shall identify and implement actions to enforce short term rental regulations.

Policy H-4.1 – The City shall support market based efforts to accommodate the City’s aging population, both in terms of new housing options and assistance to allow aging homeowners to remain in their homes.

Policy H-4.3 – The City shall evaluate innovative ideas to utilize secondary units and accessory structures that can be used for senior housing.

Goal OSR-1 – To provide a range of appropriate open space and outdoor recreational amenities for use by residents and visitors.

Goal OSR-2 – To provide a connected system of open space and outdoor recreational amenities throughout the City that are strategically linked to transportation, public facilities, neighborhoods, and appropriate private facilities.

The rise in short-term rentals has had a profound impact on many aspects of life in Newport. From a land use perspective, they spread commercial uses into residential areas. They take housing units offline and increase housing costs. They present the potential to develop areas of the city that are currently primarily open space. They also provide additional income opportunities and diversify lodging opportunities. Increased regulations will do a better job of tracking the extent of short-term rentals in the city as well as controlling their proliferation.

Planning Department Recommendations

The Department finds the proposal generally consistent with the Comprehensive Plan.

The Department has some concerns about the “doughnut” effect of not allowing short-term rental of units with kitchens in buildings with between six and nine units. Staff recommends studying Vacation Guest Facilities separately.

The Department’s recommendation is that the Planning Board forward a favorable recommendation to the City Council for the requested zoning amendment. The ordinance will substantially forward the City’s regulation of the short-term rental market.

~~The Planning Department recommends continuing the consideration of proposed zoning amendment to the next regularly scheduled meeting, and referring the proposal to the Short-Term Rental Investigatory Group (STRIG) for review and comment. While the Department finds the proposal generally consistent with the Comprehensive Plan, the rise in short-term rentals has had a profound impact on the availability and cost of housing and the city’s economy. The STRIG was formed to provide guidance to the City on policy and enforcement regarding short-term rentals and their expertise and review may assist in the Board’s consideration of this proposed zone change.~~