

MEMORANDUM

TO: City of Portland Housing Committee; Councilor Ray; Mayor Strimling
FROM: Anne Torregrossa
DATE: October 16, 2018
RE: Decision points for changes to short term rental ordinance

At the October 11, 2018 Housing Committee Meeting, the members of the Housing Committee present at the time, as well as Councilor Ray and Mayor Strimling, considered the various amendments before the Committee and gave staff feedback on those likely to be agreed upon. Those amendments are included in the attached **Consent Amendment**. In addition, it was clear that the Committee still had several decision points remaining.

1. Additional disclosures upon renewal (Cook Amendment).

This amendment would require 1) the disclosure of the number of nights the unit was rented on a short term basis in the previous year; and 2) proof that the registrant had paid Maine State lodging taxes in the previous year.

6-151(c)(5) (NEW)

In addition to the information required in Section 6-151(b), a Short Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee:

. . .

5. If the application is for renewal, the following:

- (a) The number of nights the unit was rented on a short-term basis in the previous reporting year. For purposes of reporting this information, November 1 through October 31 is the reporting period for a renewal of January 1, and
- (b) Produce for review, proof that state lodging taxes were paid for the year prior to the renewal date.

2. Allowing tenants to register more than one space in their rental (Staff Amendment).

This amendment would allow tenants to register more than one short term rental unit in their dwelling (bedrooms, separate spaces, etc.).

6-152(c) (NEW)

Owners and tenants may register more than one short term rental unit (bedrooms, separate spaces, etc.) within their primary residence.

3. Changes to the Fee Structure.

Councilor Ray and Councilor Cook and the Mayor have presented two different options for changing the fee structure. Staff had originally proposed a third option, but now recommends adoption of Councilor Ray’s amendment. In brief, the two amendments do the following:

- (a) Councilor Ray Amendment. This Amendment would collapse the fee structure so that island rentals, owner-occupied units, and tenant-occupied units would all be subject to the same fee structure, while non-owner occupied units would be subject to a higher fee structure.

Owner Occupied Single Family Home, or Tenant Occupied	\$100
Multi Unit Owner Occupied Building Island Short Term Rentals; <u>Owner-Occupied Units; Tenant-Occupied Units</u>	1 st Unit - \$100 2 nd Unit - \$250 3 rd Unit - \$500 4 th Unit - \$1,000 5 th Unit - \$2,000
Multi Unit Non-Owner Occupied <u>Units Building</u>	1 st Unit - \$200 2 nd Unit - \$500 3 rd Unit - \$1,000 4 th Unit - \$2,000 5 th Unit - \$4,000

Additional Changes: If this amendment is adopted, the following additional changes would be made to § 152(c):

(c) *Short Term Rental Registration Fee Structure.* The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any ~~short term rental units operating in a single family home or owner occupied multi family buildings~~ owner occupied or tenant occupied

units and then fees will be attributed at the higher rate for any non-owner occupied units. ~~units located in non-owner occupied buildings. If an owner registers units in both owner occupied and non-owner occupied buildings then the owner occupied fees will be considered the first unit under the fee structure starting with the 1st unit fee as described in the chart below regardless of the order in which the units are registered.~~

(b) Mayor/Councilor Cook Amendment.

This amendment would also collapse the fee structure so that owner-occupied and tenant-occupied units were subject to the \$100 registration fee, while non-owner occupied units would be subject to the escalating fees. This eliminates the separate treatment of island rentals, and the registration fee for island rentals would be based on whether they were owner-occupied or non-owner occupied.

Owner Occupied Single Family Home, or Tenant Occupied <u>Units</u>	\$100
Multi Unit Owner Occupied Building Island Short Term Rentals	1st Unit - \$100 2nd Unit - \$250 3rd Unit - \$500 4th Unit - \$1,000 5th Unit - \$2,000
Multi Unit Non-Owner Occupied <u>Building Units</u>	1 st Unit - \$200 2 nd Unit - \$500 3 rd Unit - \$1,000 4 th Unit - \$2,000 5 th Unit - \$4,000

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(c) *Short Term Rental Registration Fee Structure.* The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. ~~The fee total will accumulate first by counting any short term rental units operating in a single family home or owner occupied~~

~~multi-family buildings and then fees will be attributed at the higher rate for any units located in non-owner occupied buildings. If an owner registers units in both owner-occupied and non-owner-occupied buildings then the owner-occupied fees will be considered the first unit under the fee structure starting with the 1st unit fee as described in the chart below regardless of the order in which the units are registered.~~

4. Incorporating Non-Owner Occupied Units in an Owner-Occupied Building within the Non-Owner Occupied Cap.

Given the proposal currently pending before Council to include all non-owner occupied units within the 300 cap, the Committee should consider whether to incorporate that into its proposal to Council, or whether to propose an alternative. The proposal before Council would make this change effective October 12, 2018, while both Councilor Ray and staff have proposed amendments to make this change effective December 1, 2018.

5. Limitations on Number of Registrations.

There are several proposals on the table to reduce the number of registrations moving forward.

(a) Mayor/Councilor Cook Amendment.

This amendment would allow individuals to register only one (either owner-occupied or non-owner occupied unit) in the future.

(c) Limitations on number of Short Term Rentals an Individual or Entity May Register. An individual or entity may only register up to five (5) short term rentals in the City, including the Islands, in any one (1) calendar year. For purposes of this section, short term rentals registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(b) Mayor/Councilor Cook Alternative Amendment.

Alternatively, the Mayor and Councilor Cook have proposed eliminating all non-owner occupied units in the future, although currently registered non-owner occupied units would be allowed to renew. This proposal would require a change to several sections of the ordinance.

(c) Staff Recommendation.

Staff's recommendation to lower registrations moving forward is to lower the number of units an individual can register from five to three.

(c) Limitations on number of Short Term Rentals an Individual or Entity May Register. After December 1, 2018, ~~An~~ individual or entity may only register up to ~~five~~three (~~35~~) short term rentals ~~s~~ units in the City, including the Islands, in any one (1) calendar year. For purposes of this section, short term rentals ~~s~~ units registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

Additional Changes: If staff's alternative recommendation is adopted, changes will also need to be made to § 6-152(c) (chart of fees), and § 6-153(e) (chart of units per building).

6. Limitations on Short Term Rental Units per Building.

There are currently three separate proposals for the number of short term rental units to be allowed per building. An overview of the impact of those different amendments, based on building size, is included as ATTACHMENT A. To simplify the decision-making process, it would be helpful for the Committee to consider the following:

- (a) Does the Committee want to limit the number of rental units in a building on the islands?
- (b) Does the Committee want to limit the number of units (bedrooms) an owner can have in his or her apartment, when the building is a multi-family?
- (c) Does the Committee want to count the owner-occupied unit (or bedrooms) in a building towards the total amount of units in a building?
- (d) Does the Committee want to limit the number of units (bedrooms) a tenant can have in his or her apartment, when the building is a multi-family?
- (e) Does the Committee want to count the tenant-occupied units (or bedrooms) in a building towards the total amount of units in a building?
- (f) Does the Committee want to treat owner-occupied and non-owner occupied buildings differently for purposes of counting the number of units in a building?
- (g) What is the appropriate number of short term rental units in a building?

7. Allocation of Non-Owner Occupied Mainland Registrations.

The Consent Amendment has language that registrations of mainland, non-owner occupied units will be allocated first to renewals, and then to the waitlist on a first-come, first-served basis. Councilor Thibodeau has offered an additional amendment to change the way that registrations would be allocated off the waitlist. His proposal is:

Applicants will be chosen off the waitlist as follows:

1. Applicants who do not have any registered non-owner occupied short term rental units will be registered in the order in which they applied.
2. If there are any remaining registrations available, applicants who have one registered non-owner occupied short term rental unit will be registered in the order in which they applied.
3. This pattern shall proceed for applicants who have two registered non-owner occupied short term rental units, then three, four, and five registered units.

8. Renewal Date for 2019.

Staff normally sends out renewal notices 60 and 30 days in advance of the renewal date. Given the shifting landscape with the proposed changes, staff would request that the renewal date be pushed to February 1, 2019 for this year only.

9. Addressing Nuisance Buildings.

Councilor Cook and the Mayor have proposed that the Committee consider a way for short term rental properties that receive multiple complaints to have a hearing and/or license revocation process. Staff has suggested that this be addressed as part of the Disorderly House Ordinance, and the Committee may want to consider changes to that ordinance.

10. Study of Impacts of Short Term Rentals on the Long Term Housing Market.

Mayor Strimling has suggested retaining the Greater Portland Council of Governments, or similar entity, to complete a study on the impacts of short term rentals on the long-term housing market in Portland.

**ADDENDUM A
 IMPACTS OF AMENDMENTS ON
 SHORT TERM RENTAL UNITS PER BUILDING**

Two-Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	1 owner-occupied OR 1 tenant-occupied OR 1 non-owner occupied	1 owner-occupied OR 1 tenant-occupied OR 1 non-owner occupied	3 bedrooms in owner unit AND 1 tenant-occupied OR 1 non-owner occupied
Non-Owner Occupied	1 tenant-occupied OR 1 non-owner occupied	1 tenant-occupied OR 1 non-owner occupied	1 tenant-occupied AND 1 non-owner occupied

Three-Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	2 bedrooms in owner unit OR 2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	2 bedrooms in owner unit OR 2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	3 bedrooms in owner unit AND 2 tenant-occupied OR 2 non-owner-occupied OR Combination
Non-Owner Occupied	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	3 tenant-occupied OR 2 non-owner occupied OR Combination

Four-Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	3 bedrooms in owner unit OR 3 tenant-occupied OR 3 non-owner occupied OR Combination (max 3)	2 bedrooms in owner unit OR 2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	3 bedrooms in owner unit AND 3 tenant-occupied OR 2 non-owner-occupied OR Combination
Non-Owner Occupied	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	4 tenant-occupied OR 2 non-owner occupied OR Combination

Five Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	4 bedrooms in owner unit OR 4 tenant-occupied OR 4 non-owner occupied OR Combination (max 4)	2 bedrooms in owner unit OR 2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	3 bedrooms in owner unit AND 4 tenant-occupied OR 2 non-owner-occupied OR Combination
Non-Owner Occupied	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	2 tenant-occupied OR 2 non-owner occupied OR Combination (max 2)	3 tenant-occupied OR 2 non-owner occupied OR Combination

Six-Nine Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	5 bedrooms in owner unit OR 5 tenant-occupied OR 5 non-owner occupied OR Combination (max 5)	4 bedrooms in owner unit OR 4 tenant-occupied OR 4 non-owner occupied OR Combination (max 4)	3 bedrooms in owner unit AND 5 tenant-occupied OR 3 non-owner-occupied OR Permissible combination
Non-Owner Occupied	4 tenant-occupied OR 4 non-owner occupied OR Combination (max 4)	4 tenant-occupied OR 4 non-owner occupied OR Combination (max 4)	6 tenant-occupied OR 3 non-owner occupied OR Combination

Ten+ Unit:

	Ray	Mayor/Cook	Staff
Owner-Occupied	5 bedrooms in owner unit OR 5 tenant-occupied OR 5 non-owner occupied OR Combination (max 5)	5 bedrooms in owner unit OR 5 tenant-occupied OR 5 non-owner occupied OR Combination (max 5)	3 bedrooms in owner unit AND 10+ tenant-occupied OR 3 non-owner-occupied OR Permissible combination
Non-Owner Occupied	5 tenant-occupied OR 5 non-owner occupied OR Combination (max 5)	5 tenant-occupied OR 5 non-owner occupied OR Combination (max 5)	10+ tenant-occupied OR 3 non-owner occupied OR Combination