



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

07/09/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 001-09

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, July 21, 2009

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

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

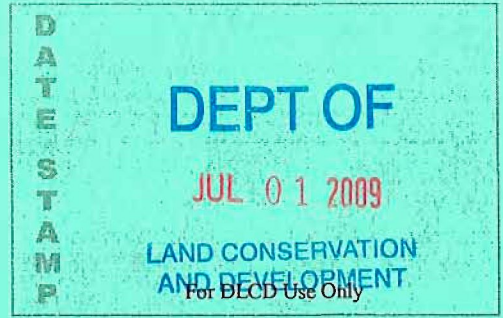
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

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

<paa> YA

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 2009-01
 Date of Adoption: June 22, 2009 Date Mailed: June 30, 2009
 Date original Notice of Proposed Amendment was mailed to DLCD: March 6, 2009

- | | |
|---|---|
| <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".

Amendments to Lincoln City Municipal Code 17.80.050, Vacation Rental Dwellings. Revisions to provide clarity, increase objectivity and decrease discretionary nature of decision-making process. New provisions to Municipal Code Title 5, as Chapter 5.14, Vacation Rental Dwelling License, establishing license standards and operational requirements for vacation rental dwellings. New provisions to Municipal Code Title 2, as Chapter 2.18, establishing a Vacation Rental Dwelling License Appeals Board. Amendments to Titles 5 and 2 may not be land use regulations, but notice of adoption is provided to DLCD in the event they are determined to be.

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".

The initial notice to DLCD included a proposal for a Comprehensive Plan text amendment to create a new development category, "Vacation Rental Dwelling Overlay Zone", as well as a zoning ordinance text amendment creating Chapter 17.22, "Vacation Rental Dwelling Overlay Zone", establishing concentration percentages of VRDs in all residential zones. **This approach was not adopted by the City Council.**

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: n/a
 Applicable Statewide Planning Goals: _____

Was and Exception Adopted? YES NO

DLCD File No.: 001-09 (17409)

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:

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** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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ORDINANCE NO. 2009-02

**AN ORDINANCE OF THE CITY OF LINCOLN CITY ADOPTING PROVISIONS
RELATED TO USE AND OPERATION OF VACATION RENTAL DWELLINGS;
AMENDING ORDINANCES NO. 84-02, 2007-11, AND 2008-07; AMENDING
LINCOLN CITY MUNICIPAL CODE TITLE 17; AND DECLARING AN
EMERGENCY**

The City Council of Lincoln City ordains as follows:

Section 1. Lincoln City Municipal Code Chapter 17.80.050 is amended and replaced in its entirety as follows:

**Lincoln City Municipal Code Chapter
17.80.050 Vacation rental dwelling use criteria.**

A. Purpose.

1. Purpose. Vacation rental dwellings are allowed in recognition of the fact that property owners may desire to allow others to use a vacation home on occasions when the owners themselves are not using it, and the accommodation option that best fulfills the desires of many guests visiting Lincoln City is the rental of a private home during their stay.

2. Basis. The City Council finds:

a. The use of vacation rental dwellings can have a perceived negative cumulative effect on Lincoln City neighborhoods by creating nuisances including but not limited to excessive loud noise, excessive numbers of parked vehicles interfering with vehicle access along public roadways and blocking private drives, and litter migrating onto adjacent properties from untended solid waste receptacles.

b. An absentee owner may not be aware of the extent to which use of a vacation rental dwelling potentially causes negative affects on neighboring properties and the livability of a neighborhood.

c. All owners of property in the city have a common interest in maintaining and promoting livable and viable neighborhoods for residents and visitors alike.

B. Vacation Rental Dwelling Standards.

Except where noted, the following standards apply to all vacation rental dwellings in the city:

1. Ownership. The approved use of the vacation rental dwelling in any zone is in the name of the property owner and the approval, including any license, is not transferable. When the owner sells or transfers the property occupied or rented as a vacation rental dwelling, the approved use shall cease.

a. For purposes of this chapter, "sale or transfer" means any change of ownership during the lifetime of the owner, whether or not there is consideration, or after the death of the owner, 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. An owner 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 loss of approval of the vacation rental dwelling use so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or

1 transfer of his or her interest in the entity to another person, the approval for the use held by
2 the transferor shall terminate.

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

13
14 2. Accessory or permitted use.

15 A VRD is allowed as an accessory use in a residential zone and a permitted use
16 in a commercial zone, provided the VRD meets the applicable standards of this chapter and
17 obtains a license under Chapter 5.14.

18
19 3. Parking.

20 In any residential or commercial zone, one off-street parking space will be provided for each
21 bedroom in the dwelling unit, and no less than two spaces will be provided for each dwelling
22 unit. If the proposed VRD use cannot provide the required parking and also meet the other
23 standards of LCMC § 17.80.050 B including required landscaping, the vacation rental
24 occupancy of the dwelling shall be reduced to conform to the available amount of off-street
25 parking and made a condition of licensing under Chapter 5.1.

26 a. The Planning and Community Development Director has the discretion to
27 require such changes as are necessary to conform the dwelling to available approved parking
28 and shall inspect the dwelling as necessary to confirm the occupancy has been so conformed
29 prior to approving the use in any allowed zone. An example is changing a bedroom to other
30 use.

31 b. No more vehicles shall be parked on the property than there are designated
32 off-street parking spaces.

33 c. Outside the garage or carport, no triple stack of vehicles is allowed on the
34 property. "Triple stacking" means parking in such a way as to require a vehicle to cross all or
35 part of two other parking spaces.

36 d. No variance from the parking standards is allowed.

37
38 4. Solid waste.

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

43
44 5. Landscaping.

45 a. Residential zones. The owner must landscape all yards. Landscaping must
46 meet the following standards:

47 1. Area. A minimum of forty percent (40%) of the lot must be landscaped.

1 2. Front yard. A minimum of fifty percent (50%) of the front yard (the area
2 between the side lot lines, the front lot line, and the front of the dwelling) must
3 be landscaped.

4 3. Hardscape features. A maximum of fifty percent (50%) of the required
5 landscape area may consist of hardscape features such as patios and decks, but
6 not swimming pools, sport courts, driveways, or parking areas.

7 4. Non-living-plant ground covers. Bark dust, chips, aggregate, or other
8 non-living-plant ground covers may be used on an area covering no more than
9 twenty-five percent (25%) of the area to be landscaped.

10 5. Plants. The use of native and drought-tolerant plant species is
11 encouraged. Plants shall be species that are known to thrive in the Northern
12 Oregon coastal environment, and either listed in the Lincoln City Tree Planting
13 Guide & List of Recommended Species, or recommended by a licensed
14 nurseryman as being suitable for the local climate, as approved by the Planning
15 and Community Development Director. The use of noxious or invasive plant
16 species is prohibited.

17 6. Shrub size. Shrubs shall be planted from three gallon containers or
18 larger.

19 7. Ground cover size. Ground cover plants shall be sized and spaced so that
20 they grow together to cover a minimum of fifty percent (50%) of the
21 landscaped area within three years of planting.

22 8. Maintenance and irrigation. Adequate irrigation shall be temporarily
23 provided for all plants until they are established and permanently provided for
24 all plants that are not drought tolerant. The owner must maintain all plantings
25 in good condition and must replace with like plants any plants that are removed
26 or die for any reason.

27
28 b. Commercial zones. The owner shall install and maintain the landscaping as
29 approved in the approved site plan for the commercial use or mixed-use application, or at a
30 minimum meet the landscaping standard of subsection (B)(5)(a) if site plan approval is not
31 required.

32
33 6. Signs. In both residential and commercial zones, any sign on the property shall be in
34 compliance with the sign requirements for the use in the R-1 zone, as established in LCMC
35 §17.72.060 B.

36
37 7. TRT. The owner shall comply with Chapter 3.04 Transient Room Tax.

38
39 8. VRD License. Prior to making a VRD available for use, including advertising by
40 any means or otherwise offering the VRD for use, the owner shall obtain a valid VRD License
41 as provided in Chapter 5.14 of this code.

42
43 C. Application and Review.

44 1. Application requirements.

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

1 b. At a minimum, the names, mailing addresses, and telephone numbers of all
2 persons holding an ownership interest in the property, or holding an ownership interest in the
3 entity that owns the property, shall be provided in the application.

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

8 d. The applicant shall certify solid waste collection service is provided to the
9 property.

10 e. The application shall demonstrate parking and landscaping standards of this
11 ordinance are met.

12 f. Providing false information in the application shall be a violation and
13 grounds to deny the application, void the approval, enjoin the use, and revoke a vacation
14 rental dwelling license issued for the dwelling under Chapter 5.14.

15
16 2. Administrative review and decision.

17 a. The planning and community development director shall review an
18 application for VRD in any zone under the applicable standards of LCMC §17.80.050 B and
19 shall issue an administrative decision on the application.

20 b. Notice of administrative decision shall be provided as required in LCMC §
21 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated
22 on the most recently-available tax assessment roll, located within two hundred and fifty feet
23 of the exterior boundary of the property for which the application is made. Where fifty percent
24 (50%) or more of the number of properties in the area subject to notice are owned by the same
25 person, as defined in this ordinance, the notice area shall be expanded until the number of
26 properties owned by the same person constitutes twenty percent (20%) or less of the
27 properties in the notice area. The notice shall contain the information required by LCMC
28 §17.76.020A and allow any person opportunity to appeal the decision within twenty days of
29 mailing of the notice. The mailed notice shall state that if tenants or lessees are in possession
30 of the property, the city requests the owner to provide a copy of the notice to each tenant or
31 lessee.

32 c. The authorization for VRD use shall remain valid provided the use is
33 conducted lawfully, under a valid revocable vacation rental dwelling license issued under
34 Chapter 5.14, and in compliance with Chapter 3.04 Transient Room Tax.

35
36 3. Appeal. The decision of the planning and community development director on an
37 application for vacation rental dwelling use may be appealed as provided in LCMC
38 §17.76.040A. Appeal of the decision of the planning and community development director
39 shall be in the form of an evidentiary hearing before the Planning Commission. The Planning
40 Commission decision shall be final and is not subject to further appeal.

41
42 4. Fees. The city is authorized to adopt fees in an amount established by resolution to
43 recover the actual costs of processing and reviewing an application for vacation rental
44 dwelling use including fees for appeals of such decisions.

45
46 D. Violation; penalties; sanction.

1 1. Offering or making available a vacation rental dwelling for occupancy, use, or rent ,
2 with or without an exchange of value or other consideration, without first obtaining city
3 approval of the use under section 17.80.050, is a violation and enforceable as a Class A civil
4 infraction.

5 a. Proof the dwelling is advertised, listed with an agent, or publicly described in any
6 manner by the owner or owner's agent as a vacation rental dwelling creates a rebuttable
7 presumption a vacation rental dwelling exists and is available for use, rent, or occupancy.

8 b. Oral or written statements indicating a vacation rental dwelling is or was made
9 available for use, rent, or occupancy, including but not limited to an advertisement, offer,
10 agreement, or correspondence in any medium, made on or about the date of an alleged
11 violation, are admissible in court for the purpose of establishing a presumption the vacation
12 rental dwelling was available for occupancy on the date of the alleged violation, whether or
13 not the dwelling was actually rented, used or occupied on such date.

14 c. When a vacation rental dwelling is shown to be made available on a particular date,
15 it is presumed the VRD continues to be made available unless the defendant proves otherwise.

16 2. A person convicted of violating this section is subject to a fine as a penalty as
17 established in LCMC Chapter 1.16. Each day of violation is a separate violation.

18
19 E. Prior existing use.

20 1. Application of LCMC Chapter 17.60 conditional use. Any vacation rental dwelling
21 accessory approved by the city under the conditional use standards of LCMC Chapter 17.60
22 as in effect prior to November 21, 2007 and lawfully conducted may continue as a
23 nonconforming use after such date, provided the occupancy of the vacation rental dwelling is
24 lawfully conducted under a valid vacation rental dwelling license or renewal license as
25 required by this section. The owner of the dwelling has the burden of establishing a prior
26 approved conditional use when applying for a vacation rental dwelling license or license
27 renewal.

28
29 2. A vacation rental dwelling accessory use that is not a conditional use and was approved
30 by the city prior to November 21, 2007 shall be allowed to continue provided the owner
31 obtains an annual vacation rental dwelling license or renewal license as required by this
32 section. Provided the occupancy is otherwise lawfully conducted, the use may continue until
33 such time as the license holder sells transfers or conveys the property to which the approved
34 use and license apply. The owner of the dwelling has the burden of establishing a prior
35 approved use when applying for a vacation rental dwelling license or license renewal.

36
37 3. Except as specifically provided in this subsection, any use conducted under subsection E
38 must otherwise conform to all requirements of LCMC §17.80.050 and other applicable code
39 provisions, including but not limited to Chapters 3.04 and 5.14.

40
41 **Section 2.** Lincoln City Municipal Code Section 17.16.020 Single-Family Residential (R-1)
42 Zone, Permitted Uses, is amended to read as follows:

43
44 17.16.020 Permitted Uses.

45 The following uses are permitted:

46 A. Single-family dwellings;

1 B. Two-family and duplex dwellings when developed on a minimum eight thousand
2 square foot lot;

3 C. Grazing, agriculture, horticulture or silviculture, provided that no wholesale or
4 retail activity, poultry or livestock, other than normal household pets, shall be permitted
5 within one hundred feet of any residence other than the dwelling on the same lot and that
6 all other permits required by city ordinances be obtained;

7 D. Public parks, playgrounds and other similar publicly owned recreation areas;

8 E. Bed and breakfast accommodations, subject to the standards set forth in Section
9 17.80.060;

10 F. Manufactured homes when developed in accordance with the standards set forth in
11 Section 17.52.250;

12 G. A mobile home used during construction of a permitted use for which a building
13 permit has been issued, but not exceeding six months;

14 H. Residential homes;

15 I. Essential emergency communications and warning facilities.

16
17 **Section 3:** Lincoln City Municipal Code Section 17.20.040 Multiple-Family Residential (R-
18 M) Zone, Conditional Uses, is amended to read as follows:

19
20 17.20.040 Conditional Uses.

21 The following conditional uses may be permitted subject to a conditional use permit:

22 A. Time-share units, when developed subject to requirements and standards of this
23 section;

24 B. Churches;

25 C. Public or private schools (kindergarten through 12th grade, educational
26 institutions, nursery schools and day care centers);

27 D. Community meeting buildings, fraternal and social organizations and recreation
28 centers, public parks, playgrounds and similar publicly owned recreational areas;

29 E. Public or private golf courses, except driving ranges or miniature courses operated
30 as a business;

31 F. Mobile home parks submitted under the provisions of Section 17.80.040;

32 G. Temporary real estate offices in legally recorded subdivisions;

33 H. Cemeteries;

34 I. Utility substations, but not wireless communications facilities;

35 J. Radio and television transmitters or towers, but not wireless communications
36 facilities;

37 K. Government buildings;

38 L. Hospitals, sanitariums, rest homes and nursing homes. (Ord. 2003-08 §§ 6 and 7;
39 Ord. 95-15; Ord. 90-11; Ord. 84-2 § 3.040(4))

40
41 **Section 4.** Lincoln City Municipal Code Section 17.28.030, Recreation-Commercial (RC)
42 Zone, Conditional Uses, is amended to read as follows:

43
44 17.28.030 Conditional uses permitted.

45 In an RC zone, the following are given as examples of those uses which meet the intent
46 of this zone on a conditional basis, subject to the provisions of Chapter 17.60:

- 1 A. Public use or public utility;
- 2 B. Utility substation;
- 3 C. Outdoor commercial amusement establishments;
- 4 D. Recreational vehicle parks;
- 5 E. Multi-family dwellings developed under the standards of the R-M zone;
- 6 F. Wireless communications facilities, subject to the provisions of Section 17.52.270;
- 7 G. Emergency shelters.

8
 9 **Section 5.** Lincoln City Municipal Code Section 17.40.030, Recreation-Residential (R-R)
 10 Zone, Conditional Uses Permitted, is amended to read as follows:

11
 12 17.40.030 Conditional uses permitted.

13 In an R-R zone, the following conditional uses may be permitted, subject to provisions
 14 of Chapter 17.60:

- 15 A. A conditional use listed in the R-1 zone (see Section 17.16.040).

16
 17 **Section 6.** Lincoln City Municipal Code Chapter 17.45.040 (C), Taft Village Core (TVC)
 18 Zone, Land Use Activities, Boarding and Lodging Facilities, is amended to read as follows:

C. Boarding and Lodging Facilities ¹	
Commercial establishments which provide boarding and lodging facilities:	
1. Bed and Breakfast Accommodations	P
2. Condominiums with 10 units or less and with Nightly Rentals ²	C
3. Hotels/Motels with 10 units or less	P
4. Recreational Vehicle Parks	--
5. Time-Share Units	C

20
 21 **Section 7.** Lincoln City Municipal Code Chapter 17.34 relating to the Nelscott Plan District
 22 is amended by deleting from Table II.A. the row addressing “Accessory use of a single family
 23 dwelling as a vacation rental dwelling.”

24
 25 **Section 8.** Lincoln City Municipal Code Section 17.08.010 is amended to replace the
 26 definition of “Vacation rental dwelling” with the following text:
 27 “Vacation rental dwelling” means a dwelling unit that is used, rented or occupied on a daily or
 28 weekly basis, or is available for use, rent, or occupancy on a daily or weekly basis, or is
 29 advertised, or listed by an agent, as available for use, rent, or occupancy on a daily or weekly
 30 basis.

31
 32 **Section 9. Findings.** Findings as shown in Exhibit A, attached hereto and incorporated herein
 33 by reference, are adopted in support of the conclusion this ordinance complies with the
 34 statewide planning goals, Lincoln City’s Comprehensive Plan, and the unamended portions of
 35 Lincoln City Municipal Code Title 17.

36
 37 **Section 10. Severability.** If any portion of this ordinance is determined invalid by a court of
 38 competent jurisdiction, with all appeal rights exhausted or the time for appeal having expired,

1 then the invalid portion shall be deemed severed from this ordinance and the remainder shall
2 continue in full force and effect.

3
4 **Section 11.** The City Council delegates to the City Recorder the authority to make any
5 required corrections due to scrivener's errors, including but not limited to cross-references,
6 and to make such changes prior to codifying this ordinance.

7
8 **Section 12. Declaration of emergency; effective date.** An emergency is hereby declared to
9 exist in that the amendments of this ordinance are immediately required to address the
10 neighborhood livability of the city and are necessary to meet the public safety and welfare;
11 therefore this ordinance shall take effect immediately as of the date of its adoption.

12
13
14 PASSED AND ADOPTED by the City Council of the City of Lincoln City on second reading
15 this 22nd day of June, 2009.

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20 LORI HOLLINGSWORTH, MAYOR
21
22

23
24 ATTEST:

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27 
28 CATHY STEERE, CITY RECORDER
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31 First Reading: June 8, 2009
32 Second Reading: June 22, 2009
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Ordinance 2009-02
Exhibit A

A. 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 city's 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.

B. 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 do not include any provisions authorizing any development and accordingly 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.

1 corporation, a partnership, a limited partnership, a limited liability partnership, or other
2 similar entity and not be subject to license revocation so long as the transferor lives and
3 remains the only owner of the entity. Upon the transferor's death or the sale or transfer of
4 his or her interest in the entity to another person, the license held by the transferor shall
5 terminate.

6
7 B. "Person" means the natural person or legal entity that owns and holds legal
8 and/or equitable title to the property. If the owner is a natural person, or where the natural
9 person has transferred his or her property to a trust of which the natural person is the
10 trustor, that person can have an ownership right, title, or interest in no more than one
11 dwelling unit in a residential zone that has a vacation rental dwelling license. If the owner
12 is a business entity such as a partnership, corporation, limited liability company, limited
13 partnership, limited liability partnership or similar entity, any person who owns an
14 interest in that business entity shall be considered an owner and such a person can have
15 an ownership right, title, or interest in no more than one dwelling unit in a residential
16 zone that is used for vacation rental or has a vacation rental dwelling license.

17
18 C. "Vacation rental" has the definition stated in LCMC Section 17.08.010.

19
20 **5.14.030 Revocable Annual Vacation Rental Dwelling License Required.**

21 The owner of a vacation rental dwelling shall obtain an annual revocable vacation
22 rental dwelling license under this chapter to lawfully advertise, offer, operate, rent, or
23 otherwise make available for occupancy or use a vacation rental dwelling.

24
25 **5.14.040 Application and Fee.**

26 A. Application Required. Prior to engaging in the use of a vacation rental dwelling for
27 any period of time, a person shall apply for a revocable license for a vacation rental
28 dwelling on forms provided by the city, demonstrating the application meets the
29 standards required of this chapter. A person shall submit a completed application along
30 with payment of the applicable fee. A copy of the approval of the Planning and
31 Community Development Director of an application for vacation rental dwelling use as
32 provided in LCMC Section 17.80.050 shall be required to be attached to the license
33 application under this subsection. If a license application does not include all required
34 information, including a copy of the Planning and Community Development Director's
35 approval and the required fee, the application will be considered incomplete and the city
36 will notify the applicant in writing explaining the information required. If the applicant
37 provides the missing required information within sixty days of the date of the notice, the
38 application will be reviewed. If the applicant cannot provide the required information, the
39 applicant may withdraw the application and the city will refund the application fee.

40
41 B. License Fee. The fee for application for vacation rental dwelling license or license
42 renewal shall be in an amount to recover the city's actual costs of reviewing and issuing
43 the license application or license renewal application, including any required inspections,
44 and shall be established by resolution of the city council. A vacation rental dwelling
45 licensee shall not be required to pay a business occupation tax in addition to the fee for an
46 annual vacation rental dwelling license.

1
2 **5.14.050 Standards for issuance of license.**

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

6
7 A. The license shall be issued in the name of the property owner and is not transferable.
8 The license shall terminate and be deemed void when the license holder sells or transfers
9 the property approved as a vacation rental dwelling.

10
11 B. The city shall approve an application for a vacation rental dwelling license or license
12 renewal if all the following are met:

13
14 1. The property proposed to be licensed for vacation rental is located in a
15 commercial zone, or the property is located in a residential zone and the owner does not
16 have an ownership interest in any another property in a residential zone used or approved
17 for use as a vacation rental dwelling.

18
19 2. The Planning and Community Development Director has determined the
20 property complies with Section 17.80.050 of this code.

21
22 3. The owner has provided information sufficient to verify a qualified person will
23 be available to be contacted about use of the vacation rental during and after business
24 hours.

25
26 4. The owner has agreed to comply with all license and operational standards
27 including any conditions such as specific occupancy requirements.

28
29 **5.14.060 License standards.**

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

33
34 A. Owner information: owner's name, permanent residence address, permanent
35 residence telephone number, and vacation home address and telephone number.

36
37 B. Local representative information. If the owner permanently resides within the
38 Lincoln City urban growth boundary, the owner may be the local representative provided
39 the owner meets all applicable requirements of this chapter. If the owner does not
40 permanently reside within the Lincoln City urban growth boundary, the owner shall
41 provide the name, address, and telephone number of a local representative who can be
42 contacted concerning use of the vacation rental dwelling in the event the owner is not
43 available. The telephone number of the local representative shall be operative during
44 regular business hours 8 a.m. to 5 p.m. and after business hours and on weekends. The
45 local representative shall be a permanent resident within the Lincoln City urban growth
46 boundary, or an individual staff of a business that manages rental of real property with a

1 physical office open to the public within the Lincoln City urban growth boundary and
2 staffed with at least one person.
3

4 C. The application shall attach a copy of the determination of the Planning and
5 Community Development Director the proposed vacation rental dwelling complies with
6 Section 17.80.050 of this code.
7

8 D. The applicant shall certify that no person identified as an owner on the application
9 also owns other property in a residential zone in the city that is used as a vacation rental
10 dwelling or is approved by the city for vacation rental dwelling use.
11

12 E. The applicant shall certify the dwelling complies with all operational standards of
13 this Chapter, including smoke alarm and smoke detector requirements, and that all
14 information provided in the application is true. Providing false information in the
15 application is a violation of this chapter and may be enforced as a Class A civil
16 infraction. A reasonable belief the application information is false is also a basis to
17 revoke a license.
18

19 **5.14.070 Additional Operational Requirements.**

20 A. Maintenance of Guest Register.

21 The owner shall be responsible for maintaining a guest register for each tenancy of the
22 vacation rental with a record of all vacation rental dwelling occupancy days. The register
23 shall include the name, address, and telephone number of the tenants and the dates of the
24 rental period. The register shall be available for city inspection upon request. If copies of
25 a register are required, the register information shall be treated as confidential to the
26 extent allowed or required by law.
27

28 B. Response to Complaints.

29 1. In addition to the owner, the local representative shall be authorized to respond
30 to tenant and neighborhood questions, concerns, or complaints, and shall respond to any
31 complaints in a timely manner. The owner or local representative is the contact person for
32 questions or complaints regarding the occupancy of the vacation rental dwelling. The
33 owner or local representative shall be available to respond to complaints in a timely
34 manner as may be considered reasonable depending on the circumstances, to ensure use
35 of the vacation rental dwelling complies with the standards for vacation rental dwelling
36 occupancy, city ordinances, and state law.
37

38 2. Log of complaints. The owner or local representative shall maintain a
39 contemporaneous written record of the date, time, and nature of any complaint received
40 and the action taken in response to the complaint. This record shall be made available for
41 city inspection upon request and shall be provided with an application to renew a license.
42

43 C. Change in Contact Information.

44 The owner shall revise the license information for the owner or local representative at any
45 time provided the owner submits the revised information no later than 14 days prior to
46 the date the change takes effect and pays any applicable fee. The purpose of such

1 requirement is to maintain current information and to provide the revised information to
2 surrounding property owners, as required in Section 5.14.060 D.

3
4 D. Notice of Contact Information.

5 The city will send notice to owners of property within 250 feet of the property and
6 including the name, address, and telephone number of the local representative as
7 provided in a license, license renewal, or change in contact information, so that property
8 owners may contact the local representative to report problems associated with the
9 occupancy or use of the vacation rental dwelling. The owner shall be responsible for
10 paying any fee for the costs of mailing such notice, as established by resolution of the
11 city council

12
13 E. Inspection requirements.

14 1. At the time of application for a new or renewed vacation rental dwelling
15 license, the dwelling unit shall be subject to inspection by the Planning and Community
16 Development Department or Building Inspector for the purpose of verifying the vacation
17 rental dwelling complies with this subsection including an approved and properly
18 functioning smoke alarm or smoke detector is installed on each floor, in each guest room
19 in accordance with ORS 479.255, in each common hallway, and at least one smoke
20 detector or smoke alarm for hearing impaired persons and one door knock device is
21 installed as applicable or required by ORS 479.257.

22
23 2. If the vacation rental dwelling unit does not meet the requirements of
24 subsection (1) at the time of inspection, the owner shall request re-inspection within 30
25 days. The city shall not take any action on the application for license until the inspection
26 requirement is satisfied.

27
28 3. The city may adopt by resolution a fee to provide for a request for re-inspection
29 under this subsection. As necessary and required to accommodate city resources
30 including available budget and personnel, the city may provide by resolution a schedule
31 of reinspection for license renewals so that a vacation rental dwelling conducted under
32 the same and continuing ownership is periodically reinspected for conformance with
33 license standards including smoke alarm and smoke detector requirements.

34
35 4. The requirement to use a vacation rental dwelling in conformance with smoke
36 detector or smoke alarm requirements of this subsection is a condition of approval of the
37 vacation rental dwelling license and an additional operational standard. Failure to meet
38 this standard is a violation enforceable as a Class A infraction.

39
40 5. In lieu of requiring inspection and a program of reinspection for smoke
41 detectors or smoke alarms under subsection E(1), the city may require an applicant to
42 certify the dwelling meets the required standards for smoke alarms or smoke detectors as
43 established in that subsection

44
45 F. License display.

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

4
5 1. A number or other identifying mark unique to the vacation rental dwelling
6 license and which indicates the license is issued by the City of Lincoln City, with the date
7 of expiration;

8
9 2. The name of the owner or local representative and a telephone number where
10 the owner or local representative may be contacted at all times;

11
12 3. The telephone number and web site address of the City of Lincoln City and the
13 Lincoln City police department;

14
15 4. The maximum number of vehicles allowed parked on the property;

16
17 5. The solid waste collection day;

18
19 6. Required Lincoln City quiet hours; and

20
21 7. Any other information required to be included in the displayed license
22 including any conditions specific to the license.

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

24
25 H. Violations. Failing to meet any of the ongoing operational requirements of this
26 Chapter including subsections 5.14.060 A, B, and E and subsections 5.14.070 A, B, C, F,
27 and G, including failing to display the license as required, is a violation of this chapter
28 that may be enforced as a Class A violation, and is declared a nuisance that may be
29 enjoined as allowed by law. The Planning and Community Development Director or his
30 designee is authorized to issue a notice of violation of this chapter with or without an
31 order to immediately cease and desist all use as a vacation rental. Conviction of a
32 violation of this chapter may be grounds to revoke a license or not renew a license as
33 provided in this chapter.

34
35 **5.14.080 License Renewal.**

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

39
40 B. Renewal application process. A person engaging in rental of a vacation rental
41 dwelling pursuant to an approved license shall apply to renew the vacation rental
42 dwelling license on forms provided by the city, as follows:

43
44 1. Renewal period. A completed license renewal application and renewal fee, as
45 established by city resolution, are due no earlier than December 1 of the calendar year for
46 the following calendar year, and no later than January 31 of the calendar year for the

1 same calendar year. The city may impose a late fee for renewal applications submitted
2 beyond the 60-day renewal period, as established by resolution.

3
4 2. Late applications; expiration. If the city has not received a completed license
5 renewal application and renewal fee accompanied by the applicable fee by January 31 of
6 the applicable year, the vacation rental dwelling license is subject to expiration as of
7 December 31 of the prior year. The expiration will take effect ten days after the date the
8 City mails notice to the owner, unless the owner submits a renewal application with
9 required fees including any late fees within the ten-day notice period. After a license
10 expires and is not renewed, the property may not be lawfully used as a vacation rental
11 dwelling unless a new vacation rental license is obtained by the owner.

12
13 C. Notice. The City shall send notice of expiration under subsection B 2 to the owner
14 of any property for which a timely renewal application has not been received. An
15 application will nevertheless be considered timely submitted if the city receives a
16 completed renewal application from the owner, accompanied by the required fees, within
17 the ten-day late period.

18
19 D. License expiration. If the owner does not submit a renewal application as required
20 under subsection B, the license in effect for the prior year shall expire effective
21 December 31 of that year without further action or notice by the City.

22
23 E. Renewal standards. The city will review an application for license renewal and
24 issue a renewal of the vacation rental dwelling license provided the following standards
25 are met:

26
27 1. The licensee has provided all required application information within the
28 time required, and all requirements of this chapter are met;

29
30 2. The vacation rental dwelling use of the property has been previously
31 approved under LCMC Section 17.80.050 and the approval remains valid;

32
33 3. The owner has fully complied with Chapter 3.04 (Transient Room Tax)
34 including submitting the required report for the last quarter of the license year;

35
36 4. Staff has reviewed the licensee's Complaint Log required by subsection
37 5.14.070 B 2 to determine the nature of complaints, if any, and whether complaints were
38 timely addressed by the owner or local representative. Where city records show more
39 than one complaint about the vacation rental dwelling occupancy was received during the
40 license year, including any complaints that remain unresolved, the applicant shall bear the
41 burden of proof of demonstrating complaints have been satisfactorily resolved or the
42 complaints are not reasonably applicable to the occupancy of the vacation rental
43 dwelling;

44
45 5. The license subject to renewal is current, valid, and has not been
46 suspended or revoked;

1
2 6. The property has been inspected for compliance with Section 5.14.070
3 within the last three years, either by approval of occupancy by the city building inspector
4 in the final completion of a building permit or by compliance notice of the responsible
5 city staff, or otherwise complies with Section 5.14.070 E; and
6

7 7. The property has generated at least \$500.00 from rental occupancy during
8 the previous year as demonstrated by transient room tax reports filed pursuant to Section
9 3.04.070 of this code. The person responsible for receiving the transient room tax reports
10 and verifying the amount of tax due will determine whether this standard is met by
11 providing a summary determination to the department responsible for processing the
12 renewal application. Information provided by the owner under Chapter 3.04 shall be kept
13 confidential to the extent allowed or required by law; and
14

15 8. The property continues to meet the standards for parking, solid waste,
16 landscaping, irrigation and signs, as provided in Section 17.80.050 B.
17

18 F. If the application does not meet all requirements of subsection 5.14.080 E, the city
19 will not renew the license and the property shall not be used as a vacation dwelling.
20

21 G. Notice. Notice of decision on a renewal application shall be mailed as provided in
22 subsection 5.14.070 D.
23

24 H. A decision on a license renewal may be appealed as provided in Section 5.14.090.
25

26 **5.14.090 Appeals of VRD License Determinations.**

27 A. Authority to decide appeal. As authorized in Chapter 2.18, a VRD License
28 Appeals Board shall be responsible for determining an appeal of a decision approving or
29 denying an application or renewal application for a vacation rental dwelling license, or
30 revoking or suspending a VRD license, in any zone.
31

32 B. Standard of review. The Board shall determine whether the City's decision is
33 reasonable and based on a preponderance of the evidence.

34 C. Filing requirements; notice. The licensee or license applicant and any person
35 entitled to notice of license issuance may appeal a VRD license decision.
36

37 1. An appellant is required to file a written notice of appeal including the basis for
38 the appeal within twelve (12) days of the license determination being appealed. This
39 requirement is jurisdictional and late filings shall not be allowed.
40

41 2. The City Council may establish by resolution a fee for filing an appeal, which
42 shall be jurisdictional. The fee shall be sufficient to recover the average or actual costs of
43 mailing notice of hearing and conducting the hearing.
44

45 3. At least ten days before the hearing, notice of hearing on appeal will be mailed
46 to owners of property within 250 feet of the property subject to the application.

1
2 D. The City Manager or the city manager's delegee may establish administrative
3 procedures to implement the appeal procedures provided in this subsection, including any
4 required forms.

5
6 E. Hearing. Within 14 days of receiving the notice of appeal, the City Manager shall
7 schedule a hearing on the appeal before the VRD License Appeals Board, to be heard at
8 the next available meeting date.

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

16
17 2. A decision of the Board shall be reduced to writing and signed by the chair.

18
19 3. Decisions on license appeals shall be issued within 60 days of the date of the
20 close of the public hearing on the matter.

21
22 4. The Board's decision shall be final on the date of mailing the decision to the
23 appellant. The Board's decision is the final decision of the City and is appealable only by
24 writ of review to circuit court.

25
26 F. Procedures. The VRD License Appeals Board may adopt and publish procedures
27 for hearings not in conflict with this subsection, including but not limited to time limits
28 on oral testimony and limitations on written argument.

29
30 **5.16.100 Complaints.**

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

34
35 B. In response to a complaint concerning the occupancy of a vacation rental
36 dwelling, city staff including but not limited to the Lincoln City Police Department shall
37 make at least three attempts to contact the owner and local representative using the
38 information provided in the application for the vacation rental dwelling license. If neither
39 the owner nor the local representative is available, the person receiving the complaint
40 shall document the nature of the complaint and the efforts to reach the owner and local
41 representative including the results of those efforts, and forward a copy of the report to
42 the city manager or the city manager's designee. On request and in compliance with the
43 public records law, the city shall provide the owner and local representative with the
44 information in the complaint. .

1 C. The owner shall be responsible for responding to all problems or complaints in a
2 timely manner. Within twenty days of receiving an oral or written complaint relayed by
3 city staff, the owner will provide the city an explanation in writing of the action taken
4 (including no action) in response to the complaint. The explanation shall be mailed to the
5 city, who may notify the complainant of the response.
6

7 D. Failure of the owner or local representative to timely and reasonably respond to a
8 complaint relayed by city staff on at least two separate occasions within the license year
9 shall constitute a violation of this chapter and a Class A civil infraction enforced against
10 the owner and local representative under LCMC Chapter 1.16. In addition to authority to
11 impose fines and penalties as provided by law, the Municipal Court shall notify the city
12 manager or his designee of any judgment of conviction for violation under this subsection
13 within ten working days of entry of judgment. Upon receiving such notice of conviction
14 from the Municipal Court, the city manager or the city manager's designee shall initiate
15 proceedings to revoke the vacation rental dwelling license for the property naming the
16 property owner. The revocation shall be conducted under the notice and hearing
17 procedures provided in Section 5.14.090 for appeals of license decisions.
18

19 **5.14.110 Revocation procedure.**

20 A. For the first violation of any provision of Chapter 5.14060 – 5.14.080 pertaining to
21 operational requirements within a 12-month period, the sanction for violation may be a
22 warning notice. If the same offense continues to occur or a second offense occurs at any
23 time during a 12-month period, the penalty for conviction shall be not less than \$250. In
24 addition the license shall be subject to revocation.
25

26 B. If the vacation rental dwelling license is suspended or revoked as provided in this
27 section, the city manager shall send written notice of suspension and revocation to the
28 owner stating the basis for the decision. The notice shall include information about the
29 right to appeal the decision and the procedure for filing an appeal.
30

31 C. The owner may appeal the city manager's decision to revoke the license by filing a
32 letter of appeal to the Board within twelve days after the date of the mailing of the city
33 manager's decision. The appellant shall pay a revocation appeal fee as established by
34 resolution of city council. Upon receipt of an appeal, the city manager shall stay the
35 revocation decision until the appeal has been determined by the Board. The Board's
36 decision shall be final and not subject to further city appeal.
37

38 D. The procedure for conduct of the appeal of an administrative decision to suspend or
39 revoke a vacation rental dwelling license shall be conducted as provided in Section
40 5.14.090 for appeals. Notice of the appeal shall be mailed to the owners of property
41 located within two-hundred and fifty feet of the property subject to the license revocation.
42

43 E. If the Board upholds the decision to revoke the license, the Board shall order the
44 owner to discontinue use as a vacation rental dwelling. Notice of revocation shall be
45 mailed to property owners within 250 feet of the property subject to the license
46 revocation.

1
2 **5.14.120 Discontinuance of vacation rental dwelling occupancy.**

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

11
12 B. After expiration: After a vacation rental dwelling license has expired, the dwelling
13 unit may not be used or occupied as a vacation rental dwelling. The owner of the
14 property to which the license applied and whose license has expired shall be required to
15 apply for and obtain a vacation rental dwelling license before the property may be
16 lawfully used or occupied as a vacation rental dwelling.

17
18 **5.14.130 Violations; Penalties.**

19 A. Any violation of this chapter may be enforced as a Class A civil infraction as
20 provided in Chapter 1.16 and subject to the penalties established in that chapter. Each day
21 in which a dwelling is used in violation of this chapter shall be considered a separate
22 violation.

23
24 B. The following conduct constitutes a violation of this chapter:

25
26 1. Providing false information in the application for license or license renewal;

27
28 2. Representing a dwelling is available for occupancy or rent as a vacation rental
29 where the owner does not hold a valid vacation rental dwelling license issued under this
30 chapter, or making a vacation rental dwelling available for use, occupancy or rent without
31 first obtaining a valid vacation rental dwelling license;

32
33 3. Advertising, renting, using, or offering for use, occupancy or rent, a vacation
34 rental dwelling in a manner that does not comply with the standards of this chapter,
35 including but not limited to failing to maintain or provide on request of the city the
36 required Guest Register or Complaint Log information, or in the event a change occurs in
37 the name, address or telephone contact of the local representative, failing to provide such
38 information no later than the date of the change;

39
40 4. Failing to comply with the requirements of Chapter 3.04; or

41
42 5. Failing to comply with the licensing and operational requirements of this
43 chapter including but not limited to the requirements listed in subsection 5.14.070 G.
44 Evidence proving any of the following establishes a rebuttal presumption of violation of
45 these standards:

- 1 a. Trash or litter is present on the property and not contained in solid waste
2 containers;
3 b. While believed occupied as a vacation rental dwelling, the number of
4 vehicles parked on the property exceeded the number of vehicles allowed;
5 c. The owner or local representative failed to respond to an inquiry or
6 complaint as established in Section 5.14.100;
7 d. The tenants of the vacation rental dwelling created noise, disturbance, or
8 a nuisance in violation of city municipal code;
9 e. The tenants of the vacation rental dwelling violated state law pertaining
10 to the consumption of alcohol or the use of illegal drugs.

11 For purposes of this subsection "violation" means a violation that has been
12 adjudicated by a court of competent jurisdiction whose final order and judgment is not
13 subject to further appeal or has not been appealed.
14

15 C. In addition to or in lieu of enforcing a violation under subsection 5.14.130 B,
16 the City of Lincoln City may file an action regarding use or occupancy of a vacation
17 rental dwelling with the VRD License Appeals Board. The action shall be filed and a
18 hearing conducted as for an appeal allowed under Lincoln City Municipal Code and this
19 chapter, except that no filing fee shall be required.
20

21 **Section 2.** The City Council delegates to the City Recorder the authority to make any
22 required corrections due to scrivener's errors, including but not limited to cross-
23 references, and to make such changes prior to codifying this ordinance.
24

25 **Section 3.** The provisions of this ordinance are severable, and the invalidity of any
26 provision shall not affect the other valid provisions, which shall remain in full force and
27 effect.
28

29 **Section 4.** The findings in Exhibit A, attached hereto and incorporated herein by
30 reference, are adopted in support of the conclusion this ordinance is consistent with the
31 statewide goals and the Lincoln City comprehensive plan.
32

33 **Section 5.** This ordinance shall take effect thirty (30) days after adoption.
34

35 PASSED AND ADOPTED by the City Council of the City of Lincoln City this
36 22nd day of June, 2009.

37
38 
39 _____
40 LORI HOLLINGSWORTH, MAYOR

41 ATTEST:

42
43 
44 _____
45 CATHY SPERE, CITY RECORDER
46

47 First Reading: June 8, 2009

48 Second Reading: June 22, 2009

Ordinance 2009-03
Exhibit A

A. 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 city's 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.

B. 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 do not include any provisions authorizing any development and accordingly 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.

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2.18.040 Vacancies.

Vacancies in office of board members shall be filled by appointment by a majority vote of the members of the city council.

2.18.050 Presiding officers.

At its first meeting after appointment, and at its first meeting of each calendar year thereafter, the board shall elect a chair and vice-chair to serve one-year terms.

2.18.060 Staff services. The city council shall provide a secretary to the board and such other staff and consultation services as may be appropriate. The secretary shall keep a record of board proceedings.

2.18.070 Meetings. A majority of the members of the board shall constitute a quorum. The board shall meet when necessary or required to conduct a scheduled appeal of a VRD license decision. Meetings shall be open to the public.

2.18.080 Powers and duties. The board shall have the powers and duties which are now or may hereafter be assigned to it by Lincoln City Charter, ordinance, resolution or order of the city, and general laws of the state.

2.18.090 Rules of procedures. Except as otherwise established by the city council, the Board may adopt rules governing the conduct of its business.

2.18.100 Interpretation. In the event an interpretation of Lincoln City Charter, ordinance, or resolution is required, the board is authorized to take any steps necessary to authorize the interpretation, including forwarding the interpretation to city council for recommended adoption. The city council is not required to formally adopt an interpretation for the Board decision to be final, unless the City Attorney advises the city to adopt the interpretation as part of the final decision or order. In such event, the Board decision will be deemed final upon council adoption of the interpretation.

Section 2. The city council shall act as the VRD License Appeals Board through December 31, 2010 and as necessary or required, shall appoint persons to the board to serve as the VRD License Appeals Board as of January 1, 2011.

Section 3. The provisions of this ordinance are severable, and the invalidity of any provision shall not affect the other valid provisions, which shall remain in full force and effect.

Section 4. The City Council delegates to the City Recorder the authority to make any required corrections due to scrivener's errors, including but not limited to cross-references, and to make such changes prior to codifying this ordinance.

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Section 5. The findings in Exhibit A, attached hereto and incorporated herein by reference, are adopted in support of the conclusion this ordinance is consistent with the statewide goals and the Lincoln City comprehensive plan.

Section 6. This ordinance shall take effect thirty (30) days after adoption.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 22nd day of June, 2009.



LORI HOLLINGSWORTH, MAYOR

ATTEST:



CATHY STEERE, CITY RECORDER

First Reading: June 8, 2009
Second Reading: June 22, 2009

Ordinance 2009-08
Exhibit A

A. 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 city's 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.
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- (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.
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B. 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.

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(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 do not include any provisions authorizing any development and accordingly 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

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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
LN CITY

OR 97367



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

