

MEMORANDUM

TO: City of Portland Housing Committee; Mayor Strimling; Councilor Ray

FROM: Anne Torregrossa

DATE: September 21, 2018

RE: Proposed revisions to Short Term Rental Ordinance

At the Housing Committee Meeting scheduled for September 26, 2018, there will be several proposed amendments to Chapter 6 of the City of Portland Code of Ordinances as it relates to short term rentals. This memo provides a brief summary of each proposed amendment.

1. Amendment Sponsored by Councilor Cook and Mayor Strimling to Adjust the Properties Included in the City-Wide Cap on Non-Owner Occupied Units.

Councilor Cook and Mayor Strimling are jointly proposing an amendment that makes various changes to the short term rental ordinance, including:

- Exempting short term rentals that are rented for fewer than 14 days in a calendar year from registration and other requirements;
- The current short term rental ordinance caps non-owner occupied units that are in a non-owner occupied building at 300 units City-wide. The proposed change would also include non-owner occupied units that are in an owner occupied building in that cap;
- Harmonizes the fees for non-owner occupied units, regardless of whether the units are in an owner occupied building;
- Makes island rental subject to the same fee structure as all other short term rentals, which is determined by whether the rental is owner occupied, tenant occupied, or non-owner occupied;
- Removes the rental registration discounts for short term rentals;
- Effective December 1, 2018, reduces the number of short term rental units that any one person may register in a calendar year from five units to one unit. However, it also “grandfathers” in any individuals who have currently have more than one unit registered;
- Restricts the number of short term rentals per city block;
- Requires that the building authority hold a public hearing before issuing a renewal license to a short term rental owner with two or more complaints;
- Increases the time that a short term rental owner is prohibited from registering a short term rental unit if the unit is determined to be a disorderly house from twelve months to 36 months.

A red-lined version of the proposed changes is included.

2. Amendment Sponsored by Councilor Cook to Change the Documentation Required for Registration.

Owner-occupied units and tenant-occupied units are currently subject to lower registration fees, and the rules surrounding the number of registrations allowed in a building are also more permissive for owner-occupied and tenant-occupied units. In order to prove that a unit is owner-occupied or tenant-occupied, the owner or tenant must produce an affidavit that the unit he or she is registering is his or her primary residence.

The amendment sponsored by Councilor Cook would require additional documentation from owners registering owner-occupied rental units and tenants registering tenant-occupied units to prove that the unit is their primary residence. Specifically, the amendment would require that owners or tenants provide additional proof of residency at the time of registration by showing two of the following: driver's license or other state ID, motor vehicle registration, voter registration, proof of the homestead exemption, or a recent utility bill. It would also require that an applicant who is part of a condominium, subdivision, or other living situation with a condominium or homeowner's association produce a copy of the deed restrictions or bylaws, showing that short term rentals are not prohibited.

The proposed amendment also requires that individuals registering short term rentals disclose the marketing, advertising, and booking services that they intend to use to market and book the rental. Also, where an application is for renewal, the amendment requires that applicants disclose the number of nights that the unit was rented on a short-term basis in the previous year, and also show proof that State of Maine lodging taxes were paid.

Finally, the amendment requires that short term rental information be made available online.

A red-lined version of the ordinance reflecting these changes is included.

3. Amendment Sponsored by Mayor Strimling to Regulate Short Term Rentals Under the Zoning Code.

Mayor Strimline will present a proposed amendment that will incorporate short term rentals into the Zoning Code as a separate land use. The changes will allow only owner-occupied units as permitted uses. Non-owner occupied units will become conditional uses with a requirement that the applicant either replace the unit that is being removed from the long-term market or pay a fee-in-lieu, which will be paid into the Housing Trust Fund. Additionally, there will be a 300 unit cap on such conditional uses in the City. Finally, non-owner occupied units that are currently legally registered will be "grandfathered" and will be lawfully nonconforming.

There is no current draft of this proposed change because of the significant changes that will need to be made to both Chapter 6 and Chapter 14.

4. Study of Impact of Short Term Rentals on the Long-Term Housing Market.

Finally, Mayor Strimling would like to propose a study of the impacts of short term rentals on the long-term housing market, including the number and nature of units that may have been removed from the housing market. The Greater Portland Council of Governments might be one entity to consider engaging for this study. The goal of the study would be to give the Committee and the Council greater clarity around the impacts to the housing market, rather than relying on anecdotal evidence alone. This would allow a more thoughtful and tailored approach to any changes to the short term rental regulations.