

**WALDPOR CITY COUNCIL
SEPTEMBER 11, 2018
SPECIAL MEETING NOTICE AND AGENDA**

The Waldport City Council will meet in a special meeting at 6:00 p.m. on Tuesday, September 11, 2018 in the City Council Meeting Room, 125 Alsea Highway to take up the following agenda:

1. CALL TO ORDER AND ROLL CALL
2. CITIZEN COMMENTS/PRESENTATIONS
3. COUNCIL COMMENTS/CONCERNS
4. WORKSHOP DISCUSSION: Transient Lodging Tax/Vacation Rental Rules
5. GOOD OF THE ORDER
6. ADJOURNMENT

The City Council Meeting Room is accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall, (541)264-7417, during normal office hours.

* Denotes no material in packet

Notice given this 7th day of September, 2018 - Reda Q. Eckerman, City Recorder



CITY COUNCIL MEETING AGENDA COVER SHEET FOR DISCUSSION / ACTION

TITLE OF ISSUE: Transient Lodging Tax/Vacation Rental Workshop

REQUESTED BY: City Council

FOR MEETING DATE: September 11, 2018

SUMMARY OF ISSUE:

Many cities in the State of Oregon, as well as nationally, are dealing with and managing vacation rentals in a variety of ways. This workshop is to review and discuss tools or ideas that may be useful for the City of Waldport with which to regulate or manage vacation rentals.

STAFF RECOMMENDATION or ACTION REQUESTED:

Hold workshop, review materials, and direct staff as warranted or desired.

BACKGROUND:

Vacation rentals are part of the “sharing” economy. Local cities have researched and addressed them in a variety of ways. Attached for information and use in framing the possibilities and generating discussion are the following items:

1. City of Waldport updated draft Municipal Code (up to 30 days; changing to 10%)
2. City of Lincoln City
 - a. Municipal Code
 - b. Approval Process
3. City of Newport
 - a. Vacation Rental Code Update (8/15/2018)
 - b. Overview and Observations
4. City of Yachats
 - a. Municipal Code
 - b. Background information from city website

Attachments: Waldport Draft Code/Information from various local cities

3.04 Transient Lodging Tax

Sections:

- 3.04.010 Definitions.
- 3.04.020 Tax imposed.
- 3.04.030 Collection of tax-Rules for collection.
- 3.04.040 Lodging Tax Collector duties.
- 3.04.050 Exemptions.
- 3.04.060 Registration of operator - Certification of authority.
- 3.04.070 Due date - Returns and payments.
- 3.04.080 Penalties.
- 3.04.090 Deficiency determinations - Lodging Tax Collector delay.
- 3.04.100 Redeterminations.
- 3.04.110 Security for collection of tax.
- 3.04.120 Lien
- 3.04.130 Refunds.
- 3.04.140 Collection Fee
- 3.04.150 Administration.
- 3.04.160 Appeal to the City Council.
- 3.04.170 Violations.
- 3.04.180 Penalties.

3.04.010 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

"Accrual accounting" means the lodging tax collector enters the rent due from a transient on his or her records when the rent is earned, whether or not it is paid.

"Cash accounting" means the lodging tax collector does not enter the rent due from a transient on his or her records until rent is paid.

"City Council" means the City Council of the City of Waldport, Oregon.

"Lodging facility" means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space in mobile home or trailer parks, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than or equal to a thirty (30) day period.

"Lodging intermediary" means a person other than an operator that facilitates the retail sale of lodging facilities and: a) charges for occupancy of the lodging facility; b) collects the

consideration charged for occupancy of the lodging facility; or c) receives a fee or commission and requires the operator to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

"Lodging tax collector" means an operator or a lodging intermediary.

"Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a lodging facility or portion thereof.

"Operator" means a person that furnishes lodging in a lodging facility. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provision of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

"Person" means any individual, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

"Registered guest" means any individual who exercised occupancy or is entitled to occupancy in a lodging facility for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a registered guest checks out of the lodging facility shall not be included in determining the thirty (30) day period if the registered guest is not charged rent for that day by the lodging tax collector. Any individual so occupying space in a lodging facility shall be deemed to be a registered guest until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a registered guest, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a registered guest. An owner of a condominium unit, or any other person residing in the same, who is required to pay any consideration for the use of the unit, shall be deemed a registered guest.

"Rent" means the consideration charged, whether or not received by the lodging tax collector, for the occupancy of space in a lodging facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit or personal use or for occupancy by such owner, so long as the charges are made in connection therewith for space occupancy.

"Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination

of occupancy tax under this chapter shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of occupancy tax under this chapter shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

"Tax" means either the tax payable by the registered guest or the aggregate amount of taxes due from a lodging tax collector during the period for which he or she is required to report his or her collections.

"Tax administrator" means the City Manager of the City of Waldport, Oregon or his or her designee.

3.04.020 Tax imposed.

For the privilege of occupancy in any lodging facility, each registered guest shall pay a tax in the amount of ten percent of the rent charged by the lodging tax collector. The tax constitutes a debt owed by the registered guest to the City which is extinguished only by payment by the lodging tax collector to the City. The registered guest shall pay the tax to the transient tax collector of the lodging facility at the time the rent is paid. The lodging tax collector shall enter the tax on his or her records when rent is collected if the lodging tax collector keeps his or her records on the cash accounting basis and when earned if the lodging tax collector keeps his or her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the registered guest to the lodging tax collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms and accommodations.

3.04.030 Collection of tax - Rules for collection.

A. Every lodging tax collector renting lodging facilities in this City, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the registered guest. The tax collected or accrued by the lodging tax collector constitutes a debt owing by the lodging tax collector to the City.

B. In all cases of credit or deferred payment of rent, the payment of tax to the lodging tax collector may be deferred until the rent is paid, and the lodging tax collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

C. The tax administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be

remitted.

3.04.040 Lodging tax collector duties.

Each lodging tax collector shall collect the tax imposed by this chapter at the same time as the rent is collected from every registered guest. The amount of tax shall be separately stated upon the lodging tax collector's records, and any receipt rendered by the lodging tax collector. No lodging tax collector of a lodging facility shall advertise that the tax or any part of the tax will be assumed or absorbed by the lodging tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.

3.04.050 Exemptions.

No tax imposed under this chapter shall be imposed upon:

A. Any occupant for more than thirty (30) successive calendar days with respect to any rent imposed for the period commencing after the first thirty (30) days of such successive occupancy; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a registered guest);

B. Any occupant whose rent is of a value less than two dollars per day;

C. Any occupant whose rent is paid to a health care facility, including hospitals, medical clinics, convalescent homes, homes for the aged, and long-term care facilities.

D. Any occupant whose rent is paid to a public institution owned and operated by a unit of the government.

E. Any occupant whose rent is paid to a facility providing treatment for drug or alcohol abuse or providing mental health treatment.

F. Any occupant whose rent is funded through a contract with a government agency and the purpose of such occupancy is to provide emergency or temporary shelter.

G. Any occupant whose rent is paid to a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility.

H. Any occupant who rents a private home, vacation cabin, or similar residential facility from any lodging operator who rents such facility incidentally to the lodging operator's own personal use thereof, and where the total number of rental days for the facility are less than 30 days per year.

I. Any occupant who is a federal employee on official federal government business.

3.04.060 Registration of operator - Certification of authority.

Every person engaging or about to engage in business as an operator of a lodging facility in this City shall register with the tax administrator on a form provided by him or her. Operators engaged in business at the time the ordinance codified in this chapter is adopted must register not later than thirty (30) calendar days after passage of this chapter. Operators starting business after the ordinance codified in this chapter is adopted must register within fifteen (15) days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration sets forth the name under which the operator transacts or intends to transact business, the location of his or her place or places of business and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the lodging facility;
- C. The date upon which the certificate was issued;

D. The issued certificate shall state the following: "This Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Ordinance of the City of Waldport by registration with the tax administrator for the purpose of collecting from registered guests the occupancy tax imposed by said City and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a lodging facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Waldport. This certificate does not constitute a permit."

3.04.070 Due date - Returns and payments.

A. The tax imposed by this chapter shall be paid by the registered guest to the lodging tax collector at the time that rent is paid. All amounts of such taxes collected by any lodging tax collector less the cost charged by credit card companies when credit cards are used as consideration for occupancy are due and payable to the tax administrator on a quarterly basis on or before the last day of the month following each calendar quarter (in the months of April, July, October and January) and are delinquent on the first day of the month following (in the months of May, August, November and February). The tax administrator

has authority to classify and/or district the lodging tax collectors for determination of applicable tax periods, and shall notify each lodging tax collector of the due and delinquent dates for the lodging tax collector's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter returns shall be made for the applicable quarterly period.

B. On or before the last day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every lodging tax collector liable for payment of tax.

C. Returns shall show the total rent and fees for each month in the quarter on a separate line, with a total for the quarter.

D. The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his or her office, either by personal delivery or by mail before the last day of the month following each quarter of collection. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

E. For good cause, the tax administrator may extend for not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted, except by the City Council. Any lodging tax collector to whom an extension is granted shall pay the delinquent fees unless waived by the City Council.

F. The tax administrator, if he or she deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

3.04.080 Penalties.

A. Original Delinquency. Any lodging tax collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay ten (10) percent of the amount of the tax due and a delinquency fee of \$100 in addition to the amount of the tax.

B. Continued Delinquency. Any lodging tax collector who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay an additional ten (10) percent for each thirty (30) day period the tax remains delinquent.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Penalties Merged with Tax. Every penalty imposed under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

E. Petition for Waiver. Any lodging tax collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the lodging tax collector may petition the City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

3.04.090 Deficiency determinations - Lodging tax collector delay.

A. Deficiency Determinations. If the tax administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.04.080 of this chapter.

1. In making a determination the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties on the underpayments.

2. The tax administrator shall give to the lodging tax collector or occupant a written notice of his or her determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the lodging tax collector at his or her address as it appears on the records of the tax administrator. In case of service by mail of any notice required by this chapter, it shall be served by mailing such notice by registered mail, postage prepaid, return receipt requested.

3. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or with three (3) years after the return is filed, whichever period expires the later.

4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within twenty (20) days after the tax administrator has given notice thereof, provided, however, the lodging tax collector may petition redemption and refund if the petition is filed before the determination become final as herein provided.

B. Fraud, Refusal to Collect, Evasion. If any lodging tax collector shall fail or refuse to collect said tax or to make within the time provided in this chapter any report or remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed in

such manner as he or she may deem best to obtain the facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any lodging tax collector who has failed or refused to collect the same and to report and remit said tax, he or she shall proceed to determine and assess against such lodging tax collector the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years of the discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable upon receipt of notice and shall become final within twenty (20) days after the tax administrator has given notice thereof, provided, however, the lodging tax collector may petition for redemption refund if the petition is filed before the determination becomes final as herein provided.

C. Lodging Tax Collector Delay. If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the lodging tax collector shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the lodging tax collector may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within twenty (20) days from the date of service of notice by the tax administrator.

3.04.100 Redeterminations.

A. Any person against whom a determination is made under Section 3.04.090 of this chapter or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 3.04.090 of this chapter. If a petition for redetermination and refund is not filed within the time required in Section 3.04.090 of this chapter, the determination becomes final at the expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her twenty (20) days notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

C. The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

D. The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final twenty (20) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within

the twenty (20) days after the service of such notice.

E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the lodging tax collector has first complied with the payment provisions hereof.

3.04.110 Security for collection of tax.

A. The tax administrator, whenever he or she deems it necessary to insure the compliance with this chapter, may require the lodging tax collector to deposit with him or her such security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the lodging tax collector's estimated average quarterly liability for the period for which he or she files returns, determined in such a manner as the tax administrator deems proper, or five thousand dollars (\$5,000.00), whichever amount is less. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided. The lodging tax collector has a right to appeal to the City Council any decision of the tax administrator made pursuant to this section. The lodging tax collector's right to appeal is pursuant to Section 3.04.150.

B. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the tax administrator may bring any action in the courts of this State, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and reasonable attorney's fees, to be determined by the court, together with court costs.

3.04.120 Lien

Any deficiency for occupancy room taxes identified in a final deficiency determination shall become a lien against the real property used for the lodging facility upon which the occupancy tax has been assessed. The tax administrator shall cause a lien to be entered in the lien docket of the City.

In addition to other remedies provided in this chapter, any deficiency for occupancy taxes identified in a final deficiency determination shall be deemed a debt owed by the occupancy tax collector to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Waldport for the recovery of such amount. In lieu of filing an action for the recovery, the City may submit deficiencies to a collection agency. In the event the City turns over a deficient tax account to a collection agency, the City may add to the amount owing an amount equal to the collection agency fees, not to exceed twenty-five percent of the outstanding tax owing. The City shall provide notice as may be required by state law.

3.04.130 Refunds.

A. Refunds by the City to the Lodging Tax Collector. Whenever the amount of any tax or penalty has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the lodging tax collector from whom it was collected or by whom paid and the balance may be refunded to such lodging tax collector, his or her administrators, executors or assignees.

B. Refunds by City to Registered Guest. Whenever the tax required by this chapter has been collected by a lodging tax collector, and deposited by the lodging tax collector with the tax administrator, and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator, it may be refunded by the tax administrator to the registered guest, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the tax administrator within three (3) years from the date of payment.

C. Refunds by Lodging Tax Collector to Tenant. Whenever the tax required by this chapter has been collected by the lodging tax collector and it is later determined that the tenant occupies the lodging facility for a period exceeding thirty (30) days without interruption, the lodging tax collector shall refund to such tenant the tax previously collected by the lodging tax collector from that tenant as a registered guest. The lodging tax collector shall account for such collection and refund to the tax administrator. If the lodging tax collector has remitted the tax prior to the refund or credit to the tenant, he or she shall be entitled to a corresponding refund under this section.

3.04.140 Collection Fee

Every lodging tax collector liable for collection and remittance of the tax imposed by this chapter may withhold seven (7) percent of the net tax herein collected, to cover the lodging tax collector's expense in collection and remittance of the tax.

3.04.150 Administration.

A. Records Required From Lodging Tax Collectors. Every lodging tax collector shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the lodging tax collector for a period of three (3) years and six (6) months after they come into being.

B. Examination of Records - Investigations. The tax administrator or any person authorized in writing by him or her, may examine during normal business hours the books, papers and accounting records relating to room sales of any lodging tax collector, after notification to the lodging tax collector liable for the tax, and may investigate the business of the lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the lodging tax collector, to ascertain and determine the amount required to be

paid.

C. Confidential Character of Information Obtained. Disclosure shall follow the Public Records Laws of the State of Oregon.

3.04.160 Appeal to the City Council.

Any person aggrieved by a decision of the tax administrator may appeal to the City Council by filing notice of appeal with the tax administrator within twenty (20) days of the serving or mailing of the tax notice of a decision given by the tax administrator. The tax administrator shall transmit the notice of appeal together with the file of the appealed matter to the City Council, who shall fix a time and place for hearing such appeal from the decision of the tax administrator. The City Council shall give the appellant not less than twenty (20) days written notice of the time and place of hearing of the appealed matter. Action by the City Council on appeals shall be decided by a majority of the City Council present at the meeting where such appeal is considered.

3.04.170 Violations.

It is unlawful for any person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

3.04.180 Penalties.

Any person who violates any of the provisions of this chapter, as now constituted or hereafter amended or revised, commits a Class A civil infraction and shall be subject to the procedures and penalties of Chapter 1.08 of this code, as now constituted or hereafter amended or revised.

**Chapter 5.14
VACATION RENTAL DWELLING LICENSE**

Sections:

- 5.14.010 Purpose.
- 5.14.020 Definitions.
- 5.14.030 Revocable annual vacation rental dwelling license required.
- 5.14.040 Application and fee.
- 5.14.050 Standards for issuance of license.
- 5.14.055 License standards.
- 5.14.060 Criteria for approval of a license and license renewal.
- 5.14.070 Additional operational requirements.
- 5.14.080 License renewal.
- 5.14.090 Appeals of VRD license determinations.
- 5.14.100 Complaints.
- 5.14.110 Revocation procedure.
- 5.14.120 Discontinuance of vacation rental dwelling occupancy.
- 5.14.130 Violations – Penalties.

* Editor's note: Ordinance 2009-11 §§ 2, 3 provide:

The provisions of Ordinance Nos. 2007-11 and 2008-07 as readopted in Section 1 will continue to apply to all vacation rental dwelling permits issued under those ordinances as of June 21, 2009, until such time as the permits expire under their terms or on the latest possible renewal date, or expire by operation of law under Ordinance Nos. 2007-11 and 2008-07, whichever comes first.

A vacation rental permit due to expire December 31, 2009, will be subject to renewal only as a license under the provisions of Ordinance Nos. 2009-02 and 2009-03.

5.14.010 Purpose.

A vacation rental dwelling license is a limited permission to use property for vacation rental. A license may be suspended, terminated or revoked if the standards of this chapter are not met or the dwelling is sold or otherwise transferred as defined in this chapter. This chapter provides an administrative framework for licensing the annual operation of a vacation rental. (Ord. 2009-03 § 1)

5.14.020 Definitions.

A. "Sale or transfer" means any change of ownership during the lifetime of the license holder, whether or not there is consideration, or after the death of the license holder, except a change in ownership where title is held not as tenants in common but with the right of in survivorship (e.g., survivorship estates recognized in ORS 93.180, such as with a spouse or domestic partner, or transfers on the owner's death to a trust which

benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner). Exceptions:

1. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to license revocation so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the license held by the transferor shall terminate.

2. A license holder may transfer ownership of the real property to the license holder and a spouse or domestic partner with the right of survivorship and not be subject to license revocation; provided, that if the property subject to the license is in a residential zone the spouse or domestic partner does not own an interest in another vacation rental dwelling in a residential zone.

B. "Person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his or her property to a trust of which the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit in a residential zone that has a vacation rental dwelling license. If the owner is a business entity such as a partnership, corporation, limited liability company, limited partnership, limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit in a residential zone that is used for vacation rental or has a vacation rental dwelling license.

C. "Vacation rental" has the definition stated in LCMC 17.08.010. (Ord. 2017-13 § 1; Ord. 2016-14 § 2; Ord. 2009-03 § 1)

5.14.030 Revocable annual vacation rental dwelling license required.

The owner of a vacation rental dwelling shall obtain an annual revocable vacation rental dwelling license under this chapter to lawfully advertise, offer, operate, rent, or otherwise make available for occupancy or use a vacation rental dwelling. (Ord. 2009-03 § 1)

5.14.040 Application and fee.

A. Application Required. Prior to engaging in the use of a vacation rental dwelling for any period of time, a person shall apply for a revocable license for a vacation rental dwelling on forms provided by the city, demonstrating the application meets the standards required of this chapter. A person shall submit a completed application along with

payment of the applicable fee. A copy of the approval of the planning and community development director of an application for vacation rental dwelling use as provided in LCMC 17.80.050 shall be required to be attached to the license application under this subsection. If a license application does not include all required information, including a copy of the planning and community development director's approval and the required fee, the application will be considered incomplete and the city will notify the applicant in writing explaining the information required. If the applicant provides the missing required information within 60 days of the date of the notice, the application will be reviewed. If the applicant cannot provide the required information, the applicant may withdraw the application and the city will refund the application fee.

B. License Fee. The fee for application for a vacation rental dwelling license or license renewal shall be in an amount to recover the city's actual costs of reviewing and issuing the license application or license renewal application, including any required inspections, and shall be established by resolution of the city council. In addition, a vacation rental dwelling licensee shall obtain a business occupation tax permit under LCMC 5.04.040 but is not required to pay an application fee under LCMC 5.04.060 for a business occupation tax permit in addition to the application fee for an annual vacation rental dwelling license. (Ord. 2010-12 § 1; Ord. 2010-11 § 1; Ord. 2009-03 § 1)

5.14.050 Standards for issuance of license.

A revocable vacation rental dwelling license shall be issued for a period of one calendar year or portion thereof and may be renewed annually provided all applicable standards of this chapter are met.

A. The license shall be issued in the name of the property owner and is not transferable. The license shall terminate and be deemed void when the license holder sells or transfers the property approved as a vacation rental dwelling. Except for exempted transfers related to right of survivorship, (LCMC 5.14.020(A)), the death of a license holder terminates the VRD license. If upon the death of the license holder the ownership of the property transfers by operation of law to an executor or heir, then the license, subject to the license renewal process, shall provisionally continue in effect for a period of one year or until the heir or executor transfers the property to another person, whichever occurs first.

B. The city shall approve an application for a vacation rental dwelling license or license renewal if all the following are met:

1. The property proposed to be licensed for vacation rental is located in a commercial zone, or the property is located in a residential zone and the owner

does not have an ownership interest in any another property in a residential zone used or approved for use as a vacation rental dwelling.

2. The planning and community development director has determined the property complies with LCMC 17.80.050.

3. The owner has provided information sufficient to verify a qualified person will be available to be contacted about use of the vacation rental during and after business hours.

4. The owner has agreed to comply with all license and operational standards including any conditions such as specific occupancy requirements. (Ord. 2016-14 § 1; Ord. 2009-03 § 1)

5.14.055 License standards.

The city will provide a form for application designed to assist the applicant in providing information adequate to determine whether the standards of this chapter are met. The application shall provide the following information:

A. Owner Information. Owner's name, permanent residence address, permanent residence telephone number, and vacation home address and telephone number.

B. Local Representative Information. If the owner permanently resides within the Lincoln City urban growth boundary, the owner may be the local representative provided the owner meets all applicable requirements of this chapter. If the owner does not permanently reside within the Lincoln City urban growth boundary, the owner shall provide the name, address, and telephone number of a local representative who can be contacted concerning use of the vacation rental dwelling in the event the owner is not available. The telephone number of the local representative shall be operative during regular business hours, 8:00 a.m. to 5:00 p.m., and after business hours and on weekends. The local representative shall be a permanent resident within the Lincoln City urban growth boundary, or an individual staff of a business that manages rental of real property with a physical office open to the public within the Lincoln City urban growth boundary and staffed with at least one person.

C. The applicant shall attach a copy of the determination of the planning and community development director that the proposed vacation rental dwelling complies with LCMC 17.80.050.

D. The applicant shall certify that no person identified as an owner on the application also owns other property in a residential zone in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use.

E. The applicant shall certify the dwelling complies with all operational standards of this chapter, including smoke alarm and smoke detector requirements, and that all information provided in the application is true. Providing false information in the application is a violation of this chapter and may be enforced as a Class B violation. A reasonable belief the application information is false is also a basis to revoke a license.

F. The applicant shall demonstrate compliance with the applicable approval criteria of LCMC 5.14.060, including health and safety standards, prior to the initial issuance of a vacation rental license or renewal of a license. (Ord. 2015-10 §§ 5, 6; Ord. 2014-07 § 1; Ord. 2009-03 § 1. Formerly 5.14.060)

5.14.060 Criteria for approval of a license and license renewal.

A. The applicant has the burden to submit competent substantial evidence to the city to demonstrate compliance with each and every applicable criterion for approval or renewal of the license. The approval criteria also operate as continuing code compliance obligations of the owner, also referred to as operational standards. City staff is responsible for review of the evidence for compliance with the criteria. Staff may verify evidence by independent investigation and the applicant shall cooperate fully in any such investigation.

B. To receive approval, an applicant for a vacation rental dwelling license or license renewal shall demonstrate with competent substantial evidence that all approval criteria listed below have been satisfied:

1. Transient Room Tax Compliance.

a. The owner shall demonstrate compliance with Chapter 3.04 LCMC, Transient Room Tax.

b. In the case of a renewal, if the owner is currently subject to a notice of violation, or citation for failure to comply with any applicable requirements of Chapter 3.04 LCMC (Transient Room Tax), including but not limited to failure to report, remit payment or failure to submit to an audit, all VRD operations (including operations during the grace period in the new calendar year) shall be suspended, even if the owner has timely submitted an application for renewal. If the owner has been convicted of any violation of Chapter 3.04 LCMC within the last year, the city shall deny the VRD renewal application.

2. Land Use Compliance. [Reserved]

3. Ownership Limitation for Residential VRDs, Exception for Roads End.

a. [Reserved]

b. Lawfully established VRDs in Roads End (as defined in Ordinance 2012-10) existing and lawfully operating as of July 1, 2013, shall not be counted as more than one VRD ownership when applying the VRD ownership limitation of this chapter.

4. Health and Safety.

a. Maximum Overnight Occupancy. The maximum overnight occupancy of a vacation rental dwelling shall be as follows:

i. In no event shall the occupancy of a vacation rental dwelling (VRD) exceed the limits of the 1997 Uniform Housing Code; and

ii. In no event shall a VRD exceed "lodging house" limitations of the Oregon Residential Specialty Code. These limitations include:

(A) In no event shall use and occupancy of more than five guest rooms be permitted in a VRD. For purposes of this code, a guest room is a bedroom or any other space within the dwelling designed and intended to be used for sleeping; and

(B) In no event shall overnight occupancy of a VRD structure exceed 16 persons; and

iii. Occupancy shall not exceed the limitations identified herein except in a vacation rental dwelling constructed pursuant to (or retrofitted for compliance with) the current Oregon Structural Specialty Code and only in commercial zoning districts or such other districts as council may authorize by ordinance. For the purposes of this provision, commercial zoning districts are the general commercial (GC) zone, the recreation commercial (RC) zone, the Taft Village Core (TVC) zone, the Nelscott Business District (NBD) zone, the Nelscott Beachside Mixed Use (NBMU) zone, the Oceanlake Plan District (OPD) zone, and the Vacation Rental (VR) zone; and

iv. In no event shall the occupancy exceed three times the number of bedrooms in the VRD, plus one additional occupant, not to exceed a total

of 16 occupants, except as allowed in subsection (B)(4)(a)(iii) of this section; and

v. The license shall state clearly the numeric occupancy limit for the dwelling, including specifically the number of bedrooms.

b. Structural Safety.

i. Bedroom Egress Windows and Doors.

(A) Bedrooms shall have an egress window or exterior door that is operable, with a minimum opening size of 5.7 square feet, and such window or door shall be not more than 44 inches above the finished floor;

(B) The recognized Oregon Building Code exception to reduce the 5.7-square-foot opening to a five-square-foot opening (for the ground floor only) is authorized;

(C) The vacation rental occupancy of the dwelling shall be reduced to conform to the available number of bedrooms with qualifying egress windows or doors and such limitations shall be clearly posted in the VRD;

(D) For construction predating July 1, 1974, the city manager or designee may reduce the minimum opening size or vary the height limit in subsection (B)(4)(b)(i)(A) of this section as follows:

(1) The opening size must be no smaller than 20 inches in width, and no smaller than 22 inches in height. The total minimum opening size can be no less than four square feet.

(2) If the window sill height exceeds 44 inches but is 52 inches or less above the finished floor, the noncompliance may be mitigated with the permanent installation of a step below the window. The step shall be no more than eight inches high and no less than nine inches deep and shall extend the full width of the window. As an alternative to the step, a ladder is permitted. Such ladder shall be permanently affixed, be at least 12 inches in width, and have rungs at least three inches from the wall. Rungs are not to be separated by more than 18 inches on center, vertically.

The above reductions and alterations are permitted only upon submittal of the owner's executed hold harmless agreement with the city concerning the noncompliant construction; and

ii. Staircases with four or more risers and lofts, platforms, decks, or porches that are more than 30 inches above the floor below (if inside the dwelling) or above the finished grade (if outside the dwelling) shall have hand and/or guard railings. Interior and exterior hand railings shall be between 30 to 38 inches in height as measured from the toe of the stair. Guard rails shall be a minimum of 34 inches in height for stairs and at least 36 inches in height for flat surfaces. All hand and guard rails shall be secure, and guard rails shall have openings with a maximum width of nine inches (or the required width at the time the railings were installed if the required width was less than nine inches) between guard rails or on open stairs. The provisions of this subsection do not apply to landscape "stair" features except when such stairs provide direct access to the structure or accessory structure. The applicant has the option to close or improve a noncompliant feature, provided the feature does not provide needed access; and

iii. All electrical plug-ins and light switches shall have face plates; and

iv. Electric breaker boxes shall be unobstructed and shall have all circuits labeled, and all empty breaker spaces plugged; and

v. All exterior, kitchen, utility sink, and bathroom plugs shall have GFCI (ground fault circuit interrupter) protected plug receptacles; and

vi. All rooms used for sleeping and all hallways between a potential fire source and sleeping areas shall have functioning smoke detectors; and

vii. Functioning carbon monoxide alarms shall be installed if the unit (A) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (B) includes an attached garage with an opening that connects directly with a living space. Such alarms shall be in compliance with State Fire Marshal rules and any applicable requirements of the State Building Code. A written notice containing instructions for testing the alarm shall be available at the premises; and

viii. Units shall have no obvious tripping hazards; and

ix. Vacation rental dwellings shall meet the building and specialty codes in effect at the time of their construction, and any alterations and repairs shall meet the building and specialty codes in effect at the time of their construction; and

x. Vacation rental dwellings shall have clearly visible house numbers and such numbers shall be illuminated or reflective to facilitate emergency response; and

xi. Vacation rental dwellings shall have posted the appropriate (north/south) DOGAMI Tsunami Evacuation Map. The map shall be a minimum size of 11 inches by 17 inches; and

xii. As regards any of the standards in subsections (B)(4)(b)(i), (ii) and (ix) of this section, a renewal application may satisfy the requirement to certify compliance with the above standards if the owner has agreed in writing to fully comply within a reasonable period of time (not to exceed 180 days) as set forth in a corrective order of the building official or planning director, as applicable.

c. Mandatory Postings. The vacation rental dwelling license issued by the city shall be affixed to a wall within the interior of the dwelling adjacent to the front door. At a minimum, the license will contain the following information:

i. A number or other identifying mark unique to the vacation rental dwelling license which indicates the license is issued by the city of Lincoln City, with the date of expiration;

ii. The name of the owner or local representative and a telephone number where the owner or local representative may be contacted at all times;

iii. The telephone number and website address of the city of Lincoln City and the Lincoln City police department;

iv. The number of approved parking spaces outside the garage and the maximum number of vehicles permitted on the property;

v. The maximum occupancy permitted for the vacation rental dwelling;

vi. Any prohibited occupancy, such as sleeping rooms not available for use due to parking or egress limitations;

vii. The solid waste collection day and requirement to place all garbage in approved containers;

viii. Required Lincoln City quiet hours pursuant to the noise ordinance (Chapter 9.10 LCMC) between 9:00 p.m. and 7:00 a.m.; and

ix. Any required information and conditions specific to the license.

d. Vector Control.

i. Vector control measures shall be employed to prevent vector infestations in vacation rental dwellings.

ii. Insect and rodent control measures to safeguard public health and to prevent nuisance to the public shall be applied. Developed areas, buildings, and structures shall be maintained free of accumulation of debris.

e. Spas and Swimming Pools. Any spa or swimming pool located at or operated in connection with a vacation rental dwelling must comply with the following requirements:

i. "Spa" means any pool designed primarily to direct water or air-enriched water under pressure onto the bather's body with the intent of producing a relaxing or therapeutic effect. "Swimming pool" means an artificial structure and its appurtenances, which contains water more than two feet deep which is expressly designated or which is used with the knowledge and consent of the owner or operator for swimming or recreational bathing.

ii. Water quality shall be maintained within the following limits:

Parameter	Minimum	Ideal	Maximum
Free chlorine	1.5 ppm	3.0 ppm	5.0 ppm
Combined chlorine	0	0	0.5 ppm
Bromine	3.0 ppm	3.0 – 5.0 ppm	8.0 ppm
Total copper	0	0	1.0 ppm
Total silver	0	0	0.05 ppm

Parameter	Minimum	Ideal	Maximum
pH	7.2	7.4 – 7.6	7.6
Total alkalinity as CaCO ₃	80 ppm	90 – 110 ppm	180 ppm
Cyanuric acid	0	0	150
Calcium hardness	150	200	400+
Water temperature		102	104

iii. Water quality shall be tested and the results logged on an appropriate form, not more than 24 hours before each change of occupants at the vacation rental dwelling. The water quality test results log must be made available for inspection by city staff upon request.

iv. Spa water shall be oxidized or superchlorinated as needed when combined chlorine exceeds spa water quality parameters as defined in this subsection.

5. No Pending Actions or Violations. The owner of a vacation rental dwelling shall not be the subject of a pending criminal action, or have received notice of violation or civil citation regarding compliance of the subject VRD property with any provision of the Lincoln City Municipal Code. A voluntary assurance of compliance, negotiated compliance agreement, or deferred sentence agreement, if approved by the court, will satisfy the requirement that there be no pending actions or violations.

6. Responsible Parties and Mandatory Record Keeping.

a. The owner and representative contact information must be provided to the city and kept updated:

i. Applicant and Owner Information. Owner's name, and applicant's name, if different, permanent residence address, permanent residence telephone number, and vacation home address and telephone number. At a minimum, the application must include the names, mailing addresses, and telephone numbers of all persons holding an ownership interest in the property, or holding an ownership interest in the entity that owns the property.

ii. Local Representative Information. The owner shall provide the name, address, and telephone number of a local representative who has authority to address questions, concerns and complaints about use of the vacation rental dwelling in a timely manner and in the event the owner is not available. The telephone number of the local representative shall be operative at all times including nights and weekends. The local representative shall be an individual whose permanent residence is within or no more than 10 miles of the Lincoln City urban growth boundary, or an individual staff of a business that manages rental of real property with a physical office open to the public within the Lincoln City urban growth boundary and staffed with at least one person. If permanently residing within the Lincoln City urban growth boundary, or within 10 miles of the Lincoln City urban growth boundary, the owner may be the local representative provided the owner meets all applicable requirements of this chapter.

iii. Change in Contact Information. Except when to do so is beyond the owner's control, the owner shall revise the license information for the owner or local representative a minimum of 14 days prior to the date the change takes effect and pays any applicable fee.

iv. Posting of Contact Information. Owners shall post a small placard or sign on the front facing side of the building advising neighbors and tenants of the name and telephone number of the VRD local representative; alarm signs should be located next to this sign.

b. Mandatory Occupancy Records. [Reserved]

7. Required Certifications. To be approved or renewed:

a. An owner (all owners in the event of shared ownership) of a vacation rental dwelling shall submit the following certifications under penalty of perjury and false swearing:

i. That the VRD application submittal information is true and correct; and

ii. That except for noted exceptions to the ownership limitation authorized by law, no person identified as an owner on the application for a VRD in a residential zone also owns other property in a residential zone in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use; and

- iii. That the dwelling complies with all continuing operational requirements and standards of this chapter, including but not limited to all health and safety standards; and
- iv. That the owner has liability insurance which expressly covers the vacation rental operations on the subject property in the amount of at least \$500,000, combined single limit; and
- v. That the owner has subscribed to solid waste collection service for the subject property; and
- vi. That the property currently complies with the parking and landscaping standards contained in or by reference incorporated into this chapter; and
- vii. That all improvements on the subject property are in compliance with applicable building codes in effect at the time the improvements were constructed or that such noncompliances are subject to a corrective order approved by the building official; and
- viii. That there are no pending city of Lincoln City enforcement actions concerning the subject property or that such violations are subject to a court approved resolution; and
- ix. [Reserved]; and
- x. [Reserved]; and
- xi. That the owner is solely responsible for obtaining all approvals, permits, licenses or authorizations from responsible federal, state, county, city or other local authorities necessary to use the property and facilities thereon in the manner contemplated and that the owner has obtained all such required approvals or authorizations; further, the owner shall acknowledge that any license or permit granted by the city shall not in any way be interpreted as a waiver or modification of any other federal, state, or local requirements or authorize any violation of federal, state or local law; and
- xii. That the owner or property complies with any additional certifications identified on the application form approved by the city council by resolution.

b. Applicants are advised that providing false information under oath or affirmation may constitute the crime of false swearing (ORS 162.075) or

perjury (ORS 162.065); providing unsworn false information in the application to the city may constitute the crime of unsworn falsification (ORS 162.085). (Ord. 2016-26 § 1; Ord. 2016-14 §§ 3 – 5; Ord. 2015-04 § 1; Ord. 2014-30 § 1; Ord. 2014-07 § 2)

5.14.070 Additional operational requirements.

A. Maintenance of Guest Register. The owner shall be responsible for maintaining a guest register for each tenancy of the vacation rental with a record of all vacation rental dwelling occupancy days. The register shall include the name, address, and telephone number of the tenants and the dates of the rental period. The register shall be available for city inspection upon request. If copies of a register are required, the register information shall be treated as confidential to the extent allowed or required by law.

B. Response to Complaints.

1. In addition to the owner, the local representative shall be authorized to respond to tenant and neighborhood questions, concerns, or complaints, and shall respond to any complaints in a timely manner. The owner or local representative is the contact person for questions or complaints regarding the occupancy of the vacation rental dwelling. The owner or local representative shall be available to respond to complaints in a timely manner as may be considered reasonable depending on the circumstances, to ensure use of the vacation rental dwelling complies with the standards for vacation rental dwelling occupancy, city ordinances, and state law.

2. Log of Complaints. The owner or local representative shall maintain a contemporaneous written record of the date, time, and nature of any complaint received and the action taken in response to the complaint. This record shall be made available for city inspection upon request and shall be provided with an application to renew a license.

C. Change in Contact Information. The owner shall revise the license information for the owner or local representative at any time provided the owner submits the revised information no later than 14 days prior to the date the change takes effect and pays any applicable fee. The purpose of such requirement is to maintain current information and to provide the revised information to surrounding property owners, as required in subsection (D) of this section.

D. Notice of Contact Information. The city will send notice to owners of property within 250 feet of the property and including the name, address, and telephone number of the local representative as provided in a license, license renewal, or change in contact

information, so that property owners may contact the local representative to report problems associated with the occupancy or use of the vacation rental dwelling. The owner shall be responsible for paying any fee for the costs of mailing such notice, as established by resolution of the city council.

E. Inspection Requirements.

1. At the time of application for a new or renewed vacation rental dwelling license, the dwelling unit shall be subject to inspection by the planning and community development department or building inspector for the purpose of verifying the vacation rental dwelling complies with this subsection including an approved and properly functioning smoke alarm or smoke detector is installed on each floor, in each guest room in accordance with ORS 479.255, and in each common hallway, and at least one smoke detector or smoke alarm for hearing-impaired persons and one door knock device is installed as applicable or required by ORS 479.257.
2. If the vacation rental dwelling unit does not meet the requirements of subsection (E)(1) of this section at the time of inspection, the owner shall request reinspection within 30 days. The city shall not take any action on the application for license until the inspection requirement is satisfied.
3. The city may adopt by resolution a fee to provide for a request for reinspection under this subsection. As necessary and required to accommodate city resources including available budget and personnel, the city may provide by resolution a schedule of reinspection for license renewals so that a vacation rental dwelling conducted under the same and continuing ownership is periodically reinspected for conformance with license standards including smoke alarm and smoke detector requirements.
4. The requirement to use a vacation rental dwelling in conformance with smoke detector or smoke alarm requirements of this subsection is a condition of approval of the vacation rental dwelling license and an additional operational standard. Failure to meet this standard is a violation enforceable as a Class B violation.
5. In lieu of requiring inspection and a program of reinspection for smoke detectors or smoke alarms under subsection (E)(1) of this section, the city may require an applicant to certify the dwelling meets the required standards for smoke alarms or smoke detectors as established in that subsection.

F. License Display. The vacation rental dwelling license issued by the city shall be affixed to a wall within the interior of the dwelling adjacent to the front door. At a minimum, the license will contain the following information:

1. A number or other identifying mark unique to the vacation rental dwelling license and which indicates the license is issued by the city of Lincoln City, with the date of expiration;
2. The name of the owner or local representative and a telephone number where the owner or local representative may be contacted at all times;
3. The telephone number and web site address of the city of Lincoln City and the Lincoln City police department;
4. The maximum number of vehicles allowed parked on the property;
5. The solid waste collection day;
6. Required Lincoln City quiet hours; and
7. Any other information required to be included in the displayed license including any conditions specific to the license.

G. The owner shall comply with all standards of license issuance.

H. Violations. Failing to meet any of the ongoing operational requirements of this chapter including LCMC 5.14.055(A), (B), (E) and (F) and subsections (A), (B), (C), (F), and (G) of this section, including failing to display the license as required, is a violation of this chapter that may be enforced as a Class B violation, and is declared a nuisance that may be enjoined as allowed by law. The planning and community development director or his designee is authorized to issue a notice of violation of this chapter with or without an order to immediately cease and desist all use as a vacation rental. Conviction of a violation of this chapter may be grounds to revoke a license or not renew a license as provided in this chapter. (Ord. 2015-10 §§ 5, 6; Ord. 2009-03 § 1)

5.14.080 License renewal.

A. If a revocable vacation rental dwelling license is not renewed as required in this section, the use shall be presumptively deemed discontinued and the license shall expire as provided in this subsection.

B. Renewal Application Process. A person engaging in rental of a vacation rental dwelling pursuant to an approved license shall apply to renew the vacation rental dwelling license on forms provided by the city, as follows:

1. The city hereby establishes four quarterly renewal dates, as follows:

a. First quarter: January 1st;

b. Second quarter: April 1st;

c. Third quarter: July 1st;

d. Fourth quarter: October 1st.

2. The planning and community development director will assign each new license and existing license to one of the four quarterly renewal dates. The one-year period commencing on the quarterly renewal date is the license year for corresponding vacation rental dwelling. For the first year of each new or renewed license under this section, the license fee shall also be prorated to the assigned quarterly renewal date.

3. Renewal Period. A completed license renewal application and renewal fee, as established by city resolution, are due no earlier than 30 days before the assigned quarterly renewal date and no later than 30 days after the assigned quarterly renewal date. The city may impose a late fee for renewal applications submitted beyond the 60-day renewal period, as established by resolution.

4. Late Applications – Expiration. If the city has not received a completed license renewal application and renewal fee accompanied by the applicable fee by 30 days after the assigned quarterly renewal date, the vacation rental dwelling license is subject to expiration as of the assigned quarterly renewal date. The expiration will take effect 10 days after the date the city mails notice to the owner, unless the owner submits a renewal application with required fees including any late fees within the 10-day notice period. After a license expires and is not renewed, the property may not be lawfully used as a vacation rental dwelling unless a new vacation rental license is obtained by the owner.

C. Notice. The city shall send notice of expiration under subsection (B)(4) of this section to the owner of any property for which a timely renewal application has not been received. An application will nevertheless be considered timely submitted if the city receives a completed renewal application from the owner, accompanied by the required fees, within the 10-day late period.

D. License Expiration. If the owner does not submit a renewal application as required under subsection (B) of this section, the license in effect for the prior year shall expire effective as of the assigned quarterly renewal date without further action or notice by the city.

E. Renewal Standards. The city will review an application for license renewal and issue a renewal of the vacation rental dwelling license provided the following standards are met:

1. The licensee has provided all required application information within the time required, and all requirements of this chapter are met;
2. The vacation rental dwelling use of the property has been previously approved under LCMC 17.80.050 and the approval remains valid;
3. The owner has fully complied with Chapter 3.04 LCMC (Transient Room Tax) including submitting the required report for the last quarter of the license year;
4. Staff has reviewed the licensee's complaint log required by LCMC 5.14.070(B)(2) to determine the nature of complaints, if any, and whether complaints were timely addressed by the owner or local representative. Where city records show more than one complaint about the vacation rental dwelling occupancy was received during the license year, including any complaints that remain unresolved, the applicant shall bear the burden of proof of demonstrating complaints have been satisfactorily resolved or the complaints are not reasonably applicable to the occupancy of the vacation rental dwelling;
5. The license subject to renewal is current, valid, and has not been suspended or revoked;
6. The property has been inspected for compliance with LCMC 5.14.070 within the last three years, either by approval of occupancy by the city building inspector in the final completion of a building permit or by compliance notice of the responsible city staff, or otherwise complies with LCMC 5.14.070(E);
7. The property has generated at least \$500.00 from rental occupancy during the previous year as demonstrated by transient room tax reports filed pursuant to LCMC 3.04.070. The person responsible for receiving the transient room tax reports and verifying the amount of tax due will determine whether this standard is met by providing a summary determination to the department responsible for processing the renewal application. Where a cap is imposed, a new or renewal VRD license shall not be issued if the VRD has not obtained or maintained a VRD

license in the preceding six-month period and the VRD has been rented at least 30 days in that license year. An accessory license may be issued to a VRD that does not meet the 30 days or more standard. Information provided by the owner under Chapter 3.04 LCMC shall be kept confidential to the extent allowed or required by law; and

8. The property continues to meet the standards for parking, solid waste, landscaping, irrigation and signs, as provided in LCMC 17.80.050(B).

F. If the application does not meet all requirements of subsection (E) of this section, the city will not renew the license and the property shall not be used as a vacation dwelling.

G. Notice. Notice of decision on a renewal application shall be mailed as provided in LCMC 5.14.070(D).

H. A decision on a license renewal may be appealed as provided in LCMC 5.14.090. (Ord. 2017-19 § 1; Ord. 2017-13 § 2; Ord. 2009-03 § 1)

5.14.090 Appeals of VRD license determinations.

A. Authority to Decide Appeal. As authorized in Chapter 2.18 LCMC, a VRD license appeals board shall be responsible for determining an appeal of a decision approving or denying an application or renewal application for a vacation rental dwelling license, or revoking or suspending a VRD license, in any zone.

B. Standard of Review. The board shall determine whether the city's decision is reasonable and based on a preponderance of the evidence.

C. Filing Requirements – Notice. The licensee or license applicant and any person entitled to notice of license issuance may appeal a VRD license decision.

1. An appellant is required to file a written notice of appeal including the basis for the appeal within 12 days of the license determination being appealed. This requirement is jurisdictional and late filings shall not be allowed.
2. The city council may establish by resolution a fee for filing an appeal, which shall be jurisdictional. The fee shall be sufficient to recover the average or actual costs of mailing notice of hearing and conducting the hearing.
3. At least 10 days before the hearing, notice of hearing on appeal will be mailed to owners of property within 250 feet of the property subject to the application.

D. The city manager or the city manager's delegate may establish administrative procedures to implement the appeal procedures provided in this subsection, including any required forms.

E. Hearing. Within 14 days of receiving the notice of appeal, the city manager shall schedule a hearing on the appeal before the VRD license appeals board, to be heard at the next available meeting date.

1. At the hearing, parties to the appeal shall have the opportunity to present evidence and arguments, including witness testimony. The city shall maintain a summary record of proceedings, including the date and time of hearing, the names of the parties and witnesses, if any, a list of documents or evidence submitted, and the nature of the oral decision, if any, made at the conclusion of the hearing. In the event an interpretation of the city council is required, the hearing may be stayed to allow the city council sufficient time to issue the interpretation.

2. A decision of the board shall be reduced to writing and signed by the chair.

3. Decisions on license appeals shall be issued within 60 days of the date of the close of the public hearing on the matter.

4. The board's decision shall be final on the date of mailing the decision to the appellant. The board's decision is the final decision of the city and is appealable only by writ of review to circuit court.

F. Procedures. The VRD license appeals board may adopt and publish procedures for hearings not in conflict with this subsection, including but not limited to time limits on oral testimony and limitations on written argument. (Ord. 2009-03 § 1)

5.14.100 Complaints.

A. The city manager or the manager's designee is authorized to implement an administrative procedure to document and respond to complaints about occupancy and use of a vacation rental dwelling.

B. In response to a complaint concerning the occupancy or use of a vacation rental dwelling, city staff including but not limited to the Lincoln City police department shall make at least three attempts to contact the owner and local representative using the information provided in the application for the vacation rental dwelling license. If neither the owner nor the local representative is available, the person receiving the complaint shall document the nature of the complaint and the efforts to reach the owner and local representative including the results of those efforts, and forward a copy of the report to

the city manager or the city manager's designee. On request and in compliance with the public records law, the city shall provide the owner and local representative with the information in the complaint.

C. Timely Resolution of Complaints. The owner and the local representative jointly shall be responsible for ensuring that complaints are resolved in a timely manner. For the purposes of this section, "timely" means within one hour of receiving the complaint, whether from the city or from any other complainant. Except for noise complaints, complaints received after 9:00 p.m. and before 7:00 a.m. are considered timely if they are resolved by 8:00 a.m. The owner's and local representative's joint responsibility for resolving complaints does not mean both must respond to and resolve each complaint.

Within 20 days of receiving an oral or written complaint relayed by city staff, the owner must provide the city an explanation in writing of the action taken (including no action) in response to the complaint. The explanation shall be mailed to the city, who may notify the complainant of the response.

D. Failure of the owner or local representative to timely and reasonably respond to a complaint relayed by city staff on at least two separate occasions within the license year shall constitute a violation of this chapter and a Class C civil infraction enforced against the owner and local representative under Chapter 1.16 LCMC. In addition to authority to impose fines and penalties as provided by law, the municipal court shall notify the city manager or his designee of any judgment of conviction for violation under this subsection within 10 working days of entry of judgment. Upon receiving such notice of conviction from the municipal court, the city manager or the city manager's designee shall initiate proceedings to revoke the vacation rental dwelling license for the property naming the property owner. The revocation shall be conducted under the notice and hearing procedures provided in LCMC 5.14.090 for appeals of license decisions. (Ord. 2016-14 § 6; Ord. 2015-10 §§ 5, 6; Ord. 2009-03 § 1)

5.14.110 Revocation procedure.

A. For the first violation of any provision of LCMC 5.14.055 through 5.14.080 pertaining to operational requirements within a 12-month period, the sanction for violation may be a warning notice. If the same offense continues to occur or a second offense occurs at any time during a 12-month period, the penalty for conviction shall be not less than \$250.00. In addition the license shall be subject to revocation.

B. If the vacation rental dwelling license is suspended or revoked as provided in this section, the city manager shall send written notice of suspension and revocation to the

owner stating the basis for the decision. The notice shall include information about the right to appeal the decision and the procedure for filing an appeal.

C. The owner may appeal the city manager's decision to revoke the license by filing a letter of appeal to the board within 12 days after the date of the mailing of the city manager's decision. The appellant shall pay a revocation appeal fee as established by resolution of city council. Upon receipt of an appeal, the city manager shall stay the revocation decision until the appeal has been determined by the board. The board's decision shall be final and not subject to further city appeal.

D. The procedure for conduct of the appeal of an administrative decision to suspend or revoke a vacation rental dwelling license shall be conducted as provided in LCMC 5.14.090 for appeals. Notice of the appeal shall be mailed to the owners of property located within 250 feet of the property subject to the license revocation.

E. If the board upholds the decision to revoke the license, the board shall order the owner to discontinue use as a vacation rental dwelling. Notice of revocation shall be mailed to property owners within 250 feet of the property subject to the license revocation. (Ord. 2009-03 § 1)

5.14.120 Discontinuance of vacation rental dwelling occupancy.

A. After Revocation. After a vacation rental dwelling license has been revoked, the dwelling unit may not be used or occupied as a vacation rental dwelling, and the owner of the property to which the license applied and whose license has been revoked shall not be eligible to reapply for a vacation rental dwelling license for vacation rental occupancy of the same property for a period of 12 months from the date of revocation. If the city revokes an owner's vacation rental dwelling license for a property on two separate occasions, the owner shall not be eligible to reapply for a vacation rental dwelling license for that property.

B. After Expiration. After a vacation rental dwelling license has expired, the dwelling unit may not be used or occupied as a vacation rental dwelling. The owner of the property to which the license applied and whose license has expired shall be required to apply for and obtain a vacation rental dwelling license before the property may be lawfully used or occupied as a vacation rental dwelling. (Ord. 2009-03 § 1)

5.14.130 Violations – Penalties.

A. Any violation of this chapter may be enforced as a Class B violation as provided in Chapter 1.16 LCMC and subject to the penalties established in that chapter. Each day in

which a dwelling is used in violation of this chapter shall be considered a separate violation.

B. The following conduct constitutes a violation of this chapter:

1. Providing false information in the application for license or license renewal;
2. Representing a dwelling as available for occupancy or rent as a vacation rental where the owner does not hold a valid vacation rental dwelling license issued under this chapter, or making a vacation rental dwelling available for use, occupancy or rent without first obtaining a valid vacation rental dwelling license;
3. Advertising, renting, using, or offering for use, occupancy or rent, a vacation rental dwelling in a manner that does not comply with the standards of this chapter, including but not limited to failing to maintain or provide on request of the city the required guest register or complaint log information, or in the event a change occurs in the name, address or telephone contact of the local representative, failing to provide such information no later than the date of the change;
4. Failing to comply with the requirements of Chapter 3.04 LCMC; or
5. Failing to comply with the licensing and operational requirements of this chapter including but not limited to the requirements listed in LCMC 5.14.070(G). Evidence proving any of the following establishes a rebuttal presumption of violation of these standards:
 - a. Trash or litter is present on the property and not contained in solid waste containers;
 - b. While believed occupied as a vacation rental dwelling, the number of vehicles parked on the property exceeded the number of vehicles allowed;
 - c. The owner or local representative failed to respond to an inquiry or complaint as established in LCMC 5.14.100;
 - d. The tenants of the vacation rental dwelling created noise, disturbance, or a nuisance in violation of the Lincoln City Municipal Code;
 - e. The tenants of the vacation rental dwelling violated state law pertaining to the consumption of alcohol or the use of illegal drugs.

For purposes of this subsection, "violation" means a violation that has been adjudicated by a court of competent jurisdiction whose final order and judgment is not subject to further appeal or has not been appealed.

C. In addition to or in lieu of enforcing a violation under subsection (B) of this section, the city of Lincoln City may file an action regarding use or occupancy of a vacation rental dwelling with the VRD license appeals board. The action shall be filed and a hearing conducted as for an appeal allowed under the Lincoln City Municipal Code and this chapter, except that no filing fee shall be required. (Ord. 2015-10 §§ 5, 6; Ord. 2009-03 § 1)

VACATION RENTAL DWELLING APPROVAL PROCESS



Please allow 6 to 8 weeks for processing time for land use approval and licensing. To avoid any gap in licensing when buying a property, apply immediately after your offer is accepted. This is especially important if the house is already a VRD and you have agreed to honor existing reservations.

R-1-5 ZONE

1. Submit an application with \$350 land use filing fee. The application must contain:
 - Application form completely filled out (including the name of owner's local representative and signatures from all applicants and property owners). If applicant is not the property owner, the current owner must provide written authorization.
 - Parking plan to show that at least one parking space per rented bedroom; all parking must be on the property (not on the street).
 - Proof of trash service (provided before a license is issued).
2. Planning department staff reviews the application materials to determine completeness. If the materials are complete, staff will schedule inspections.
3. Planning department staff will mail a "pre-notice" to all property owners within 250 feet of the lot. This notice is to let neighbors know that someone has applied to use the home as a VRD, and gives them 14 days to submit written comments for staff to consider during review.
4. Planning department staff inspects the property to verify it meets parking and landscaping requirements. Staff conducts a "health and safety" inspection at the same time, and for this inspection, someone must accompany staff through the house. The health and safety brochure outlines the standards for VRDs. *(Note – the health and safety inspection can be deferred until a later time, for example, after current occupants move out).*
5. After the inspections, planning department staff writes a report analyzing how the application meets the required standards. The planning director reviews the report and makes a decision on the land use approval, which staff mails to the neighboring property owners. If approved, the notice includes the name and phone numbers for the local representative. Neighbors have 20 days to appeal the decision. The applicant can use that time to make any required corrections to the parking, landscaping, and health and safety items.
6. License Approval:
 - a. When the 20-day appeal period has expired without appeal and all requirements are met, planning staff gives the applicant the final licensing paperwork to submit to the Finance Department along with the required \$200 fee. Once the finance department issues the license, the owner is free to advertise and rent the house.
 - b. If following the 20-day appeal period the applicant still has corrections to make, staff places the file on hold. The applicant has one year from the date staff mailed the Notice of Decision to complete all corrections and obtain a license; otherwise, the land use approval expires.

In the R-1-5 Single-Family zone, staff may approve a maximum of 194 licenses with unrestricted rental nights. After reaching that cap, staff can approve VRDs in the R-1-5 zone for up to 30 rental nights per year. Staff will maintain a waiting list for those who want an unrestricted license in the R-1-5 zone.

R-1-RE ZONE (ROADS END NEIGHBORHOOD)

1. Homes that already have a VRD license (issued or in process) as of November 22, 2017 have a 7-year period of non-conforming status. During this time, a property owner can sell, transfer or amend the property ownership, and the new (or added) owners may continue to rent the VRD under the same terms and conditions that existed prior to the re-zoning. This means:
 - No restriction on the number of rental nights per year
 - No requirement for on-site parking (but staff encourages it, if possible!)
 - No requirement for residential landscape standards (staff also encourages landscaping)
2. For these non-conforming VRDs, a new owner will submit a license application to the Finance Department, along with the \$200 fee. Finance will route the application to Planning. The new owner will need to identify a local representative and show proof of trash service.
3. The planning staff will schedule an inspection to verify the VRD meets all health and safety standards. If staff inspected the VRD within the last year or so, staff will ask the owner to confirm that nothing has changed.
4. Following the re-inspection for health and safety, staff will mail a Notice of License Approval to neighbors within 250 feet of the VRD with the local representative's name and phone numbers.

For a home in Roads End not previously licensed as VRDs, the owner may apply for a license limited to a maximum of 30 rental nights per year. The application procedure is the same as for other Lincoln City neighborhoods (parking, landscaping, health and safety).

OTHER RESIDENTIAL ZONES, MIXED USE AND COMMERCIAL ZONES

Residential zones other than R-1-5 allow accessory VRD use with licenses for up to 30 rental nights per year. Licenses for VRDs in mixed use and commercial zones have no restriction on the number of rental nights. The application process for VRDs in any of these zones is the same as described above under R-1-5.

CITY OF NEWPORT
169 SW COAST HWY
NEWPORT, OREGON 97365

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mombetsu, japan, sister city

Summer 2018

City of Newport Vacation Rental Code Update Summary of Proposed Changes

Overview

In the fall of 2017 the City Council received a significant amount of public testimony that the City's regulations for Vacation Rental Dwellings (VRDs) need to be updated to protect the character of residential neighborhoods and to preserve the City's long term housing supply. In response, the City Council directed the Planning Commission to assess how the rules could be improved and the Commission, in turn, pulled together an Ad-hoc Work Group of interested persons to assist city staff in developing a package of recommended changes.

Ad-hoc Work Group's Responsibilities

- Review the City's existing vacation rental regulations
- Evaluate Best Management Practices used by other jurisdictions
- Discuss policy options for revising the City's codes
- Select policy alternatives for presentation to the public
- Conduct open houses to obtain public feedback
- Review public comments and determine how best to integrate responses into the policy alternatives
- Propose a package of legislative code amendments, based upon the policy alternatives, for review by the Planning Commission and City Council as part of a formal public hearings process.

Proposed Policy Alternatives

Focus Efforts on Units that are not Occupied by Permanent Residents

- Distinguish "home shares" where an owner rents rooms in a dwelling unit where they reside, and Bed and Breakfast (B&B) establishments where an owner or manager lives on the premises, from VRDs where the entire unit is rented for transient purposes.
- Exempt home shares and B&Bs from location and density limits, because the presence of a permanent resident mitigates potential nuisance issues and does not impact the supply of long term housing.

Limit Areas Where VRDs are Allowed

- Limit vacation rental uses to areas that possess tourist amenities
- Provide policy makers with multiple options for drawing the boundaries, including:
 - Alternative No. 1: Recommends US 101 and US 20 be used as an easily understood break point, with VRDS allowed west of US 101 and south of US 20 (least restrictive)
 - Alternative No. 2: Similar to first option, but limits VRDs west of US 101 and south of US 20 to areas in close proximity to ocean views, beach access, and tourist commercial uses.
 - Alternative No. 3: Limit VRDs to areas where tourist commercial uses are concentrated (most restrictive)

Establish License and Density Limits

- Limit the total number of vacation rental licenses to preserve the City's long term housing supply.
- Apply a hard cap on licenses issued between 220 and 275 (roughly 4% - 5% of the total housing stock).
- Provide that the City Council may adjust the license cap by resolution.
- Limit transferability of licenses, upon sale, to commercial zones
- Institute proximity limits to avoid concentration of VRDs to the point that they change the character of residential neighborhoods:
 - Allow only one VRD per street face segment in R-1 and R-2 zones
 - Limit VRDs in R-3 and R-4 zones to one multi-family or single family dwelling per street face segment

Improve Enforcement

- Develop a centralized complaint system that facilitates transparency and citizen access to information.
- Engage with a third party vendor to provide a 24/7 complaint hotline and to provide ongoing monitoring of vacation rentals for permit and tax collection compliance.
- Structure progressive enforcement to achieve “three strikes and you are out.”
- Establish a two year cooling off period for before an individual that had a license can reapply
- Require VRD operators to have a local contact capable of responding to the premises in 30 minutes.

Refine Approval Standards

- Reduce overnight occupancy from (2) per bedroom plus two to simply 2 per bedroom. Exempt small children from overnight occupancy limit.
- Retain parking standard of one space per bedroom, but require applicants show that spaces are sized such that they meet City parking stall dimensional standards. Allow off-street parking to extend into undeveloped public right-of-way with stipulation that license will be revisited if street is approved.
- Update safety standards to reflect current building and fire code requirements
- Require VRD operators to post a sign in plain view of the street identifying the unit as a vacation rental with a phone number of the designated contact.
- Prohibit use of VRDs for events.

Require Annual Licensing

- Operator's to provide proof of insurance and update designated contacts with annual license.
- Licenses to automatically expire if inactive to prevent “license hoarding” under a hard cap.

Phase Out Non-Compliant VRDs

- Conditional permits that allowed alternative standards will not be grandfathered.
- Permit licensed VRDs in areas where they are no longer allowed to continue to operate for a fixed period of time (5-7yrs) to realize a return on investment. Licensed VRDs in areas that exceed density limits to phase out as licenses expire.

Next Steps

The Ad-hoc Work Group will reconvene in September to consider feedback and finalize recommendations before public hearings are held with the Planning Commission and City Council in the fall.

Additional Information

Information considered by the Ad-hoc Work Group is available for review on the City of Newport website under the heading “Government / Committees / Vacation Rental Ad-hoc Committee.” Questions or concerns may also be directed to Derrick Tokos, Community Development Director at 541-574-0626 or d.tokos@newportoregon.gov

Newport Vacation Rental Code Update



**PUBLIC WORKSHOP
& OPEN HOUSE**

AUGUST 15, 2018

6:00 PM

NEWPORT CITY HALL

169 SW COAST HWY, NEWPORT 97365

Purpose of the Workshop



- Get information out to the public so that they are informed about how vacation rental and bed and breakfast uses are regulated in the community
- Obtain and integrate public feedback on proposed changes into the new regulations
- Develop a list of persons that are interested in receiving notice of future Planning Commission or City Council meetings on these issues

The Existing Rules



- Vacation rentals and B&Bs are allowed in all zones subject to a license with clear and objective criteria regarding:
 - Occupancy
 - Parking
 - Waste Management
 - Landscaping
 - Safety of renters
 - Issue resolution
 - Provides an over-the-counter approval process
- Conditional use is an option if clear and objective standards cannot be met
- Existing rentals were not grandfathered

Rationale for Regulating



- Ensure the safety and convenience of renters, owners, and neighboring property owners
- Protect the character of residential neighborhoods
- Address potential negative impacts (e.g. excessive noise, overcrowding, illegal parking, and refuse)
- Preserve long term housing supply by limiting transient use
- Acknowledge the need to weigh VRD limitations against the economic benefit of short term rentals

Why Consider Changes?



- Perception that vacation rentals lead to increased traffic, noise, and trash in established neighborhoods
- Belief that there is inadequate enforcement
- Discomfort with not knowing neighbors
- Desire to see notice area extended and designated contacts posted to City website
- Concern that vacation rentals may be driving up housing costs and tying up units that would otherwise be available to full time workers
- Interest in seeing caps imposed on the maximum number of vacation rentals and tenancy limits

How Did We Get Here?



Sept. 2017

- City Council asks Planning Commission (PC) to assess if rules for VRDs and B&Bs need to be updated



Nov. 2017

- PC recommends updates
- Council initiates legislative process and refers to PC for further work



Dec. 2017

- PC recruits ad-hoc work group to develop package of amendments for its consideration



Aug. 2018

- Public outreach meetings held to get input on policy options



Jan – July 2018

- Ad-hoc work group evaluates BMPs and develops policy options for how the rules can be amended
- PC and Council receive progress updates



Jan. 2018

- Ad-hoc work group is formed and holds kick-off meeting

Ad-hoc Work Group Responsibilities



- Review existing vacation rental regulations
- Evaluate Best Management Practices (BMPs) used by other jurisdictions
- Discuss policy options for revising the City's codes
- Select policy alternatives for presentation to the public
- Attend public open houses (if possible)
- Reconvene to review public comments and determine if changes are needed to policy alternatives
- Propose package of amendments to Planning Commission for its consideration and recommendation to the City Council (i.e. start of public hearing process)

Ad-hoc Work Group Members



- Don Andre
- Charlotte Boxer
- Cheryl Connell
- Margaret Dailey
- Braulio Escobar
- Norm Ferber
- Jim Hanselman

- Lauri Hines
- Pam McElroy
- Jamie Michel
- Carla Perry
- Bill Posner
- Bonnie Saxton
- Martha Winsor

Ad-hoc Work Group Proposal



- Distinguish between home shares (e.g. rental of a room) and vacation rentals (rental of entire unit)
- Establish caps on the number of vacation rental units
- Offer alternatives that prohibit VRDs in certain areas
- Create density limits (e.g. one VRD per block facing a street)
- Develop centralized complaint system that facilitates transparency and citizen access to information
- Annual licensing with safeguards to prevent permit hoarding under cap
- Maintain updated set of clear and objective approval standards with conditional use option for certain standards that cannot be met
- Existing rentals not grandfathered and amortized if in prohibited area

Next Steps



Sept. 2018

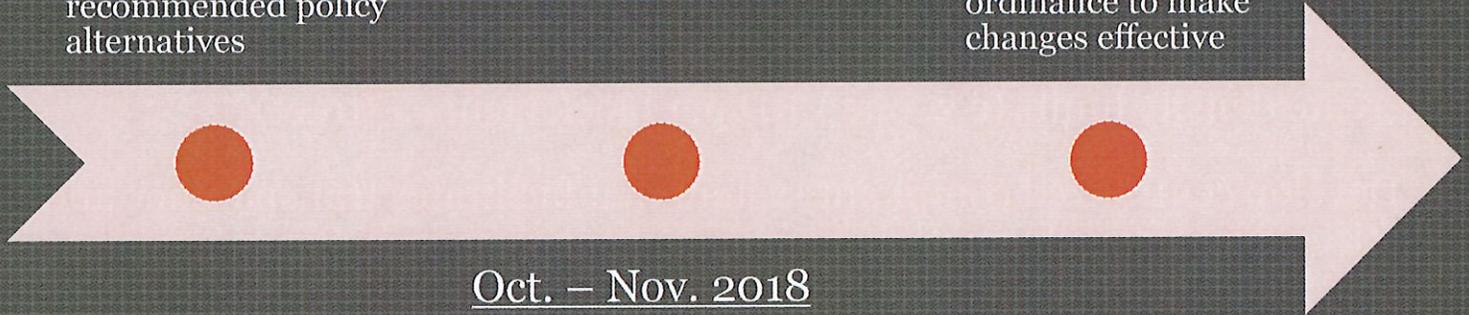
- Ad-hoc work group reviews feedback and finalizes recommended policy alternatives

Nov. – Dec. 2018

- Council holds hearings and adopts ordinance to make changes effective

Oct. – Nov. 2018

- PC holds hearing(s) on proposal, including policy alternatives and recommends preferred alternatives to Council



How Can I Stay Informed?



Information is posted in the Committees section
of the the City's website at:

<http://newportoregon.gov/dept/cdd>

Contact City staff:

Derrick Tokos
169 SW Coast Hwy
Newport, OR 97365
ph: 541-574-0626
d.tokos@newportoregon.gov

Overview and Observations

Past and Current Newport Vacation Rental and Bed and Breakfast Regulations

PLANNING COMMISSION
VACATION RENTAL AD-HOC COMMITTEE

JANUARY 31, 2018 WORK SESSION



Vacation Rental Dwelling Regulations Prior to 2012

- VRDs allowed in all of the City of Newport's residential zone districts as "weekly rentals"
- Weekly rentals limited to 10 occurrences per year, with no clear constraint on the duration of each visit
- Vacation Rentals allowed more frequently through conditional use process in R-4 zone and allowed outright in commercial zones, with limits on street level residential use
- Bed and Breakfast Establishments (B&Bs) allowed conditionally in R-3 and R-4 zones and outright in commercial zones
- 52 Vacation Rentals and 12 B&Bs approved as conditional uses

Vacation Rental Ad-Hoc Committee Responsibilities

- Review existing vacation rental regulations
 - Evaluate Best Management Practices used by other jurisdictions
 - Discuss policy options for revising the City's codes
 - Select Preferred Alternatives for presentation to the public
 - Attend public open houses (if possible)
 - Reconvene to review public comments and determine if Changes are needed to Preferred Alternatives
 - Propose package of amendments to Planning Commission for its consideration and recommendation to the City Council (i.e. start of public hearing process)
- 

Ad-Hoc Committee Organizational Issues

- Committee may elect a chair to facilitate meeting or have staff perform that function
 - Staff to prepare meeting materials and policy options for Committee consideration and feedback
 - City will keep an audio record of the meetings and staff will prepare written minutes summarizing the discussion and points of agreement or disagreement
 - Where general consensus cannot be reached on a particular topic, staff may prepare more than one policy option representing the majority and minority perspectives
 - Meetings are open to the public and the agenda includes a dedicated period for soliciting “public comment.” Committee should discuss how best to incorporate public feedback into the process
- 

Problems with the Pre-2012 VRD and B&B Regulations

- “Weekly Rentals” were effectively unregulated, with the City having no idea how many there were or where they were located
 - Weekly rental limit of 10 occurrences in a year was extremely difficult to enforce
 - Conditional use criteria were not tailored to vacation rental use and discretionary standards were inconsistently applied
 - B&Bs and VRDs were not subject to the types of safety standards for guests that apply to conventional hotels/motels
 - No uniform, clear and objective approval criteria
- 

Planning Commission Desired Outcomes (2012)

- Open to taking a fresh look at where vacation rentals should be allowed
 - Maximum occupancy should be explored
 - Standards should address how vacation rental use is different than single-family dwelling use
 - Criteria should consider parking & sanitation
 - Focus on developing clear and objective standards
 - Keep the process simple
 - Need more precise definitions
 - Complaint-driven approach to enforcement is appropriate
 - There should be a fee to offset administrative costs
- 

2011-2012 Ad Hoc Work Group

The Ad-Hoc work group met seven (7) times between March and November of 2011. It included the following individuals:

- Tracy Wiley – Embarcadero Resort
 - Rob Oberbillig –Homeowner
 - Lee Hardy – Yaquina Bay Property Management
 - Bob Berman – Homeowner
 - Cindy Reid – Vacation Rental Owner
 - Joya Menashe – Agate Beach Services (Vacation Rental Manager)
 - Melanie Sarazin – Planning Commission Liaison
- 

How are VRDs and B&Bs Defined?

- Vacation Rental Dwelling (VRD): A dwelling unit containing not more than five (5) guest rooms that is rented for less than 30 consecutive days.
 - Bed and Breakfast Facility (B&B): An owner occupied single-family dwelling containing not more than five (5) guest rooms, where meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
 - Hotel: A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), with or without cooking facilities, and where more than 50% of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days. A B&B or VRD conducted in a single family dwelling or individual dwelling unit is not a hotel.
 - Motel: Similar to hotel but units have separate entrance to building exterior.
- 

Why Regulate VRDs and B&Bs?

- Ensure the safety and convenience of renters, owners, and neighboring property owners
 - Protect the character of residential neighborhoods
 - Address potential negative effects such as excessive noise, overcrowding, illegal parking, and accumulation of refuse
- 

Summary of Current Regulations

- Vacation rentals and B&Bs are allowed in all zones
 - Subject to a license with clear and objective criteria regarding:
 - Occupancy
 - Parking
 - Waste Management
 - Landscaping
 - Safety of renters
 - Issue resolution
 - Provides an over-the-counter approval process
 - Conditional use is an option if clear and objective standards cannot be met
 - Existing rentals were not grandfathered
- 

Concerns Expressed about VRDs

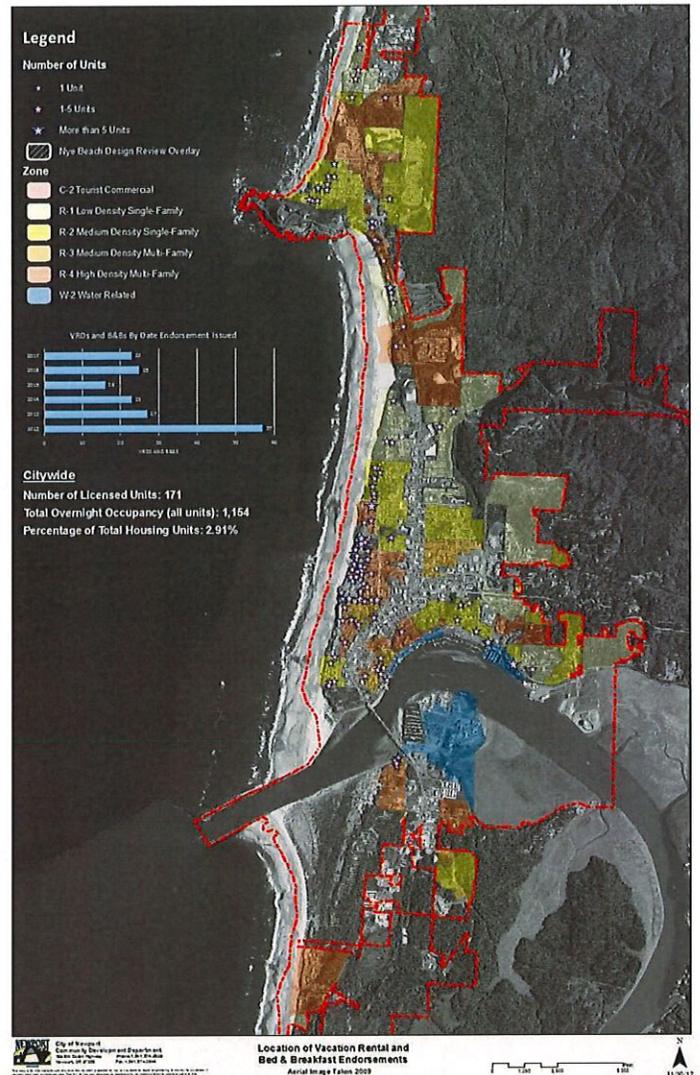
- Perception that vacation rentals lead to increased traffic, noise, and trash in established neighborhoods
 - Belief that there is inadequate enforcement
 - Discomfort with not knowing neighbors
 - Desire to see notice area extended and designated contacts posted to City website
 - Concern that vacation rentals may be driving up housing costs and tying up units that would otherwise be available to full time workers
 - Interest in seeing caps imposed on the maximum number of vacation rentals and tenancy limits
- 

Comments in Support of VRDs and B&Bs

- Short term rentals unfairly blamed for nuisance issues that are just as prevalent with units under longer term tenancy
 - Avoid sudden changes that impact people financially
 - Can't afford to buy into Newport without option of renting unit for vacation rental purposes
 - Be cognizant of the fact that Newport is a tourist destination. Don't hurt our tourist economy
 - Newport's current rules are well balanced and reasonable. Don't change them
- 

Geographic Distribution of VRDs/B&Bs Licensed Since 2012

- Concentrated in areas with ocean or bay views that are close to tourist-oriented retail areas
- Heaviest concentration in Nye Beach
- Blend of condominiums and dwellings
- Represent just under 3% of the City's housing stock
- Average RMV Per Unit (2016): \$311,295



Issues with Definitions

- VRD/B&B size limit (i.e. currently maximum of five (5) bedrooms) contained in the definition needs to be included as a development standard
- Hotel/Motel versus VRD distinction clarified in the business license code (Ord. #2073, 2015).
 - Condominiums where owners are contractually obligated to rent through common rental pool are a hotel/motel
 - Embarcadero owners association is currently debating this question
- Timeshares continue to be an issue, where individual owners out of the group choose to rent the unit. May be more of an enforcement than a definition issue

Locational Issues

- In 2012 policy makers correctly determined that desirability of a site for VRD or B&B use correlates to amenities, not zoning
 - Units are beginning to materialize in areas that lack these amenities (e.g. residential zones east of US 101 and north of US 20). Restrictions may be warranted for these areas
 - 2012 effort assessed tenancy limits (i.e. frequency of use) and ruled them out, in part, due to enforcement challenges
 - Density limitations, including ownership based restrictions, proximity based restrictions, ratios and hard caps were assessed in 2012. Should be reassessed citywide or in targeted areas.
- 

Maximum Overnight and Building Occupancy

- Overnight occupancy currently limited to two persons per bedroom, plus two. Building occupancy is subject to Fire Code limitations
 - Overnight occupancy is stricter than some would like, which is generally due to lack of off-street parking
 - Homes that have more bedrooms than rooms permitted for vacation rental use can be an enforcement issue
 - Overnight occupancy limits can be reasonably enforced since it is typically depicted on advertisements
- 

Parking Requirements

- One off-street space required per bedroom dedicated to VRD and B&B use
 - Guests may use available on-street spaces just like other members of the public
 - Parking congestion has been a particular issue in neighborhoods with substandard (narrow streets) and/or poorly defined on-street parking areas
 - Relief from off-street parking requirements has been the subject of all four Conditional Use applications to the Commission (3 approved, one denied)
 - Code is unclear regarding whether or not off-street mean out of the travelled street or out of the right-of-way. It is a provision that could be clarified
- 

Landscaping

- At least 50% of the front yard and 40% of the entire yard must be landscaped for units in residential zones
- Intended to prohibit over-parking in residential areas and destruction of residential “appearance” of the streetscape
- Hasn't been a significant enforcement issue

Waste Management

- Owner required to provide for regular garbage removal and receptacles must be screened from view
 - Occasionally an enforcement issue
 - May want to explore requiring VRDs to use Thompson Sanitary Service's valet option if waste isn't managed effectively
- 

Noise Abatement

- Not addressed in the VRD and B&B code. Noise issues fall under City nuisance abatement standards
 - Enforced by the City of Newport Police Department
 - Police Chief has indicated that nuisance issues with VRDs and B&B are not a significant part of their call volume
 - Police Department is comparing licensed VRD lists against their complaint logs, a task that should be completed by the end of October
- 

Safety Provisions

- Units passing first inspection: +/- 50%
 - Most common issues:
 - Faulty or missing smoke and/or carbon monoxide detectors
 - GFCI receptacles
 - Egress windows
 - Handrails and guardrails
 - Fire Department initiated annual inspections after the City Center fire, focusing on fire suppression measures and emergency egress
 - 2012 Standards have improved the safety of rental units; however, minor revisions to safety provisions are warranted to clarify requirements and address building code changes
- 

Enforcement

- City has documented 22 complaints since 2012 with most common issues being:
 - Advertising in excess of occupancy
 - Excessive number of vehicles or insufficient off-street parking
 - Trespass
 - Barking dogs
 - Language added to code in 2012 equating advertising to use has been effective
 - One-time notice of designated contact is inadequate. Adding contact list to the City website and expanding the notification area could be helpful
 - Stricter rules may be warranted for repeat offenders
 - Complaints need to be tied to specific properties or verifiable occurrences
 - Existing code does not address change in designated contact. Currently re-noticed via city administrative process
- 

Process

- Clear and objective land use standards administered over the counter
 - Business licensing program is used as a conduit for ensuring compliance
 - Feedback has been generally positive regarding the clarity of the standards and ease of navigating the approval process
 - Some standards could be moved from the land use code to the business license code, if further amendments are made (e.g. rules that relate to designated contacts, required safety information for guests, etc.). This would make them easier to revise in the future
- 

Planning Commission Observations

- Code is easily understood, and can be reasonably administered
 - City knowledge about the nature and extent of VRDs and B&Bs has been greatly improved
 - Units are much safer than they were under pre-2012 rules
 - More information needs to be available online (e.g. designated contact, filing complaints, etc.)
 - Some code provisions should be updated to reflect current industry standards (e.g. safety requirements)
 - Rules put in place to address negative effects of transient rental use have not been entirely effective. Targeted amendments are needed
 - City appears to lack capacity to perform effective code enforcement
 - It is timely to evaluate whether or not the number of VRDs and B&Bs should be limited or possibly prohibited in certain areas
- 

Questions?

**Yachats
Municipal Code
Yachats, Oregon**

Current through Ord. 350 and the January 2018 code supplement. For more recent amendments to this code, please contact the city.

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Contact:

City Recorder: 541-547-3565

Yachats Municipal Code

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[Title 4 - Business Licenses and Regulations](#)

Chapter 4.08 - Vacation Rental Licenses

Section 4.08.010 Purpose.

The vacation rental license is in recognition of the desire of many owners to rent their property on a short-term basis and to provide for the orderly use and regulation of such rentals to preserve the health, safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. These standards and procedures are in addition to City ordinances and Federal and State laws and regulations. The purpose of an inspection is to ensure the health and welfare of the occupants. (Ord. 347 § 1, 2017; Ord. 328, 2014; Ord. 311, 2012; Ord. 291a, 2010; Ord. 148 § 1, 1992)

Section 4.08.020 Definitions.

“Dwelling unit” means any building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation.

“Incident” means an offensive activity or breach of the standards.

“Local contact person” means a person with the authority to take action or make decisions concerning the management of a licensed vacation rental property.

“Overnight” means anytime between the hours of 10:00 p.m. and 7:00 a.m. on the following day.

“Rental occupant” means a person over the age of four (4) years who occupies a rented dwelling unit.

“Sleeping area” means a bedroom or loft within a dwelling unit which meets the requirements of the building code as adopted by the State of Oregon.

“Surfaced” means a gravel, paved, tile, brick or concrete surface suitable for parking a vehicle.

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented, or held out as available for rent, for periods of less than thirty (30) days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling; however, each individual unit is to be considered separately for licensing and regulation purposes. A dwelling which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental. It shall be a rebuttable presumption that a dwelling unit is a vacation rental if it is visited overnight by at least four (4) different vehicles over the course of a month, for three (3) consecutive months. The exchange of consideration is not necessary to meet the definition of a vacation rental if the

Corvallis Navigates the New Model to Enforce Lodging Taxes

By Nancy Brewer



The transient room tax (TRT) has been in effect in Corvallis since 1974; it was last changed in 1994 to set a rate of 9 percent on the retail cost of lodging. Corvallis exempts from the TRT rooms occupied

for more than 30 consecutive days and certain rooms arranged for by non-profit organizations using a city voucher.

Traditionally, lodging entities have been hotels, motels, or bed and breakfast establishments, and they collected the TRT and remitted it to the city. Each facility has been required to pay each month's collected tax by the 15th of the following month. If the tax is not received by the last day of the month in which it is due, interest and penalties are applied to the facility's account.

The growth of the internet led to online travel companies (OTC) like Hotwire and Expedia, which operate as intermediaries for people to book traditional lodging. Now, with the recent growth of the "sharing" economy, individuals rent all or part of their home for short-term stays, most often using an OTC such as Airbnb or Vacation Rentals by Owner (VRBO). Until recently, both lodging and non-lodging entities paid the TRT whether the room was booked through an OTC or directly with the entity. Changes in 2013 to state law through HB 2656 now require OTCs to remit monies they collect directly to the taxing community. This latest change has led to some interesting challenges:

1. Local zoning issues may be a problem, especially when individuals rent all or a portion of their homes. Cities know who the traditional lodging providers are. These entities have generally gone through the land development, permitting, and construction process, and they have signs and other advertising so they can be found by lodgers. Individuals renting their personal living quarters may be violating local land use laws, but may be invisible. As a result, no one knows they exist until there is a problem such as a neighborhood parking issue or a report about a loud party. Such situations can create more demand for police services and/or code enforcement action, in some cases years after the individual started renting space. For those who contact the city proactively, information is shared with the code enforcement office and approval is required before the city will issue a license authorizing the collection of the TRT.
2. Many individuals renting rooms in their personal home are not aware that they need to have a local lodging provider license and collect/remit the TRT. When they are discovered, the city has to decide whether to try to collect back taxes.
3. When OTCs began operating, they did not always remit the TRT based on the retail rate. Instead, they may have collected the TRT at retail, but remitted to the lodging provider based on the wholesale rate they paid for the room. This led to OTCs under-remitting amounts owed.
4. The existing reporting format used by the city may not be suitable for an OTC to remit monies and allow the city to ensure accurate collections. Corvallis has revised its forms and created separate forms so that OTCs can report on the number of room nights at each local facility each month. This allows the city to do some reconciliation of reports from OTCs and local lodging providers to ensure all room nights are accounted for and monies are appropriately remitted.
5. OTCs are difficult to communicate with. They often do not have contact information readily available or apparent and multiple emails and calls can go unanswered. When contacted by the city, most have indicated they could not accurately report how many rooms they had provided in Corvallis, and there were challenges with whether they would report on rooms booked versus rooms used each month. Through a series of discussions, an agreement was reached which called for the OTCs to remit on the rooms used each month. The city then modified its original OTC report format to work more effectively for the OTCs who responded to its communication. It has taken significant staff effort to put the city's current reporting format in place and to collect monies owed.
6. We have pursued more outreach with local lodging facilities and individuals to train them on the use of the forms, collection of monies for rooms booked through OTCs, etc. This outreach has also taken time, but we are getting good feedback and more accuracy. As a result, TRT revenues are on the increase.

Currently, Corvallis is updating its TRT ordinance in order to better match definitions provided by the state of the entities that are subject to the TRT. In addition, the effort to update the TRT ordinance will clarify OTC responsibilities.

Ms. Brewer is the finance director for the city of Corvallis. ■

Hood River signals an end to short-term rental debate



By Luke Hammill | The Oregonian/OregonLive
[Email the author](#) | [Follow on Twitter](#)
on August 03, 2016 at 2:49 PM

The Hood River City Council signaled last week that an end may be in sight to the long battle over **how to regulate short-term rentals** in the Columbia Gorge destination town.

After appointing a new member, the council voted 4-2 last week to direct staff to draft rules that would require short-term rentals in residential zones to be operated by permanent residents, said City Manager Steve Wheeler.

Out-of-towners that operate such short-term rentals would be grandfathered into Hood River for seven years. They have five years to comply with parking requirements that mandate one off-street parking space for every two bedrooms used as short-term rentals, Wheeler said.

Residents would be limited to renting out their property on a short-term basis for 90 days a year. Grandfathered properties would be limited to the maximum number of days the rental was used annually over the past three years.

Supporters of the regulations say many short-term rentals in Hood River are investment or second homes belonging to wealthy out-of-towners, making housing less affordable for existing and would-be residents. The debate has played out as the city has experienced an already minuscule supply of long-term housing and rising home values in recent years. The lucrative nature of renting out the homes also violates the spirit of residential zones, the regulations' advocates say.

Opponents say short-term rentals don't have measurable impact on housing affordability and significantly limiting them would harm Hood River's tourism industry. Similar debates have played out across the state, especially in resort and coastal towns like Hood River, home to hiking, wineries, breweries and world-class windsurfing.

The seven-member council had been hung up on the issue because it couldn't muster the four votes required to pass an ordinance after two members who operate short-term rentals recused themselves due to conflict-of-interest concerns. One of those councilors – Laurent Picard, one of the leading advocates in favor of the regulations – resigned in May after 10 years on the council. Tim Counihan replaced him and cast the fourth vote.

Susan Johnson and Mark Zanmiller were the two "no" votes, Wheeler said.

The rules will return to the council Aug. 22 for a public hearing.

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Expedia enters short-term rental fray in Hood River amid councilor's resignation



By [Luke Hammill](#) | [The Oregonian/OregonLive](#)

[Email the author](#) | [Follow on Twitter](#)

on June 11, 2016 at 5:00 AM, updated June 11, 2016 at 5:01 AM

The ongoing fight over [how to regulate short-term rentals in Hood River](#) has caused a city councilor to resign and attracted the involvement of a multibillion-dollar travel company.

Laurent Picard, one of the city councilors leading the push to limit the spread of short-term rentals, resigned the post he'd held for more than a decade on May 23, after the council found itself deadlocked. The conflict was over regulations that would allow only primary residents to use their homes as short-term rentals in residential zones. Such residents would be limited to renting out their homes on a short-term basis no more than 90 days a year. Current short-term rentals that didn't comply with the new rules would be grandfathered for five years.

Supporters of the regulations say many short-term rentals in the Columbia River Gorge hotspot are investment or second homes belonging to wealthy out-of-towners. The rentals add to the problem of an already minuscule supply of long-term housing in the city at a time when home values in Hood River are higher than ever. The lucrative nature of renting out the homes also violates the spirit of residential zones, the regulations' advocates say.

Picard recused himself from voting on the rules amid an ethics challenge. Opponents pointed out he rents his home on a short-term basis and is under contract to continue doing so through September. Another councilor, Becky Brun, also operates a short-term rental home and recused herself, as well, because of conflict-of-interest concerns.

That left three councilors for the regulations and two against. Hood River's city charter requires four affirmative votes to pass the measure. So Picard resigned, hoping the council can appoint a new member who would be able to vote.

The remaining councilors, minus Brun, approved a moratorium on new short-term rental applications until regulations are approved. The city had received 10 new applications in the two weeks before the meeting alone, [the Hood River News reported](#).

"Our housing and livability crisis remains unaddressed and addressing this crisis is the top goal of the current City Council," Picard said at the meeting, [according to the Hood River News](#). "It is my belief that housing is the most important issue we have worked on in the last decade, one that will decide what kind of town we become over the next two decades."

Meanwhile, the online travel giant Expedia has descended on the small town, sending Joy Langley, the company's government relations manager for the northwest, to meet with opponents of the proposed regulations. According to a recording of the meeting obtained by The Oregonian/OregonLive, Langley said Expedia could offer support to political candidates who are friendly

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to the opponents' position on short-term rentals.

Philip Minardi, policy communications director with Expedia, said on the phone that the company wants to "ensure that owners continue to have the opportunity to rent their homes out on a short-term basis." Expedia recently **agreed to buy** the vacation rental company HomeAway for \$3.9 billion.

Opponents say short-term rentals don't have measurable impact on housing affordability and significantly limiting them would harm Hood River's thriving tourism industry.

Sandra Bishop, a land-use consultant hired by the opponents, wondered whether Picard resigned with the express intent that the council replace him with someone who supports the proposed regulations.

"Why would we appoint someone when there's such a short time between now and the election?" Bishop said. Picard's term was set to expire at the end of the year.

Bishop said the opponents are for "reasonable regulations" such as licensing, fees and a cap on the number of short-term rentals tied to a percentage of housing.

In an email, Picard countered that "Hood River residents don't like being controlled by big corporations."

"We beat Nestlé, we beat Super Walmart, and we will not let Expedia turn us into a Pacific Northwest Aspen or Breckenridge," Picard said.

-- Luke Hammill

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Hood River takes initial step toward regulating vacation rentals



By [Luke Hammill](#) | [The Oregonian/OregonLive](#)

[Email the author](#) | [Follow on Twitter](#)

on March 25, 2016 at 12:33 PM, updated March 25, 2016 at 12:53 PM

The Columbia Gorge town of Hood River has taken an initial step toward regulating short-term rentals, as the planning commission there agreed earlier this week to emulate Portland's approach to the issue.

The panel tentatively agreed that in residential zones, only residents who list the property as their primary address should be allowed to offer short-term rentals, according to a news release from the group Lovable Hood River, which supports the regulations. Such residents would only be able to rent their properties on a short-term basis for 60 days per year.

Another group called Lovable Hood River opposes the regulations and fears they will have an adverse impact on the city's tourism industry.

The city **set the stage** for the debate last year, when elected officials adopted a three-pronged approach to housing affordability that included regulating vacation rentals. Advocates for regulation named short-term rentals – a popular choice for visitors who come for the windsurfing, hiking, breweries and wineries – as one cause for sharply escalating home prices and a low inventory of long-term housing for permanent residents.

- [Read the story: Hood River, dealing with housing affordability issues, takes on short-term rentals](#)

The planning commission is set to finalize the recommendations next month. The City Council will then have the final say.

Planners are still deciding the extent to which existing out-of-town property owners should be grandfathered into the new short-term rental rules, said Laurent Picard, a city councilor and short-term rental owner who supports the regulations.

"I appreciate and enjoy that tourism is part of our economy," said Tina Lassen, a Lovable Hood River member who also co-chairs the Hood River County Chamber of Commerce's visitors council. "But I think we have to have balance. We have to make sure that tourism can co-exist with the real community."

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Airbnb, short-term rentals win big in San Francisco



By Luke Hammill | The Oregonian/OregonLive

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on November 04, 2015 at 11:49 AM, updated November 04, 2015 at 12:11 PM

Supporters of Airbnb and other short-term rental services scored a big win in San Francisco on Tuesday, as voters there rejected a ballot measure that would have significantly restricted vacation rentals in the city.

The San Francisco Chronicle **reports** that 55 percent of voters gave a thumbs down to Proposition F, a contentious measure that Airbnb spent millions of dollars opposing.

The initiative would have limited vacation rentals to 75 days per year, imposed greater enforcement and penalties and established incentives for neighbors and others to sue violators, according to the Chronicle.

"Voters stood up for working families' right to share their homes and opposed an extreme, hotel-industry-backed measure," Airbnb spokesman Christopher Nulty said in a statement provided to the Chronicle. Adding that Airbnb's local user base went door to door to organize opposition to the initiative, he said, "The effort showed that home sharing is both a community and a movement."

Cities across Oregon (and elsewhere) are in the midst of similar debates.

Portland **recently sued** the vacation rental website HomeAway.com for \$2.5 million over short-term rental violations. Hood River's elected officials **are considering regulating the industry** in the midst of the highest home values in the city's history. And Oregon Coast cities like Gearhart are **also mulling regulation**.

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Hood River, dealing with housing affordability issues, takes on short-term rentals



By [Luke Hammill](#) | [The Oregonian/OregonLive](#)

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on November 01, 2015 at 7:00 AM, updated November 01, 2015 at 7:02 AM

HOOD RIVER — When Steve Wheeler moved from Portland to Hood River in 2014, he struggled to find housing.

It was "very hard," he said. "I was looking for a rental place, and the problem here is that typically you get offered a nine-month lease." In April or May, Wheeler said, the unit typically gets taken back and offered as a short-term summer rental through a service like Airbnb.

"Roughly speaking, you can charge short-term for the week what you'd charge long-term for the month. ... It was tough," Wheeler said. "I did find a place, but it was not easy."

Wheeler is Hood River's city manager.

Cities from New York to San Francisco to Portland have dueled with Airbnb and other short-term rental platforms over safety and taxes. They've also blamed the services for taking traditional rental units off the market and making housing problems worse in these already-dense urban areas.

For the most part, short-term rentals haven't been a big problem in small-town America. But city councilors in the Columbia River Gorge town of Hood River say they, too, now want to regulate short-term rentals in an effort to put the brakes on rising home prices and a loss of traditional rentals.

Just as in the big cities, though, there has been pushback from those who stand to profit from the trend.

Short-term rentals spread as home values grow

As in other desirable markets like Portland and **Bend**, Hood River has experienced escalating home values and a shortage of year-round apartments in recent years. In September, the median home price in Hood River reached \$363,000, the highest in the town's history, according to real estate website Zillow. To that point, values had increased 26 percent since the beginning of 2013.

But residents disagree about whether the short-term rental market has a significant impact on that trend.

Laurent Picard knows how "lucrative" short-term rentals can be, he said. He rents out his Hood River home several months a year, while he stays with family nearby, and does "quite well."

"If I had the money, I'd buy up as many homes as I could and rent them out short-term," Picard told The Oregonian/OregonLive in an email. "It's that good of an investment."

OUTSTATE

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Picard is also a member of the Hood River City Council who is intent on regulating short-term rentals.

"Lower housing prices and fewer vacation rentals are exactly what we need to maintain our city's diverse economy," Picard said.

A city-commissioned study published in September by the consulting firm **ECONorthwest** found that Hood River has about 190 short-term rental units, which make up roughly 5 percent of the housing stock. Add in another 150 units the study identified as "secondary housing" – properties where the owners don't primarily live at the address and are not registered to vote in Hood River County – and nearly 10 percent of the city's housing stock is unavailable to a potential buyer or year-round renter.

"We risk actually becoming a tourist economy like Aspen (Colorado), a town of second homes and investment properties," Picard said. "We risk losing the Hood River we love."

Ryan Hartman – president at unmanned aircraft manufacturer **Insitu**, the Gorge's **largest employer** – said one of the biggest challenges facing his company, across the Hood River Bridge in Bingen, Washington, is finding affordable housing for his employees.

"Finding a way to create entry-level housing in the Gorge has been a real challenge over the last 10 years. ... It's gotten worse," Hartman said. "As the population has grown, as the rise of short-term rentals and vacation rentals has steadily increased, certainly what we have seen is it becomes more and more challenging."

If employees end up commuting the 60 miles from Portland, Hartman said, Insitu is at risk of losing them to companies closer to where they live.

Hood River County School District Superintendent Dan Goldman said he, too, is having a hard time recruiting and retaining employees.

"Our anecdotal evidence from people who are leaving is that it's too expensive to live here and raise a family here," Goldman said.

No longer a 'sleepy little town'

The housing prices reflect the explosion of Hood River's national and international appeal in recent years. The city came of age and thrived with the rise of windsurfing in the 1980s and 1990s, as it became a top destination for the sport. The views of the Columbia River Gorge, the proximity to skiing areas and nearby hiking only added to the acclaim.

The population grew accordingly, and with it came breweries, wineries and more hip shopping and dining options. The number of people living in Hood River has increased by 73 percent since 1980 and by 28 percent since 2000. The population is now estimated at 7,476, according to the U.S. Census Bureau.

City councilor Kate McBride grew up in Hood River and can remember when it was "just a sleepy little town," she said.

"It was timber and agriculture," McBride said. "There was nothing else."

McBride likes all the new opportunity the city has seen. But she still thinks the town needs to be more than a vacation destination, and that short-term rentals need to be regulated. The city is "desperate" for affordable year-round rental housing, she said.

"I like the vibrancy," she said. "I like that people have come here. I'm not against that. But... the people who make this community are being priced out."

At the crux of the debate is the degree to which Hood River's economy depends on tourism. Picard said tourism accounts for less than 5 percent of the economy. But Lesley Lamb, co-owner of **Hood River**

Outstate

This is the second in an occasional series looking at housing trends outside the Portland area.

Big cities vs. short-term rentals

How some cities have dealt with the issue:

Portland:

Thousands of short-term rental hosts were operating off the books in Portland while Airbnb lobbied the city to legalize them. City Hall approved regulations on short-term rentals last year. Some forms of short-term rentals are still illegal in Portland, though,

Vacation Rentals, said she remembers when Hood River "used to die at the end of the summer."

"On weekends, it was utterly dead," she said. "A lot of the stores couldn't operate in the winter."

Now, Lamb said, short-term rentals have extended the stream of visitors into the fall and even the winter, creating jobs and allowing retailers to stay open.

Opposition to the plan

Ron Montague spends as many as 80 days a year in Hood River. He and his wife bought a property there about five years ago. The home had already been used as a short-term rental, and the couple continues to rent it out through Hood River Vacation Rentals when they aren't there.

"It helps us afford to have the house down there, and that's why we're doing it," Montague said. "And it may be that sometime soon we stop doing the rental piece of it and spend most of the summer down there ourselves."

Montague, who works in the Seattle area, said he wants "to be involved in a community that is active and encourages people to go outside and do stuff."

"The activity level of things to do in Hood River is unparalleled," he said.

The city still hasn't decided on exactly how it would regulate short-term rentals. But rules tentatively proposed by Picard and McBride would prohibit any more short-term rentals whose owners don't live there as their primary residence. Existing owners would be tentatively grandfathered in. The councilors said they were considering a threshold that would require living in Hood River 270 days per year for a residence to qualify as primary, but those numbers aren't set in stone.

The Hood River City Council will officially decide Nov. 9 what forms of short-term rentals will be allowed, Picard said.

Montague said he isn't opposed to paying licensing fees and agreeing to inspections. But he is suspicious that the city might go even further and keep him from renting out his home at all.

"They seem to be pretty well set on the fact that they don't want to have any more in the city," Montague said. "And they may be set on the fact that they want to get rid of the ones that are there."

Montague and his wife volunteer at a local museum and donate to city parks, he said. He pays the city about \$7,000 a year in taxes. He has improved the property, spending \$10,000 to upgrade the roof.

"We're not just there trying to make money on a short-term rental," Montague said.

The city also collects a transient room tax every time someone stays in a short-term rental. If regulation goes too far, Lamb said, second homes like Montague's that had previously been used as short-term rentals would "just sit there doing nothing" and not collect the tax or attract tourism dollars.

Lamb and her business partner, Libby Taylor, said a 270-day model would just flood the market in the summertime. And regulation could even drive short-term rentals underground, they said.

"We want what's best for Hood River," Taylor said. "But we want what makes sense."

Not just vacation rentals

The city and advocates for short-term rentals agree on one thing: Regulating them won't solve Hood River's affordability problem by itself.

and the city recently sued the site HomeAway.com for short-term rental violations.

New York: A 2010 New York State law makes it illegal for short-term rental hosts to rent out their apartments for fewer than 30 days, unless they are present, POLITICO New York reported. That is particularly significant in apartment-heavy New York City. On Friday, the City Council there heard legislation that would further penalize short-term rental hosts for illegally renting out their homes.

San Francisco: On the Nov. 3 ballot in San Francisco is a measure that would cut the number of allowable short-term rentals to 75 nights a year per unit and add other restrictions, USA Today reported. Airbnb recently apologized for an advertising campaign, seen by many as passive aggressive, that suggested how San Francisco should spend the \$12 million in hotel taxes the company pays each year, according to CNN.

Picard, McBride and the rest of the City Council recently adopted a three-pronged approach that includes more efficient land-use policy and developing more affordable housing in addition to regulating vacation rentals. The initiatives are just getting underway now and are set to ramp up in the spring.

Yesenia Castro, 25, graduated from **Hood River Valley High School** and works in Hood River. She's a community health worker at a nonprofit called The Next Door, and commutes 30 minutes each way from her family's home in nearby Parkdale.

Castro is planning on setting aside at least 30 percent of her income to buy a house of her own soon.

But when she does, it won't be in Hood River. In her price range, Castro said, it makes more sense to buy in Gresham, even though it'll be an hour-long commute.

"The supply in Hood River is horrible," Castro said.

-- Luke Hammill

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Regulating Short-Term Rentals - Best Practices & Industry Perspective

By Cynthia Wang

Airbnb was created out of the economic dislocation of the Great Recession and has always been powered by everyday people who use what is typically their greatest expense—their housing—as a way to generate supplemental income. By sharing their homes, a typical Airbnb host earns additional income at a time where economic inequality is a major challenge.

Airbnb is proud to be at the forefront of the sharing economy, a movement that enables local residents to access new economic opportunities, promote entrepreneurship, strengthen communities, and conserve resources—all aspects of urban life in which cities have invested significantly. Neighborhood businesses benefit as well. Seventy-four percent of Airbnb listings are located outside of hotel districts. Airbnb attracts new visitors who stay longer, spend more, and are more likely to return. This means that visitor spending is distributed to neighborhoods that have not traditionally benefited from tourism spending, and visitors are staying in and exploring places they may not have otherwise visited.

Cities and counties around the world are embracing home sharing and recognize the opportunity and benefit home sharing can provide to a community. The right regulatory environment supports innovation while balancing other public interest needs. Airbnb wants to enhance our relationships with local governments. To achieve that goal, we have released the Airbnb Community Compact, which outlines a series of commitments we are making to be good partners with cities.

Key principles and best practices we support to guide policymakers develop thoughtful home sharing regulations include:

- **Understanding Home Sharing in Your Community:**

Governments should make data-driven policy and not legislate by anecdote. While protecting host and guest privacy, Airbnb will provide anonymized information regarding hosts and guests in our community to city officials to help inform the development of their home sharing policies. It is important to recognize that home sharing takes many forms, from the family that shares their home for one week a year while they are on vacation, to the professional that shares her home while on frequent business travel, to the owner of a second home, to the commercial investor. Different regulatory approaches are appropriate for each of these groups.

- **Home Sharing That Benefits All:** Home sharing rules should not discriminate between neighborhoods or building types, instead allowing all residents to share their home with visitors. Home sharing should be authorized as an accessory use to residential use in any zoning district where residential



activity is allowed, and all residents—whether renters or homeowners—should be able to participate.

- **Clear Rules for Home Sharing:** All residents should be able to share their without the need for complicated permits or licenses. Where regulation is merited, we encourage such regulations to require streamlined and online registration/permitting processes. Renting all or a portion of a primary resident's home to visitors should not trigger complex permit rules or alter the character of a property from residential to commercial. Stronger regulation may be appropriate for residents who rent non-primary homes to visitors for more than half of the year.
- **Community Trust:** Cities have nuisance laws in place that address neighborhood character (e.g. occupancy, parking, noise and garbage) through their own enforcement and penalty procedures. These apply to all similar properties, whether or not the property is rented on a short- or long-term basis. Airbnb's robust reciprocal review system and trust and safety tools further protect hosts, guests and communities. We recently announced a tool for neighbors at airbnb.com/neighbors to share specific concerns they might have about a host's guests or hosting activity in their community. These concerns could include things like noise complaints. When a neighbor clearly identifies a host's listing, we'll pass along the message when possible and provide some recommendations for resolving the issue with their neighbors.

We are committed to working with governments on smart, sensible rules that address key concerns, generate new revenue, and help families stay in their homes. We understand that every city is different and as we move forward, we will partner with individual cities to address their unique policy needs.

Ms. Wang is a regional public policy manager for Airbnb. ■



Online Vacation Rental Services Complicate the Housing Balance in Yachats

By Melody Finnemore

The balance the coastal city of Yachats strives to maintain between residential housing and vacation homes has been a challenge for many years, and even more so with the advent of Airbnb, VRBO and similar online vacation rental services that are part of the sharing economy.

Mayor Ron Brean, who calls Yachats “the gem of the Oregon coast,” said tourism plays a significant role in the city’s economy. Yachats has about 125 vacation rentals for the tourists who flock there primarily during the summer months, though a dedicated group of storm watchers help support tourism there during the off-season. Yachats is also attractive to people who want to buy a second home and plan to retire there, he said.

While the vacation rentals draw tourists who spend money in local businesses, the housing dynamic also skews things economically. Brean said the city’s leaders strive to find the right balance so that people who want to own a home or have an alternate place to stay in Yachats still have the opportunity.

City leaders want to avoid the tipping point where so many homes have been converted to vacation rentals that it diminishes the city’s residential character, causing property values to decline.

“There is a point where it gets to be too big, and when that happens the character of neighborhoods change and the character of the community changes,” he said. “If you are used to having a neighbor and then you have a lot of people next door who come and go, it’s not as comfortable and it does change the character of the neighborhood.”

Brean said the city’s long-term goal is to evaluate what parameters are needed to measure and determine a proper balance between full-time residences and vacation rentals.

“It’s difficult to know what factors will come together to determine the difference between a viable economy and a viable community, and at what point some boundary has been crossed that leads to decline,” he said.

In addition, an increase in vacation rentals means fewer opportunities for people to rent or buy homes in Yachats, which has a

population of 725. Fewer ownership opportunities also means fewer people available to work in the community.

“If we don’t have an adequate population here to support the community through the winter, businesses start to fold and the whole thing collapses,” Brean said.

Through several measures, city leaders are doing what they can to prevent these negative impacts. This includes putting limits on the size of a vacation rental, which prevents it from serving as a “mini hotel” that is often used for family reunions and other large gatherings.

Larger rental homes not only tend to clash with the residential feel of a neighborhood, but they often cause issues with traffic, parking and noise, among other problems, Brean said.

Yachats is proactively attempting to determine an appropriate cap for the number of homes that should be rentals. Brean said he has seen examples of tourist destinations that determined the cap too late, only to suffer negative consequences and find that it’s difficult to make changes reactively.

“The complaints we get about vacation rentals in general are pretty predictable—somebody has a dog that is loose, there is too much garbage or too much noise, but most people follow the rules,” he said. “We’re just trying to manage it so it doesn’t deter from the attractiveness of the city as a city and not just as a vacation destination.”

Ocean View Drive, for example, has a large number of vacation homes, so city leaders are exploring how to evaluate various zones of the city to determine the percentages of vacation rental densities and whether to limit vacation rentals in those zones.

In the meantime, online vacation rental services continue to grow. Airbnb alone has grown from \$6 million in revenues in 2008 to more than \$900 million in 2015. It boasts more than two million listings in 191 countries around the world, and has accommodated more than 60 million guests.

Another major player in the market, HomeAway, owns more than 40 other vacation rental sites, including VRBO. It claims more than one million rental listings in 190 countries. ■

**CITY OF YACHATS
ORDINANCE NO. 347
AN ORDINANCE AMENDMENT TO
YACHATS MUNICIPAL CODE CHAPTER 4.08 RELATED TO VACATION RENTALS**

Whereas, the City has regulated vacation rentals for over twenty years so it has been able to observe the impact of the regulations on the community and observe what areas of the regulations could be improved to better obtain the desired results; and

Whereas, the City desires to maintain a strong sense of community and not overwhelm neighborhoods with short-term rentals that impact livability for owner-occupied and long-term rental homes; and

Whereas, the City has a record of responding to complaints related to vacation rentals and the impacts that these rentals have on neighborhoods, including noise, excessive trash, and parking problems; and

Whereas, setting a cap on the total number of vacation rental licenses within the City will help to maintain the community feel of the City by controlling the number of vacation rental licenses issued in the City; and

Whereas, the City has limited resources and staff that can be devoted to enforcement of vacation rental complaints, so limiting the total number of vacation rental licenses will ease the burden on City resources; and

Whereas, the City understands the needs of owners that choose to rent out their homes on a short-term basis, so the City seeks to balance the wants of such owners with the wants of their neighbors that deal with the nuisance impacts that can result from vacation rentals; and

Whereas, in order to ease the burden of vacation rentals on City staff and neighbors, so that complaints are responded to within two hours of notification, each vacation rental must have a local contact person that has authority to act in relation to the vacation rental; and

Whereas, the City wants to encourage all those property owners that engage in short-term renting of their property to license their activities so that all property owners are operating under the same rules,

NOW THEREFORE, the City of Yachats ordains as follows:

Section 1. Yachats Municipal Code Chapter 4.08.

Yachats Municipal Code Chapter 4.08 shall be amended to read as follows:

Section 4.08.010 Purpose.

The vacation rental license is in recognition of the desire of many owners to rent their property on a short-term basis and to provide for the orderly use and regulation of such rentals to preserve the health,

safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. These standards and procedures are in the addition to city ordinances and federal and state laws and regulations. The purpose of an inspection is to ensure the health and welfare of the occupants. (Ord. 328, 2014; Ord. 311, 2012; Ord. 291a, 2010; Ord. 148 § 1, 1992)

Section 4.08.020 Definitions.

~~“Contact person” means the owner or a person with the authority to take action or make decisions concerning the management of the property.~~

“Dwelling unit” means any building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation.

“Incident” means an offensive activity or breach of the standards.

“Overnight” means anytime between the hours of 10:00 p.m. and 7:00 a.m. on the following day.

“Property manager” means an individual person or persons with authority to take action or make decisions concerning the management of the property

“Rental occupant” means a person over the age of four years who occupies a rented dwelling unit.

“Sleeping area” means a bedroom or loft within a dwelling unit which meets the requirements of the building code as adopted by the State of Oregon.

“Surfaced” means a gravel, paved, tile, brick or concrete surface suitable for parking a vehicle.

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented, or held out as available for rent, for a periodperiods of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A homedwelling which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental. It shall be a rebuttable presumption that a dwelling unit is a vacation rental if it is visited overnight by at least four different vehicles over the course of a month, for three consecutive months. The exchange of consideration is not necessary to meet the definition of a vacation rental if the dwelling otherwise is held out as available for occupancy for periods of less than 30 days. (Ord. 328, 2014; Ord. 311, 2012; Ord. 291a, 2010; Ord. 226, 2002; Ord. 148 § 1, 1992)

Section 4.08.030 Standards.

A vacation rental license shall be issued to the dwelling owner providing the following standards are met:

A. Except for individual units located on the same property, such as a duplex or triplex as defined above in Section 4.08.020, a person holding a vacation rental license or an interest in a property covered by a vacation rental license shall not be eligible to apply for or hold, as a member of a group or any other form of beneficial ownership, a vacation rental license covering any other property. Any change of ownership, in whatever form, shall be reported to the city within 30 days.

B. Vacation rentals in residential zones shall have no more than four bedrooms. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 328, adopted November 13, 2014.)

C. A vacation rental facility should shall comply with all applicable laws. Basic visitor rules as provided by the city must be prominently displayed on the inside of the primary exit door.

D. ~~The local contact person~~ Each vacation rental shall have a property manager. The property manager shall reside or maintain an office within the local 547 or 563 calling area and within the zip code boundaries for Yachats and Waldport. The contact information for the ~~local contact~~ property manager shall be identified on the vacation rental application and available by phone at all reasonable times (8:00 a.m. to 11:00 p.m.) and respond in a timely manner if there is a problem during the dwelling's use as a vacation rental. The City-issued license, with the name and phone number of the ~~contact person~~ property manager shall be posted ~~inconspicuously~~ on the vacation rental building, and be readily visible from the public street but where a neighbor it can easily read it. The house number for the vacation rental shall be prominently displayed on the exterior of the building, using numbers at least four inches in height, and be readily visible from the public street. A copy of the local contact agreement, in a form approved by the city, which lists the duties and responsibilities of the ~~local contact person~~ property manager, signed by both the property owner and the ~~local contact person or management company~~ property manager shall be filed with the city. ~~The form for the local contact agreement is attached and marked "Exhibit E". If the vacation rental is managed by a property management company a local contact shall be designated by the company. The name and contact information of that local contact shall be identified on the vacation rental application in addition to the company information.~~

E. One on-property parking space, as defined in Section 9.04.030 for off-street parking, shall be provided for each bedroom in the dwelling, but in no event shall fewer than two spaces be provided: for the vacation rental. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 226, adopted 1/15/2002.) If access to the rental property crosses private property via an easement, right-of-way, or other conveyance all parking must be contained on the rental property. Owners are required to provide parking that is unimpeded, surfaced, useable and available to renters. The parking shall be mapped and posted in the home, and a copy given to the city: with the vacation rental license application and whenever the location of designated parking spaces change. The owner shall require renters to use only the parking spaces that are surfaced and marked on the map.

F. The maximum number of overnight vehicles allowed on the property shall not exceed the number of surfaced parking areas on the property or six vehicles, whichever is less. Daytime parking is limited to surfaced parking on the property. If access to the rental property crosses private property via an easement, right-of-way, or conveyance, ingress and egress must be accomplished without encroachment on other properties adjoining the privately maintained access road or driveway. In such situations applicants will provide evidence of their right to use the privately maintained access road or driveway consistent with vacation rental before a vacation rental license is granted.

G. There shall not be any noise, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental that violates Yachats Municipal Code.

H. The maximum allowable number of overnight occupants shall be two persons per sleeping area plus two additional persons per vacation rental. The rental agent shall match the number of persons and vehicles to the particular property being rented. Advertisements for the rental shall not list a number of occupants that exceeds the number authorized by the city. Recreational vehicles, campers, tents and similar structures shall not be allowed on vacation rental properties. Parking a boat trailer of moderate size, with or without a boat, is permitted as a substitute for one vehicle.

I. Weekly solid waste collection service shall be provided. A sufficient number of suitable garbage receptacles shall be provided: and must have bear-proof mechanisms. Except on collection day,

these garbage receptacles shall not be readily visible from the street. Renters shall be advised not to place trash outside in plastic bags.

J. Each vacation rental shall provide and maintain a container for the disposal of cooking grease into a solid waste receptacle to prevent the grease from entering the sewer system.

K. All pets must be under control at all times. Methods of control include a leash or demonstrated effective voice command. The person having the control, custody or possession of a dog shall clean up after the dog by using a dog waste bag or other suitable method.

L. Vacation rental licenses are non-transferable.

M. The licensee must comply with the requirements of the occupancy tax ordinance as a condition for issuance or renewal of a vacation rental license.

N. Licensees shall keep all information on the GoYachats website current and notify City Hall of any changes in mailing address, email address or agent or contact person. Email addresses, mailing addresses and phone numbers for the owner, property manager and person responsible for tax reporting shall be kept current with the City. Failure to keep contacting information current shall constitute a violation of this Chapter.

O. Licensees may not advertise a vacation rental for a higher occupancy than the maximum allowable number of overnight occupants listed on the license.

P. Vacation rentals shall comply with the standards in this section, whether or not the vacation rental is occupied by a renter, owner, or other person.

(Ord. 328, 2014; Ord. 324, 2013; Ord. 311, 2012; Ord. 291, 2010; Ord. 237, 2003; Ord. 226, 2002; Ord. 191, 1997; Ord. 148 § 3, 1992)

Section 4.08.040 Inspection, license and annual fee.

A. The city ~~recorder~~ shall prepare an application form for a vacation rental license. Prior to issuance of a vacation rental license, the city will inspect the subject property to determine occupancy capacity, parking and access compliance. Upon receipt of the completed application, the annual license fee, inspection and attestation that the licensing standards have been met, the city ~~recorder~~ shall issue a license to the applicant (not the dwelling) for a period of one year. The license may be renewed annually if all standards are met. If a license is renewed annually until at least five consecutive years have elapsed the city will re-inspect before issuing a license for the ~~next~~sixth year. The city retains the right to re-inspect the property at any time. Complaints received by the city may trigger a re-inspection. An inspection fee will be assessed for the initial inspection, for additional inspections undertaken due to complaints, and for each five-year inspection completed by the city. A vacation rental licensee shall not be required to pay a business occupation license fee in addition to the annual license fee. The annual license and inspection fees shall be set by resolution of the city council. All fees are non-refundable.

~~Complaints received by the city may trigger a re-inspection.~~

B. All licenses shall be obtained prior to any rental of the property. The required application and license fee are due on January ~~1st~~ of each year for the fiscal year commencing with that date and are delinquent on February ~~1st~~. The delinquency fee will be set by resolution.

C. The City shall not issue more than 125 licenses. If more than 125 licenses have been issued prior to the effective date of this 125-license limitation, the City shall not issue any licenses to new vacation rentals until such time as the number of licenses drops below 125 licenses. For license renewals each year, priority will be given to existing licenses seeking renewal, so long as the renewal application is

delivered to the City by December 29, or the next business day if December 29 falls on a day City Hall is closed. After December 29, if there are licenses available after accounting for all licenses renewals, new applications will be accepted on a first-come-first-served basis.

(Ord. 328, 2014; Ord. 311, 2012; Ord. 291, 2010; Ord. 284, 2009; Ord. 199 § 1, 1997; Ord. 148 § 4, 1992)

Section 4.08.050 Complaints.

All complaints shall be in writing on a form provided by the city ~~recorder~~ and signed by the complainant. The complainant must show or attest that they have made a timely attempt to resolve the issue with the person officially responsible for management of the property. The complainant is expected to initiate the process while the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations. All complaints filed with the city shall be verified by the city for validity.

A. When a complaint is filed that is verified by the city to be valid, the owner and ~~agent, if any;~~ property manager will be notified in writing by mail or email and provided with a copy of the complaint. Either the ~~licensee~~ owner or ~~agent~~ property manager will be required to meet with a city official to discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, ~~the city recorder~~ staff will prepare a report for city council action.

B. Upon a second complaint, that is verified by the city to be valid, the owner and ~~agent, if any;~~ property manager will again be notified in writing by mail or email and provided with a copy of the complaint. Either ~~licensee~~ the owner or ~~agent~~ property manager will again be required to meet with a city official to further discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time the city recorder will prepare a report for city council action.

C. Upon a third complaint within a 90-day period, that is verified by the city to be valid, the owner and agent, if any, will be notified in writing by mail or email and provided with a copy of the complaint.

a. ~~The city recorder~~ City staff may schedule a hearing and prepare a report for city council action.

b. The city council may schedule a hearing.

c. Either the city ~~recorder~~ manager or city council may, without a hearing, revoke the license immediately.

d. In the event that a license is revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the council shall be filed with the city ~~recorder~~ within 15 days of the notice of revocation.

D. Standards of judging complaints shall include, but are not limited to, the following:

1. Noncompliance with vacation rental license standards as stated in Section 4.08.030;

2. Monopoly of on-street parking;

3. Other offensive activities not in harmony with the residential neighborhood such as trespass, excessive noise or pets running loose.

E. The city council, upon hearing the evidence, may (1) approve the license as it exists; (2) revoke the license; (3) impose appropriate restrictions on the operation of the license. (Ord. 328, 2014; Ord. 311, 2012; Ord. 226, 2002; Ord. 148 § 5, 1992)

Section 4.08.060 Violations—Penalties.

It is unlawful for any person so required to fail or refuse to apply for a license, or operate without a license as required herein. Any person who violates any provisions of this chapter ~~commits~~ is subject to a Class B civil infraction and fine of up to \$1,000 per violation, with each day of a continuing violation constituting a separate violation. The third violation within any consecutive twelve month period shall result in suspension of the vacation rental license for twelve months. Violations shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended, or ~~revised or repealed~~. (Ord. 328, 2014; Ord. 185 § 4, 1996; Ord. 148 § 6, 1992)