



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

NOTICE OF ADOPTED AMENDMENT

April 16, 2008



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 004-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: April 29, 2008

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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 DATE SPECIFIED ABOVE.**

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

<paa>

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

DATE
STAMP

DEPT OF

APR 09 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: City of Lincoln City Local file number: 20A04-08
 Date of Adoption: 3/24/08 Date Mailed: 4/08/08
 Date original Notice of Proposed Amendment was mailed to DLCD: n/a

☐ 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".

The amendments - related to vacation rental dwellings -
clarifies decision-making authority over VRD permits,
procedures for appeals, extends time to file a
permit renewal for 2007 only.

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".

n/a

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

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

Location: City-wide Acres Involved: _____

Specify Density: Previous: n/a New: _____

Applicable Statewide Planning Goals: _____

Was and Exception Adopted? ☐ YES ☒ NO

DLCD File No.: 004-08 (NOA)

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 **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 2008-07

**AN ORDINANCE OF THE CITY OF LINCOLN CITY CLARIFYING AND
AMENDING ORDINANCE NO. 2007-11 PROCEDURES FOR APPEALS;
EXTENDING THE TIME TO FILE AN APPLICATION TO RENEW A PERMIT
ISSUED IN 2007; AMENDING LINCOLN CITY MUNICIPAL CODE SECTION
17.80.050 VACATION RENTAL DWELLING; AND DECLARING AN
EMERGENCY**

The City Council of Lincoln City ordains as follows:

Section 1. Ordinance No. 2007-11 is hereby amended with the additions and deletions as shown in Exhibit A, attached hereto and incorporated herein as if fully set forth. Ordinance No. 2007-11 as amended by this ordinance is shown in Exhibit B, attached hereto and incorporated herein as if fully set forth.

Section 2. 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 3. Expiration of temporary provision (sunset). The provision added by Section 1 of this ordinance to LCMC §17.80.050 F(2)(d) shall expire as a matter of law on November 30, 2008, unless the City Council provides otherwise by taking action by October 30, 2008 to approve an amendment to this ordinance that has the effect of extending the provision.

Section 4. Declaration of emergency; effective date. An emergency is hereby declared to exist in that clarifications of existing law and an extension of time to renew permits issued in 2007 are necessary to meet the safety and welfare of the city; therefore this ordinance shall take effect immediately as of the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 24th day of March, 2008.


LORI HOLLINGSWORTH, MAYOR

ATTEST:

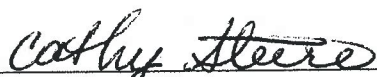

CATHY STEERE, CITY RECORDER

EXHIBIT A

(new language is shown in underlined type and deletions in strikethrough):

Lincoln City Municipal Code Chapter

17.80.050 Vacation rental dwelling criteria.

A. Purpose and application.

1. 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.

a. 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 residential 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 LCMC § section subsection 17.80.050 B.

b. The City Council of Lincoln City finds that LCMC Title 17 as a whole allows residential uses in commercial zones, with use of a dwelling for vacation rental allowed in certain commercial zones.

2. Application. The use of a single property for vacation rental dwelling use is allowed as an accessory use in any residential zone provided the dwelling meets the standards of this section.

B. ~~Accessory Use~~ Performance Standards.

Use of a dwelling for vacation rental occupancy shall be allowed as an accessory use in a residential zone 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 LCMC 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 potential adverse effects of the vacation rental use on the neighborhood as determined by a review of the application and the record.

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

C. Accessory Use Application and Review.

1. Application requirements.

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

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

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

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

2. Administrative review and decision.

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

b. Notice of application shall be provided as required in LCMC § ~~Municipal Code section~~ 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated on the most recently-available tax assessment roll, and tenants of property, located within two hundred and fifty feet of the exterior boundary of the property for which the application is made. Where 50% or more of the number of properties in the area subject to notice are 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~~ LCMC §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~~ LCMC §17.76.040A. Appeal of the decision of the planning and community development director shall be in the form of an evidentiary hearing before the Planning Commission.

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

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

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

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

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

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

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

E. Revocable Annual Vacation Rental Dwelling Permit.

1. Permit required. Prior to engaging in the use of a vacation rental dwelling in a residential for any period of time, a person shall apply for a revocable permit for a vacation rental dwelling on forms provided by the city. A person shall submit a completed application along with 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 for property in a residential zone, 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 for property in a residential zone, 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 in a residential zone, 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 subsection H, and the permit application or renewal application is determined to meet all requirements of this subsection E.

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

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

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

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

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

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

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

b. Owner or local representative.

i. The city shall provide a form for application for permit or permit renewal. The owner shall sign the application. The owner shall provide complete information on the application including the name, address and telephone number of the owner. If the owner does not permanently reside within the Lincoln City urban growth boundary, the owner shall provide the name, address, and telephone number of a local representative who can be contacted concerning a complaint or violation from occupancy of the vacation rental dwelling in the event the owner is not available. The owner must provide a telephone number for contacting the local representative during regular business hours 8 a.m. to 5 p.m. and after business hours and on weekends. The local representative designated by the owner shall be a permanent resident within the Lincoln City urban growth boundary, or an individual staff of a business that manages rental of real property (rental agency) with a physical office located within the Lincoln City urban growth boundary and staffed with at least one person. If the owner permanently resides within the Lincoln City urban growth boundary, the owner may be the local representative provided the owner meets all requirements of subsection E(4)(b).

ii. The owner shall be responsible for maintaining a guest register for each tenancy of the vacation rental with a record of all vacation rental dwelling occupancy days. The register shall include the name, home address, and telephone number of the tenants and the dates of the rental period. The register shall be available for city inspection upon request. Failure to maintain or provide the required information shall be grounds to deny a renewal of a permit or revoke a permit and constitutes a violation of this chapter that may be enforced as a Class A civil infraction. The violation shall be counted in the number of offenses assessed against the permit pursuant to LCMC §subsection-17.80.050 H.

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

iv. The owner or local representative shall maintain a contemporaneous written record of the date, time, and nature of any complaint received and the action taken in response to the complaint. This record shall be made available to city inspection upon request.

v. The owner may change the name or contact information for 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 with the applicable fee as provided by resolution of the City Council for a revised permit application. 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) of this section. Failure to so notify the city

of a change in name or contact information for 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 of this section.

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~~ revised 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.

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 on each floor, in each guest room; in accordance with ORS 479.255, in each common hallway, and at least one smoke detector or smoke alarm for hearing impaired persons and one door knock device is installed as applicable or required by ORS 479.257.

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) of this section, 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, the use# shall be presumptively deemed discontinued and the permit shall ~~expire~~ as provided in this subsection.

~~and subject to revocation.~~

2. Renewal application process. A person engaging in rental of a vacation rental dwelling pursuant to an approved permit shall apply to renew the vacation rental dwelling permit on forms provided by the city, as follows:-

a3. Renewal period and application. A completed permit renewal application and renewal fee, as established by city resolution, are due no earlier than December 1 of the calendar year for the following calendar year, and no later than January 31 of the calendar year for the same calendar year. The city may impose a late fee for renewal applications submitted beyond the 60-day renewal period, as established by resolution.

b. 4-Permit expiration; late period. If the city has not received a completed permit renewal application and renewal fee accompanied by the applicable fee by January 31 of the applicable year, the vacation rental dwelling permit is subject to expiration as of December 31 of the prior year. The expiration will take effect ten days without further notice from the date the City sends notice to the owner, as provided in paragraph (c), unless the owner submits a renewal application with required fees within the ten-day notice period. After a permit expires and is not renewed, the property may not be lawfully used as a vacation rental dwelling unless a new vacation rental permit is obtained by the owner.

c. Notice. The City shall send notice of expiration under paragraph (b) to the owner of any property for which a renewal application has not been submitted. If the owner submits a completed application to renew the vacation rental dwelling permit accompanied by the required fees within the ten-day late period, the City shall accept the application for permit renewal and issue a decision on the application.

d. Permit expiration. If the owner does not submit a renewal application as required under this subsection (2), the permit in effect for the prior year shall expire as of December 31 of that year without further action of the City. The City shall not be required to send any additional notice of permit expiration to the owner except as described herein.

e. Notwithstanding the ten-day late period established in paragraph F(2)(b), for permits expiring December 31, 2007 the City shall accept and process an application for permit renewal provided the owner submits the application and required fees, including the late fee, if any, by May 1, 2008.

~~city shall presume the vacation rental occupancy of the dwelling is conclusively discontinued and shall initiate revocation of the vacation rental dwelling permit under the procedure provided in subsection H of this section.~~

35. The city shall review an application for permit renewal and issue a renewal of the vacation rental dwelling permit provided the following standards are met:

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

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

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

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

G. Appeals of City permit decisions.

1. Authority to decide appeal. A city hearings officer shall be appointed by the City Council for the purpose of hearing and deciding an appeal of a City decision approving or denying an application or renewal application for a vacation rental dwelling permit in any zone. The city hearings officer is authorized to affirm the City decision as originally approved by the City or as amended by the city hearings officer after hearing on the appeal, or reverse or remand the decision.

2. Standard of review. In deciding whether to affirm, affirm with amendments, reverse, or remand the decision under appeal, the city hearings officer shall determine whether the City's decision is supported by substantial evidence based on the whole record. The decision of the city hearings officer shall be final and not subject to further appeal; except, however, the city hearings officer shall be authorized to request a determination from the Director or City Council of an interpretation of a city ordinance. In the event such determination is required prior to a final decision of the city hearings officer, the city hearings officer shall suspend the appeal proceedings until such time as the requested interpretation has been issued and the timelines of subsection G (6) shall be extended accordingly.

3. Standing to appeal; filing requirements; notice.. Any person entitled to notice of decision or otherwise affected or aggrieved may file a written appeal including the basis for the appeal within ten (10) days of the decision being appealed. The City Council may establish by resolution a fee for filing an appeal, which shall be jurisdictional. The City Manager or the city manager's delegee may establish administrative procedures to implement the appeal procedures provided in this subsection, including any required forms. The City shall send notice of hearing at least ten days prior to the hearing.

4. Hearing on appeal. The city manager, within ten days of the date the city receives the appeal, shall schedule a date for the appeal hearing and send notice of hearing to the City and the appellant. If the City or the appellant requests to postpone or reschedule the hearing, the hearing date may be rescheduled within thirty days by the city hearings officer. At the hearing, the appellant and the City shall have the opportunity to present evidence and arguments, including witness testimony. The City shall maintain a summary record of

proceedings, including the date and time of hearing, the names of the parties and witnesses, if any, a list of documents or evidence submitted, and the nature of the oral decision, if any, made at the conclusion of the hearing.

5. The city hearings officer shall issue a written decision on the appeal, including findings of fact and conclusions of law, within sixty days of the date the appeal is received by the City.

6. The city hearings officer may adopt and publish procedures for hearings not in conflict with this subsection, including but not limited to time limits on testimony and length limits on written argument. The City Manager is authorized to provide materials and assistance to the city hearings officer as necessary or required to carry out the duties and responsibilities described in this subsection.

H. Complaints.

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

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~~ LCMC Chapter 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 ~~JH~~(3).

IH. 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 LCMC 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 LCMC § 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 HG;
- iv. The owner or local representative did not respond to a complaint as required in subsection HG(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 LCMC Municipal Code Chapter 3.04.

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

a. Each day in which a dwelling is used in violation of ~~subsection LCMC § 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 LCMC § 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 IH(1) of this section.

13. Revocation procedure.

1. 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 stating the reason basis for the revocation decision.~~ 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 within twenty (20) days after the date of the mailing of the city manager's decision and order of revocation and paying an appeal fee as established by resolution of city council. Upon receipt of an appeal, the city manager shall stay the revocation decision until the appeal has been determined. ~~The city hearings officer shall schedule a hearing date on the appeal within seven (7) days of the filing of the letter of appeal. At the appeal hearing, the owner may present relevant evidence including witness testimony. At the conclusion of the hearing, based on the evidence received, the city hearings officer may uphold, modify, or overturn the decision of the city manager to revoke the permit. If the city hearings officer~~

~~modifies the city manager's decision, the modification may include, but is not limited to, suspension or revocation of the permit. A final written decision on an appeal shall be made within 75 days of the city manager's decision and mailed to the owner.~~

2. With the exception of the ten days to appeal a permit decision provided in subsection G(3), in all other respects the procedure for conduct of the appeal of a decision to suspend or revoke a permit shall be conducted as provided in subsection G.

3. In the event of revocation of a permit, the city shall send informational notice of a final decision revoking a permit to the owners of property located within two-hundred and fifty feet of the property subject to the permit.

4. Appeal of a decision to revoke Revocation of a vacation rental dwelling accessory use or permitted use shall be conducted as for an appeal of an administrative staff decision to the Planning Commission, with notice provided for under subsection C(2) of this section. The decision of the Planning Commission shall be final.

5. Discontinuance of use vacation rental dwelling occupancy.:

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

b. After expiration: After a vacation rental dwelling permit has expired, the dwelling unit may not be used or occupied as a vacation rental dwelling, and the owner of the property to which the permit applied and whose permit has expired shall be required to apply for and obtain a vacation rental dwelling permit before the property may be lawfully used or occupied as a vacation rental dwelling.

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

K1. Prior existing use.

1. Application of SectionLCMC Chapter17.60 conditional use. Any vacation rental dwelling accessory approved by the city under the conditional use standards of Municipal CodeLCMC-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~~ LCMC §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 owner of the dwelling has the burden of establishing a prior approved use under this paragraph.

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

EXHIBIT B

Lincoln City Municipal Code Chapter

17.80.050 Vacation rental dwelling criteria.

A. Purpose and application.

1. 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.

a. 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 residential 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 LCMC § 17.80.050 B.

b. The City Council of Lincoln City finds that LCMC Title 17 as a whole allows residential uses in commercial zones, with use of a dwelling for vacation rental allowed in certain commercial zones.

2. Application. The use of a single property for vacation rental dwelling use is allowed as an accessory use in any residential zone provided the dwelling meets the standards of this section.

B. Performance Standards.

Use of a dwelling for vacation rental occupancy shall be allowed as an accessory use in a residential zone 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 LCMC § 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 potential adverse effects of the vacation rental use on the neighborhood as determined by a review of the application and the record.

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

C. Accessory Use Application and Review.

1. Application requirements.

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

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

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

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

2. Administrative review and decision.

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

b. Notice of application shall be provided as required in LCMC § 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated on the most recently-available tax assessment roll, and tenants of property, located within two hundred and fifty feet of the exterior boundary of the property for which the application is made. Where 50% or more of the number of properties in the area subject to notice are 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 LCMC §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

LCMC §17.76.040A. Appeal of the decision of the planning and community development director shall be in the form of an evidentiary hearing before the Planning Commission.

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

D. Violation of performance standards; penalties; sanction.

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

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

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

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

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

E. Revocable Annual Vacation Rental Dwelling Permit.

1. Permit required. Prior to engaging in the use of a vacation rental dwelling in a residential for any period of time, a person shall apply for a revocable permit for a vacation rental dwelling on forms provided by the city. A person shall submit a completed application along with 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 for property in a residential zone, 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 for property in a residential zone, 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. 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 in a residential zone, 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 subsection H, and the permit application or renewal application is determined to meet all requirements of this subsection E.

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

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

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

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

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

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

a. Applicant certification. Except where the applicant satisfactorily demonstrates the vacation rental dwelling accessory use is authorized and lawful under subsection I(2), the applicant shall certify that no person identified as an owner on the application also owns

other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, and that all information provided is truthful.

b. Owner or local representative.

i. The city shall provide a form for application for permit or permit renewal. The owner shall sign the application. The owner shall provide complete information on the application including the name, address and telephone number of the owner. If the owner does not permanently reside within the Lincoln City urban growth boundary, the owner shall provide the name, address, and telephone number of a local representative who can be contacted concerning a complaint or violation from occupancy of the vacation rental dwelling in the event the owner is not available. The owner must provide a telephone number for contacting the local representative during regular business hours 8 a.m. to 5 p.m. and after business hours and on weekends. The local representative designated by the owner shall be a permanent resident within the Lincoln City urban growth boundary, or an individual staff of a business that manages rental of real property (rental agency) with a physical office located within the Lincoln City urban growth boundary and staffed with at least one person. If the owner permanently resides within the Lincoln City urban growth boundary, the owner may be the local representative provided the owner meets all requirements of subsection E(4)(b).

ii. The owner shall be responsible for maintaining a guest register for each tenancy of the vacation rental with a record of all vacation rental dwelling occupancy days. The register shall include the name, home address, and telephone number of the tenants and the dates of the rental period. The register shall be available for city inspection upon request. Failure to maintain or provide the required information shall be grounds to deny a renewal of a permit or revoke a permit and constitutes a violation of this chapter that may be enforced as a Class A civil infraction. The violation shall be counted in the number of offenses assessed against the permit pursuant to LCMC §17.80.050 H.

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

iv. The owner or local representative shall maintain a contemporaneous written record of the date, time, and nature of any complaint received and the action taken in response to the complaint. This record shall be made available to city inspection upon request.

v. The owner may change the name or contact information for 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 with the applicable fee as provided by resolution of the City Council for a revised permit application. 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) of this section. Failure to so notify the city of a change in name or contact information for 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 of this section.

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 revised 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.

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 on each floor, in each guest room in accordance with ORS 479.255, in each common hallway, and at least one smoke detector or smoke alarm for hearing impaired persons and one door knock device is installed as applicable or required by ORS 479.257.

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) of this section, 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, the use shall be presumptively deemed discontinued and the permit shall expire as provided in this subsection.

2. Renewal application process. A person engaging in rental of a vacation rental dwelling pursuant to an approved permit shall apply to renew the vacation rental dwelling permit on forms provided by the city, as follows:

a. Renewal period and application. A completed permit renewal application and renewal fee, as established by city resolution, are due no earlier than December 1 of the calendar year for the following calendar year, and no later than January 31 of the calendar year for the same calendar year. The city may impose a late fee for renewal applications submitted beyond the 60-day renewal period, as established by resolution.

b. Permit expiration; late period. If the city has not received a completed permit renewal application and renewal fee accompanied by the applicable fee by January 31 of the applicable year, the vacation rental dwelling permit is subject to expiration as of December 31 of the prior year. The expiration will take effect ten days without further notice from the date the City sends notice to the owner, as provided in paragraph (c), unless the owner submits a renewal application with required fees within the ten-day notice period. After a permit expires and is not renewed, the property may not be lawfully used as a vacation rental dwelling unless a new vacation rental permit is obtained by the owner.

c. Notice. The City shall send notice of expiration under paragraph (b) to the owner of any property for which a renewal application has not been submitted. If the owner submits a completed application to renew the vacation rental dwelling permit accompanied by the required fees within the ten-day late period, the City shall accept the application for permit renewal and issue a decision on the application.

d. Permit expiration. If the owner does not submit a renewal application as required under this subsection (2), the permit in effect for the prior year shall expire as of December 31 of that year without further action of the City. The City shall not be required to send any additional notice of permit expiration to the owner except as described herein.

e. Notwithstanding the ten-day late period established in paragraph F(2)(b), for permits expiring December 31, 2007 the City shall accept and process an application for permit renewal provided the owner submits the application and required fees, including the late fee, if any, by May 1, 2008.

3. The city shall review an application for permit renewal and issue a renewal of the vacation rental dwelling permit provided the following standards are met:

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

- b. The vacation rental dwelling accessory use of the property has been previously approved and is valid;
- c. The permit subject to renewal is current, valid, and has not been suspended or revoked.
- d. Where city records show more than one complaint about the vacation rental dwelling occupancy were received during the permit year, including any complaints that remain unresolved, the applicant shall bear the burden of proof of demonstrating that the complaints have been satisfactorily resolved or the complaints are not reasonably applicable to the occupancy of the vacation rental dwelling.

G. Appeals of City permit decisions.

1. Authority to decide appeal. A city hearings officer shall be appointed by the City Council for the purpose of hearing and deciding an appeal of a City decision approving or denying an application or renewal application for a vacation rental dwelling permit in any zone. The city hearings officer is authorized to affirm the City decision as originally approved by the City or as amended by the city hearings officer after hearing on the appeal, or reverse or remand the decision.

2. Standard of review. In deciding whether to affirm, affirm with amendments, reverse, or remand the decision under appeal, the city hearings officer shall determine whether the City's decision is supported by substantial evidence based on the whole record. The decision of the city hearings officer shall be final and not subject to further appeal; except, however, the city hearings officer shall be authorized to request a determination from the Director or City Council of an interpretation of a city ordinance. In the event such determination is required prior to a final decision of the city hearings officer, the city hearings officer shall suspend the appeal proceedings until such time as the requested interpretation has been issued and the timelines of subsection G (6) shall be extended accordingly.

3. Standing to appeal; filing requirements; notice. Any person entitled to notice of decision or otherwise affected or aggrieved may file a written appeal including the basis for the appeal within ten (10) days of the decision being appealed. The City Council may establish by resolution a fee for filing an appeal, which shall be jurisdictional. The City Manager or the city manager's delegatee may establish administrative procedures to implement the appeal procedures provided in this subsection, including any required forms. The City shall send notice of hearing at least ten days prior to the hearing.

4. Hearing on appeal. The city manager, within ten days of the date the city receives the appeal, shall schedule a date for the appeal hearing and send notice of hearing to the City and the appellant. If the City or the appellant requests to postpone or reschedule the hearing, the hearing date may be rescheduled within thirty days by the city hearings officer. At the hearing, the appellant and the City shall have the opportunity to present evidence and arguments, including witness testimony. The City shall maintain a summary record of proceedings, including the date and time of hearing, the names of the parties and witnesses, if any, a list of documents or evidence submitted, and the nature of the oral decision, if any, made at the conclusion of the hearing.

5. The city hearings officer shall issue a written decision on the appeal, including findings of fact and conclusions of law, within sixty days of the date the appeal is received by the City.

6. The city hearings officer may adopt and publish procedures for hearings not in conflict with this subsection, including but not limited to time limits on testimony and length limits on written argument. The City Manager is authorized to provide materials and assistance to the city hearings officer as necessary or required to carry out the duties and responsibilities described in this subsection.

H. Complaints.

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

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 LCMC Chapter 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 J(3).

I. Violations; penalties

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 LCMC 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 LCMC § 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 H;

- iv. The owner or local representative did not respond to a complaint as required in subsection H(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 LCMC Chapter 3.04.

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

- a. Each day in which a dwelling is used in violation of LCMC §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 LCMC §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 I(1) of this section.

J. Revocation procedure.

1. If the vacation rental dwelling permit is suspended or revoked, the city shall send written notice of suspension and/or revocation to the owner stating the basis for the decision. 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 within twenty (20) days after the date of the mailing of the city manager's decision and order of revocation and paying an appeal fee as established by resolution of city council. Upon receipt of an appeal, the city manager shall stay the revocation decision until the appeal has been determined.

2. With the exception of the ten days to appeal a permit decision provided in subsection G(3), in all other respects the procedure for conduct of the appeal of a decision to suspend or revoke a permit shall be conducted as provided in subsection G.

3. In the event of revocation of a permit, the city shall send informational notice of a final decision revoking a permit to the owners of property located within two-hundred and fifty feet of the property subject to the permit.

4. Appeal of a decision to revoke a vacation rental dwelling accessory use or permitted use shall be conducted as for an appeal of an administrative staff decision to the Planning Commission. The decision of the Planning Commission shall be final.

5. Discontinuance of vacation rental dwelling occupancy.

a. After revocation: After a vacation rental dwelling permit has been revoked, the dwelling unit may not be used or occupied as a vacation rental dwelling, and the owner of the property to which the permit applied and whose permit has been revoked shall not be

eligible to re-apply for a vacation rental dwelling permit for vacation rental occupancy of the same property for a period of twelve months from the date of revocation. If the city revokes an owner's vacation rental dwelling permit on two separate occasions, the owner shall not be eligible to re-apply for a vacation rental dwelling permit for the same property.

b. After expiration: After a vacation rental dwelling permit has expired, the dwelling unit may not be used or occupied as a vacation rental dwelling, and the owner of the property to which the permit applied and whose permit has expired shall be required to apply for and obtain a vacation rental dwelling permit before the property may be lawfully used or occupied as a vacation rental dwelling.

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

K. Prior existing use.

1. Application of LCMC Chapter 17.60 conditional use. Any vacation rental dwelling accessory approved by the city under the conditional use standards of LCMC 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 LCMC §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 owner of the dwelling has the burden of establishing a prior approved use under this paragraph.

3. Any use conducted under subsection K must conform to all requirements of LCMC §17.80.050 except where specifically provided herein.

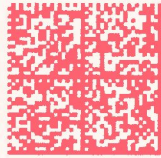
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Attn: Plan Amendment Specialist
Dept. of Land Conservation & Dev.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540