

**A PROPOSAL FOR AMENDING AND UPDATING SHORT TERM RENTAL
REGULATIONS IN NESKOWIN
By *Save Our Neighborhoods***

The Neskowin Citizen Advisory Committee (“NCAC”) and its members in June 2021 unanimously supported the formation of a subcommittee to solicit opinions, concerns, and ideas regarding short-term rentals (“STRs”) in Neskowin to assist Tillamook County officials in their decision-making process regarding STRs. As members and supporters of *Save Our Neighborhoods*, we endorse that endeavor and support the following principles and proposals to amend STR regulations affecting Neskowin.

I. A General Statement of Our Position Regarding STRs in Neskowin

Save Our Neighborhoods supports the following general principles and observations regarding STRs in Neskowin:

- Residential housing, and thus one’s home, is a critical component in sustaining a sense of community in Neskowin and for enhancing the quality of life and the health, safety, and welfare of all those who reside in and visit Neskowin.
- The majority of Neskowin’s residents support a diversity of housing uses, including full- or part-time residences, as well as vacation rentals. Neskowin’s sense of community will be preserved if a balance of housing uses is maintained.
- An imbalance of tourist housing in Neskowin will substantially change the livability of Neskowin neighborhoods for those who live here full- or even part-time.
- STRs are a business and investment activity and should be subject to zoning and business regulations.
- *Save Our Neighborhoods* is proposing amendments to STR regulations that will not adversely impact existing family residences used, at least in part, as residences and that are not primarily or exclusively used as commercial enterprises and investment opportunities.
- Left unchecked and given the economics of supply and demand for short-term rentals, Neskowin will become a village dominated by tourist housing. Homes and undeveloped lots are being increasingly sold and marketed in Neskowin as either full-time or part-time STRs. Commercial enterprises are increasingly drawn to Neskowin and other neighboring counties, cities, and towns for the sole purpose of creating and developing STRs in these communities as investment opportunities and profit generators.¹

¹ Numerous recent articles have described the rapid increase of STRs in the United States in those places where people not only want to live but want to visit. *See, for example*, “House Hunters Target Massive Pool of Airbnb Rentals,” *The Oregonian*, June 26, 2021, p. B10.

- Neskowin and Tillamook County are quickly falling behind neighboring counties, cities, and towns that have recently amended and updated their STR regulations or are in the process of doing so – for example, Newport, Manzanita, Lincoln City, and Lincoln County. As these neighboring jurisdictions increasingly place more significant limits on STRs and strengthen the rules by which STRs are regulated, Neskowin will become a magnet for commercial STRs unless similar new limits are proposed, adopted, and enforced.
- Neskowin is an unincorporated community in Tillamook County. Thus, STRs in Neskowin are regulated by ordinances ultimately promulgated by the County. Tillamook County last amended its STR regulations in 2019;² however, these rules have not kept pace with the rapid evolution, proliferation, and impact of STRs in Neskowin.
- In the interest of fairness to Tillamook County officials, the significant increase in STRs in Neskowin and elsewhere in unincorporated areas of Tillamook County has happened so rapidly that it has perhaps been challenging to regulate STRs in a fair and balanced manner. However, the time to act is now. The Tillamook County officials who support the proposals offered herein will earn support from our community.
- Tillamook County’s principal role is to protect the quality of life and the health, safety, and welfare of those who live and work in the county, including those in unincorporated communities such as Neskowin. The primary means to preserve these essential community goals available to Tillamook County officials are zoning ordinances and business regulations.
- Land use (zoning) and business regulations and ordinances should take precedence over the existing Tillamook County STR Ordinance (Ordinance 84). To reverse the priority of these ordinances would be to place the transient use of property associated with STRs and governed by the STR Ordinance above the full- and part-time residential use of property in Neskowin as outlined in the relevant Neskowin land-use ordinances.
- As an administrative and procedural matter, it may very well be logistically easier to modify STR regulations in some respects by amending existing land-use ordinances specific to Neskowin rather than modifying the Tillamook County STR Ordinance that has county-wide application to all unincorporated communities.
- The stated purpose of the Neskowin Low Density Residential Zone (NesKR-1), Section 3.322 of the Tillamook County Land Use Ordinance (Zoning Ordinance) and the primary zone in which most dwellings and residences exist in Neskowin, “is to designate areas for low-density **single family development** and other, compatible, uses.” STRs, particularly those that are created or developed for commercial or investment purposes, have, by their very nature, different uses or purposes than the intended purpose of this land-use ordinance,

² Lincoln County also amended its STR regulations in 2019, but in the last year has been in the process of again amending those rules for the reasons and in the manner described in Section III.D.

namely compatibility with single family residential living. Thus, STRs left unchecked will overtake and undermine the original purpose of this zone.

- The stated purpose of the Neskowin High Density Residential Zone (NesR-3), Section 3.324 of the Tillamook County Land Use Ordinance (Zoning Ordinance) “is to designate areas for a medium to high density mix of dwelling types and other, compatible, uses.” Although this zone arguably might be viewed as more compatible with STRs, limits are needed in this zone to the extent that STRs are created and developed for commercial or investment purposes.
- The failure to enact amended and updated STR regulations as soon as possible in Neskowin will lead to additional adverse effects on the quality of life in Neskowin and deleterious impacts on infrastructure. Neskowin residents are either already experiencing or can foresee future problems with water and sewer capacity, road and bridge maintenance, traffic congestion and associated traffic violations, illegal parking, environmental impacts, and the availability of long-term rental housing.

II. Specific Proposals for Updating and Amending STR Regulations in Neskowin

Save Our Neighborhoods supports updating and amending pertinent ordinances as described in this section, with additional refinements to be decided in further discussions with the NCAC’s STR subcommittee and appropriate Tillamook County staff and entities. We have identified five specific proposals that we believe must be given serious consideration and fully recognize that additional proposals of merit may arise. We have not yet determined whether all or part of these proposals should be implemented as amendments to Neskowin’s land use ordinances or as amendments to the Tillamook County STR ordinance. How our recommendations are implemented ultimately depends on practical, political and legal factors that should become clearer as the process to amend STR regulations unfolds.

A. Assuming that all or part of the five STR proposals can be adopted as amendments to the Neskowin land use ordinances, the proposals might be offered in the following manner:

1. First, by a text amendment to the Tillamook County STR Ordinance (Ordinance 84):

The first sentence in Section 4. “Applicability” of the STR Ordinance, reads: “This Ordinance shall apply within the unincorporated areas of Tillamook County including areas within urban growth boundaries, but shall not apply within the boundaries of any incorporated City.” After that sentence, *Save Our Neighborhoods* recommends adding the following two sentences: “This Ordinance may be modified or amended by provisions in the land use or zoning ordinances of specific unincorporated communities of Tillamook County after review and approval by the appropriate County staff and/or officials. Once such modifications or amendments are enacted, they shall take precedence over any language in this Ordinance to the

contrary.”

2. **Second, by proposed amendments to Neskowin’s land-use or zoning ordinances, Section 3.322, Neskowin Low Density Residential Zone (NeskR-1) and Section 3.324, Neskowin High Density Urban Residential Zone (NeskR-3):**

NOTE: When adopted, four of the following five proposals (i.e., Proposals 1-4) will apply only to new (not continuing) STR permit applications submitted after July 1, 2022. Existing licensed STRs as of July 1, 2022 would be subject to these provisions only when the property is sold, if ownership is transferred to anyone but a family member, or if the STR permit lapses or is revoked. Nevertheless, for the purposes of determining the total number and concentration of STRs in Neskowin as described in Proposals 3 and 4, all licensed STRs will be included in the calculations. Proposal 5 will apply to all existing licensed STRs as of July 1, 2022, as well as those STRs licensed after that date.

Proposal 1: Define STRs as businesses in both zones, NeskR-1 and NeskR-3, governed by these ordinances.

Proposal 2: List STRs as a “Conditional Use” in both zones governed by these ordinances, thus requiring such STRs to meet conditional use requirements described in Section 6.040 of the Tillamook County Land Use Ordinance.

Proposal 3: Limit the total number of STRs in Neskowin to a percentage not to exceed 15% of existing dwellings in NeskR-1 and a percentage not to exceed 20% of existing dwellings in NeskR-3, with the final percentages determined by the NCAC STR subcommittee.³ These limits will require creating a waiting list for the issuance of additional STR licenses as they become available on a first-come, first-served basis. The NCAC STR subcommittee should also consider prohibiting future STRs, whose primary purpose is commercial and not residential, especially in NeskR-1.

Proposal 4: Limit the concentration of STRs on any one street or neighborhood in Neskowin. This limitation can be accomplished in several ways, as demonstrated by STR regulations in other communities, including our neighboring communities. We suggest the following:

- (a) Require that all STRs be spaced not less than 350 feet apart; and

³ In 2019, data identified by the Tillamook County Department of Community Development indicated that the percentage of short-term rentals in Neskowin was 12 percent. See “Short Term Rental Committee Presents Recommendations to Commissioners,” *tillamookheadlightherald.com*, January 2, 2019.

(b) Require that caps on the percentage of STRs permitted in Neskowin as a whole, described in Proposal 3 above, also be applied within each neighborhood in Neskowin (except to the extent STRs are already prohibited in a neighborhood by CCRs or similar agreements.)

Proposal 5: The following additional text amendments are also proposed to pertain to existing licensed STRs and future licensed STRs: (1) The occupancy of an STR shall be limited to two persons per approved sleeping area but shall not exceed a maximum occupancy of twelve persons per day throughout the entire rental period; (2) one vehicle parking space shall be available per approved sleeping area but no more than six vehicles per day shall be parked at any rental throughout the entire rental period; (3) each STR may be rented for no more than 100 days per year.

The text amendments in Proposal 5 can also be adopted for future STR licenses in conjunction with Proposal 2 by simply adding the following sentence to Sections 3.322 and 3.224, paragraph 3 of both Neskowin zoning ordinances, entitled “Uses Permitted Conditionally”: “Short term rentals that meet the following conditions: (1) occupancy of two persons per approved sleeping area but not to exceed a maximum occupancy of twelve persons per day throughout the entire rental period; (2) one vehicle parking space per approved sleeping area but no more than six vehicles per day shall be parked at any rental throughout the entire rental period; (3) the residence will be available to rent for no more than 100 days per year.”

3. Third, by making other amendments to Neskowin’s land-use zoning ordinances:

Save Our Neighborhoods also supports considering other potential text amendments to the relevant ordinances, including but not limited to those related to STR garbage collection, lighting, and noise, and refined complaint contact requirements, as well as proposals that will assist Neskowin and Tillamook County in enforcing and administering the existing and newly-created STR regulations.

B. Assuming that all or part of the STR proposals can be adopted as amendments to the Tillamook County STR Ordinance, the proposals might be offered in the following manner:

The proposals listed in section II.A.1. above as Proposals 1, 2, 3, 4, and 5(3) (i.e., day limits) will require additions to the existing Tillamook County STR Ordinance because the current ordinance as last amended in 2019 has no comparable language. Proposals 5(1) and 5(2) regarding maximum occupancy and parking will require specific amendments to the existing language in that ordinance in section 6 (R) (i.e., occupancy) and Section (T) (i.e., parking). Any additional amendments regarding

garbage collection, lighting, and noise, and refined complaint contact requirements, as well as proposals that will assist Neskowin and Tillamook County to enforce and administer the existing and newly-created STR regulations, will either require additions or amendments to the existing STR Ordinance.

III. Regulations from Comparable Neighboring Communities Supporting the Proposals for Amending and Updating the STR Regulations Described Above.

As noted above, neighboring jurisdictions have recently strengthened their STR regulations or are in the process of doing so – for example, Newport, Manzanita, Lincoln City, and Lincoln County. In making the recommendations above, we have researched and considered the STR regulations, including recent amendments to such regulations, that these jurisdictions have enacted or are evaluating (as well as others throughout Oregon and the United States). Our purpose in doing so is two-fold: first, to demonstrate the rapid evolution of STR regulations in our neighboring communities; and second, to illustrate the sort of STR amendment refinements and innovations that Neskowin should consider in amending its own STR regulations.

Examples of the types of amendments to STR regulations that neighboring jurisdictions have either enacted or are in the process of considering include but are not limited to the following:

A. Newport

By resolution and ordinance amendments approved in May 2019, Newport enacted the following amended STR regulations⁴ that,

- Distinguished “home shares” where an owner rents rooms in the dwelling unit where they reside, and Bed and Breakfast establishments where an owner or manager lives on the premises, from STRs (also called for the purposes of the statute “Vacation Rental Dwellings” (VRDs)) where the entire unit is rented for transient purposes (with “transient” meaning a rental of fewer than 30 days).
- Limited STR occupancy to a maximum of 12 persons per rental by limiting any STR to only five bedrooms per rental (regardless of the actual number of bedrooms or sleeping areas in the dwelling) and allowing two persons per bedroom plus two additional persons per property per rental, with commensurate parking limits.
- Limited the maximum number of licensed STRs at any one time to 176 STRs (Newport has a current population of over 10,000 and Neskowin has a current population of under 200; each community most likely has a roughly proportionate number of homes owned as second homes by residents of other jurisdictions; or,

⁴ For the information described in this section about Newport’s STR regulations, *see* Chapter 14.25 of the Newport Municipal Code, “Short Term Land Use Regulations,” particularly Section 14.25.030, “Approval Standards;” and Resolution No. 3850, “A Resolution Capping the Total Number of Vacation Rental Business Licenses in the City” (May 6, 2019).

at the very least, any such ratio in the two communities is not significantly different.)

- Instituted spacing standards (i.e., proximity limits) to avoid concentration of STRs along any given street segment: “Spacing: Vacation rental use shall be limited to a single building on a lot, or group of lots that abut a street segment. All dwelling units contained within the building are eligible for vacation rental use. For buildings on corner lots, this standard applies to both street segments.”

B. Lincoln City

By ordinance amendments approved in December 2016, the City Council of Lincoln City determined that revised STR regulations were necessary to control the “unfettered” and “uncontrolled” growth of STRs in Lincoln City⁵. The new amendments:

- Determined that in relatively high concentrations full-time vacation rental dwellings “VRDs [STRs for our purposes] are in fact incompatible with residential areas, and that with strict locational and numerical limitations low concentrations of such dwellings can be compatible with residential areas.” The City Council approved an ordinance amendment that capped the number of full-time VRDs in residential zone R1-5 at 10 percent of the total number of lots in the zone to deal with this issue.
- Completely banned new full-time VRDs in all residential zones other than that zoned as R1-5.
- Determined that “accessory use” of a dwelling in residential zones as a VRD would be limited to no more than 30 nights per year. (“Accessory use” is defined by the Lincoln City Municipal Code as “a structure of use incidental and subordinate to the main use of a property”) Prior to this ordinance amendment, the current practice allowed such accessory use VRDs of up to 90 nights per year. Before that, some VRDs in residential zones were expressly limited up to 300 nights per year.

⁵ For the information described in this section about Lincoln City’s STR regulations, *see* Ordinance No. 2016-20 of the Lincoln City Municipal Code.

C. Manzanita

Key relevant Manzanita STR regulations are as follows⁶:

- A cap on all STRs of 17.5% of all dwelling units within residential zones, enacted by ordinance in 2006.
- Manzanita also created a Short-Term Rental Ordinance Oversight Workgroup (“Manzanita STR Workgroup”) in late 2019, composed of public officials, citizen volunteers, and industry experts who were responsible for identifying and categorizing potential strategies to regulate STRs with a specific focus on recommendations to improve livability challenges created by STRs in Manzanita. This group was primarily responsible for amended and strengthened regulations governing occupancy, parking, lighting, noise, and requirements for a local contact person. The amended regulations were first approved by Manzanita in May 2021 and formally enacted in September 2021.
- The Manzanita STR Workgroup also made suggestions regarding the density or concentration of STRs in Manzanita. The Workgroup suggested: (1) requiring short-term rentals to be spaced not less than 90 feet from another short-term rental; and (2) extending the 17.5 % cap on STRs not only to Manzanita as a whole but also to individual neighborhoods in Manzanita.

D. Lincoln County⁷

- For almost two years, Lincoln County has been considering amendments to its STR regulations for its unincorporated communities, even though Lincoln County last amended its STR regulations in 2019. The County took this action at the behest of a group called *15neighborhoods*, formed in 2020 by residents

⁶ For the information described in this section about Manzanita’s STR regulations, *see* Manzanita City Ordinances 95-4, 10-03, 16-05, and 21-06; and “Report to the Manzanita City Council: Short-Term Rentals in Our Community and Their Impact on Neighborhood Livability,” Short-Term Rental Ordinance Oversight Workgroup, February 15, 2021.

⁷ For the information described in this section about Lincoln County’s recent STR amendment efforts, *see* Ordinance 509 of the Lincoln County Code (2019), Ordinance 523 of the Code (2021), and Ballot Measure 21-203, each located at www.co.lincoln.or.us/boc/page/short-term-rental-str-licensing-2021, as well as the following newspaper website articles: “New Short-Term Rental Code Takes Place After Two Years,” *newportnewstimes.com*, April 5, 2021; “Lincoln County Commissioners Miss June 1 Deadline for New Short-Term Rental Regulations, Extend License Moratorium for Another 6 Months,” *yachatsnews.com*, May 25, 2021; “Vacation Rental Phase Out to Appear on Ballot in November,” *newportnewstimes.com*, August 6, 2021; and “Oregon Coast’s Lincoln County Votes to Restrict Vacation Rentals,” *oregonlive.com*, November 3, 2021.

concerned about the expansion of STRs into their communities. Members of this group argued that STRs are detrimental to the quality of life in their neighborhoods, citing such issues as crowding, noise, excess garbage, and overloading of septic systems. The group also contends that the diversion of housing stock for tourist use exacerbates an already difficult market for full-time resident buyers and renters.

- Beginning in early 2020 when Lincoln County began considering new STR regulations, its County Commissioners imposed a moratorium on new STR licenses. This moratorium is currently in effect through March 3, 2022.
- Finally on October 27, 2021, the Lincoln County Commissioners passed Ordinance 523 that included amendments to the short-term rental ordinance. This ordinance contemplated that the County, at some future date, would establish seven geographical subareas and would limit the number of licenses to be issued within each subarea. The ordinance also reduced the occupancy of STRs to two persons per “sleeping area” plus two additional persons.
- Frustrated with the Lincoln County Commissioners’ failure to timely and formally enact strengthened STR regulations, *15neighborhoods* had already succeeded in placing Ballot Measure 21-203 on the November 2, 2021 ballot in Lincoln County. Ballot Measure 21-203 was designed to place more substantial limitations on STR licenses than the controls contained in Ordinance 523. On November 2, Ballot Measure 21-203 passed by 10,080 (58%) to 7,338 (42%) and became effective on November 19, 2021. Under this measure, new STR licenses will no longer be issued in residential neighborhoods zoned as R-1-A, R-1 and R-2 in unincorporated areas of Lincoln County. Existing STRs in these zones will become “non-conforming uses” of real property, will be limited to owners of record when the use becomes non-conforming, will not be transferable to new owners, and will be phased out within 5 years, with some hardship exemptions available. Persons will be limited to having only one STR ownership interest in such residential zones. Overall, STR occupancy will be based upon the number of bedrooms, parking spaces, and septic system capacity.
- By early January 2022, it was not yet clear whether Ordinance 523 passed by the Lincoln County Commissioners or the changes to STR licensing brought about by Ballot Measure 21-203 would be subject to legal reversal. How any conflicts between the ordinance and the ballot measure would be resolved was also undetermined. In November 2021, some of the opponents of the ballot measure brought a lawsuit in Lincoln County Circuit Court seeking both injunctive and permanent declaratory relief from the ballot measure. In December 2021, a Lincoln County Circuit Judge issued a preliminary injunction prohibiting Lincoln County from implementing the ballot measure until at least March 2022, when the Court will hold a hearing on the merits of

the lawsuit if the parties can agree on a schedule. In the meantime, the ordinance passed by the Lincoln County Commissioners is due to go into effect at the end of January 2022, although it too may be the subject of litigation.⁸

IV. Conclusion

Save Our Neighborhoods strongly supports updating and amending STR regulations to prevent adverse effects on the quality of life in Neskowin and to reduce negative impacts on Neskowin's infrastructure. At the same time, supporters of *Save Our Neighborhoods* are also dedicated to democratic participation and discussion. Thus, our current positions and STR amendment recommendations are not etched in stone and are subject to further discussion and refinement. We strongly believe that a thorough consideration of the issues raised by STRs in our community can lead to a broad consensus about the proper regulatory approach regarding STRs. For that reason, we welcome the creation of the NCAC's STR subcommittee and intend to participate fully in STR deliberations with NCAC members and Tillamook County officials.

Our supporters are listed on the next page.

⁸ See "Circuit Judge Stops Lincoln County from Implementing Measure That Phases Out Short Term Rentals Until At Least March," *yachatsnews.com*, December 11, 2021.

Thus far, the following Neskowin residents and/or property owners have supported the foregoing Proposal for Amending and Updating Short Term Rental Regulations in Neskowin. Some of them also support other proposals that would have the same general effect as those identified above. All have been encouraged to submit their ideas to the NCAC's short-term rental subcommittee when it convenes.

Tom and Vickie Prehoditch
Dave and Cathy Benneth
Chris Silkowski and Gale Moore
Barbara Triplett and Bill Busch
Alex Sifford
Russ and Katy Oullette
Candice and Gregory Miller
Mike and Kay Churchill
Mike and Kim Herbel
Gary Billingsley
Patty and Steve Beckham
Lynn Wintermute and Barry Dragoon
Ann Clarke
Patty and Richard Albright
Mary Kimball
Leslie Gordon
Kelly and Terry Woolfe
Wayne and Kathy Ruby
Herb and Linda Crew
Tom and Anne Siep
Jim and Robin Hoke
Dave Romero and Sharon Brown
Kimberly A. Marsh
Scott and Chris Flitcroft

James W. Marsh
T. Patrick Marsh
L. Douglas Marsh
J. Michael Marsh
Daniel E. Marsh
Kellee P. Marsh
James Clarke
Robin and Diana Maassen
Shar and Len Ludwig
Jaci Ljunqvist
Bob and Karen Buza
Jonathan and Alicia McVey
Ira Levin and Michelle Coltman-Levin
Bertram Coltman
Kacey Joyce
Marge Jozsa and Dan Sheridan
Nena Baker
Damon Ogle
David Lythgoe
Paul and Karen Bekins
Nancy Sideris
Mike Reynolds
Lynn Cooper