



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

5/19/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Manzanita Plan Amendment  
DLCD File Number 002-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 01, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jerald Taylor, City of Manzanita  
Gloria Gardiner, DLCD Urban Planning Specialist  
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

**DEPT OF**

**MAY 12 2010**

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Manzanita**

Local file number: **Ordinance 10-B (10-03)**

Date of Adoption: **5/5/10**

Date Mailed: **5/11/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 3/23/10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Creates procedures and standards for maintaining a permit/license for a short term rental, which the City considers not to be a land use matter. The City is sending this notice in the event it is determined in the future that this is a land use matter and notice should have been given. The City needs to implement this before the end of May so that the new standards may be in effect before the next short term rental permit/license renewal date on August 1<sup>st</sup>.**

Does the Adoption differ from proposal? No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** 002-10 (18198) [16130]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: Jerald P. Taylor, City Manager  
Address: P.O. Box 129  
Fax Number: 503-368-4145

Phone: 503-368-5343      Extension:  
City: Manzanita      Zip: 97130  
E-mail Address: [jtaylor@ci.manzanita.or.us](mailto:jtaylor@ci.manzanita.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**  
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light **green paper if available**.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

## ORDINANCE NO. 10-03

### AN ORDINANCE ESTABLISHING RULES AND REGULATIONS RELATING TO SHORT TERM RENTALS

**WHEREAS**, Ordinance 95-4 defines short term rentals as an outright allowed use in residential zones; and

**WHEREAS**, the City of Manzanita wishes to establish rules and regulations relating to short term rentals within the City to ensure the safety and convenience of renters, owners and neighboring property owners; now therefore

#### **THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:**

**Section 1. Definitions.** The following words and phrases, as used herein, shall have the following meanings:

**Contact Person.** The owner or, if designated on the application for a license, a rental agency or other agent of the owner authorized to act for the owner.

**Dwelling Unit.** Means one or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing four (4) or more of the following:

- refrigeration
- cooking facility (including cooking stove, hot plate, range hood, microwave, or similar appliance) or wiring or venting to support same
- dishwashing machine
- sink intended for meal preparation (not including a wet bar)
- garbage disposal
- toilet
- shower or bathtub

**Owner.** The person who owns the dwelling unit used as or proposed to be used as a short term rental.

**Person.** Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

**Short Term Rental.** A dwelling unit that is rented for a period of 29 consecutive days or less per rental period.

**Section 2. License required.** A property owner shall obtain and maintain a license as provided in this Ordinance whenever a dwelling unit is to be used as a short term rental. A license must be obtained prior to using a dwelling unit as a short term rental or advertising in any manner the availability of the dwelling unit for short term rental.

#### **Section 3. Short Term Rental Application Requirements**

a. Eligibility to apply for license. A property owner who holds title or a recorded land sale contract to a property with a dwelling which has passed a final building inspection may apply for a short term rental license. Applications will be processed in the order received by the City. At the time of processing and notification by the City, applicants shall advise the City in writing to process or to withdraw their application from consideration.

b. Application. An application for a short term rental license shall be completed and submitted to the City by the owner of the dwelling unit on forms provided by the City. The application shall identify and be signed by all persons shown as owners or having any beneficial ownership in any form of ownership of the dwelling unit on the most recent Tillamook County Assessor's tax records or recorded title. Any additional cost incurred by the City in obtaining verification of such information shall be added to the cost of the license. At the time of application, an inspection fee as determined by resolution of the City Council shall be paid to the City.

c. Limitations on application. Effective June 4, 2010, a person holding a short term rental license or an interest in a property covered by a short term 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 short term rental license covering any other property. Any change of ownership, in whatever form, shall be reported to the City within thirty (30) days. A person shall not hold more than one short term rental license at a time. The short term rental license is issued to the owner and does not transfer with the sale or conveyance of the property. The transfer of the property from natural persons to a trust serving the same natural persons or to a family member pursuant to will or bequest upon the death of the owner is deemed not to be a transfer of ownership for purposes of this Ordinance.

d. Initial inspection. At the time of initial application, the dwelling unit shall be inspected by the Building Official or designee. The purpose of this inspection will be to determine the conformance of the dwelling unit with the State of Oregon Residential Specialty Code regulations related to potential safety issues. Applicants must correct any identified deficiencies before a short term rental license is issued.

e. License issuance. Except as provided in Section 3(f) below, the owner shall be issued a license for a short term rental upon completion of all required forms, approval of the dwelling unit by the Building Official or designee, and payment of the annual license fee as determined by resolution of the City Council.

f. Waiting list in certain areas. If the dwelling unit is located within the area subject to the cap placed on the number of short term rentals by Section 6.030(3)(a) of Ordinance 95-4 and no licenses are available, the owner who is otherwise eligible to receive a license will be placed on a waiting list. As a license within the capped area becomes available, it will be issued to the owner whose application has been on the list for the longest time.

g. Hardship license. The City Council at its discretion may approve a special hardship license where it is determined that a medical condition, death of a spouse or other extraordinary financial burden is likely to jeopardize the owner's ability to maintain ownership of the designated property. The Council may attach a time limit with a hardship license, and this license shall be revoked upon the sale or conveyance of the property.

h. Utilization of license required. Holders of short term rental licenses issued after June 4, 2010, including those issued to owners on the waiting list described in Section 3(f) above as of June 4, 2010, who report no rental income for a period of twelve (12) months from the initial reporting date shall be considered as having abandoned the license, and the license shall be voided. This requirement shall apply to subsequent twelve (12) month periods.

**Section 4. Standards.** A short term rental shall be operated to meet the following standards:

a. House Number. A house number visible from the street must be provided and maintained.

b. Identification Sign or Neighbor Notification. In addition to the signs permitted by Section 4.070 of Ordinance 95-4 the owner or rental agency may provide and maintain a sign attached to the outside of the dwelling unit which identifies the dwelling unit as a short term rental, and lists a telephone number for the applicable rental agency, if any, or other local contact person as required under Section 4(d). Such signage shall be visible from the street and shall be no smaller than 72 square inches nor larger than 90 square inches.

If the owner chooses not to provide the identification sign described above, the owner shall notify neighboring dwelling units within 100 feet from the rental dwelling unit in writing that the property is a permitted short term rental and shall provide a telephone number of the rental agency, if any, or other local contact person as required by Section 4(d).

c. Parking. Off street parking spaces for a minimum of 2 vehicles shall be provided. Such spaces shall not be blocked and shall be available for use by people using the short term rental. Location and design of parking spaces shall comply with all applicable City ordinances.

d. Contact Person. The owner shall keep on file with the City the name and telephone number of a contact person who shall be responsible for responding to questions or concerns regarding the operation of the short term rental. This information must be kept current. This information also shall be posted in a conspicuous location within the dwelling unit. The contact person must be available to accept telephone calls on a 24 hour basis at all times that the short term rental is rented and occupied. The contact person must have a key to the rental unit and be able to respond physically to the short term rental within thirty (30) minutes to address issues or must have arranged for another person to address issues within the same timeframe. The requirement for identifying a contact person applies to each person or entity making arrangements for renting a given short term rental.

e. Garbage Removal. During periods of rental, the owner shall provide covered and properly secured garbage containers and provide for sideyard garbage removal. Garbage shall be removed a minimum of one (1) time per week, unless the short term rental is not being rented. Information providing directions to community recycling facilities shall also be provided in the rental unit.

f. Emergency information. The owner shall provide in the dwelling unit information and equipment to assist renters in dealing with natural disasters, power outages and other emergencies. The minimum information and equipment to be provided in the short term rental shall be as determined by resolution of the City Council.

g. Payment of Transient Lodging Tax. Proper reporting and payment of transient lodging taxes due to the City under Ordinance 87-5 shall be made within thirty (30) days of each preceding calendar quarter. Failure to submit timely reports and make timely payment of short term rental taxes due may result in revocation of the owner's short term rental license. This provision applies to all persons responsible for transient lodging tax reporting and payment for a given short term rental.

**Section 5. License renewals**

a. Renewal fee. Upon payment of the fee determined by resolution of the City Council, a short term rental license may be extended for an additional twelve (12) month period. Failure to pay the required fee within sixty (60) days of the due date will result in revocation of the license.

b. Periodic reinspection. Every short term rental license shall be subject to reinspection of the dwelling unit by the Building Official or designee at the City’s discretion, but no less than every five (5) years. The purpose of this inspection will be to determine the conformance of the dwelling unit with the State of Oregon Residential Specialty Code regulations which may be directly related to potential safety issues. The City shall notify the owner at least six (6) months prior to the renewal of the short term rental license that reinspection is required. The owner shall arrange for a reinspection by the Building Official or designee and must correct any identified deficiencies. Failure to complete correction of the identified potential safety deficiencies by the renewal due date for short term rental license shall result in revocation of the short term rental license.

Alternatively, an owner may comply with this requirement by reinspection by a building inspector currently certified by the State of Oregon as an Oregon Residential Specialty Code inspector or other provider approved in advance by the City. The City reserves the right to modify such requirements and procedures, and to reinspect the rental dwelling unit upon receipt of a safety related complaint.

c. Occupancy Capacity. The maximum occupancy for each short term rental dwelling unit shall be calculated on the basis of two (2) persons per sleeping room plus an additional four (4) persons. For this purpose, a sleeping room is defined as fully-enclosed habitable space with a heat source and an emergency escape or rescue opening.

The maximum occupancy of a short term rental shall be determined at the time a short term rental license is issued or renewed. That capacity shall not be increased by construction of any addition to the structure covered by the license or by construction of any other structure located on the property.

**Section 6. Violations and Penalties.**

a. Violations.

1) It is a violation of this Ordinance to rent or make a dwelling unit available to rent as a short term rental without obtaining the license required by Section 2 of this Ordinance. Advertising the availability of a dwelling unit for rent on a short term rental basis without first obtaining the license required by Section 2 of this Ordinance shall constitute a rebuttable presumption of a violation of this section.

2) It is a violation of this Ordinance to fail to meet any of the standards described in Section 4 of this Ordinance.

b. Fines. A person found in violation of this Ordinance or any part thereof shall be subject to the following fines:

- First Offense - \$500.00
- Second Offense - \$1,000.00
- Third Offense – Not to exceed \$3,000.00

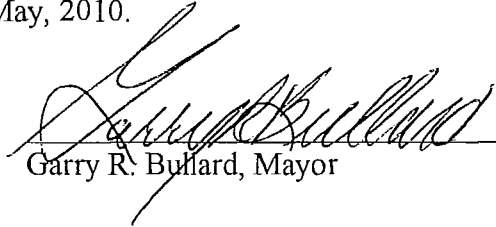
c. Revocation of license. In addition to the penalties specified in this section, the City may determine that an appropriate penalty is the revocation of the short term rental license. The City Council shall hold a hearing on a proposed revocation of a short term rental license. At the conclusion of the hearing, based on the evidence presented, the Council may: Take no action on the request for the revocation of the license; attach conditions to the existing license; or revoke the license. Should a license be revoked, the owner may reapply for a new license one (1) year after the date of revocation. Revocation of a short term rental license shall not constitute waiver of short term rental fees and taxes due at the time of revocation.

**Section 7. Severability.** The separate provisions of this Ordinance are hereby declared to be independent from one another; and if any cause, sentence, paragraph, section or part of this Ordinance shall for any reason be adjudged invalid by any court of competent jurisdiction, all remaining parts shall remain in full force and effect.

PASSED FIRST READING by the Council this 7<sup>th</sup> day of April, 2010.

PASSED SECOND READING by the Council this 5<sup>th</sup> day of May, 2010.

APPROVED by the Mayor this 5<sup>th</sup> day of May, 2010.

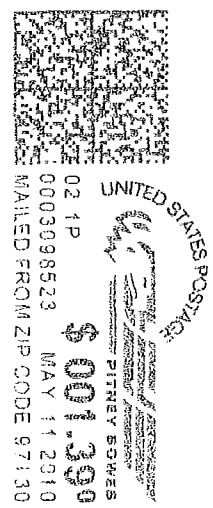
  
Garry R. Bullard, Mayor

ATTEST:

  
Jerald P. Taylor, City Manager/Recorder



ITY OF MANZANITA  
PO. BOX 129  
MANZANITA, OR 97130



Dept of Land Conservation  
and Development  
Attn: Plan Amendment Specialist  
635 Capitol Street NE, Suite 150  
Salem, OR 97301 - 2540