

**CITY OF MARINE ON ST. CROIX**  
**PLANNING COMMISSION SPECIAL MEETING:**  
**SHORT-TERM RENTAL ORDINANCE**  
**MINUTES**

**Tuesday, July 14, 2020 – 7:00 pm**  
**Virtual Meeting via Zoom**

The City of Marine on St. Croix Planning Commission special meeting of July 14, 2020, was called to order at 7:06 pm. Present: Chair Gerry Mrosła, Commissioners Scott Spisak, Jennifer Henry, Kristina Smitten

Citizens present: Mayor Glen Mills, Councilmembers Gwen Roden and Lon Pardun, Attorney Dave Snyder, Mary Whitaker, Kitsi Vadheim, John Waugh, Mary Vogel.

**Short-Term Rental Ordinance**

The commission reviewed the draft ordinance in light of changes drafted by City Attorney Dave Snyder and Clerk Lynette Peterson.

Attorney Snyder explained that language had been added to confine short-term rental (STR) use to principal homesteads, and to prohibit dedicated STRs. He had questions about whether, in the case of “homesteaded” rentals, the commission wanted to require the owner to be present during the rental or during a specified time of year. He noted they had bolstered some of the violation language to illustrate that if the use wasn’t expressly permitted it would be a violation. Snyder also discussed methods of inquiry and enforcement regarding the requirement for homeowners to reside in the house for a specified period of time during the year. Explaining why the language was changed around trusts and LLCs, Snyder called it a suggestion, noting that none of the proposed changes were particularly strongly recommended. There are some LLCs owned by individuals which exist for estate planning purposes and not a commercial undertaking. If the ultimate requirement was that the owner live in the house, you’d probably be preventing most commercial enterprises. A flat prohibition on alter-ego ownership, an LLC or trust, is probably going to sweep up some legitimate enterprises. Whether that’s a legitimate reason in your mind is a question for you to answer.

Chairman Mrosła noted that his cabin on the St. Croix was an example of this.

Snyder added that none of his suggested changes were made because of a mandate.

Commissioner Henry asked whether it would be easier to be challenged if the city was overly restrictive in not allowing LLCs. She had checked about 20 other cities’ ordinances and none of them have prohibited LLCs. She also suggested adding a definition for “responsible person?”

Snyder said, noting that it’s not a regulating tool other cities have used is probably suggestive. If you do contemplate that you would allow a trust or LLC, it is crucial that you keep on record

contact information for a responsible person. You can't charge an LLC with a misdemeanor violation.

Commissioner Smitten voiced support for removing the natural person language to allow an LLC as long as a responsible person is included on the application. The ordinance does say right after that, "dedicated STRs not allowed."

Snyder suggested bolstering the language "must be for primary use by the owner" with specific, objective criteria because a court would have a hard time enforcing that without more. Requiring it to be homesteaded would be an objectively determinable criterion. Another is a certification that the owner be present, which could be misrepresented. Another would be that you're actually there during the time of the short-term rental. If the overarching requirement is that the property is kept for an individual's use and enjoyment, we need to come up with objectively confirmable criteria.

Smitten recalled a conversation in March when Snyder suggested having applicants sign an affidavit of use that is notarized, and asked whether Snyder still thought that might be an appropriate tool.

He did, adding. "Like you say it's subject to evasion, but a lot of things are. The ordinance can be changed if you decide you need another certification."

Commissioner Spisak added, in reference to the phrase "no dedicated vacation rentals," that "dedicated," might not be quite the right word. Maybe we state "no vacation rentals solely for commercial purposes." Do we have something that would withstand a challenge?

Snyder said they could add to the certification requirement some objective criteria "used and occupied by its owner for a certain number of weeks and months a year." Then add in, "Anything else will be considered a dedicated vacation rental and will not be permitted."

Smitten recalled that initial conversations leaned toward requiring that STR owners have to stay in the property more nights than they rented. Most recently we landed on limiting the number of days per month and year. Could we add in that their affidavit must show that they stayed at the property more days than they rented it out? If they're using it primarily for their own use and enjoyment, they should be there more days than it's rented.

Snyder said this was possible.

Spisak asked commissioners if they were satisfied with the maximum days per month, weekends per month and days per year. They were generally in support.

Smitten voiced concern with the language added around Primary Residence. Someone applying for a license would have to live in the property for at least six months.

Snyder said he and the clerk were aiming for language that would show that the person used it for their own enjoyment. That was just one potential standard that would be more objective. The definition could be modified to reflect a different time frame.

Commissioner Spisak asked about the public hearing and approval process for the ordinance, specifically whether it was acceptable to change the draft after the hearing.

Snyder said it is permissible and even expected to make changes as part of the dialog with the public. Once you decide on the LLC and Primary Residence the rest should fall into place pretty quickly. He offered to revise the draft by Thursday and send it back to the PC.

Mroska added that he'd like staff to put it on the website by Friday.

Councilman Lon Pardun asked whether the city needed to be more specific about the Purpose in case, for instance, the council needed to take someone's license away.

Snyder said this was a good suggestion and it's necessary to add language that explains why it's desirable to have STRs but to regulate them.

Spisak noted that the premise was primarily promoting permanent residential use in the community because then we have people volunteering and contributing to the community.

Smitten added that the comprehensive plan talks about how, as a small community, volunteerism is very important. Encouraging permanent residency doesn't ensure that people will volunteer, but it creates the conditions for engagement in the community.

Snyder proposed adding language like that to the purpose to show that the commission tried to balance all these concerns.

Councilwoman Gwen Roden noted that "dwelling unit" was not defined. Snyder said he would delete "unit" throughout, and the new definition of Primary Residence will handle that concern.

Snyder noted that hosted rentals required owners to be present. Do you want them to be there the whole time, or during some material times, such as during the overnight sleeping hours?

Spisak said being there during the overnight hours would clarify that, and that might be the time of most concern for the community. Smitten concurred.

Roden noted that the Schoolhouse Apartments were currently the only multi-unit dwelling, but the committee wanted to leave it open-ended, in case other multi-unit housing was created in town. Later in the ordinance we do refer specifically to the School House Apartments. What do you think, Commission, should be just use School House Apartments?

Smitten thought it better to refer to the use, because the Schoolhouse Apartments could turn into something else.

Snyder offered to add language specifying "multi-family dwellings in use at the time of this ordinance," and added that he would turn the draft in by close of business Thursday, if not before.

Mrosla suggested getting back to zoning codes the first week or two of August.  
Suzanne will send out a Doodle poll.

Adjournment

*Henry moved and Spisak seconded to adjourn at 8:09 pm. Roll call vote: Mrosla – Aye; Spisak – Aye; Smitten – Aye; Henry – Aye;. Motion passed unanimously.*

Minutes taken by Suzanne Dammann, Assistant City Clerk.