



# Oregon

Theodore R. Kulongoski, 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](http://www.lcd.state.or.us)

## AMENDED NOTICE OF ADOPTED AMENDMENT

November 20, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment  
DLCD File Number 002-07



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: December 4, 2007**

This amendment was submitted to DLCD for review 45 days prior to adoption. 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 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.**

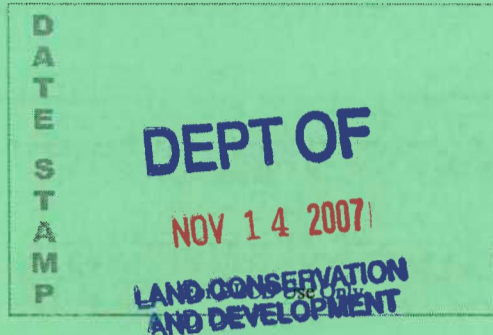
Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Laren Woolley, DLCD Regional Representative  
Richard Townsend, City of Lincoln City

<paa> ya

PROF

# 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Lincoln City Local file number: ZOA 02-07  
Date of Adoption: 10/22/07 Date Mailed: 11/13/07  
Date original Notice of Proposed Amendment was mailed to DLCD: 7/5/07

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other: _____                     |

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

Amends zoning ordinance to revise provisions relating to vacation Rental Dwellings, by simplifying the enforcement process and administration of the program, and clarifying existing interpretations of the ordinance.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

No substantive changes

Plan Map Changed from: n/a to: \_\_\_\_\_

Zone Map Changed from: n/a to: \_\_\_\_\_

Location: n/a Acres Involved: \_\_\_\_\_

Specify Density: Previous: n/a New: \_\_\_\_\_

Applicable Statewide Planning Goals: 1, 2, 10

Was and Exception Adopted?  YES  NO

DLCD File No.: 002-07 (16224)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

n/a

Local Contact: Richard Townsend Phone: (541)996-2153 Extension: \_\_\_\_\_  
Address: PO Box 50 City: Lincoln City  
Zip Code + 4: 97367- Email Address: rtown@lincolncity.org

### ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies 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**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

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**ORDINANCE 2007-11**

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE  
LINCOLN CITY MUNICIPAL CODE SECTION 17.80.050 VACATION RENTAL  
DWELLING**

The City Council of Lincoln City ordains as follows:

**Section 1.** Section 17.80.050 of the Lincoln City Municipal Code is replaced in its entirety with the following:

**17.80.050 Vacation rental dwelling criteria.**

A. Purpose. The accessory use of a dwelling for vacation rental is in recognition of the desire of many people to rent their vacation home on occasions when they, themselves, are not using it. The City Council of Lincoln City finds that Municipal Code Title 17 as a whole authorizes a residential dwelling, with use of such dwelling for vacation rental allowed in certain zones provided the use is incidental to the primary use as a residential dwelling. This purpose section is a criterion for approval of a vacation rental dwelling accessory use and shall constitute a performance standard under section subsection 17.80.050 B.

B. Accessory Use Performance Standards. Use of a dwelling for vacation rental occupancy shall be allowed as an accessory use provided the use is conducted under a vacation rental dwelling permit issued under subsection E of this section and all standards of this section are met including the following performance standards:

1. There must be no offensive noise, smoke, dust, or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental dwelling.

2. The use shall not adversely affect the residential character of the neighborhood.

3. The occupancy of the vacation rental dwelling must not generate excessive traffic.

4. One off-street parking space will be provided for each bedroom in the dwelling unit, but in no event shall less than two spaces be provided for each dwelling unit. Where the number of spaces required cannot be provided on-site and also meet the other standards of subsection 17.80.050 B including required landscaping, the permitted occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking. No more vehicles shall be parked on the property than there are designated off-street parking spaces. No variance from this requirement shall be allowed.

5. The dwelling must maintain the residential nature of the front and side yards. The lot must be landscaped and maintained as a permanent residence similar to the surrounding area.

6. The owner must also comply with the requirements of the transient room tax ordinance as a condition for issuance or renewal of a vacation rental dwelling permit.

7. The owner must provide securable receptacles of sufficient size for the deposit of solid waste generated by the vacation rental dwelling use and subscribe to a solid waste collection service for service sufficient for the vacation rental dwelling during all months the dwelling is used for vacation rental. No dumpsters are allowed.

8. The occupancy must comply with any additional conditions of approval that in the discretion of the planning and community development director are necessary to mitigate

1 potential adverse effects of the vacation rental use on the neighborhood as determined by a  
2 review of the application and the record.

3 9. Any sign on the property shall be in compliance with the sign requirements for  
4 residential, not business, use of the dwelling as provided in Municipal Code 17.72.060 B.

5 C. Accessory Use Application and Review.

6 1. Application requirements.

7 a. The owner of the property or authorized agent shall apply for a vacation rental  
8 dwelling accessory use on a form provided by Lincoln City. The owner shall sign the  
9 application. No application shall be accepted without payment of the application fee.

10 b. At a minimum, the names, mailing addresses, and telephone numbers of all  
11 persons as defined in subsection E(2) of this section and holding an ownership interest in the  
12 property, or holding an ownership interest in the entity that owns the property, shall be  
13 provided in the application.

14 c. The applicant shall certify that the person identified as the owner on the  
15 application does not own other property in the city that is used as a vacation rental dwelling  
16 or is approved by the city for vacation rental dwelling use.

17 d. Providing false information in the application shall be a violation of this section  
18 and grounds to deny or prohibit the use and revoke a vacation rental dwelling permit issued  
19 for the property.

20 2. Administrative review and decision.

21 a. The planning and community development director shall review and approve an  
22 application for vacation rental dwelling accessory use provided all standards of subsection  
23 17.80.050 B are met.

24 b. Notice of application shall be provided as required in Municipal Code section  
25 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated  
26 on the most recently-available tax assessment roll, and tenants of property, located within  
27 two hundred and fifty feet of the exterior boundary of the property for which the application  
28 is made. Where 50% or more of the number of properties in the area subject to notice are  
29 owned by the same person, as defined in this ordinance, the notice area shall be expanded  
until the number of properties owned by the same person constitutes 20% or less of the  
properties in the notice area. The notice shall contain the information required by Municipal  
Code section 17.76.020 A and allow any person opportunity to comment on the application  
within twenty days of mailing of the notice.

c. The city shall also mail notice of decision at applicant's expense to all persons  
entitled to notice in subsection C (2) (b) of this section.

d. The authorization for accessory use shall remain valid provided the use is  
conducted lawfully and under a valid revocable vacation rental dwelling permit.

3. Appeal. The decision of the planning and community development director on an  
application for vacation rental dwelling accessory use may be appealed as provided in  
section 17.76.040 A. Appeal of the decision of the planning and community development  
director shall be in the form of an evidentiary hearing before the Planning Commission.

1 4. Fees. The city is authorized to adopt fees in an amount established by resolution to  
2 recover the actual costs of processing and reviewing an application for accessory use of a  
3 dwelling as a vacation rental including fees for appeals of such decisions.

4 D. Violation of accessory use performance standards; penalties; sanction.

5 1. Providing for use or occupancy of a vacation rental dwelling that fails to meet the  
6 performance standards in subsection B of this section is deemed a nuisance enforced as  
7 provided by law, and a violation enforceable as a Class A civil infraction and subject to  
8 fines and penalties for conviction as established in Municipal Code Chapter 1.16. Violations  
9 shall be enforced as provided in Municipal Code section 17.84.020.

10 2. Providing for vacation rental occupancy of a dwelling without approval of Lincoln  
11 City for the accessory use is a violation of Municipal Code 17.80.050 B, enforceable as a  
12 Class A civil infraction and subject to fines and penalties upon conviction as established in  
13 Municipal Code Chapter 1.16.

14 3. Use or occupancy of a vacation rental dwelling that fails to meet the performance  
15 standards of subsection B of this section may be grounds for revocation of a vacation rental  
16 dwelling permit, pursuant to subsection H(1) of this section.

17 4. In the event a person is convicted of a violation of subsection B of this section, the  
18 vacation rental dwelling accessory use shall be suspended by the city for a minimum of  
19 fourteen (14) days effective as of the date of the judgment of the court and for the length of  
20 time necessary to complete a permit revocation proceeding, if applicable.

21 5. The city manager shall send notice of suspension and pending permit revocation by  
22 mailing a notice of decision and right to hearing to the property owner and conducting a  
23 revocation proceeding, as provided in subsection H of this section. Notice of decision shall  
24 also be provided as required in subsection (C) (2).

25 E. Revocable Annual Vacation Rental Dwelling Permit.

26 1. Permit required. Prior to engaging in the use of a vacation rental dwelling for any  
27 period of time, a person shall apply for a revocable permit for a vacation rental dwelling on  
28 forms provided by the city. A person shall submit a completed application along with  
29 payment of the applicable fee, as established by city resolution. A copy of the city approval  
of an application for vacation rental dwelling accessory use, as provided in subsection B of  
this section, shall be required to be provided in the permit application under this subsection.  
If an applicant fails to provide a copy of the approval of the accessory use in applying for a  
vacation rental dwelling permit or renewal permit, the application shall be deemed void. The  
fee for the vacation rental dwelling permit shall be in an amount to recover the city's actual  
costs of reviewing and issuing the permit application, including any required inspections,  
and shall be established by resolution of the city council. A vacation rental dwelling  
permittee shall not be required to pay a business occupation tax in addition to the fee for an  
annual vacation rental dwelling permit.

2. Standards for permit issuance; revocation. A revocable vacation rental dwelling  
permit shall be issued for a period of one calendar year or portion thereof and may be  
renewed annually if the owner has a valid approval for vacation rental dwelling accessory  
use, all permit standards and conditions are met, there are no unresolved complaints  
concerning the vacation rental dwelling use as provided in subsection G, there are no  
violations resulting from the vacation rental dwelling use or occupancy as provided in

1 subsection H, and the permit application or renewal application is determined to meet all  
2 requirements of this subsection E.

3 a. The permit shall be issued in the name of the property owner and is not  
4 transferable. The permit shall terminate and be deemed void when the permit holder sells or  
5 transfers the property occupied or rented as a vacation rental dwelling. For purposes of this  
6 section, "sale or transfer" means any change of ownership during the lifetime of the permit  
7 holder, whether or not there is consideration, or after the death of the permit holder, except a  
8 change in ownership where title is held in survivorship with a spouse or domestic partner, or  
9 transfers on the owner's death to a trust which benefits only a spouse or domestic partner for  
10 the lifetime of the spouse or domestic partner. A permit holder may transfer ownership of  
11 the real property to a trustee, a limited liability company, a corporation, a partnership, a  
12 limited partnership, a limited liability partnership, or other similar entity and not be subject  
13 to permit revocation so long as the transferor lives and remains the only owner of the entity.  
14 Upon the transferor's death or the sale or transfer of his or her interest in the entity to  
15 another person, the permit held by the transferor shall terminate.

16 b. No person shall be issued a new (or renewal) vacation rental dwelling permit who  
17 holds another vacation rental dwelling permit. For purposes of this chapter, "person" means  
18 the natural person or legal entity that owns and holds legal and/or equitable title to the  
19 property. If the owner is a natural person, or where the natural person has transferred his or  
20 her property to a trust of which the natural person is the trustor, that person can have an  
21 ownership right, title, or interest in no more than one dwelling unit that has a vacation rental  
22 dwelling permit. If the owner is a business entity such as a partnership, corporation, limited  
23 liability company, limited partnership, limited liability partnership or similar entity, any  
24 person who owns an interest in that business entity shall be considered an owner and such a  
25 person can have an ownership right, title, or interest in no more than one dwelling unit that  
26 has a vacation rental dwelling permit.

27 c. The fee for renewal of the vacation rental dwelling permit shall be in an amount to  
28 recover the city's actual costs of reviewing and processing the permit renewal application,  
29 including any required inspections, and shall be established by resolution of the city council.

30 d. Providing false information in the permit application shall be a violation of this  
31 section, enforceable as a Class A civil infraction under Municipal Code Chapter 1.16, and  
32 grounds to deny an application for vacation rental dwelling permit for the property or  
33 revoke a vacation rental dwelling permit.

34 3. A copy of the issued permit shall be sent to the county health department.

35 4. Vacation rental dwelling permit application requirements. In addition to meeting the  
36 performance standards of subsection 17.80.050 B, the owner of a vacation rental dwelling  
37 shall meet and maintain the following application requirements:

38 a. Applicant certification. Except where the applicant satisfactorily demonstrates the  
39 vacation rental dwelling accessory use is authorized and lawful under subsection I(2), the  
40 applicant shall certify that no person identified as an owner on the application also owns  
41 other property in the city that is used as a vacation rental dwelling or is approved by the city  
42 for vacation rental dwelling use, and that all information provided is truthful.

43 b. Owner or local representative.

44 i. The city shall provide a form for application for permit or permit renewal. The  
45 owner shall sign the application. The owner shall provide complete information on the

1 application including the name, address and telephone number of the owner. If the owner  
2 does not permanently reside within the Lincoln City urban growth boundary, the owner  
3 shall provide the name, address, and telephone number of a local representative who can be  
4 contacted concerning a complaint or violation from occupancy of the vacation rental  
5 dwelling in the event the owner is not available. The local representative designated by the  
6 owner shall be a permanent resident within the Lincoln City urban growth boundary, or an  
7 individual staff of a business that manages rental of real property (rental agency) with a  
8 physical office located within the Lincoln City urban growth boundary and staffed with at  
9 least one person. If the owner permanently resides within the Lincoln City urban growth  
10 boundary, the owner may be the local representative provided the owner meets all  
11 requirements of subsection E(4)(b).  
12 ii. The owner shall be responsible for maintaining a guest register for each  
13 tenancy of the vacation rental with a record of all vacation rental dwelling occupancy days.  
14 The register shall include the name, home address, and telephone number of the tenants and  
15 the dates of the rental period. The register shall be available for city inspection upon request.  
16 Failure to maintain or provide the required information shall be grounds to deny a renewal  
17 of a permit or revoke a permit and constitutes a violation of this chapter that may be  
18 enforced as a Class A civil infraction. The violation shall be counted in the number of  
19 offenses assessed against the permit pursuant to subsection 17.80.050 H.  
20 iii. In addition to the owner, the local representative shall be authorized to  
21 respond to tenant and neighborhood questions, concerns, or complaints. The owner or local  
22 representative is the contact person for questions or complaints regarding the occupancy of  
23 the vacation rental dwelling. The owner or local representative shall be available to respond  
24 to complaints in a timely manner as may be considered reasonable depending on the  
25 circumstances, to ensure use of the vacation rental dwelling complies with the standards for  
26 vacation rental dwelling occupancy, city ordinances, and state law.  
27 iv. The owner or local representative shall maintain a contemporaneous written  
28 record of the date, time, and nature of any complaint received and the action taken in  
29 response to the complaint. This record shall be made available to city inspection upon  
request.  
v. The owner may change the local representative at any time provided the  
owner submits a completed revised permit application that includes the name, address and  
telephone number of the new local representative. The purpose of such requirement is to  
maintain current information and to provide the revised information to property owners and  
occupants, as required in paragraph (vi) of subsection E(4)(b). Failure to so notify the city of  
a change in the local representative constitutes a violation of this chapter, may be enforced  
as a Class A civil infraction, and shall be included in the number of violations assessed  
against the permit pursuant to subsection H.  
vi. The city will notify property owners and residents within 250 feet of the  
dwelling of the name, address, and telephone number of the local representative as provided  
in a permit, permit renewal, or amended permit application, so that other residents and  
property owners may contact the local representative to report complaints and request  
resolution of any problems associated with the occupancy of the vacation rental dwelling.  
The owner shall be responsible for the costs of mailing such notice. For purposes of this  
section, "resident" includes a person renting or leasing property for twelve (12) or more  
months.



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c. Inspection.

i. After January 31, 2008, at the time of application for a new or renewed vacation rental dwelling permit, the dwelling unit shall be subject to inspection for the purpose of verifying the permitted property is in conformance with any or all required standards of subsection E of this section including an approved and properly functioning smoke alarm or smoke detector is installed in each guest room, in accordance with ORS 479.255, 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.

ii. If the vacation rental dwelling unit does not meet the requirements of subsection E(4)(c)(i) at the time of inspection, the owner shall request re-inspection within 30 days. The city shall not take any action on the application for permit until the inspection requirement is satisfied.

iii. The city may adopt by resolution a fee to provide for a request for re-inspection 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 permit renewals so that a vacation rental dwelling conducted under the same and continuing ownership is periodically reinspected for conformance with permit standards including smoke alarm and smoke detector requirements..

iv. 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 permit and an additional performance standard. Failure to meet the condition or performance standard is a violation enforceable as a Class A infraction.

v. In lieu of requiring inspection and a program of reinspection for smoke detectors or smoke alarms under subsection E(4)(c) (i), the city may require an applicant and permittee to certify that the dwelling meets the required standards for smoke alarms or smoke detectors.

d. Permit display. The vacation rental dwelling permit 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 permit will contain the following information:

i. A number or other identifying mark unique to the vacation rental dwelling permit and which indicates the permit 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 web site address of the City of Lincoln City and the Lincoln City police department;

iv. The maximum number of vehicles allowed parked on the property;

v. The solid waste collection day.

vi. Required Lincoln City quiet hours.

vii. Any other information required by the City to be included in the posted permit regarding permit standards or conditions of occupancy.

F. Permit Renewal.

1. If a revocable vacation rental dwelling permit is not renewed as required in this section, it shall be presumptively deemed discontinued and subject to revocation.

1           2. A person engaging in rental of a vacation rental dwelling pursuant to an approved  
2 permit shall apply to renew the vacation rental dwelling permit on forms provided by the  
3 city.

4           3. A completed permit renewal application and renewal fee, as established by city  
5 resolution, are due no earlier than December 1 of the calendar year for the following  
6 calendar year, and no later than January 31 of the calendar year for the same calendar year.  
7 The city may impose a late fee for renewal applications as established by resolution.

8           4. If the city has not received a completed permit renewal application and renewal fee  
9 by January 31 of the applicable year, the city shall presume the vacation rental occupancy of  
10 the dwelling is conclusively discontinued and shall initiate revocation of the vacation rental  
11 dwelling permit under the procedure provided in subsection H of this section .

12           5. The city shall issue a renewal of the vacation rental dwelling permit provided the  
13 following standards are met:

14           a. The permittee has provided all required information within the time required for  
15 application, and all applicable requirements of subsections 17.80.050 (E) are met;

16           b. The vacation rental dwelling accessory use of the property has been previously  
17 approved and is valid;

18           c. The permit subject to renewal is current, valid, and has not been suspended or  
19 revoked.

20           d. Where city records show more than one complaint about the vacation rental  
21 dwelling occupancy were received during the permit year, including any complaints that  
22 remain unresolved, the applicant shall bear the burden of proof of demonstrating that the  
23 complaints have been satisfactorily resolved or the complaints are not reasonably applicable  
24 to the occupancy of the vacation rental dwelling.

25           G. Complaints.

26           1. The city manager or the manager's designee is authorized to implement an  
27 administrative procedure to record and respond to complaints about occupancy and use of a  
28 vacation rental dwelling.

29           2. In response to a complaint concerning the occupancy 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 permit. 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.

          3. Failure of the owner or local representative to respond to a complaint relayed by city  
staff on at least two separate occasions shall constitute a violation of this chapter and a Class  
A civil infraction enforced against the owner under Municipal Code 1.16. 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 ten 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 permit for the property naming  
the property owner. The revocation shall be conducted under the procedure provided in  
subsection H(3).

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H. Violations; penalties; revocation procedure

1. The following conduct shall constitute grounds for suspension or revocation of a vacation rental dwelling permit and shall also constitute a violation enforceable as a Class A civil infraction and subject upon conviction to penalties and fines as established in Chapter 1.16:

a. The owner, owner’s agent, or local representative has provided for occupancy of the vacation rental dwelling without receiving approval for a vacation rental dwelling accessory use or without receiving approval of a vacation rental dwelling permit, in violation of this chapter;

b. The owner has failed to comply with the permit requirements of subsection 17.80.050 E. Proof of the following establishes a rebuttal presumption of violation of this paragraph:

- i. Trash or litter is present on the property and not contained in solid waste containers;
- ii. While occupied as a vacation rental dwelling, the number of vehicles parked on the property exceeded the number allowed;
- iii. The owner or local representative failed to respond to an inquiry or complaint as established in subsection G;
- iv. The owner or local representative did not respond to a complaint as required in subsection G(3);
- v. The tenants of the vacation rental dwelling created noise, disturbance, or a nuisance in violation of city municipal code;
- vi. 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. The permittee has failed to pay the transient room tax, as required by Municipal Code Chapter 3.04.

2. Penalties for violation of the provisions of section 17.80.050 shall be as follows:

- a. Each day in which a dwelling is used in violation of subsection 17.80.050 B or E shall be considered a separate violation of this chapter.
- b. The penalty for violation of any provision of this chapter is revocation of the vacation rental dwelling permit, in addition to any other penalty provided by law.
- c. In addition, for the first violation of any provision of Section 17.80.050 within a 12-month period, the sanction may be a warning notice. If the same offense continues to occur or a second offense occurs at any time during the 12-month period, the permit shall be subject to revocation.
- d. The city shall provide the owner and local representative written notice of any violation pursuant to subsection H(1) of this section.

3. Revocation procedure. If the vacation rental dwelling permit is suspended or revoked, the city shall send written notice of suspension and/or revocation to the owner along with the reason for the revocation. The owner may appeal the city manager’s decision to revoke the permit to the city hearings officer by filing a letter of appeal with the city manager

1 within twenty days after the date of the mailing of the city manager's decision and order of  
2 revocation and paying an appeal fee as established by resolution of city council. Upon  
3 receipt of an appeal, the city manager shall stay the revocation decision until the appeal has  
4 been determined. The city hearings officer shall schedule a hearing date on the appeal  
5 within seven (7) days of the filing of the letter of appeal. At the appeal hearing, the owner  
6 may present relevant evidence including witness testimony. At the conclusion of the  
7 hearing, based on the evidence received, the city hearings officer may uphold, modify, or  
8 overturn the decision of the city manager to revoke the permit. If the city hearings officer  
9 modifies the city manager's decision, the modification may include, but is not limited to,  
10 suspension or revocation of the permit. A final written decision on an appeal shall be made  
11 within 75 days of the city manager's decision and mailed to the owner. In the event of  
12 revocation of a permit, the city shall send informational notice of a final decision revoking a  
13 permit to the owners of property located within two-hundred and fifty feet of the property  
14 subject to the permit.

15 4. Revocation of an accessory use shall be conducted as for an appeal of an  
16 administrative staff decision to the Planning Commission, with notice provided for under  
17 subsection C(2) of this section. The decision of the Planning Commission shall be final.

18 5. Discontinuance of use. After a vacation rental dwelling permit has been revoked, the  
19 dwelling unit may not be used or occupied as a vacation rental dwelling, and the owner of  
20 the property to which the permit applied and whose permit has been revoked shall not be  
21 eligible to re-apply for a vacation rental dwelling permit for vacation rental occupancy of  
22 the same property for a period of twelve months from the date of revocation. If the city  
23 revokes an owner's vacation rental dwelling permit on two separate occasions, the owner  
24 shall not be eligible to re-apply for a vacation rental dwelling permit for the same property.

25 6. Violations of section 17.80.050 may also be enforced as civil infractions as provided  
26 in Municipal Code Chapters 17.84 and 1.16 in addition to the violations, penalties, and  
27 procedures established in this section.

28 I. Prior existing use.

29 1. Application of Section 17.60 conditional use. Any vacation rental dwelling accessory  
approved by the city under the conditional use standards of Municipal Code Chapter 17.60  
prior to November 21, 2007 and lawfully conducted may continue as a nonconforming use  
after such date, provided the occupancy of the vacation rental dwelling is lawfully  
conducted under a valid rental dwelling permit or renewal permit as required by this section.  
The owner of the dwelling has the burden of establishing the right to a prior approved  
conditional use when applying for a vacation rental dwelling permit.

2. A vacation rental dwelling accessory use that is not a conditional use and was approved  
by the city prior to November 21, 2007 shall be allowed to continue provided the occupancy  
of the vacation rental dwelling is lawfully conducted under an approved vacation rental  
dwelling permit or renewal permit as required by section 17.80.050. Provided the occupancy  
is otherwise lawfully conducted, the use may continue until such time as the permit holder  
sells, transfers or conveys the property to which the approved use and permit apply. The

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owner of the dwelling has the burden of establishing a prior approved use under this paragraph.

3. Any use conducted under subsection I must conform to all requirements of section 17.80.050 except where specifically provided herein.

**Section 2.** The findings in "Exhibit A", attached hereto and incorporated by reference as if fully set forth herein, demonstrate the ordinance is in compliance with the Lincoln City Comprehensive Plan and planning goals are hereby adopted.

**Section 3.** Severability. If any portion of this ordinance is determined invalid by a court of competent jurisdiction, with all appeal rights exhausted or the time for appeal having expired, then the invalid portion shall be deemed severed from this ordinance and the remainder shall continue in full force and effect.

**Section 4.** Effective date. This ordinance shall take effect 30 days after the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 22nd day of October, 2007.

  
LORI HOLLINGSWORTH, MAYOR

ATTEST:

  
CATHY STEERE, CITY RECORDER

**Ordinance 2007 – 11, Exhibit A  
Findings**

**A. General**

- (1) In residential zones, vacation rental dwellings are permitted accessory uses to various dwellings.
- (2) Lincoln City Municipal Code §17.80.050 establishes permit criteria for vacation rental dwellings.
- (3) Beginning on November 1, 2006 the Planning and Community Development Department applied certain interpretations of Lincoln City Municipal Code §17.80.050. These interpretations were set down in Administrative Interpretation 07-01. In this interpretation the planning and community development director interpreted certain provisions of Lincoln City Municipal Code §17.80.050 to mean that an owner is not allowed to hold more than one vacation rental dwelling permit for homes in residential zones; that the vacation rental dwelling permit is personal to the owner and does not run with the land, except for those issued as conditional use permits; and that if a person holding a vacation rental dwelling permit fails to renew the permit and pay the appropriate fees the permit is terminated as a matter of law.
- (4) In accordance with the *Rules and Procedures of the Lincoln City Planning Commission* the Planning Commission confirmed the interpretations at their meeting of February 20, 2007.
- (5) In accordance with the *Rules and Procedures of the Lincoln City Planning Commission* the City Council confirmed the interpretations at their meeting of February 26, 2007.
- (6) There are hundreds of vacation rental dwellings located in residential zones in the city, and many applications for new vacation rental dwellings are filed each year. Administration of the ordinance provisions relating to vacation rental dwellings has become burdensome because of the sheer volume of permits. For similar reasons enforcement against those who violate the vacation rental dwelling standards has become increasingly difficult.
- (8) There is a need to revise Lincoln City Municipal Code §17.80.050 in order to ease the administrative burden of processing new vacation rental dwelling applications and renewals, to make enforcement more effective and efficient, and to codify the administrative interpretation of the existing ordinance.

**B. Statewide Planning Goals**

- (1) Goal 1: "Citizen Involvement" All proposed documents were made available for public review and purchase and assistance was available to interpret and explain the technical information. Hearing notices were published in local papers in accordance with notice requirements. Therefore, the amendments are consistent with Goal 1.
- (2) Goal 2: "Land Use Planning" This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearings and have been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for

review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these VRD amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

- (3) Goal 3: "Agricultural Lands" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.
- (4) Goal 4: "Forest Lands" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The area is zoned for urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.
- (5) Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The VRD amendments do not include any areas currently zoned Open Space or Park, where residences are not allowed. They do not include the one property listed on the National Register of Historic Places, the Dorchester House. The areas subject to the VRD amendments also include some sites adjacent to areas designated as significant aesthetic resources, but because the amendments relate only to uses already allowed they do not directly authorize any development inconsistent with the aesthetic nature of the sites. Therefore, the VRD amendments are consistent with Goal 5.
- (6) Goal 6: "Air, Water and Land Resources Quality" Because they relate only to uses already allowed under the existing zoning ordinance, the VRD amendments will not serve to increase the waste and process discharges already being generated within the affected areas. Such discharges include solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. Therefore the VRD amendments are consistent with Goal 6.
- (7) Goal 7: "Areas Subject to Natural Disasters and Hazards" The areas affected by the VRD amendments include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the VRD amendments do not authorize any development inconsistent with these natural hazard standards. Therefore the VRD amendments are consistent with Goal 7.
- (8) Goal 8: "Recreational Needs" The areas affected by the VRD amendments do not include any areas zoned for open space or park use, nor do they of themselves authorize any development inconsistent with the recreational needs of the community, region, or state. Therefore, the VRD amendments are consistent with Goal 8.
- (9) Goal 9: "Economic Development" The VRD amendments do not affect the availability of land suitable for industrial and commercial development. They do not relate to lands zoned for industrial development. Because the VRD amendments do not affect commercial or industrial lands they are not expected to have any effect on economic development in Lincoln City. Therefore, the VRD amendments are consistent with Goal 9.
- (10) Goal 10: "Housing" The VRD amendments do not by themselves affect residential development. By themselves the VRD amendments do not affect the availability of housing because they relate only to housing that already is allowed and to a use that is merely accessory

to the primary use of the structures they are in as second homes. Therefore, the VRD amendments are consistent with Goal 10.

- (11) Goal 11: "Public Facilities and Services" Existing City water and sewer infrastructure and treatment facilities will not be affected by the VRD amendments, nor will their ability to serve surrounding properties be affected, because the VRD amendments do not authorize any uses not already allowed by the zoning ordinance. Therefore, the VRD amendments are consistent with Goal 11.
- (12) Goal 12: "Transportation" The VRD amendments are consistent with the City's *Comprehensive Plan* and *Transportation Master Plan* because they do not affect the uses already allowed under the zoning ordinance, which itself implements the *Comprehensive Plan* and because they do not adversely affect any transportation facility since they relate only to uses already allowed. Therefore, the VRD amendments are consistent with Goal 12.
- (13) Goal 13: "Energy Conservation" The VRD amendments do not change any land use patterns and development already allowed and therefore will not have any effect on Energy Conservation. Therefore, the VRD amendments are consistent with Goal 13.
- (14) Goal 14: "Urbanization" The proposed VRD amendments do not change any uses already allowed, nor add to those uses, nor increase or decrease densities allowed, and accordingly do not tend to promote the expansion of the Urban Growth Boundary. Therefore, the amendments are consistent with Goal 14.
- (15) Goal 15: "Willamette River Greenway" The affected areas are not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.
- (16) Goal 16: "Estuarine Resources" The affected areas of the VRD amendments include some areas adjacent to a designated estuarine resource. However, the VRD amendments, by themselves, do not authorize any development. Therefore, the amendments are consistent with Goal 16.
- (17) Goal 17: "Coastal Shorelands" The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of residential zoning, and also include areas that have been designated as significant aesthetic resources. But the VRD amendments do not themselves authorize any changes in development in the coastal shorelands area since they relate only to development already allowed under the zoning ordinance. Therefore the VRD amendments are consistent with Goal 17.
- (18) Goal 18: "Beaches & Dunes" The affected areas of the VRD amendments are not located within a beach or active dune area. Therefore, Goal 18 is not applicable.
- (19) Goal 19: "Ocean Resources" Because the affected areas of the VRD amendments are solely on the dry land areas of the city, and because the VRD amendments will not by themselves authorize any development, the VRD amendments will not affect the nearshore ocean and continental shelf. Therefore, the VRD amendments are consistent with Goal 19.



**C. Comprehensive Plan Goals**

(1) Planning Goal

*"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."*

The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

(2) Citizen Involvement Goal

*"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."*

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with notice to the public and property owners and review of the VRD amendments by the Planning Commission (a citizen board), and the City Council (a citizen board) establishes conformance with this goal.

(3) Public Services and Utilities Goal

*"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."*

Public services and utilities generally already are in place in the areas affected by the VRD amendments. Because the proposed amendments do not authorize any development they will not adversely affect the availability or arrangement of public services and utilities. The goal is satisfied.

(4) Urbanization Goal

*"To promote an orderly and efficient transition of land uses from rural to urban."*

The VRD amendments do not affect the densities of properties in Lincoln City because they do not authorize or prohibit any particular development. Since they will not affect development (the development to which they relate already is authorized by the zoning ordinance) they will not affect the transition of land uses from rural to urban. This goal is satisfied.

(5) Natural Hazard Goal

*"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."*

The areas affected by the VRD amendments include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the VRD amendments do not authorize any development inconsistent with these natural hazard standards. This goal is satisfied.

(6) Housing Goal

*"To provide for the housing needs of all citizens."*

Because the VRD amendments do not change what uses, including residential uses, are allowed under the existing zoning ordinance they will not affect the availability of adequate numbers of needed housing units at price ranges and rent levels commensurate with the local area. Therefore, they are consistent with the housing goal.

(7) Economy Goal

*"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."*

Because the VRD amendments do not change any land uses already allowed or prohibited, including tourist-related land uses, the VRD amendments do not affect the economic development of the city. The VRD amendments, therefore, meet the goal.

(8) Aesthetic Goal

*"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."*

The VRD amendments do not change any land uses already allowed or prohibited, and do not address the aesthetic quality of development permitted under the existing zoning ordinance. Since the zoning ordinance has been found to be consistent with the comprehensive plan, including this goal, this goal is satisfied.

(9) Transportation Goal

*"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."*

The VRD amendments include provisions intended to promote improved pedestrian and vehicular circulation in the commercial areas of the city. They do not, of themselves, create any additional transportation impacts on the existing transportation system. Therefore, this goal is satisfied.

(10) Energy Goal

*"To conserve energy."*

The proposed VRD amendments will not have any adverse effects on the energy goal because they neither allow nor prohibit any land use. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

*"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."*

The VRD amendments will not, of themselves, have any adverse effects on the natural environment. They do not add or delete any allowed uses or development in any zone. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

*"To conserve, protect, and enhance the coastal resources of the city."*

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of residential zoning, and also include areas that have been designated as significant aesthetic resources. But the VRD amendments do not themselves authorize any changes in development in the coastal shorelands area since they relate only to development already allowed under the zoning ordinance. Therefore the VRD amendments are consistent with this goal.

COMMUNITY DEVELOPMENT  
JLN CITY  
, OR 97367

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MAILED FROM ZIP CODE 97367



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NOV 13 2007



Attn: Plan Amendment Specialist  
Dept. of Land Cons. & Dev.  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540