



STAFF REPORT
DOVER PLANNING AND ZONING COMMISSION
FILE #AM21-22
PROPOSED AMENDMENT TO SHORT-TERM RENTAL STANDARDS

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PROJECT DESCRIPTION: **FILE AM21-022 – SHORT-TERM RENTALS STANDARDS** - The City of Dover has initiated an amendment to its Short-Term Rentals Standards, Section 12-7-4 of Dover City Code, to allow applicants to complete their own life/safety checklists rather than being conducted by the fire district and to set a 14-day deadline from the date of notice for public comment on short-term rental (vacation home) applications. The Dover Planning and Zoning Commission will make a recommendation to City Council, which will hear the amendment at a later date and make the final decision.

APPLICANT: City of Dover
P.O. Box 115
Dover, ID 83825

DATE APPLICATION RECEIVED: Initiated: City of Dover, January 6, 2022

HEARING DATES: Planning & Zoning Commission: February 3, 2022
City Council: Pending

LEGAL NOTICE PROVIDED: Newspaper notice for Planning and Zoning Commission hearing: Published 1/14/22
Notice mailed to taxing districts, school district, and airport manager: Mailed 1/18/22

STAFF REPORT ATTACHMENTS: Draft ordinance dated for 02/03/22
Legal notice, draft life/safety self-inspection checklist and applicable codes

PROJECT SUMMARY:

The City of Dover adopted a short-term rental ordinance in 2017 to provide standards and a permitting process for the rental of residences for fewer than 30 days. Short-term rental (also known as vacation rental) regulations are limited by the Local Land Use Planning Act Section §67-6539, which authorizes the city to establish “reasonable regulations” to safeguard the public health, safety, and general welfare. However, short-term rentals may not be prohibited outright by the city.

Section 12-7-4 E4 of Dover City Code (DCC) requires the short-term rental owner comply with life/safety codes of the current residential and fire codes. Current zoning code requires the fire district or building official to inspect the home prior to issuance of a short-term rental permit to confirm safety features such as fire extinguishers, egress windows, smoke alarms, carbon monoxide detectors, and exit plans are in place. This summer, Selkirk Fire District, which had been conducting the inspections for the city, advised it would no longer offer the service and suggested the self-inspection process. The Idaho Division of Building Safety also advised it cannot assist with the vacation rental inspections. Two short-term rental permits were not able to be issued immediately due to the change in the inspection processes.

Planning staff reviewed the situation with city legal counsel, who concurred with the proposed ordinance amendment to allow life/safety self-inspections. The draft inspection checklist developed by staff is attached to this report, and contains the minimum fire/safety equipment requirements.

In addition to the amendment to the inspection process, this code amendment proposes to set a deadline for public comments. Whenever a short-term rental permit is submitted, Section 12-7 D-4 (DCC) requires the city to notify landowners within 300 feet of the subject property. This section did not establish the deadline for comments. The amendment proposes comments be submitted no later than 14 days from the mailed notice.

Any ordinance amendment must be in accord with the city’s adopted Plan goals and policies, pursuant to state and city codes. A summary of the goals, policies, and implementation sections of the adopted comp plan are provided with this report.

AUTHORITY:

- The authority for cities and counties to enact and amend land use codes is established at Title 67, Chapter 65, of the Idaho Local Land Use Planning Acts.
- The process for considering land use codes and amendments is set forth at §67-6511.
- Idaho Municipal Corporations Title 50, Chapters 3, 9, and 13 provide authority for the City of Dover to adopt ordinances, establish standards, and set procedures.
- Section 12-9-2 of Dover City Code authorizes the Planning and Zoning Commission and City Council to initiate amendments to zoning regulations.

AGENCY COMMENTS:

Notice of the proposed land use amendment has been provided to all political subdivisions within the City of Dover, the school district, the Sandpoint airport manager, and the media. At the time this report was issued, no agencies had provided comment on the proposed amendment.

PUBLIC COMMENTS:

To date, there have been no written public comments submitted to the record.

STANDARDS REVIEW:

Idaho Code §67-6511 (1) (c) requires the governing board analyze the proposed zoning amendment and ensure it is not in conflict with the policies of the adopted comprehensive plan.

Idaho Code §67-6539, "Limitations on Regulation of Short-term rentals and vacation rentals" establishes the authority for cities to enact reasonable regulations related to public health, safety, and general welfare to protect the integrity of residential neighborhoods in which short-term rentals or vacation rentals operate.

Dover City Code (DCC) 12-9-4 requires amendments to the zoning regulations be in accord with the general and specific goals and objectives of the adopted comprehensive plan.

Comprehensive Plan goals and objectives: The decision makers must find the amendment is not in conflict with the adopted Plan. While the governing bodies must consider all elements of the Plan to ensure the proposed code is in accord with the adopted Plan, the portions of the Dover Plan that are particularly pertinent to the short-term rentals include the following: ("P" stands for adopted policy and "G" stands for goal. "I" stands for Implementation. Italicized text provides analysis of how the proposed amendment meets the adopted goals and policies.)

<p>2. Population, Demographics and Housing:</p> <p>2.P.1: Ensure that providing housing for visitors through the sharing economy does not impede the health and safety of residents.</p> <p><i>The proposed amendment to the short-term rental standards retains the requirement for life/safety features in a vacation home, but allows the landowner to submit written confirmation of compliance.</i></p>
<p>Section 3: Community Design, Land Use, Economic Development:</p> <p>3.P.11: Ensure that new development does not negatively impact the safety, health, and environmental quality of Dover.</p> <p><i>A checklist of required safety features will be required to be filed annually by the landowner to ensure compliance with fire and residential codes.</i></p>
<p>10. Hazardous Areas</p> <p>10.P.6: Identify fire evacuation routes for Dover.</p> <p><i>The amendment does not directly require fire evacuation routes for Dover, but does require emergency exits for individual short-term rental homes.</i></p>
<p>11. Private Property Rights</p> <p>11.G.1: Ensure land use policies, restrictions, conditions, and fees do not violate private property rights, or create unnecessary technical limitation of the use of the property.</p> <p>11.G.2: Consider fundamental property rights of all parties and the effects of decisions when adopting and applying planning policies and zoning standards.</p> <p><i>The proposed amendment provides a continued opportunity for neighboring landowners to comment on short-term rental proposals, while setting a deadline for written comments.</i></p> <p><i>The short-term rental opportunities are unchanged by the proposed ordinance. The amendment would allow compliance with life/safety standards to be confirmed by the landowner rather than the building official or fire district.</i></p>

ATTORNEY REVIEW:

The draft ordinance has been submitted to the city attorney for review.

STAFF ANALYSIS:

The short-term rental standards amendment proposes to add a deadline for public comment in the administrative permit processing section of the code. No deadline had been set. There is no state standard minimum for public comment on administrative permits. Deadlines can be set by the local jurisdictions. A two-week noticing period is adequate notice, and is nearly the same as the 15-day

notice required for permits requiring public hearings. The proposal to allow landowners to verify the presence of required life/safety and emergency equipment has become necessary because fire district and state inspectors have declined to offer that service. The self-inspection places the responsibility and liability upon the vacation rental owner. While the third-party professional inspection is preferred, the city does not have that option.

DRAFT MOTIONS FOR GOVERNING BODY:

MOTION TO RECOMMEND APPROVAL: I move to recommend to City Council approval of this file #AM21-22, amending the short-term rental standards to allow applicants to complete their own life/safety checklist and to set a 14-day deadline from the date of notice for public comment on short-term rental applications, finding that it **IS** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, as enumerated in the findings and standards, as presented (or as amended).

MOTION TO CONTINUE: I move to continue this file AM21-22 to [date, time and place] to allow for additional time for [public comment, additional information, etc.].

MOTION TO RECOMMEND DENIAL: I move to recommend denial of this file #AM21-22, amending the short-term rental standards to allow applicants to complete their own life/safety checklist and to set a 14-day deadline from the date of notice for public comment on short-term rental applications, finding that it **IS NOT** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, because [STATE WHAT STANDARDS THE AMENDMENT FAILS TO MEET AND WHY].