

CHAPTER 4

Business Regulation

SHORT TERM RENTAL OF DWELLING UNITS

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SHORT TERM RENTAL OF DWELLING UNITS

4.405 Findings and Purpose

(1) The Lincoln County Board of Commissioners finds that:

(a) The growth in the number of short term rental of dwelling units within the County has been accompanied by increased problems of excessive noise, spilled garbage, shortages of parking, and overcrowded accommodations;

(b) The best way to regulate these impacts is to establish conditions for operation of these rentals and to implement a licensing program by the County to ensure compliance with those standards; and

(c) The conditions established herein will allow operation of such rentals in a manner that respects and protects the livability of the neighborhoods in which these rentals are located.

(2) The purpose of LCC 4.405 through 4.460 is to provide for the peace, health, safety and livability of residents of, and visitors to, Lincoln County. This is not a land use ordinance and is not made a part of Lincoln County Code Chapter 1, Land Use Planning. [2016 o.487 § 2]

4.410 Applicability

LCC 4.405 through 4.460 shall apply to the unincorporated areas of Lincoln County. These provisions shall not apply to Bed and Breakfast Inns, Hotels, Lodges, Motels, Resorts, Recreational Vehicle Parks, Campgrounds, or other similar lodging units which are regulated by LCC Chapter 1. [2016 o.487 § 3]

4.415 Definitions

For the purpose of LCC 4.405 through 4.460

(1) "Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of a property and located on the same lot as the main use.

(2) "Contact Person" means:

(a) The owner(s) of the dwelling unit; or

(b) The agent of the owner(s), authorized to act for the owner(s) as designated on the license application.

(c) The contact person, whether the owner or an agent, must be located within Lincoln County, and cannot use the dwelling unit(s) licensed under this Chapter as the basis for compliance with this provision unless the owner or agent resides at that location.

(3) "Dwelling Unit" means:

(a) A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, sanitation and only one cooking area.

(b) A "single family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise one dwelling unit, including but not limited to factory built dwellings, mobile homes and site built dwellings.

(c) A "two family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise two dwelling units including but not limited to factory built dwellings, mobile homes and site built dwellings.

(d) A "multi-family dwelling" means a structure of which all habitable portions thereof are connected structurally and comprise three or more dwelling units, including, but not limited to, factory built dwellings, mobile homes and site built dwellings.

(4) "License" means a short term rental license issued by Lincoln County and maintained in good standing by the Owner(s) or agent of the Owner(s) in accordance with the provisions of the Lincoln County Code.

(5) "Owner(s)" means the person or people, partnership, corporation, association, or other legally recognized person(s) or entity holding title to the dwelling unit in accordance with law.

(6) "Person" includes any natural person(s), firm, partnership, association, social or fraternal organization, corporation, business or any other group or combination acting as a unit.

(7) "Rental Agreement" means any agreement, whether or not in writing, granting the use of a dwelling unit to a person. Use of a dwelling unit by a recorded owner or other person or persons without monetary consideration shall not be considered to be a rental under this chapter.

(8) "Rent" means the authorization of use of a dwelling unit granted to a person(s) in exchange for monetary consideration.

(9) "Renter" is a person who rents a short term rental.

(10) "Short Term Rental" means the renting of a dwelling unit (including any accessory guest house on the same property) to any person(s) on a day to day basis or for a period of time of up to thirty (30) consecutive nights.

(11) "Sleeping Area" is a room or other space within a dwelling unit designed, intended or used for sleeping. Roll out beds, fold out couches, or other temporary sleeping accommodations including tents and recreational vehicles shall not be considered a sleeping area, and may not be used to increase the allowed occupancy of a short term rental as provided in LCC 4.404 through 4.460. Determinations as to the number of sleeping areas within a dwelling unit are reserved to the Lincoln County Licensing Authority and all determinations are final. The determination of sleeping

areas shall not exceed the number of bedrooms authorized in accordance with LCC 4.440(6) for dwellings not served by public sewer. [2016 o.487 § 4; 2016 o.490 § 2; 2019 o.509 § 2]

4.420 Licenses

(1) It shall be unlawful to rent any dwelling unit as a short term rental without obtaining and maintaining a current license as provided in LCC 4.405 through 4.460. All dwelling unit owners shall obtain a license prior to using the dwelling unit as a short term rental.

(2) No license granted under the provisions of LCC 4.405 through 4.460 shall be assignable. If the dwelling unit is sold or transferred by any means, a new license is required of the subsequent owner(s) who desire to continue short term rental operation **in accordance with the limitations on the number of licenses in this Chapter**. The subsequent owner(s) will be required to fill out a new application and be placed on the waitlist if a license is not available. [2016 o.487 § 5]

Alternative 1 - [No limits on the number of licenses; all owners and operators of STRs must adhere to the provisions of this Chapter. Language as currently provided in LCC 4.420(2) remains the same.]

Alternative 2

(3) Limits on Licenses. The number of licenses that shall be issued by the County in the licensing program shall not exceed _____¹ in total. A “waitlist” of prospective short term licensees shall be established by the County under rules which shall be developed by the Licensing Authority under LCC 4.456. If by sale or transfer of an existing licensed short term rental, or lapse, revocation, or nonrenewal of the license, a license becomes available, the next property on the waitlist will be eligible for the available license.

Alternative 3

(3) Limits on Licenses. The number of licenses that shall be issued by the County in the licensing program shall not exceed _____² in total. A “waitlist” of prospective short term licensees shall be established by the County under rules which shall be developed by the Licensing Authority under LCC 4.456. Within that overall cap of ___ licenses, the County will establish seven (7) geographical subarea limits on the number of licenses within each respective subarea. If that subarea is at capacity, no new property shall be eligible for a license in that subarea. If by sale or transfer of an existing licensed short term rental, or lapse, revocation, or nonrenewal of the license, a license becomes available, the next property on the waitlist located in a subarea that is below its capacity will be eligible for the available license. This will reduce the concentration of short term rentals in some areas and allow spreading of the units to other areas within the overall limits of the licensing program.

(4) The boundaries of the subareas, and the number of licenses allowed within the subareas, shall be recommended by the Licensing Authority and approved by the Board of Commissioners by Board Order. The boundaries and subarea capacities may be reviewed by the Board periodically and adjusted by Board Order. Any change to the overall limit of the

¹ This number may change; it can be the number of existing licenses or a number greater or lesser than the existing number of licenses.

² This number may change; it can be the number of existing licenses or a number greater or lesser than the existing number of licenses.

number of licenses within the unincorporated areas of the County shall require an amendment of this Chapter.

Alternative 4

(3) **Limits on Licenses.** The County will establish seven (7) geographical subarea boundaries for the licensing program. Within each subarea, the County will limit the number of licenses that can be issued in that subarea. A “waitlist” of prospective short term licensees shall be established by the County under rules which shall be developed by the Licensing Authority under LCC 4.456. If that subarea is at capacity, no new property shall be eligible for a license in that subarea. If by sale or transfer of an existing licensed short term rental, or lapse, revocation, or nonrenewal of the license, a license becomes available, the next property on the waitlist located within that subarea will be eligible for the available license. This will reduce the concentration of short term rentals in some areas and allow spreading of the units to other areas.

(4) **The boundaries of the subareas, and the number of licenses allowed within the subareas shall be recommended by the Licensing Authority and approved by the Board of Commissioners by Board Order. The boundaries and subarea capacities may be reviewed by the Board periodically and adjusted by Board Order.**

4.425 Application for License; Fee

(1) Applications for a license, renewal of a license, or license caused by a change in ownership shall be made upon forms provided by the County.

(2) Every license application, renewal license or license caused by a change in ownership shall be accompanied by annual fee(s) in amounts as set, and periodically reviewed and amended, by order of the Board of Commissioners.

(3) Every application shall be processed by the Department or Office designated by the Lincoln County Board of Commissioners (hereafter County Licensing Authority). Upon receipt of the completed application the County will review the application and certify that:

(a) Based on a viewing of the property, the short term rental complies with standards found in LCC 4.440(1) in posting contact person information and providing that information to the local fire department and Lincoln County Sheriff’s Office.

(b) Determine the maximum occupancy for the short term rental as defined by LCC 4.440(6).

(c) Receive and review the certified statement of the owner that the owner of the short term rental has met and will continue to comply with the requirements of this Chapter.

(d) **Transient Room Tax Compliance Required.** Notwithstanding any other provision of this Chapter or the Lincoln County Code, and as a separate stand-alone requirement and criteria for holding a valid license, the owner shall provide a certified statement that the owner will comply with LCC Chapter 5.005 through 5.070 Transient Room Taxes. If the owner cannot demonstrate compliance with Chapter 5 Transient Room Taxes, or the County determines that the owner is not in compliance with the provisions of that Chapter, the license shall not be issued, or may be suspended or revoked, or may be denied upon renewal, until such time as the noncompliance is resolved to County’s satisfaction. Compliance includes, but is not limited to, failure to report, improper reporting, failure to collect or failure to remit required transient room taxes. Any of these actions not timely made is also grounds for noncompliance. [2016 o.487 § 6]

4.430 Issuance of License

(1) Authority to issue licenses rests with the Lincoln County Licensing Authority as designated by the Board of Commissioners. In addition, an issued license is subject to revocation or refusal to renew the license for failure to meet, maintain or operate the short term dwelling in conformance with the requirements of this Chapter and the procedures as provided in LCC 4.425.

(2) Within sixty (60) days of receipt of a completed application, the payment of required fees, and the determination or certification of compliance with the requirements of LCC 4.440 (Operational Standards) and LCC 4.425 (Application for License; Fee), a license shall be issued by the Lincoln County Licensing Authority to the owner which shall be good for one (1) year from the date of issuance. Renewals shall be issued for one (1) from the date of the previous license expiration unless the license is older than twelve (12) months, in which case a new license will be required.

(3) If an application for a permit or the renewal of a permit is denied, or a permit is revoked, cancelled or not renewed the owner may appeal denial or revocation or nonrenewal under LCC 4.450. Unless and until a permit is finally revoked or not renewed as provided in this Chapter, a short term rental may continue to operate. [2016 o.487 § 7; 2019 o.509 § 2]

4.440 Operating Standards

As used in LCC 4.405 through 4.460, all short term rentals shall comply with the following operating standards and conditions:

(1) Contact Person(s). The name and phone number of the contact person(s) shall be posted, provided and updated in the following manner:

(a) Signage clearly displaying the contact person's name and working phone number is required for all short-term rental properties. The sign must be a minimum size of 12"x12" and be visually accessible by the public from the street. Visually accessible means information in a format and size that shall be readable by a person standing in the public area viewing the sign on the property. The signage must be updated immediately with any changes in information.

(b) In addition, the owner shall provide the contact person's name and phone number in writing to the local fire chief and the Lincoln County Sheriff's Office. The Sheriff's Office shall supply this information to each property owner as shown on the Lincoln County Assessor's records located within two hundred fifty feet (250') of the short term rental property.

(c) The owner shall update the posted notice and provide a new written notice to the local fire chief and Lincoln County Sheriff's Office each time there is a change to the name or phone number of the contact person. An additional fee, as set by the Board, shall accompany the new written notice provided to the Sheriff to offset costs of the Sheriff's Office in supplying this new information to property owners in accordance with LCC 4.440(1)(c) above.

(d) The owner or contact person shall contact a renter by phone or in person or otherwise respond within a reasonable period of time which shall normally be within one hour, unless circumstances would require a lesser or greater time, upon receiving any complaint from a neighbor, the local fire department or the Sheriff's Office concerning the conduct of a renter.

(2) Quiet Time. In accordance with the requirements of LCC 2.2000 through 2.2045, the hours of 10:00 p.m. until 7:00 a.m. the next day are required quiet time. Renters who violate this standard may be issued enforcement mechanisms available to the County under LCC 2.2045 and LCC Chapter 10. In addition multiple violations of the quiet time requirements by short term dwelling renters may subject the licensee to revocation or nonrenewal of the license as provided in

LCC 4.450. The owner or contact person shall notify every renter, in writing, of the quiet times and that a renter may be subject to sanction and penalties under the County Code.

(3) Garbage Service. The owner shall be required to maintain adequate garbage service, with all garbage fitting inside required secure containers, from the franchised waste disposal service company serving its property. The service must be at a level commensurate with the garbage generated at the dwelling, but no less than weekly service when the short term rental is being rented. Owners shall notify all guests of the garbage services and requirements for the dwelling.

(4) Parking. The owner must provide one (1) parking space for each approved sleeping area in a short term rental, plus one (1) additional parking space per unit. For dwellings constructed on or after July 1, 2016, all required parking shall be provided off street. For dwellings constructed prior to July 1, 2016, off-street parking must be used if physically available. If a sufficient number of off-street parking spaces are not available for the authorized number of vehicles, then on-street parking may be used unless otherwise prohibited. Parking shall not, under any circumstances, hinder the path of any emergency vehicle. Renters may be cited and fined under existing State or County law in the event they park illegally. Repeated violations of prohibited parking by renters of the short term rental may be grounds for enforcement against the Owners under LCC 4.460. The owner or contact person shall notify every renter in writing of the required off-street parking and other parking spaces available to serve the short term rental.

(5) House Number. A house number, visible from the street, shall be installed and maintained by the Owners.

(6) Onsite wastewater treatment system requirements. "Onsite wastewater treatment system (system)" means any existing or proposed subsurface onsite wastewater treatment and dispersal system, including, but not limited to, a standard subsurface, alternative, experimental, or non-water-carried sewage system authorized pursuant to Oregon Administrative Rules, OAR Chapter 340, Division 71.

(a) If the property is not connected to a public sewer, the onsite wastewater treatment system must be able to handle the capacity of the number of bedrooms of the home and the total number of occupants.

(b) Each owner shall be required to obtain an Oregon Department of Environmental Quality (DEQ) authorized Existing System Evaluation Report (ESER) from a qualified professional who shall evaluate the condition of the system and its capacity for occupancy in accordance with OAR 340-071-0155 prior to licensing of the STR. Included in the report must be a calculation of the number of allowed bedrooms based on the capacity of the system as it exists. The report shall be supplied to and reviewed by Lincoln County's Onsite Waste Management Division of the Department of Planning and Development (Onsite Waste Division). Final determination of the capacity and suitability of the septic system from the report shall be made by the Onsite Waste Division upon review of the report. The Onsite Waste Division will share its determination with the Lincoln County Licensing Authority.

(c) If the ESER identifies any deficiencies in the system, the owner is required to cure the deficiencies; no license under this chapter shall be issued until after the repairs are made and approved by the County.

(d) The initial ESER for existing STRs is required prior to the next relicensing date. After an initial ESER is obtained, the owner shall thereafter be required to conduct annual maintenance of the system, undertaken by a DEQ authorized contractor, which at minimum shall include inspection of the system (and as needed pumping or repairs) prior to relicensing the unit. A report on the annual maintenance shall be provided to the Onsite Waste Division

for review in a format as developed by the Division. The report shall be required before the owner can relicense the property. Every fourth year of license renewal, an updated ESER shall be required of the owner prior to relicensing in lieu of the annual maintenance report.

(7) Limits on Occupancy. The maximum occupancy for a short term rental unit shall be calculated on the lesser of the following calculations:

(a) the request of the applicant for a license;

(b) **two (2) persons per sleeping area. This limit of occupancy shall apply overnight from 10:00 pm to 8:00 am. At all other times the maximum occupancy shall be limited to the overnight occupancy plus up to two (2) additional persons. Events, such as weddings, rehearsal dinners, and similar activities are prohibited.** For the purpose of maximum occupancy, those under two (2) years of age shall not be counted. Accessory structures, tents and recreational vehicles and similar sleeping arrangements shall not be used to increase the number of people approved to occupy a short term rental.

(c) **the occupancy capacity as determined by Onsite Waste Management from review of the ESER required in this section.**

(d) Notwithstanding the forgoing, no more than 16 persons shall occupy the short term rental unit at any one time **except for grandfathered occupancies established under Ordinance # 487.**

~~— [Notwithstanding the foregoing limits, a dwelling built and operated as a short term rental unit on July 1, 2016, may be grandfathered in at a higher maximum occupancy level, not to exceed 3 persons per sleeping area plus 2 additional persons, under the following conditions:~~

~~— (a) The owner applies for a higher occupancy limit in the initial application for a short term rental license, which application must be received no later than December 31, 2016. No dwelling will be allowed a higher occupancy limit unless the owner applies and qualifies during this application period.~~

~~— (b) The owner provides proof (rental agreements, ads, or other reasonable evidence) that the unit has historically been rented and occupied by more than 16 persons.~~

~~— (c) The property on which the dwelling unit is located can provide, within all applicable laws, off street parking as required under LCC 4.440(4) above. That requirement is one parking space per sleeping area, plus one more.~~

~~— (d) For illustrative purposes, a dwelling with six sleeping areas may be allowed a maximum of 20 persons (three per sleeping area, plus two more) if a total of seven (7) lawful off street parking spaces are provided.~~

~~— (e) Review of the request for a higher occupancy limit shall be made by the County Licensing Authority which at its sole discretion shall make all determinations as to whether or not to grant, partially grant, or deny a request for higher occupancy.]~~

(e) Grandfathered occupancies cannot exceed the capacity of the onsite wastewater system under an Existing System Evaluation Report. This may reduce the higher occupancy allowed effective January 6, 2020.

(7) Notices to Renters. The owner must provide to each renter and post in a prominent location in the dwelling, a list of rules including, but not limited to, rules on required quiet times, available garbage service, parking locations and limitations on occupancy. [2016 o.487 § 8]

4.445 Complaint Procedure

All complaints will initially proceed through the informal resolution process provided herein. If the complaint is unresolved, then the more formal process shall be utilized as set forth below:

(1) Step One. The complaining party shall attempt to communicate with the contact person designated on the license, communicated in writing to the neighbor, and posted at the short term dwelling. The complainant shall describe the problem and the requested resolution.

(2) Step Two. The contact person shall promptly respond to the complainant and make reasonable efforts to remedy any situation that is out of compliance with the provisions of this Chapter. If that resolves the matter, the complaint process terminates.

(3) Step Three: Administrative Hearing. If the response from the contact person is not satisfactory, the complaining party may use the County's online complaint system at the County website to lodge a formal complaint or submit a complaint in writing to the Licensing Authority. The complaint shall be investigated by the Licensing Authority. If the Licensing Authority finds there is information, evidence and belief provided by the complainant or otherwise found by the Licensing Authority sufficient to proceed with a determination of a violation of this Chapter, the Licensing Authority may issue a written report and cite the STR owner to appear before a Hearings Officer designated by the County within 30 days of the complaint to determine if a violation of this Chapter has indeed occurred.

The Hearings Officer shall hold an informal hearing on the matter and issue a final written decision on whether or not a violation has occurred and what action should be taken if there is a violation. Authority is specifically delegated to County Counsel to adopt administrative procedures for the hearing, including report requirements, fees, hearing procedures and notice, evidentiary requirements, standard of review and decision, and enforcement options for this administrative process. A copy of this administrative process shall be posted on the County website.

Nothing in this administrative procedure precludes the County and the Licensing Authority from utilizing other enforcement actions as authorized in this Chapter and LCC Chapter 10.

(4) Appeals from a decision of the Hearings Officer are made to the Lincoln County Circuit Court.

(5) This procedure is separate from but complimentary with the procedures used to revoke, cancel or deny renewal of a license, LCC, 4.450. [2016 o.487 § 9]

4.450 Denial, Revocation or Nonrenewal of a License; Hearing

Owners of short term rental units who hold a valid license under this Chapter are required to comply with all applicable provisions of this Chapter and the Lincoln County Code. In addition to the penalties for violation of any provision of LCC 4.405 through 4.460 punishable pursuant to LCC Chapter 10, failure to comply may subject the owner to revocation or nonrenewal of a License as provided for in this section. Appeal of denial of a license is also governed under these provisions.

(1) The following shall be grounds for considering revocation or nonrenewal of the license:

(a) Three or more violations of this chapter or other provisions of the Lincoln County Code related to the same short term rental within one (1) year. Violations include, but are not limited to, complaints identified in LCC 4.445 which reached step 3 and a final determination of

violation was made by the Hearings Officer, no matter what the enforcement sanction imposed. Violations may also be determined by the Licensing Authority for noncompliance with the provisions of this Chapter or other provisions of the Lincoln County Code.

(2) Denial of a license may be appealed under the procedures set forth below.

(3) The County shall conduct a hearing if it wishes to consider the revocation or nonrenewal of a short term rental license. The County will also hold a hearing if an owner appeals denial of a license. All hearings will be conducted by the Board of Commissioners or its designee. The County shall give thirty (30) days written notice to all relevant parties of the time, date and place of the hearing, that the short term rental permit may be revoked as a result of the hearing and of the allegations and violations upon which revocation will be considered. At the hearing, each party shall have an opportunity to be heard and present such witnesses, testimony and other evidence as that party deems relevant to the issues. The procedure will be informal and no cross examination will be allowed. The hearing may be continued at the discretion of the County. At the conclusion of the hearing process, the Board of Commissioners or its designee shall consider the evidence and issue a written order revoking the license, or not renewing it, or denying the application as the situation warrants. [2016 o.487 § 10]

4.455 Nonliability of County

Neither the County nor any official or employee of the County, including the Lincoln County Licensing Authority shall be liable for any damages, claims from any owner or third party relating to enforcement of any provision of LCC 4.405 through 4.460. [2016 o.487 § 11]

4.456 Delegation of Authority and Establishment of Fees

The Lincoln County Licensing Authority is delegated the authority and responsibility to adopt rules, procedures, forms and practices consistent with the overall intent of this Chapter, to implement, administer, and operate the licensing program for the County. **All fees associated with the program shall be set by separate Order of the Board of Commissioners.** [2016 o.490 §3]

4.460 Severability

Each section, sentence, clause, and phrase hereto is declared severable. If any section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Chapter. [2016 o.487 §12]

Areas in yellow highlight show changes.