



# Oregon

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## **NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION**

Date: 08/12/2014  
Jurisdiction: City of Portland  
Local file no.: RICAP 6  
DLCD file no.: 002-14A

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 08/07/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

<b>FOR DLCD USE</b>	002-14A
File No.:	(20266)
Received:	[17965] 8/7/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Portland

Local file no.: **RICAP 6**

Date of adoption: 7/30/2014

Date sent: 8/7/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): March 14, 2014

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No

If yes, describe how the adoption differs from the proposal:

**The short term rental amendments were adopted separately from the remainder of items in RICAP 6. A previous DLCD Form 2 was sent on 6/11/2014 following the adoption of those other amendments.**

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City: Portland

Zip: 97202-

### PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

#### **For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

#### **For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Chapter 33.212, Bed and Breakfasts was amended and renamed to 33.207, Accessory Short-Term Rentals.

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

The Regulatory Improvement Code Amendment Package 6 (RICAP 6) Short-Term Rental code amendments allow overnight rentals of up to two bedrooms in one's primary residence, subject to an administrative permit and meeting particular standards. These amendments pertain only to single dwelling and duplex structures. A second phase will examine expanding the allowance to multi-dwelling structure types and dedicated vacation rentals.

ORDINANCE No.

**SUBSTITUTE**

**186736**

Improve land use regulations related to accessory short-term rentals through the Regulatory Improvement Code Amendment Package 6 (RICAP 6) (Ordinance; Amend Title 33, Planning and Zoning, Title 3, Administration, and Title 6, Special Taxes)

The City of Portland Ordains:

Section 1. The Council finds:

**General Findings**

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as RICAP (Regulatory Improvement Code Amendment Package), followed by a number. This ordinance pertains to the amendment items addressing short-term rentals contained in RICAP 6 and identified as items 12 -14.
2. During the spring and summer of 2013, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked together to develop a draft work plan for RICAP 6. Potential code amendments were drawn from a database that contains regulatory improvement requests.
3. On July 25, 2013, notice was sent to all neighborhood associations, neighborhood coalitions, and business associations in the city of Portland, as well as other interested parties, to notify them of the Planning and Sustainability Commission hearing on the *RICAP 6 Proposed Workplan*.
4. On August 13, 2013 the Planning and Sustainability Commission held a hearing and adopted the RICAP 6 work plan. The adopted work plan included 42 potential code amendment items. Three items were added after August 13, 2013, for a total of 45 potential code amendment items.
5. During the summer and fall of 2013, BPS staff conducted research, met with neighborhood land use chairs, and worked with BDS staff and staff from other City agencies to develop a proposal for each of the 45 potential code amendments. Thirty-four of the initial 45 work plan items were determined to warrant an amendment to the City Code; 11 of the initial 45 were determined to not warrant an amendment to City Code. Thirty-one of the 34 proposed code amendment items relate to technical or minor policy issues, and three of the code amendment items relate to short-term rentals. This ordinance pertains to the three items related to short-term rentals (items 12-14); the remaining items are the subject of a separate ordinance.
6. On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
7. On March 20, 2014 notice of the RICAP 6 proposal and the April 22, 2014 Planning and Sustainability Commission hearing on the proposal was mailed to all neighborhood associations, neighborhood coalitions, and business associations in the city of Portland, as well as other interested persons, as required by ORS 227.186 and PCC 33.740.

8. On April 22, 2014 the Planning and Sustainability Commission held a hearing on the *RICAP 6 Proposed Draft*. The Planning and Sustainability Commission made four amendments to the proposal, and then voted to recommend approval of the RICAP 6 proposed code amendment items and to forward them to City Council for adoption.
9. On May 13, 2014 notice of the June 4, 2014 City Council hearing on RICAP 6 was mailed to all who presented testimony orally or in writing to the Planning and Sustainability Commission and provided a name and address, those who asked for notice, and other interested parties.

## Findings on Statewide Planning Goals

10. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.
11. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided several opportunities for public involvement. The amendments are supportive of this goal for the following reasons:
  - a) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) and the land use chairs of the city's neighborhood coalition offices on July 15, 2013, to review potential items for inclusion in the RICAP 6 work plan.
  - b) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
  - c) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.
  - d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.
  - e) Notice of the RICAP 6 discussion draft was also mailed on January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussions and questions.
  - f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings

- g) Project staff presented the RICAP 6 discussion draft report at one Design Commission meeting, one Historic Landmarks Commission meeting, and one Planning & Sustainability Commission meeting.
- h) Project staff were available to discuss the RICAP 6 discussion draft at an open house held on February 11, 2014 from 5:00 pm to 7:30 pm.
- i) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- j) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- k) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740. The Planning and Sustainability Commission made four amendments to the proposed draft and voted to recommend the amendments be approved and forwarded to the city council for adoption.
- l) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- m) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed on May 13, 2014 to all who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice.

The findings addressing Portland Comprehensive Plan Goal 9, Citizen Involvement, and its related policies also demonstrate consistency with this goal.

12. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The process for identifying and adopting the RICAP 6 accessory short-term rental amendments (RICAP items 12-14) supports this goal for the following reasons:
- The process followed all procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610;
  - The amendments meets relevant goals and policies of the City's adopted Comprehensive Plan as described in the findings for Portland's Comprehensive Plan Goals and Policies;
  - The amendments are based on relevant facts in the record including an estimate of the number of accessory short-term rentals being operated in the city; the number of complaints received about unauthorized accessory short-term rentals; a review of policies and regulations related to accessory short-term rentals being implemented in New York City, NY, San Francisco, CA, Cannon Beach, OR, Ashland, OR, Austin, TX, and Amsterdam, The Netherlands; a survey of accessory short-term rental operators in Portland conducted by Airbnb; a review of several accessory short-term rental websites; a review of relevant City and State regulations pertaining to lodgings and lodging taxation; and testimony in the record.

See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.

13. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. These amendments are consistent with this goal because they eliminate the need for a conditional use review for accessory short-term rental facilities that rent up to two bedrooms to overnight guests. By eliminating the cost and time associated with a conditional use review, the amendments facilitate use of unused bedrooms in a historic home as an accessory short-term rental, and the income generated from the accessory use may allow the owner to invest in maintaining, and therefore protecting, the historic home. The findings for Portland Comprehensive Plan Policy 2.21, Existing Housing Stock, also demonstrate that the amendments are consistent with this goal.
14. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. These amendments are consistent with this goal by removing a cost barrier to establishing a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot, thereby facilitating the use of these types of dwelling units for economic activity. The findings for Portland Comprehensive Plan Goal 5, Economic Development also demonstrate that the amendments are consistent with this goal.
15. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies and objectives, demonstrate that the amendments are consistent with Goal 10.
16. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The findings for Portland Comprehensive Plan Goal 6, Transportation, and relevant sub-policies demonstrate that the amendments are consistent with Goal 12.
17. **The Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996, 2005 and 2012 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, zone change, or regulation will significantly affect an existing or planned transportation facility.

These amendments will not have a significant effect on existing or planned transportation facilities because, as demonstrated in the findings for Portland Comprehensive Plan Goal 6 and related sub-policies, the amendments ensure that the number of trips generated by a household living use with an accessory short-term rental use will not exceed the number of trips generated by a household living use without an accessory short-term rental.

18. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use, the efficient use of land, and the provision of livable communities. The findings for Portland Comprehensive Plan Goal 2, Urban Development, Goal 3, Neighborhoods, and their relevant sub-policies demonstrates that these amendments provide for livable communities and are therefore consistent with this goal.

## Findings on Metro Urban Growth Management Functional Plan

19. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the accessory short-term rental amendments.

20. **Title 1, Housing Capacity**, requires cities and or counties to maintain or increase its housing capacity. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. These amendments are consistent with this title because they do not allow conversion of a housing unit in a residential zone to a motel or other commercial use as some testimony suggests. The amendments ensure that the accessory short-term rental use remains accessory to the primary household living use on a site. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies also demonstrate that these amendments are consistent with this title.
21. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. These amendments do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones for the reasons stated below:
- The amendments do not allow establishment of a primary household living use in the Industrial or Employment zones. The amendments only allow establishment of an accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot in the Industrial and Employment zones in cases where the dwelling also has a legally established, non-conforming primary household living use. The amendments also contain provisions that limit the scale of the non-industrial activity including a limit on the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household, and a limit on the number of bedrooms that can be rented to overnight guests;
  - A short-term rental (temporary lodging) can also be considered a Retail Sales and Service use, and Retail Sales and Service uses are currently allowed outright in an Industrial or General Employment zone. Up to one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IG1 zone, up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones, and up to 60,000 square feet of Retail Sales and Service use, or up to an FAR of 1:1, is allowed in the EG zones.

For these reasons, the amendments do not conflict with Title 4. The findings addressing Portland Comprehensive Plan Goal 6, Transportation, also demonstrate that the amendments do not conflict with Title 4.

22. **Title 7, Housing Choice**, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The findings for Portland Comprehensive Plan Goal 4, Housing, Policy 4.2, Maintain Housing Potential, Policy 4.8, Regional Housing Opportunities, Policy 4.9, Fair Housing, Policy 4.10, Housing Diversity, and 4.11, Affordable Housing demonstrate that the amendments are consistent with this title.
23. **Title 12, Protection of Residential Neighborhoods**, calls for protecting the region's existing residential neighborhoods from air and water pollution, noise and crime, and providing adequate levels of public services. Testimony in the record asserts that the amendments will introduce "stranger danger..." into single-dwelling neighborhoods and render Neighborhood Watch programs ineffective. No evidence was provided to demonstrate that allowing Type A accessory short-term rentals without a conditional use review will reduce the safety of, or increase crime in, residential neighborhoods. On the contrary, the City of Portland Crime Prevention Program Manager provided written testimony stating the following: "The community member who has stated that short term rentals would destroy her Neighborhood Watch because it would bring strangers to her street misses



the point of our instructions to get to know one's neighbors. The point of knowing one's neighbors is not to exclude everyone else, but to have a network. A neighborhood network can thrive whether or not guests or strangers are present. In short, I do not agree with the argument that short term rentals would nullify existing Neighborhood Watches." The Council finds the Program Manager's testimony is credible and persuasive that the amendments are consistent with Title 12. The findings for Portland Comprehensive Plan Goal 8, Environment demonstrate that the amendments will limit potential impacts from noise.

## Findings on Portland's Comprehensive Plan Goals

24. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the accessory short-term rentals amendments.

### GOAL 1, METROPOLITAN COORDINATION

25. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because notification of the proposal, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development per ORS 197.610, and to Metro, Tri-Met, and the Oregon Department of Transportation per 33.740.020. In addition, nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

### GOAL 2, URBAN DEVELOPMENT

26. **Goal 2, Urban Development, and Policy 2.2, Urban Diversity** call for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs, while retaining the character of existing residential neighborhoods. An accessory short-term rental is where a long-term resident rents bedrooms in their dwelling to overnight guests. Accessory short-term rentals are currently allowed in houses in residential zones as a conditional use. Approval of a facility currently requires a quasi-judicial conditional use review. These amendments establish Type A (one or two bedrooms) and Type B (three to five bedrooms) accessory short-term rentals, and eliminate the need for a conditional use review for facilities that rent up to two bedrooms to overnight guests. Operating an accessory short-term rental is a home-based occupation, and eliminating the need for a \$4,130 conditional use review (CU fee as of May 2014) in order to establish a Type A accessory short-term rental will encourage this type of home-based occupation. In addition to encouraging home-based jobs, the amendments include provisions that address several common elements of neighborhood character such as use, intensity, and accessory home occupations:
- Use. The amendments do not allow a home in a neighborhood to be converted to a full-time, short-term rental. The amendments ensure that the accessory short-term rental remains an accessory use to a primary household living use on a site. This is accomplished by requiring that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary dwelling and rent rooms in the ADU or vice versa;

- Intensity. The amendments limit a Type A accessory short-term rental to offering no more than two bedrooms to overnight guests, and require a conditional use review, which includes notice and a public hearing, for facilities that rent more than two bedrooms per night;
- Intensity. The amendments limit the total number of guests and residents occupying a dwelling with an accessory short-term rental to no more than the number allowed for a household (per 33.910.030; one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons). This provision ensures that the number of residents and guests coming and going from the home with bedrooms rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood without an accessory short-term rental;
- Accessory home occupation. The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental, and prohibiting non-resident employees and commercial meetings in a Type A accessory short-term rental. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. This provision is intended to limit potential impacts that additional trips to and from a dwelling with an accessory short-term rental may have on the surrounding neighborhood;

Finally, the amendments allow the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

27. **Policy 2.9, Residential Neighborhoods**, calls for allowing for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods. The amendments are consistent with this policy because they continue to allow a range of housing types in the city, and they include provisions that protect the integrity of the city's residential neighborhoods as described in the findings for Goal 2, Urban Development. Testimony in the record asserts that the amendments do not protect residential neighborhoods because they do not limit accessory short-term rentals to owner-occupied dwelling units. The amendments will allow either the property owner or a long-term renter to rent bedrooms to overnight guests as long the dwelling unit has a primary resident (defined as someone who occupies the dwelling unit for at least 270 days per year), and, except in the case of an ADU, the primary resident lives in the dwelling unit in which the rooms will be rented. However, there is no evidence in the record to support the claim that allowing a long-term renter to establish an accessory short-term rental will compromise neighborhood safety, destabilize residential neighborhoods, or otherwise fail to protect the city's residential neighborhoods. On the contrary, the Planning Commission received testimony from 36 people who rent bedrooms to overnight guests, and 14 of the 36 testified that the additional income has allowed them to stay in their homes, which arguably contributes to neighborhood stability. This issue was discussed extensively at the Planning and Sustainability Commission hearing, and the Commissioners could find no rational basis to treat long-term renters differently than resident owners.
28. **Policy 2.14, Industrial Sanctuaries**, calls for providing industrial sanctuaries and encouraging the growth of industrial activities by preserving industrial land primarily for manufacturing purposes. For the reasons stated below, these amendments are consistent with this policy because they do not increase the type or scale of non-industrial uses allowed in the Industrial Sanctuaries:
- The amendments do not allow establishment of a primary household living use in the Industrial or Employment zones. The amendments only allow establishment of an accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home in the Industrial and Employment zones in cases where the dwelling also has a legally established, non-conforming primary household living use. The amendments also contain provisions that limit the scale of the non-industrial activity including a limit on the total number of guests and

residents occupying a dwelling unit to no more than the number allowed for a household, and a limit on the number of bedrooms that can be rented to overnight guests;

- A short-term rental (temporary lodging) is currently allowed outright in the city's Industrial zones. Up to one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IG1 zone, and up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones.

The findings for Title 4 and Goal 6, Transportation, also demonstrate that the amendments are consistent with this policy.

29. **Policy 2.15, Living Closer to Work**, calls for locating greater residential densities near major employment centers, locating affordable housing close to employment centers, and encouraging home-based work where the nature of the work is not disruptive to the neighborhood. As described in the findings for Goal 2, Urban Development, the amendments encourage home-based work, and include provisions that will protect neighborhoods. Accessory short-term rentals are currently allowed as a conditional use in houses in residential zones. These amendments establish Type A and Type B accessory short-term rentals, and eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type A accessory short-term rental is one where no more than two bedrooms are rented on a short-term basis. A Type B accessory short-term rental allows renting up to 5 bedrooms to overnight guests, and will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the conditional use review fee (\$4130 application fee as of May 2014) will encourage this type of job. The amendments also include provisions that limit disruption in the neighborhood:

- The amendments ensure that the short-term rental remains an accessory use to the primary household living use on the site by limiting the number of bedrooms rented, requiring that long-term primary resident live in the dwelling unit in which the rooms will be rented, and requiring that the dwelling unit be the long-term resident's primary residence;
- The amendments limit the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household. A household is defined as one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons (per 33.910.030). This limitation ensures that the number of residents and guests coming and going from a dwelling in which bedrooms are rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood that do not have an accessory short-term rental;
- The amendments include a requirement that the operator of the accessory short term rental notify neighbors and the property owner of the accessory use. The notice must describe the operation and the number of bedrooms to be rented to overnight guests, provide contact information, and describe how the regulations of 33.207 will be met. In addition, the notification must be updated every two years;
- The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental. This will limit the impacts that more than one home-based accessory occupations could have on a neighborhood. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. Type A accessory home occupations where a resident uses their home as a home office but does not have employees or customers will continue to be allowed;
- The amendments prohibit non-resident employees and commercial meetings in a Type A accessory short-term rental; and
- The amendments allow a Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

Testimony in the record asserts that the amendments do not support this policy because they will reduce the availability of long-term, affordable rental housing. The testimony is not relevant to Policy 2.15, which is focused on promoting, as its title states, living close to work. Policy 2.15 is not an affordable housing policy. In addition, no evidence was provided that demonstrates a relationship between allowing the type of short-term rentals the amendments will permit and the loss of long-term housing. The amendments do not allow a dwelling unit in a residential zone to be converted from a household living use to a commercial use; they only allow bedrooms in a home with a primary household living use to be rented on a short-term basis. The amendments require that a long-term resident live in the dwelling unit, limit the number of bedrooms that can be rented, and do not allow accessory short-term rentals in multi-dwelling structures (structures with 3 or more units). These provisions are intended to ensure that housing units, including long term rental housing units, are not removed from the market.

30. **Policy 2.21 Existing Housing Stock**, calls for providing full utilization of larger single-family homes with conditions that preserve the character of the neighborhood and prevent speculation. The amendments are consistent with this policy. Accessory short-term rentals are currently allowed in houses in residential zones as a conditional use. Approval of a facility requires a quasi-judicial conditional use review. These amendments eliminate the need for a conditional use review for facilities that rent up to two bedrooms to overnight guests. By eliminating the cost and time associated with a conditional use review, the amendments facilitate the full utilization of bedrooms in larger single-family homes. These amendments also preserve the character of the neighborhood, thus preventing speculation, because the amendments include provisions that ensure the short-term rental remains an accessory use to the primary household living use on a site. This is accomplished by:
- Ensuring that a long-term primary resident continue to live in the dwelling unit in which the accessory short-term rental will be established. The long-term resident must occupy the dwelling for at least 270 days per calendar year;
  - Limiting Type A accessory short-term rentals to offering no more than two bedrooms to overnight guests, and requiring a conditional use review, which includes notice and a public hearing, for facilities that rent more than two bedrooms per night;
  - Limiting the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household (per 33.910.030: one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons). This provision ensures that the number of residents and guests coming and going from a dwelling with an accessory short-term rental does not exceed the number of residents allowed to come and go from other homes in the neighborhood that do not have an accessory short-term rental;
  - Requiring that the operator of the accessory short term rental notify neighbors and the property owner of the accessory use. The notification must describe the operation and the number of bedrooms to be rented to overnight guests, provide contact information, and describe how the requirements of 33.207 will be met. In addition, the notification must be updated every two years;
  - Limiting the impacts from more than one home-based accessory occupations. The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental. A Type B accessory home occupation is one in which the resident uses their home as place of work and has one employee or up to eight customers per day;
  - Prohibiting non-resident employees and commercial meetings in a Type A accessory short-term rental; and
  - Allowing the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

Testimony in the record states that allowing short-term rentals in single-dwelling neighborhoods will increase speculation. The testimony does not provide evidence to support the conclusion. The testimony posits that the “active turnover of users” will contribute to speculation. However, as stated above, the amendments limit the total number of residents and guests occupying the dwelling unit to the same number allowed to occupy a dwelling without an accessory short-term rental. Thus, the number of “users” coming and going from the dwelling can be no more than the number that can come and go from neighboring dwellings, and there is no evidence in the record to suggest that the number of trips made to and from a dwelling with an accessory short-term rental will be more than the number of trips made to and from a dwelling without an accessory short-term rental. In addition, as mentioned above, the amendments prohibit the establishment of a Type B accessory home occupation in a dwelling with an accessory short-term rental. A Type B accessory home occupation allows up to eight customers coming and going per day. Eliminating this allowance further reduces the number of potential trips that a dwelling with an accessory short-term rental could generate.

### GOAL 3, NEIGHBORHOODS

31. **Goal 3, Neighborhoods**, calls for preserving and reinforcing the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the city's residential quality and economic vitality. The amendments are consistent with this goal and preserve the stability of the city's neighborhoods for the reasons stated in the findings for Goal 2, Urban Development, the Goal 2 sub-policies, and the findings below.
32. **Policy 3.2, Social Conditions**, call for providing and coordinating programs to promote neighborhood interest, concern and security and to minimize the social impact of land use decisions. The amendments promote neighborhood interest and concern because they require the operator to notify neighbors before the accessory short-term rental is approved. The notification must include a description of the operation and the number of rooms to be rented to overnight guests. The notification must also include contact information for the operator and describe how the standards of the Title 33.207 will be met. This notification must be updated every two years. The amendments also address neighborhood concern and security because they include an amendment to Title 3.30.040.B.5 allowing the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. If the permit is revoked, a new permit will not be issued to the operator at that residence for two years. Testimony in the record asserts that the amendments conflict with this policy because they do not provide full disclosure of the impacts of the use, make rental properties available mainly to “well-to-do Caucasian ambulatory tourists and visitors”, promote discrimination, and displace residents. No evidence was provided to support these conclusions. Additionally, the issues raised in the testimony are not relevant to the policy in question. Policy 3.2 is aimed at City programs that promote neighborhood interest, and is not aimed at discrimination or displacement.
33. **Policy 3.3 Neighborhood Diversity**, calls for promoting neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City's neighborhoods. The amendments are consistent with this policy. The amendments eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental. By eliminating the cost and time associated with a conditional use review, the amendments reduce barriers to establishing this type of home-based occupation. The income generated by the accessory short-term rental may help owners and renters reduce household expenses, including costs associated with rent or a mortgage. According to a survey of accessory short-term rental operators in Portland, the typical host earns an average of \$6,860 per year. Fourteen of the 36 operators of accessory short-term rental facilities who testified at the Planning and Sustainability Commission hearing stated that the income generated from the short-term rental allowed them to remain in their home during times of financial hardship.

Other testimony in the record suggests that the amendments conflict with this policy because they do not provide full disclosure of the impacts of the use, they make rental properties available mainly to “well-to-do Caucasian ambulatory tourists and visitors”, they promote discrimination, and displace residents. No evidence was provided to support these conclusions. As mention in the findings for Policy 3.2, Social Conditions, the amendments promote neighborhood interest and concern by requiring notification to neighbors, and local neighborhood and business associations, and by allowing a Type A accessory short-term rental permit to be revoked if the regulations of Title 33.207 are not met. Additionally, the findings for Policy 4.9, Fair Housing, demonstrate that the amendments do not promote discrimination. The amendments are intended to discourage unintended displacement of long-term residents because they do not allow a dwelling to be converted to a full time, short-term rental, they ensure that the short-term rental use remains accessory to a primary household living use on the site, and they ensure that only homes with long-term residents are allowed to accommodate overnight guests. The regulations specifically limit the number of bedrooms that can be rented on a short-term basis, and require that the a long-term resident occupy the dwelling where the rooms will be rented (except that on a site with an ADU, the resident may live in the primary dwelling and rent rooms in the ADU or vice versa).

34. **Policy 3.5, Neighborhood Involvement**, provides for the active involvement of neighborhood residents and businesses in decisions affecting their neighborhood, and calls for providing information to neighborhood and business associations which allows them to monitor the impacts of the Comprehensive Plan. The amendments support this policy because they require that neighborhood associations and business associations be notified when a Type A accessory short-term rental is established within their boundaries. The notification will provide the associations with contact information for the operator, a description of the operation and the number of rooms to be rented to overnight guests, and a description of how the operation meets the other standards of Title 33.207.

#### GOAL 4, HOUSING

35. **Goal 4, Housing**, calls for enhancing Portland’s vitality as a community at the center of the region’s housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this policy because they include provisions aimed at preserving housing, and the amendments accommodate the needs and preferences of current households. The amendments preserve housing by prohibiting the conversion of an entire housing unit in a residential zone to a motel or other commercial use as some testimony suggests. In all cases, an accessory short-term rental must be an accessory use to a primary household living use on a site. The regulations:
- Require that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary residence and rent bedrooms in the ADU or vice versa;
  - Require that the dwelling unit be the long-term resident’s primary residence;
  - Limit the number of bedrooms being rented to overnight guests to not more than two, and require a conditional use review for facilities that rent more than two bedrooms per night.

The amendments also accommodate the needs and preference of current households as expressed by people who provided testimony on the amendments to the Planning and Sustainability Commission. The Planning and Sustainability Commission received testimony from 36 people who rent a bedroom in their homes to overnight guests. Many of the 36 testified that renting a room to guests has allowed them to increase their income, and 14 of the 36 testified that the additional income has allowed them to stay in their homes.

36. **Policy 4.2, Maintain Housing Potential**, calls for retaining housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. This policy is implemented by an approval criterion applied to quasi-judicial Comprehensive Plan Map Amendments that requires no net loss of potential housing units when a requested amendment is from a residential or the urban commercial Comprehensive Plan Map designation to a non-residential map designation (33.810.050.A.2). These amendments do not conflict with this policy because they do not amend, change, or undermine this approval criterion. Testimony in the record argues that the amendments conflict with this policy because they “effectively permit commercial uses in direct conflict with Housing Policy 4.2.” No evidence was provided to support this conclusion. As stated in the findings for Goal 4, Housing, the amendments do not allow housing units in residential zones to be converted from residential to commercial use. The amendments specifically require that the short-term rental be accessory to a primary household living use on a site and, as a result, help to maintain the residential character of existing neighborhoods. The regulations:
- Require that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary residence and rent bedrooms in the ADU or vice versa;
  - Require that the dwelling unit have a primary, long-term resident (the long-term resident must occupy the dwelling for at least 270 days per calendar year);
  - Limit Type A accessory short-term rentals to renting no more than two bedrooms to overnight guests, and requiring a conditional use review for facilities that rent more than two bedrooms per night.
37. **Policy 4.4 Housing Safety**, calls for ensuring a safe and healthy built environment and assisting in the preservation of sound existing housing and the improvement of neighborhoods. These amendments support this policy because they require the operator of an accessory short-term rental to verify that the bedrooms to be rented met the building code requirements for sleeping rooms at the time they were created or converted, that each floor on which a room will be rented has at least one carbon monoxide alarm, and each bedroom has a smoke detector that is interconnected with smoke detectors in an adjacent hallway. These requirements are intended to ensure that guest can exit the dwelling rapidly and safely in the event of a fire or other emergency.

These amendments also support the preservation of sound housing because they make it easier for a long-term resident to establish a Type A accessory short-term rental in the house, attached house, accessory dwelling unit, duplex, or manufactured home in which they live. A Type A accessory short-term rental is a home-based occupation that will generate income for the resident, increasing the chances that the resident will invest in improvements that keep the home sound. Testimony in the record argues that the amendments conflict with this policy because they will establish “commercial uses as a ‘by-right’ in all Single Dwelling residential zones...”, because they do not allow neighbors the opportunity to comment, and because they conflict with Neighborhood Watch activities promoted by the Office of Neighborhood Involvement. As stated in the findings for Policy 4.2, Maintain Housing Potential, these amendments do not allow housing units in a residential zones to be converted from residential to commercial use. As stated in the findings for Policy 3.2, Social Conditions and Policy 3.5, Neighborhood Involvement, the establishment of an accessory short-term rental requires notification to neighbors, neighborhood associations, and business associations. Issues raised in the testimony regarding Neighborhood Watch activities are not relevant to this policy, as Policy 4.4 is directed at the safety of the housing structure.

38. **Policy 4.5, Housing Conservation**, calls for restoring, rehabilitating, and conserving existing sound housing as one method of maintaining housing as a physical asset that contributes to an area’s desired character. These amendments are consistent with this policy because they eliminate a \$4,130 cost barrier (current cost of a Type II conditional use review) to establishing a Type A accessory short-

term rental. The absence of the fee may encourage more homeowners to take advantage of this type of home-based occupation, and increase their income by an average of \$6,860 per year (Airbnb survey, 2014). The income generated from the accessory short-term rental may allow the homeowner to restore or rehabilitate their home, thereby conserving existing sound housing.

39. **Policy 4.7, Balanced Communities**, call for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region. Testimony in the record asserts that the amendments conflict with this policy and policy objective B, which calls for maintaining income diversity within neighborhoods by allowing a mix of housing types and tenures, and ensuring that income diversity is maintained over the long-term. The testimony posits that these amendments will “eviscerate the number of long-term rentals in these areas...”. No evidence was presented to support this conclusion. As stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments do not allow housing units in residential zones to be converted from residential use to commercial use, therefore these amendments do not conflict with this policy.
40. **Policy 4.8, Regional Housing Opportunities**, ensures opportunities for economic and racial integration throughout the region by advocating for the development of a range of housing options affordable to all income levels throughout the region. Policy 4.8, Objective A calls for advocating for a regional “fair share” strategy for meeting the housing needs of low, moderate, and higher-income households and people in protected classes in cities and counties throughout the region, and Policy 4.8 Objective B calls for supporting regulations and incentives that encourage the production and preservation of housing that is affordable throughout the region. Testimony in the record asserts that these amendments conflict with the policy and objectives because they will result in the “loss of long-term rental housing”. The testifier provided evidence for this conclusion by describing an Oregonian article (no date or title of the article was provided in the testimony) in which one accessory short-term rental operator stated that she would go back to renting her unused bedroom to a long-term renter if the short-term rental option is not allowed. On the contrary, at least one person who testified at the Planning and Sustainability Commission hearing stated that she preferred the flexibility and that comes with renting her bedroom on a short-term basis, and would not rent her room to a long-term renter. In addition, as stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not encourage the loss of long-term rentals because they do not allow the conversion of housing units in residential zones from a primary residential use to a primary commercial use.
41. **Policy 4.9, Fair Housing**, calls for freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability. Testimony in the record asserts that these amendments conflict with this policy and its objectives because “Short Term Rentals... become an unregulated market for discriminatory rental practices”. City Code Title 23.01 and Oregon Revised Statute 659A.403 prohibit discrimination based on race, religion, color, sex, sexual orientation, gender identity, national origin, marital status, familial status, age if over 18, or disability in places of public accommodation, such as lodgings, and in the selling, leasing or renting of real property. This ordinance does not reduce or nullify in any way the prohibition of discrimination contained in City Code Title 23.01 or ORS 659A.
42. **Policy 4.10, Housing Diversity**, promotes the creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community. Testimony in the record posits that the amendments conflict with this policy and its objectives because they will cause housing types such as accessory dwelling units, manufactured homes, and individual bedrooms to be displaced. Title 33.910 defines residential structure types as the following: accessory dwelling



unit, attached duplex, attached house, duplex, group living structure, house, houseboat, manufactured dwelling, multi-dwelling development, multi-dwelling structure, single-room occupancy housing, and triplex. An individual room within a dwelling unit is not identified as a housing type. These amendments allow a long-term resident living in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot to rent rooms within the home to overnight guests. In the case of a site with accessory dwelling unit (ADU), the amendments allow the resident to live in the house, attached house, or manufactured home on its own lot and rent rooms in the ADU or vice versa (and ADU is not allowed with a duplex). In either case, the number of bedrooms that can be rented on a short-term basis and the number of total residents and guest on the site is limited. Furthermore, as stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not cause housing types to be displaced because they do not allow housing units in residential zones to be converted from a primary residential use to a primary commercial use.

43. **Policy 4.11 Affordability**, promotes the development and preservation of quality housing that is affordable across the full spectrum of household incomes. The amendments are consistent with this policy because the change to the accessory short-term rental regulations will not affect the supply of needed affordable housing for the following reasons:
- The regulations do not allow conversions of needed housing in residential zones from a residential use to a commercial use. The amendments ensure that the primary use of the dwelling remains household living. The regulations allow a long-term resident to rent unused bedrooms within their primary residence to overnight guests, and the regulations limit the number of bedrooms that can be rented on a short-term basis.
  - In many cases a conditional use review will no longer be required, and the absence of a quasi-judicial application fee may well increase the number of householders establishing accessory short-term rentals. Testimony in the record asserts that the ability to receive income from overnight guests may increase the ability of long-term residents to afford the cost of maintaining their homes or remain in their home during times of financial struggle.
  - Any economic effects of the amended regulations are limited to lowering the entrance costs to short-term rentals by eliminating the cost of a conditional use review (\$4,130 application fee). The amended regulations will require a permit fee and the installation of interconnected smoke detectors plus a carbon monoxide detector, costs that are together unlikely to exceed \$1,000. Assuming that all the reduced entrance costs fully translate to a corresponding increase in the value of residential property, this increase is limited to less than \$4,130. The median home price in Portland is \$285,000, while the mean home price in Portland is \$448,778 (“Portland Market Trends” 2014). A \$4,000 increase in price is a 1.4 percent increase in the median price, and a .08 percent increase in the mean price, not enough to render affordable housing unaffordable.
  - Home Forward (formerly Housing Authority of Portland) is a government agency that owns homes and makes them available to rent by households earning less than sixty-percent of median metropolitan statistical area income. Rental agreements for these homes always contain a prohibition on subletting that will prohibit accessory short-term rentals. The amendments will therefore not affect the affordability of this publically owned housing. In addition, they will not affect affordable housing obtained through the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development and administered by Home Forward. This program is commonly referred to as Section 8, and it provides rent assistance to low-income residents. The assistance voucher can be used for renting an apartment or a house, but it cannot be used to rent a room in a house.

Testimony in the record asserts that the amendments conflict with Policy 4.11 because they permit owners to raise rents astronomically, and encourage the reduction of available housing. No evidence was provided to support this conclusion. Nothing in the existing zoning regulations addresses rental rates or prevents owners from raising rent. Rental rates are driven by conditions in the marketplace; many factors affect these conditions and therefore rental rates. The amendments eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental. The cost of a conditional use review is currently \$4,130 dollars. There is no evidence in the record to support the assumption that by removing the requirement for a conditional use review, rental rates will go up citywide. However, if rental rates were to increase commensurate with the decrease in cost for a conditional use review (\$4,130), the amount a resident could generate from an accessory short-term rental (\$6,860; Airbnb survey 2014) exceeds the increase in rent. Finally, the income generated by the accessory short-term rental may help reduce household expenses, including costs associated with rent or a mortgage, thereby helping to make the housing more affordable.

44. **Policy 4.14 Neighborhood Stability**, calls for neighborhood stability by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction. As detailed in the findings for Goal 2, Urban Development, Policy 2.15, Living Close to Work, Policy 2.21, Existing Housing Stock, Policy 3.2 Social Conditions, Policy 3.5, Neighborhood Involvement, and Goal 4, Housing, the amendments promote neighborhood stability by ensuring that the short-term rental use remains accessory to a primary household living use on a site, preventing the conversion of a dwelling in a residential zone to a full-time, short-term rental, requiring notification of the establishment of an accessory short-term rental to neighbors and local neighborhood and business associations, and allow the accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. Policy 4.14, Objective H calls for enabling people who are elderly to remain in their own neighborhoods as their needs change. These amendments support that objective because they remove a cost barrier to establishing a Type A accessory short-term rental. The reduced cost may allow elderly people to more easily enter into the accessory short-term rental market, and the income generated from the short-term rental may allow the elderly person to maintain their home and/or remain in their home.

Testimony in the record asserts that the amendments conflict with this policy and its objectives because they will replace long-term rentals, make Neighborhood Watch programs ineffectual, and destroy a sense of safety. No evidence was provided to support these conclusions. As demonstrated above and in the findings for Title 12, Protection of Residential Neighborhoods, Policy 3.2, Social Conditions, Policy 3.5, Neighborhood Involvement, Goal 4, Housing, Policy 4.2, Maintain Housing Potential, Policy 4.10, Housing Diversity, and Policy 4.11, Affordability, these amendments do not encourage the loss of long-term rentals, and they do facilitate communication between the operator of an accessory short-term rental and neighbors, and they protect residential neighborhoods.

## **GOAL 5, ECONOMIC DEVELOPMENT**

45. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city. As described in the findings for Goal 2, Urban Development, and Policy 2.15, Living Close to Work, the amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs. An accessory short-term rental is where a long-term resident rents bedrooms in the dwelling in which they reside to overnight guest. An accessory short-term rental use is currently allowed in residential zones as a conditional use, and approval of an accessory short-term rental facility requires a quasi-judicial conditional use review. These amendments establish Type A (one or two bedrooms) and a Type B (three to five bedrooms) accessory short-term rental types, and eliminate the need for a conditional use review in order to establish a Type A facility in a house,

attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type B facility will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the \$4,130 conditional use review application fee (as of May 2014) will make entry into this type of work less costly, and therefore encourage this type of home-based job. According to a survey of accessory short-term rental host in Portland who use the Airbnb website, the average annual income generated from an accessory short-term rental is \$6,860 (Airbnb survey 2014).

## GOAL 6, TRANSPORTATION

46. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. These amendments are consistent with this goal because they ensure that the potential number of trips generated by an accessory short-term rental will not exceed the number of trips that could be generated by a household living use without an accessory short-term rental. The amendments include a provision that limits the total number of guests and residents staying in a home with an accessory short-term rental to no more than the number of residents allowed to reside in a home without an accessory short-term rental. In addition, the amendments potentially reduce the number of trips that could be generated by a home with an accessory short-term rental because they prohibit the resident in a home with a Type A accessory short-term rental from also operating a Type B accessory home occupation. A Type B accessory home occupation is one in which the operator has one employee or up to eight customers per day. By prohibiting a Type B accessory home occupation, the potential number of trips to and from a home in a residential zone is reduced.

Testimony at the Planning and Sustainability Commission hearing raised concerns about parking associated with an accessory short-term rental. As already mentioned, an accessory short-term rental can have no more people staying in the home than can reside or stay in a home without an accessory short-term rental, therefore the number of cars being parked in association with a home that operates an accessory short-term rental will be no more than should be expected for a home without an accessory short-term rental. In addition, several operators of accessory short-term rentals who testified at the Planning and Sustainability Commission hearing suggested that many of their guests do not have a car. One operator said that fewer than one-half of their guest have had a car, while another operator stated that more than 80 percent of their guests did not have a car.

47. **Policy 6.12, Regional and City Travel Patterns**, calls for supporting the use of the street system consistent with its state, regional, and city classifications and its classification descriptions. Objective B calls for minimizing the impacts of interregional and long intraregional trips on Portland neighborhood and commercial areas, while supporting the travel needs of the community. These amendments are consistent with this policy because, as stated in the findings for Goal 6, Transportation, they ensure that the number of trips generated by a home with an accessory short-term rental will be no more than, and could potentially be fewer than, the number of trips generated by home without an accessory short-term rental.
48. **Policy 6.26, On-Street Parking Management**, calls for managing the supply, operations, and demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential areas. As stated in the findings for Goal 6, Transportation, these amendments are consistent with this policy because they will not increase the demand for parking in residential areas, and will in some cases reduce the potential demand for parking in residential areas.

### GOAL 8, ENVIRONMENT

49. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution. These amendments will limit potential impacts from noise because they include provisions intended to keep the activities occurring in association with an accessory short-term rental at the same level of activity expected from home without an accessory short-term rental. The amendments accomplish this by:
- Ensuring that the number of guests and residents staying in a home with an accessory short-term rental does not exceed the number of residents of a home without an accessory short-term rental;
  - Prohibiting establishment of a Type B accessory home occupation in a home with an accessory short-term rental. A Type B accessory home occupation can have up to eight customers arriving and leaving from the home each day;
  - Prohibiting commercial meetings (including weddings and banquets) in a home with a Type A accessory short-term rental; and
  - Allowing the accessory short-term rental permit to be revoked for failure to comply with the requirements of Title 33.207.

For these reasons, the amendments are consistent with this goal.

### GOAL 9, CITIZEN INVOLVEMENT

50. **Goal 9, Citizen Involvement**, calls for improving the methods for citizen involvement in the ongoing land use decision-making process, and providing opportunities for citizen participation in the implementation, review, and amendment of the Comprehensive Plan. Policy 9.1 calls for encouraging citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public. The preparation of these amendments provided multiple opportunities for citizen involvement, in accordance with the legislative procedure requirements of Title 33.740, Legislative Procedure. The development of these amendments included the following notifications and opportunities for citizen involvement:
- a) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) on July 15, 2013, and with the land use chairs of the city's neighborhood coalition offices on July 25, 2013 to review potential items for inclusion in the RICAP 6 work plan.
  - b) *The Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
  - c) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the August 13 hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.

- d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.
- e) Notice of the RICAP 6 discussion draft was mailed January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussion and questions.
- f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings
- g) Project staff presented the RICAP 6 discussion draft report at one Design Commission meeting, one Historic Landmarks Commission meeting, and one Planning & Sustainability Commission meeting(s).
- h) Project staff were available to discuss the RICAP 6 discussion draft at an open house held on February 11, 2014 from 5:00 pm to 7:30 pm.
- i) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- j) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- k) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740. The Planning and Sustainability Commission made four amendments to the proposed draft.
- l) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- m) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice, on May 13, 2014.

The findings for Statewide Planning Goal 1, Citizen Involvement also demonstrate compliance with this goal and policy.

Testimony in the record asserts that these amendments fail to satisfy this goal and policy. As described above, the process to adopt these amendments followed all requirements of Title 33.740, Legislative Procedures, therefore Goal 9 and Policy 9.1 are satisfied.

**GOAL 10, PLAN REVIEW AND IMPLEMENTATION**

51. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. Objective A calls for promoting good planning by effectively and efficiently implementing the Comprehensive Plan, addressing present and future land use problems, balancing the benefits of regulations against the cost of implementation and compliance, and assuring that Portland remains competitive with other jurisdictions as a location in which to live, invest and do business. The amendments are consistent with this policy and its objectives for the following reasons:

- They address a development situation that has been growing in Portland. The number of short-term rentals occurring in Portland has increased substantially. In May 2014, Bureau of Planning and Sustainability found over 1,600 short-term rental listings on one website that facilitates peer-to-peer short-term rentals, up from 107 in January 2011;
- They address a present land use problem. Accessory short-term rentals are currently allowed in residential zones in Portland as a conditional use. Twenty-four have been approved through a conditional use review since 2004 date. With only 24 having been approved, it is likely that the majority of short-term rentals operating in Portland have not received proper approvals. In 2013, the Bureau of Development Service's Code Compliance unit received 38 complaints regarding unauthorized accessory short-term rentals—38 out of a total 1083 complaints. The number of short-term rental listings in Portland on one short-term rental website was over 1,600 in May 2014—a number that far exceeds the total number of complaints investigated by the staff of the Code Compliance unit. Therefore, the total number of accessory short-term rentals operating without approval in Portland presents a present land use problem that needs to be remedied;
- They clarify and streamline regulations that have not been updated since 2004; and
- They address the cost of implementation and compliance by eliminating the need for a conditional use review for a Type A accessory short-term rental.

NOW, THEREFORE, the Council directs:

- a. Adopt items #12-14 (Short-Term Rental/Bed and Breakfast amendments) of Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- b. Adopt the commentary for items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014 as legislative intent and further findings.
- c. Amend Title 33, Planning and Zoning, as shown in items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- d. Amend Title 3, Administration, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- e. Amend Title 6, Special Taxes, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- f. Direct the Bureau of Planning and Sustainability to return to City Council with a proposal for accessory short-term rentals in multi-dwelling structures within 90 days.
- g. Direct the Bureau of Planning and Sustainability to monitor the effects of the amendments as part of their overall monitoring program, and provide a report on the effects to City Council by September, 2016.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

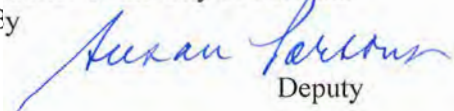
Passed by the Council: **JUL 30 2014**

Mayor Charles Hales  
Prepared by: Shannon Buono  
Date Prepared: July 16, 2014

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By

  
Deputy

S-779 801

Agenda No.  
**ORDINANCE NO.**  
Title

**SUBSTITUTE**  
**186736**

Improve land use regulations related to accessory short-term rentals through the Regulatory Improvement Code Amendment Package 6 (RICAP-6) (Ordinance; Amend Title 33, Planning and Zoning, Title 3, Administration, and Title 6, Special Taxes) *Code*

INTRODUCED BY Commissioner/Auditor: <b>Mayor Charlie Hales</b>	CLERK USE: DATE FILED <u>JUL 17 2014</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales <i>Ch Hales</i>	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <i>[Signature]</i> Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>Susan Anderson</i>	ACTION TAKEN:  <b>JUL 23 2014 Substitute PASSED TO SECOND READING JUL 30 2014 9:30 A.M.</b>
Prepared by: Morgan Tracy Date Prepared: July 17, 2014	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: <i>[Signature]</i> required for Code Ordinances	
City Attorney Approval: <i>[Signature]</i> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date <b>July 23, 2014</b>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____
<b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> <b>Total amount of time needed: 30 mins</b> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	4. Novick	<input checked="" type="checkbox"/>	
Hales	Hales	<input checked="" type="checkbox"/>	



## Regulatory Improvement Workplan

# Accessory Short-term Rentals



## Regulatory Improvement Code Amendment Package 6

### (RICAP 6)

This report exhibit represents only the code amendments pertaining to Accessory Short-term Rentals. Other RICAP 6 items are addressed under a separate ordinance and exhibit.

**Recommended Draft**

July 2014



Bureau of Planning and Sustainability  
Innovation. Collaboration. Practical Solutions.

City of Portland, Oregon  
Charlie Hales, Mayor • Susan Anderson, Director



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Regulatory Improvement  
Code Amendment Package 6

# Accessory Short-term Rentals

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The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.



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Innovation. Collaboration. Practical Solutions.

## Portland Planning and Sustainability Commission

André Baugh, Chair

Katherine Schultz, Vice Chair

Karen Gray

Don Hanson

Mike Houck

Howard Shapiro, Vice Chair

Gary Oxman

Michelle Rudd

Chris Smith

May 13, 2014

Mayor Charles Hales and Members of Portland City Council  
Portland City Hall  
1221 SW Fourth Avenue  
Portland, OR 97204

Dear Mayor Hales and City Commissioners:

On April 22, 2014, the Planning and Sustainability Commission (PSC) held a public hearing on the Regulatory Improvement Code Amendment Package 6 (RICAP 6). The PSC determined to split the package and vote on two separate components.

The first recommendation addressed many technical and minor amendments to the Portland Zoning Code. The amendments address a variety of subjects, including Radio Frequency Transmission Facilities, historic landmarks located in the public right-of-way, temporary activities, review processes for environmental resource projects and revocable permits. With one minor change to staff's proposal, the Commission voted 9-0 to recommend approval of these amendments.

The second vote was specific to the proposed short-term rental regulations. The Commission voted 8-1 to recommend approval of the proposed amendments to allow one- or two-bedrooms to be rented in a home to overnight guests through a simple permit process. This issue garnered the most testimony and discussion, and we would like to convey the collective thoughts of this Commission to Council members.

*We are excited about the City's exploration into the shared economy.*

As a leader in promoting sustainable practices, Portland is well-positioned to foster innovations that allow better utilization of existing resources. One such innovation is the use of technology to facilitate peer-to-peer networking and commerce. We see the use of Portlanders' spare bedrooms as a way to let the market evolve and offer options for Portlanders' to supplement their income, while offering visitors greater access to our city.

*We see an important role for these regulations.*

The Commission is pleased to recommend amendments that provide clarity to operators of short-term rentals and neighbors, and right-sizes the review procedure with the level of impact of smaller (one- and two-bedroom) short-term rentals.

We heard concerns about the requirement for a City inspection as part of obtaining a permit to allow short-term rentals. In fact, members of the Commission expressed concerns about the parity and consistency of such inspections. However, we acknowledge that the traveling public will be



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sleeping in unfamiliar surroundings and are at a disadvantage for evacuating a building in case of an emergency. Because it is a key function of the City to ensure buildings are safe and the public is protected, we concluded that it would be imprudent to issue permits for short-term rentals without ensuring that basic safety measures were in place. Therefore, the inspection requirement remains a part of the recommendation.

Similarly, having hosts notify their neighbors as a requirement to obtain a short-term rental permit is a reasonable precaution to ensure accountability, strengthen neighbor networks and ensure that neighbors know who the point-of-contact is.

We'd like to underscore the importance that short-term rentals only be allowed within a primary residence. This ensures that the dwelling unit still provides housing to a long-term resident.

We discussed, as some testifiers suggested, adding a requirement that the host be required to remain at the property while there are overnight guests staying there. However, we found that the types of short-term rental arrangements vary widely and that dictating the amount of time the host would need to be on-site adds an unreasonable amount of regulatory complexity. However, the Commission felt that the application materials and handouts would benefit from including information about the importance of the host being accessible to guests and neighbors and should also provide examples of behavior that could result in a permit being revoked.

*We are concerned about the potential for unintended consequences and impacts.*

This is a new industry. The potential impact on housing, rental and Portland's housing affordability are uncertain, which led one commissioner to cast the single dissenting vote. The Commissioner questioned the potential impacts of short-term rentals on the rental market and on housing affordability. Basic economics tell us that factors that increase the value of a commodity, while supply remains the same, will drive prices up. The concern is that by allowing short-term rentals in residences, the price of home ownership and rental housing could increase overall. In other words, the allure of higher short-term rental rates could continue to move more households from offering long-term roommate opportunities toward the short-term rental market. This, he reasoned, could have the unintentional consequence of contributing to Portland's affordable housing problem. And he did offer to amend the proposal to sunset the allowance for short-term rentals while a study is conducted to better understand the impacts, if any.

Other members of the Commission share our colleague's commitment to protect vulnerable and lower-income populations from disproportionate impacts of proposed regulations. Despite this concern, the Commission is comfortable advancing the recommendation because short-term rentals are only allowed in units with a permanent resident, there are relatively few short-term rentals compared to the entire housing stock (less than .8%), and because they are currently allowed through a Conditional Use Review.

In conclusion, we believe the Commission's recommendation strikes the necessary balance between protections for visitors and neighbors, while allowing reasonable flexibility for existing and future operators of short-term rentals.



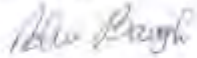
## Recommendations

The Portland Planning and Sustainability Commission recommends that City Council take the following actions:

1. Adopt the *RICAP 6: Recommended Draft*, dated May 2014; and
2. Amend the Zoning Code (Title 33) as shown in *RICAP 6: Recommended Draft*.

Thank you for the opportunity to participate in the review of this project and for considering our recommendations.

Sincerely,



Andre' Baugh, Chair  
Portland Planning and Sustainability Commission



# Acknowledgements

## **Portland City Council**

Charlie Hales, *Mayor*  
Nick Fish, *Commissioner*  
Amanda Fritz, *Commissioner*  
Steve Novick, *Commissioner*  
Dan Saltzman, *Commissioner*

## **Portland Planning and Sustainability Commission**

André Baugh (Chair)  
Katherine Schultz (Vice Chair)  
Howard Shapiro (Vice Chair)  
Karen Gray  
Don Hanson  
Mike Houck  
Gary Oxman  
Michelle Rudd  
Chris Smith

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Shelley Midthun

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# I. Introduction

## Short-term Rental/Bed and Breakfast Amendments Summary

This package of code amendments pertaining to accessory short-term rentals/bed and breakfast facilities was initially included as a bundle in the Regulatory Improvement Code Amendment Package 6 (RICAP 6). Bundles are groups of related items that focus on similar policy issues. There are five bundles in RICAP 6: Mechanical Equipment, Fence Height, Short-term Rental/Bed & Breakfast, Temporary Activities, and Columbia South Shore Plan District. The amendments pertaining to the short-term rental bundle were eventually separated from the remaining RICAP 6 items as interest in this topic grew.

The short-term rental amendments respond to issues raised from the dramatic increase in the number of residences being rented informally on a short-term basis (fewer than 30 days) through Internet sites such as Airbnb and HomeAway. In Portland, Airbnb has the largest concentration of listings: over 1,600 today (up from 107 in January 2011). The most common listings are from hosts who live on their property and offer a bedroom for rent in their home. This is a new way of providing visitor lodging accommodations and Portland, like many cities, is determining how to regulate these short-term rentals.

The amendments create a new Accessory Short-Term Rental permit that will allow a resident to rent one to two bedrooms in their house, attached house, duplex, manufactured home or accessory dwelling unit to overnight guests. Currently, the Zoning Code requires a conditional use review for all bed and breakfast facilities regardless of their size. The proposed permit process offers smaller scale short-term rentals a less expensive and faster process, while ensuring that the adjacent neighbors are notified of the activity. Three-to-five bedroom short-term rentals will continue to require a conditional use review.

## RICAP 6 Process

### Background

Portland's current Zoning Code was adopted in 1990. Changing needs, new laws and court rulings, new technology and innovations, and shifting perceptions necessitate that the City's regulations be updated and improved on an ongoing basis. Since 1990 there have been several programs to update the Zoning Code. The most recent of these programs is the Regulatory Improvement Program, which was initiated in 2002 as a way to update and improve City building and land use regulations that hinder desirable development.

One component of the program - Regulatory Improvement Code Amendment Package (RICAP) - was designed to provide an ongoing and rapid vehicle for technical and minor policy amendments to the City's regulations. From 2005 to 2010 City Council adopted five packages of amendments (RICAP 1 through 5), which resulted in many amendments to city regulations. Most of the changes were to Zoning Code regulations. Due to budgetary constraints, the program was suspended in 2010. As part of the fiscal year 2013-2014 budget process, City Council funded a RICAP project.



The process used to develop the workplan for RICAP 6 consisted of:

- Cataloguing potential amendments through an **online database**. These are items suggested by City staff, community members, and others;
- **Ranking each item** to evaluate the impacts of and the ability to improve the regulation, the variety of stakeholders affected, and the geographic range of the issue; and
- **Holding a hearing** before the Planning and Sustainability Commission on August 13, 2013.

For more information on selection of items for the workplan, see the *RICAP 6 Proposed Workplan*, dated July 24, 2013.

## RICAP Item Analysis

Staff conducted an assessment to identify and evaluate positive and negative impacts of possible changes. Staff also reviewed the origin and legislative intent of the existing regulation, identified what sorts of circumstances may have changed since the regulation was first adopted, and evaluated potential code language from both the desired outcome as well as for unintended consequences. This assessment also identified when the regulations did not need to change or when a non-regulatory approach may be a better solution. When a regulatory approach is determined to be appropriate, the regulations are crafted to be simple, clear, and feasible to implement and enforce.

The list of RICAP workplan items that the Planning and Sustainability Commission (PSC) selected for staff to further analyze was more extensive than the items that are contained in the PSC's recommended code amendments. This is due to the fact that RICAP items are researched and evaluated to determine whether an amendment to the zoning code is necessary to either clarify or correct language, or adjust existing policy in order to better achieve a desired outcome.

In some cases, the city opted to not move certain amendment requests forward for a number of reasons. These include:

1. Research indicates that the solution is not worth the costs or added complexity; or that the existing regulation is achieving the desired result;
2. Research shows that the issue is important, but the solution should be decided as part of a more comprehensive project; and/or
3. More information and public input is needed before a solid recommendation can be made.

## Process/Community Involvement

The RICAP 6 amendments reflect comments and testimony from members of the public, agencies and other interested stakeholders. These viewpoints and suggestions have helped to refine the proposal from the early *Public Discussion Draft*, January 2014, to the *Proposed Draft*, March 2014 for the PSC, and the *Recommended Draft*, May 2014 for City Council.

The initial workplan for RICAP 6 was adopted by the PSC at a hearing on August 13, 2013. Notice of the hearing was sent to members of the public interested in regulatory improvement and the city's legislative process and the hearing was open for testimony. The PSC heard testimony from people supporting the inclusion of the short-term rental items.

The *Public Discussion Draft* was published on January 6, 2014 with a seven week comment period that ran through February 21<sup>st</sup>. Public notice was sent to over 750 recipients, and emails were sent to more than 360 people. Over that period, staff met with the Design Commission, Historic Landmarks Commission, the Planning and Sustainability Commission, six neighborhood district coalitions, and two individual neighborhood associations. In addition, staff held a public open house on February 11, 2014 to present more detailed information and respond to specific questions. With one or two exceptions, the approximately 75 people attending the open house were interested in the short-term rental proposals. In total, staff met with nearly 350 members of the public during the *Public Discussion Draft* comment period.

During the *Discussion Draft* comment period, staff received over 100 written comments. Some comments addressed the proposed regulations affecting recreation fields, wireless facilities, accessory home occupations and some technical requests for clarification. A few comments were on issues outside the scope of RICAP 6 and were more related to larger issues being considered with the Comprehensive Plan Update. However, the majority of the comments received pertained to items the Short-Term Rental/Bed and Breakfast bundle.

As a result of comments and questions staff received during the *Public Discussion Draft* comment period, staff reviewed and evaluated the proposed amendments and made additional clarifications to the explanatory commentary and in some cases revised the proposed code language.

Notice of the *Proposed Draft*, March 2014, and the April 22, 2014 PSC public hearing was sent to 771 recipients 30 days prior to the public hearing date to provide the public sufficient opportunity to review the proposal and to deliver testimony on the proposed code amendments to the PSC.

On April 22, 2014, the Planning and Sustainability Commission held a public hearing with approximately 90 people in attendance. The Commission received 102 written letters and emails and heard oral testimony from 37 attendees—the majority focusing on the short-term rental proposals. The Planning Commission recommended the approval of the staff proposed code changes with only minor amendments to the short-term rentals proposals and item #18 of the Radio Frequency Transmission Facilities bundle.

The community had an additional opportunity to review the proposal and provide testimony at the City Council's public June 4, 2014 hearing on this *Recommended Draft*. City Council passed the majority of RICAP 6 on June 4<sup>th</sup> with the exception of the proposed short-term rental regulations. At the conclusion of the June 4<sup>th</sup> Council meeting, the Council agreed to hold the hearing open for the short-term rental proposal to hear additional testimony and scheduled a worksession with Staff for June 24<sup>th</sup>. All councilors were present along with key staff from BPS, BDS and the Revenue Bureau to discuss a number of items and questions related to: scope and frequency of inspections, nonresident operators, whether resident needed to be present when overnight guests are in home, taxing mechanisms, impacts on affordable housing, dedicated vacation rentals (homes where there is no long-term resident) and short-term rentals in multi-dwelling units (e.g., apartments and condominiums).

Council then reconvened on July 2, and following several hours of additional testimony, moved the accessory short-term rental package forward to a hearing on July 23<sup>rd</sup> with the following changes:

- The Bureau of Development Services will inspect the initial application and every 6 years thereafter, or with a change in ownership. The amendment allows for self-certification for the intervening semi-annual renewals.
- Require carbon monoxide alarms, where carbon monoxide sources are present.
- Require that the resident reside in the dwelling unit at least 270 days per year.
- Allow the resident to appoint a designee to operate the short-term rental.
- Require the permit number to be in all advertisements and in the dwelling unit.
- Require Bureau of Planning and Sustainability to return with a monitoring report in September 2016.



## II. Amendments to the Zoning Code

This section of the report contains the amendments to the Zoning Code. The amendments are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about each amendment that provides the legislative intent of the proposed amendment.

Items are arranged in this section following the order they appear in the Zoning Code. For example, items amending portions of the base zone requirements will come before items amending portions of overlay zones or plan districts. The Short-Term Rental/Bed and Breakfast Bundle replaces Chapter 33.212 Bed and Breakfast Facilities with a new Chapter 33.207 Short-Term Rentals and includes amendments in the following Zone Code sections: 33.110 (Single-Dwelling Zones); 33.120 (Multi-Dwelling Zones); 33.203 (Accessory Home Occupations); 33.205 (Accessory Dwelling Units); 33.910 (Definitions); and 33.920 (Descriptions of Use Categories).

Also see amendments to other titles of City Code—Title 3, Administration and Title 6, Special Taxes found in Section III of this report.

### Code Index for Short-Term Rental/Bed and Breakfast Bundle

Code Section	Proposed Change	Page
<i>Base Zones</i>		
33.110.100	Change terminology -from B&B to accessory short-term rental	17
33.110.110	Change terminology -from B&B to accessory short-term rental	17
33.120.100	Change terminology -from B&B to accessory short-term rental	19
33.120.110	Change terminology -from B&B to accessory short-term rental	19
<i>Additional Regulations</i>		
33.203.020-030	Prohibit Type B home occupations on short-term rental sites	21
Ch. 33.212→33.207	Rename chapter, revise regulations for short-term rentals, create Type A (1-2 bedrooms), Type B (3-5 bedrooms)	25
<i>General Terms</i>		
33.910.030	Add “domestic partnership” to definition of household	43
33.920.110	Change terminology -from B&B to accessory short-term rental	45
<i>Other City Titles</i>		
3.30.040	Adds Type A short-term rental permit revocation authority	49
6.04.060	Requires permit or conditional use numbers in all advertising and to be prominently displayed in the rental unit	50

## **Items #12, 13, 14: Short-term Rentals**

### **33.110.100 Primary Uses**

### **33.110.110 Accessory Uses**

These amendments replace references to "bed and breakfast facilities" with "accessory short-term rentals" and directs reader to the regulations in chapter 33.207 Accessory Short-Term Rentals.



Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.110  
 SINGLE-DWELLING ZONES**

**33.110.100 Primary Uses**

**A.-B.** [No change]

**C. Conditional uses.**

1. [No change]

2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as that may require a conditional uses reviews.~~ See Chapter 33.207~~212~~.

**D.** [No change]

**33.110.110 Accessory Uses**

Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.212~~207~~ respectively.

## Items #12, 13, 14: Short-term Rentals

### 33.120.100 Primary Uses

### 33.120.110 Accessory Uses

These amendments replace references to "bed and breakfast facilities" with "accessory short-term rentals" and directs reader to the regulations in chapter 33.207 Accessory Short-Term Rentals.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.120  
 MULTI-DWELLING ZONES**

**33.120.100 Primary Uses**

**A.-B.** [No change]

**C. Conditional uses.**

1. [No change]

2. ~~Bed and breakfast facilities~~ Accessory short-term rentals. ~~Bed and breakfast facilities~~ Accessory short-term rentals are accessory uses ~~which are regulated as that may require a conditional uses reviews.~~ Some exceptions may apply in the RX zone. See Chapter 33.~~207~~212.

**D. Prohibited uses.** [No change]

**33.120.110 Accessory Uses**

Uses that are accessory to a primary use are allowed if they comply with all regulations for that use and all applicable development standards. In addition, some specific accessory uses have additional requirements as indicated below.

**A. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals.** Accessory uses to a primary use are allowed if they comply with all development standards. Accessory home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ accessory short-term rentals have specific regulations in Chapters 33.203, 33.205, and 33.~~207~~212 respectively.

**B.-C.** [No change]

## Items #12, 13, 14: Short-term Rentals

### **33.203.020 Description of Type A and Type B Accessory Home Occupations**

Technical amendments to Chapter 33.203, Accessory Home Occupations replace references to "bed and breakfast facilities" with "accessory short-term rentals" and directs reader to the regulations in chapter 33.207 Accessory Short-Term Rentals.

### **33.203.030 Use-Related Regulations**

Type B home occupations allow up to 8 customers a day or a nonresident employee. The amendment adds an additional prohibition from having both a Type B home occupation permit and an accessory short-term rental. In essence, a household must choose between having a home occupation OR renting out rooms on a less than monthly basis in order to limit the activity and impacts associated with a single household.

This restriction is intended to apply to both accessory short-term rentals and what were formerly referred to as bed and breakfast facilities. Note that bed and breakfast facilities/Type B accessory short-term rentals may request employees as part of their conditional use review.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.203  
 ACCESSORY HOME OCCUPATIONS**

**33.203.020 Description of Type A and Type B Accessory Home Occupations**

There are two types of home occupations, Type A and Type B. Uses are allowed as home occupations only if they comply with all of the requirements of this chapter.

- A. Type A.** A Type A home occupation is one where the residents use their home as a place of work; however, no employees or customers come to the site. Examples include artists, crafts people, writers, and consultants. Type A home occupations also provide an opportunity for a home to be used as a business address but not as a place of work.
- B. Type B.** A Type B home occupation is one where the residents use their home as a place of work, and either one employee or customers come to the site. Examples are counseling, tutoring, and hair cutting and styling.
- C. ~~Bed and breakfast facility~~ Accessory short-term rentals.** ~~Bed and breakfast facilities are exempt from the regulations of this chapter. The regulations for bed and breakfast facilities~~ accessory short-term rentals are stated in Chapter 33.212207.
- D. Family daycare.** Family daycare for up to 16 children, including the children of the provider, is exempt from the regulations of this chapter as required by ORS 657A.440.

**33.203.030 Use-Related Regulations**

- A. Allowed uses.** [No change]
- B. Prohibited uses.**
  - 1.-2. [No change]
  - 3. A Type B accessory home occupation is prohibited in a residence with an accessory dwelling unit
  - 4. A Type B accessory home occupation is prohibited in a dwelling unit with any accessory short-term rental.
- C. Additional Type B home occupation regulations.** [No change]

## Items #12, 13, 14: Short-term Rentals

### 33.205.030 Design Standards

Technical amendments to Chapter 33.205, Accessory Dwelling Units replaces the reference to "bed and breakfast facilities" with "accessory short-term rentals". It also clarifies the relationship between accessory dwelling units and accessory short-term rentals.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.205  
 ACCESSORY DWELLING UNITS**

**33.205.030 Design Standards**

**A.-B.** [No change]

**C. Requirements for all accessory dwelling units.** All accessory dwelling units must meet the following:

1.-2. [No change]

3. Other uses.

- a. Type B home occupation. An accessory dwelling unit is prohibited on a site with a Type B home occupation.
- b. Type A accessory short-term rental. An accessory dwelling unit is allowed on a site with a Type A accessory short-term rental.
- c. Type B accessory short-term rental. An accessory dwelling unit is allowed on a site with ~~an approved Bed and Breakfast facility~~ Type B-accessory short-term rental if the accessory dwelling unit meets the standards of Paragraph 33.815.040.B.1.

4.-11. [No change]

**D.** [No change]

## Items #12, 13, 14: Short-term Rentals

### CHAPTER 33.207 ACCESSORY SHORT-TERM RENTALS

Recently, there has been a dramatic increase in the number of residences being rented informally on a short-term basis through internet sites such as Airbnb and Home Away. In Portland, for example, Airbnb lists over 1,600 today, up from 107 in January 2011. The most common listings are from hosts who live on their property and offer a bedroom for rent on a nightly basis in their residence. This is a new way of providing visitor lodging accommodations and many cities are determining how to regulate these short-term rentals.

In Portland, rentals of less than 30 days are considered short-term and renting up to five bedrooms is allowed through the Bed and Breakfast Facility chapter of the Zoning Code. The process requires a Type II Conditional Use Review approval, which is a discretionary decision, costs \$4130, takes approximately eight to ten weeks for the review, and includes a public notice and opportunity to appeal staff's decision to the Portland's Hearings Officer.

This proposal offers smaller scale short-term rentals a less expensive and faster process, while ensuring that adjacent neighbors are notified of the activity. Key features of this proposal are:

- Move the regulations in Chapter 33.212, Bed and Breakfast (B&B) Facilities to a new chapter: Chapter 33.207, Accessory Short-Term Rentals.
- Define Accessory Short-Term Rentals as one where "an individual or family resides in a dwelling unit and rents bedrooms to overnight guests for fewer than 30 days."
- Distinguish Type A Accessory Short-Term Rentals (one- and two-bedroom rentals) from Type B Accessory Short-Term Rentals (three to five bedrooms).
- Provide a new by-right (non-discretionary) process and set of standards for Type A Accessory Short-Term Rentals, while retaining the existing Bed and Breakfast (B&B) Facilities process (Type II Conditional Use) and regulations for the Type B Accessory Short-Term Rentals.

#### 33.207.010 Purpose

Revisions to the purpose statement reflect that the regulations of this chapter have been expanded to address, in addition to traditional bed and breakfast facilities, the increased number of smaller accessory short-term rentals where overnight guests are hosted in individual residences. Therefore, references to "large" and "older" houses have been deleted.

"Proprietor"—one who owns the business—has been replaced with "operator"—the resident or the resident's designee that operates the short-term rental—throughout this chapter.

#### 33.207.020 Description and Definitions

- A. Description.** Accessory short-term rentals have been divided into two types based on the number of bedrooms that are being rented: Type A (one and two bedrooms) and Type B (3 to 5 bedrooms). The description has also been expanded to encapsulate houses as well as attached homes, manufactured homes on their own lots, duplexes, and accessory dwelling units.



Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strickthrough~~

**CHAPTER 33.212207**  
**ACCESSORY SHORT-TERM RENTALS ~~BED AND BREAKFAST FACILITIES~~**

Sections:

- 33.212207.010 Purpose
- 33.212207.020 Description and Definitions
- 33.212207.030 Where These Regulations Apply
- 33.212207.040 Type A Accessory Short-Term Rentals~~Use Related Regulations~~
- 33.212207.050 Type B Accessory Short-Term Rentals~~Site Related Regulations~~
- ~~33.212.060 Conditional Use Review~~
- 33.212207.0670 Monitoring
- 33.212207.0780 Pre-Established Bed and Breakfast Facilities

**33.212207.010 Purpose**

This chapter provides standards for the establishment of ~~bed and breakfast facilities~~ accessory short-term rentals. The regulations are intended to allow for a more efficient use of ~~large, older houses, certain types of residential structures in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses, and without detracting from neighborhood character. In some situations, the proprietor-operator can take advantage of the scale and often the architectural and/or historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.~~

**33.212207.020 Description and Definitions**

**A. Description. ~~Bed and breakfast facility.~~** An accessory short-term rental~~bed and breakfast facility~~ is one where an individual or family resides in a dwelling~~house~~ and rents bedrooms to overnight guests for fewer than 30 days. There are two types of accessory short-term rental: A bed and breakfast facility may also have visitors and non-resident employees.

1. Type A. A Type A accessory short-term rental is where no more than 2 bedrooms are rented to overnight guests.
2. Type B. A Type B accessory short-term rental is where 3 or more bedrooms are rented to overnight guests.

## Items #12, 13, 14: Short-term Rentals

### 33.207.020 Descriptions and Definitions (continued)

#### B. Definitions

City Council made an amendment to the Planning and Sustainability Commission's recommendation to allow a resident's designee to manage the accessory short-term rental in addition to only the resident. For clarification definitions have been added to distinguish between the resident and the operator—who can be the resident or a designee of the resident.

Reference to zones where Retail Sales And Services uses are not prohibited has been moved to 33.207.030 Where These Regulations Apply.

### 33.207.030 Where These Regulations Apply

This section provides guidance on what regulations apply to a short-term rental. To address homes located in commercial and employment zones where retail sales uses are allowed, an applicant may choose whether to abide by the regulations of this chapter (a use accessory to household living) or alternatively meet requirements for a retail sales and service primary use.

### 33.207.040 Type A Accessory Short-Term Rentals

These regulations list the use and development standards that apply to the accessory short-term rentals with up to two bedrooms rented to overnight guests. It should be noted that although the section is shown as all new, many of the standards are adapted from the existing Bed and Breakfast Facilities chapter. Strike thru and underline begins again at 33.207.050 Type B Accessory Short Term Rentals.

#### A. Use-related regulations

1. **Accessory use.** This regulation ensures that the short-term rental is accessory to the Household Living use and continues to provide housing to long-term residents. This standard sets a threshold for long-term residents that wish to operate a short-term rental by requiring the resident to occupy the dwelling unit used for a short-term rental at least 270 days (roughly 9 months) during each calendar year. It also sets a limit to the number of nights a resident can have paying overnight guests and not be present in the unit to a little over 3 months.

In the case of a duplex, the resident must live in the unit in which the bedrooms are rented to overnight guests and may not rent a non-occupied unit as a short-term rental.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike~~through

**B. ~~Definitions. Retail Sales And Service use.~~** For the purposes of this chapter, the following words have the following meanings:~~In zones where Retail Sales And Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales And Service category.~~

1. Resident. The individual or family who resides in the dwelling unit. The resident can be the owner or a long-term renter.
2. Operator. The resident or a person or entity that is designated by the resident to manage the accessory short-term rental.

**33.212207.030 Where These Regulations Apply**

The regulations of this chapter Sections 33.212.040 through 33.212.080 apply to ~~bed and breakfast facilities~~ accessory short-term rentals in the R-all zones. In the ~~RX and RH zones,~~ where Retail Sales And Service uses a ~~limited amount of commercial uses~~ are allowed, limited by right or by conditional uses, a ~~bed and breakfast facility~~ accessory short-term rentals may be regulated either as a Retail Sales And Service use, or as ~~a bed and breakfast facility~~ an accessory short-term rental under the regulations of this chapter. The decision is up to the applicant.

**33.212207.040 ~~Type A Accessory Short-Term Rentals~~Use-Related Regulations**

**A. Use-related regulations.**

1. Accessory use. A Type A accessory short-term rental must be accessory to a Household Living use on a site. This means that a resident must occupy the dwelling unit for at least 270 days during each calendar year, and unless allowed by Paragraph .040.B.2 or .040.B.3, the bedrooms rented to overnight guests must be within the dwelling unit that the resident occupies.
2. Permit required. A Type A accessory short-term rental requires a Type A accessory short-term rental permit per Subsection 040.C.
3. Allowed structure type. A Type A accessory short-term rental is allowed only in the following residential structure types:
  - a. House;
  - b. Attached house;
  - c. Duplex;
  - d. Manufactured home on its own lot; and
  - e. Accessory dwelling unit.

## Items #12, 13, 14: Short-term Rentals

### B. Standards

2. **Accessory dwelling units.** This standard gives the resident the option of living in an accessory dwelling unit on site. Currently residents are only allowed to live in the house. Accessory dwelling units are only allowed on sites containing a house, attached house or manufactured house (not a duplex).
  
4. **Bedroom Requirements.** This standard acknowledges that the traveling public will be sleeping in unfamiliar surroundings and are at a disadvantage for evacuating a building in case of an emergency than long term residents. This requirement ensures that basic safety measures are in place through an inspection by the Bureau of Development Services.

City Council directed the Bureau of Development Services to implement this regulation by requiring a site inspection of the bedroom(s) to be used as a short-term rentals for the initial application and every 6 years thereafter, or with a change in ownership. This inspection will be performed by the Bureau of Development Services. As part of the application on the intervening semi-annual renewals the resident may self-certify compliance with the bedroom requirements of 33.12.040.B.4.

5. **Number of residents and overnight guests.** Setting a maximum number of combined residents and overnight guests based on the Zoning Code's definition of household ensures that Type A accessory short-term rentals will not have any more people staying overnight than what is allowed for any household. The household definition is: "one or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit."
  
7. **Serving food and alcohol to overnight guests.** The reference to the OLCC has been removed and replaced with more generic language that refers to other county or state requirements that may apply to accessory short-term rentals. Compliance with these other regulations is the responsibility of the operator, and typically not a zoning code requirement.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**B. Standards.** The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:

1. Maximum size. A Type A accessory short-term rental is limited to renting a maximum of 2 bedrooms to overnight guests.
2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit, but the maximum number of bedrooms on the site that can be rented to overnight guests is 2.
3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.
4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:
  - a. Met the building code requirements for a sleeping room at the time it was created or converted;
  - b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and
  - c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.
5. Number of residents and guests. The total number of residents and guests occupying a dwelling unit with a Type A accessory short-term rental may not exceed the number allowed for a household. For sites with an accessory dwelling unit, the total number of residents and guests occupying both dwelling units may not exceed the number allowed for a household.
6. Employees. Nonresident employees are prohibited. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed.
7. Services to overnight guests and visitors. Serving alcohol and food to overnight guests and visitors is allowed and may be subject to other county or state requirements.

## Items #12, 13, 14: Short-term Rentals

### 33.207.040.B Standards (continued)

8. **Commercial meetings.** Commercial meetings are allowed with some Type B accessory short-term rentals through a conditional use review. This paragraph clarifies that they are prohibited with Type A accessory short-term rentals and that any meetings associated with a historic landmark special assessment are not considered commercial meetings.
9. **Type B Home Occupation.** This prohibition is restated from 33.203.030.B.4. to limit impacts associated with a single household by requiring a household to choose between having a home occupation OR renting out rooms on a less than monthly basis.

#### C. **Type A Accessory Short-Term Rental Permit.**

This new subsection describes the process for obtaining a 2-year permit for a Type A accessory short-term rental. The subsection is modeled on the Type B Home Occupation permit (33.203.060), because the impacts to the surrounding neighborhood of a 1 or 2 bedroom short-term rental are similar to the impacts allowed with a Type B accessory home occupation, which allows up to eight customers to come to the site a day.

The permit procedure includes a requirement that a notice announcing the resident's intent to establish a Type A short-term rental be mailed or delivered to all recognized organizations whose boundaries include the site of the proposed short-term rental, the property owner if not the applicant, and all owners of property abutting or across the street from the proposed facility. The notice will include contact information for the resident, and if applicable the resident's designee, so surrounding neighbors can contact them if there are issues once the operator starts renting out bedrooms to overnight guests. Requiring a semi-annual renewal is consistent with the Home Occupation permit, and ensures that as new neighbors move in, they will be notified on a regular basis and will have current operator contact information.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strikethrough~~

8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. A historic landmark that receives special assessment from the State, may be open to the public for 4 hours one day each year. This is not considered a commercial meeting.
9. A Type B accessory home occupation is prohibited with a Type A accessory short-term rental.

**C Type A accessory short-term rental permit.** The resident of a Type A accessory short-term rental must obtain a permit from BDS. It is the responsibility of the resident to obtain the permit every two years. The permit requires the resident, and operator if the operator is not the resident, to agree to abide by the requirements of this section, and document that the required notification requirements have been met:

1. Notification. The resident must:
  - a. Prepare a notification letter that:
    - (1) Describes the operation and the number of bedrooms that will be rented to overnight guests;
    - (2) Includes information on how to contact the resident, and the operator if the operator is not the resident, by phone; and
    - (3) Describes how the standards in Subsection .040.A and B are met.
  - b. Mail or deliver the notification letter to all recognized organizations whose boundaries include the accessory short-term rental, the property owner if not the resident, and all owners of property abutting or across the street from the accessory short-term rental. See Figure 207-1.
2. Required information for permit. In order to apply for a Type A accessory short-term rental permit, the operator must submit to BDS:
  - a. Two copies of the completed application form bearing the address of the property, the name, signature, address, and telephone number of the resident and operator if the operator is not also the resident;
  - b. A copy of the notification letter and a list with the names and addresses of all the property owners and recognized organizations that received the notification.

**Figure 207-1 Type A Accessory Short-Term Rental Permit Notice Area**

This figure has been modeled after Figure 203-1 Home Occupation Notice Area and indicates which surrounding properties need to be notified to comply with 33.207.040.C.1.b.

**D. Revoking a Type A accessory short-term rental permit**

The Bureau of Development Services has authority to impose fees or penalties for non-compliance with zoning code regulations. This subsection extends the power of the Director of the Bureau of Development Services to revoke the permit if operators do not comply with the regulations in this chapter. See amendment to Title 3 (3.30.040) in Section III Amendments to other Titles of City Code of this report for specific language.

**33.207.050 Type B Accessory Short-term Rentals**

These regulations apply to accessory short-term rentals with 3 to 5 bedrooms. The content changes to these regulations from the existing regulations for bed and breakfast facilities include:

- The requirement that the house be at least 5 years old has been deleted. This addresses RICAP 6 Item #14.
- An accessory dwelling unit standard has been added to provide the operator the flexibility to live in either the main house, attached house, manufactured house on its own lot, or an accessory dwelling unit on site. This amendment addresses RICAP Item #13.
- Bedroom requirements have been added to ensure that the bedrooms being rented to overnight guests are safe for sleeping. Compliance will be addressed as part of the conditional use review process.
- The requirement limiting private social gatherings has been deleted. This can be addressed through the conditional use review.
- A Type B accessory home occupation is prohibited in a dwelling unit with a Type B accessory short-term rental, but non-resident employees may be requested as part of their conditional use review.

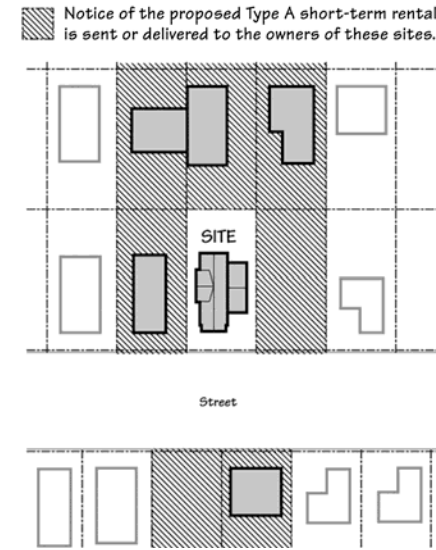
**A. Use-related regulations.**

1. Accessory use. This regulation ensures that the short-term rental is accessory to the Household Living use by requiring the resident to occupy the dwelling unit used for a short-term rental at least 270 days (roughly 9 months) during each calendar year. It also sets a limit to the number of nights a resident can have paying overnight guests and not be present in the unit to a little over 3 months.
2. Conditional use review. No content change to existing procedures from deleted 33.207.060 Conditional Use Review.



Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

**Figure 207-1**  
**Type A Accessory Short-Term Rental Permit Notice Area**



**D. Revoking a Type A accessory short-term rental permit.** A Type A accessory short-term rental permit can be revoked according to the procedures in City Code Section 3.30.040 for failure to comply with the regulations of this Chapter. When a Type A accessory short-term rental permit has been revoked, a new Type A accessory short-term rental permit will not be issued to that resident at that site for 2 years.

**33.207.050 Type B Accessory Short-term Rentals**

**A. Use-related regulations.**

1. Accessory use. A Type B accessory short-term rental ~~bed and breakfast facility~~ must be accessory to a Household Living use on a site. This means that ~~the a resident individual or family who operate the facility~~ must occupy the dwelling unit for at least 270 days during each calendar year, and unless allowed by Paragraph .050.B.2 or .050.B.3, the bedrooms rented to guests must be within the dwelling unit that the resident occupies ~~house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed.~~
2. Conditional use review. A Type B accessory short-term rental requires a conditional use review. A Type B accessory short-term rental that proposes commercial meetings is processed through a Type III procedure. All other Type B accessory short-term rentals are processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R zones.

## Items #12, 13, 14: Short-term Rentals

### B. Standards

2. **Accessory dwelling units.** This standard gives the resident operating an accessory short-term rental the option of living in an accessory dwelling unit on site. Currently these operators are only allowed to live in the house. Note that accessory dwelling units are only allowed on sites containing a house, attached house or manufactured house (not a duplex).
  
4. **Bedroom Requirements.** This standard acknowledges that the traveling public will be sleeping in unfamiliar surroundings and are at a disadvantage for evacuating a building in case of an emergency than long term residents. This requirement ensures that basic safety measures are in place through an inspection by the Bureau of Development Services. This inspection will initially be performed by the Bureau of Development Services as part of the conditional use review. The State requires all bed and breakfast facilities with more than two rooms for rent to have a license to operate and pass an annual health inspection performed by Multnomah County.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strike through~~

3. Allowed structure type. A Type B accessory short-term rental is allowed only in the following residential structure types:
  - a. House;
  - b. Attached house;
  - c. Duplex;
  - d. Manufactured home on its own lot; and
  - e. Accessory dwelling units.

**B. Standards.**

- ~~1.~~ B. Maximum size. A Type B accessory short term rental ~~Bed and breakfast facilities~~ ~~is~~ ~~are~~ limited to renting a maximum of 5 bedrooms ~~for to overnight~~ guests. In the single-dwelling zones, a Type B accessory short-term rental ~~bed and breakfast facility~~ over this size limit is prohibited.
2. Accessory dwelling units. On sites with an accessory dwelling unit, the resident can live in the primary or accessory dwelling unit and rent bedrooms in either dwelling unit.
3. Detached accessory structures. A bedroom in a detached accessory structure can be rented to overnight guests, and counts toward the maximum size limit.
4. Bedroom requirements. The Bureau of Development Services must verify that each bedroom to be rented to overnight guests:
  - a. Met the building code requirements for a sleeping room at the time it was were created or converted;
  - b. Has a smoke detector that is interconnected with a smoke detector in an adjacent hallway; and
  - c. Is located on the floor of a dwelling unit equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have a carbon monoxide source, then a carbon monoxide alarm is not required.
5. Number of residents and overnight guests. The total number of residents and overnight guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

## Items #12, 13, 14: Short-term Rentals

- ~~5C~~. **Employees.** Amendments to these regulations are grammatical only.
- ~~6D~~. **Serving food and alcohol to overnight guests.** The reference to the OLCC has been removed and replaced with more generic language that refers to other county or state requirements that may apply to accessory short-term rentals. Compliance with these other regulations is the responsibility of the operator, and typically not a zoning code requirement.
- ~~7E~~. **Commercial meetings.** Amendments to these regulations are grammatical only. The paragraph now includes information on historic landmarks and the required meeting log. Amendments improve code enforcement by allowing city staff to inspect the meeting log.
- ~~2-~~ **Private social gatherings** (deleted). This restriction has been deleted. Household Living nor other accessory activities in residential zones (e.g. home occupations, food buying clubs, community supported agriculture distribution sites, daycare) have this limitation on private social gatherings.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strikethrough~~

~~6C.~~ 6C. Employees. ~~Bed and breakfast facilities may have nonresident employees for such activities such as booking rooms and food preparation, if may be approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance or house cleaning, is allowed may also be approved.~~ The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

~~7D.~~ 7D. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements. ~~The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.~~

~~8E.~~ 8E. Commercial ~~M~~mmeetings and social gatherings.

~~a1.~~ a1. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings in ~~bed and breakfast facilities~~ are regulated as follows:

~~(1)a.~~ (1)a. In the single-dwelling zones, commercial meetings are prohibited ~~at a bed and breakfast facility;~~

~~(2)b.~~ (2)b. In the ~~multi-dwelling~~ all other zones, ~~the residents of a bed and breakfast facility may request up to 24 commercial meetings per year may be approved as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.~~

~~2.~~ 2. ~~Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.~~

~~b3.~~ b3. Historical landmarks. ~~A bed and breakfast facility which is located in a historical landmark that and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.~~

~~c4.~~ c4. Meeting log. ~~The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.~~

### **33.212.050 Site related Standards (deleted)**

#### **A. Development Standards (deleted)**

This standard is part of the general requirements listed at the beginning of the Zoning Code, so its inclusion here is unnecessary and redundant.

#### **B. Appearance**

No content changes. This standard has been renumbered to be included within the new standards subsection 33.207.050.B.

10. Type B Home Occupation. This prohibition is restated from 33.203.030.B.4. to limit impacts associated with a single household by requiring a household to choose between having a home occupation OR renting out rooms on a less than monthly basis. Nonresident employees can be requested as part of the conditional use review.

#### **C. Signs (deleted).**

The sign regulations continue to apply. References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code and into their separate title; typically other city titles are not referred to in Zoning Code regulations.

#### **D. Accessory dwelling units (deleted)**

This is unnecessary and redundant, all accessory dwelling units must comply with Chapter 33.205.

### **33.207.060 Conditional Use Review**

No content change. This section was moved to 33.207.050A.2. These amendments replace the term "bed and breakfast facility" with "Type B accessory short-term rental". A sentence has also been revised to clarify that apart from proposals that include commercial meetings, all Type B short-term rentals are processed through a Type II conditional use procedure.

### **33.207.070 Monitoring**

No content changes. The monitoring requirement applies to all accessory short term rentals for purposes of demonstrating compliance with the requirements of this chapter.

Language to be **added** is underlined  
 Language to be **deleted** is shown in ~~strikethrough~~

### **33.212.050 Site-Related Standards**

~~**A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.~~

9B. Appearance. Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.

10. A Type B accessory home occupation is prohibited with a Type B accessory short-term rental.

~~**C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.~~

~~**D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.~~

### **33.212.060 Conditional Use Review**

~~Bed and breakfast facilities require a conditional use review. A facility that proposes commercial meetings as provided in 33.212.040.E.1.b is processed through a Type III procedure. The review for all other facilities is processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R Zones.~~

### **33.212.070 Monitoring**

All accessory short-term rentals~~bed and breakfast facilities~~ must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room assigned to~~number of~~ each guest. The log must be available for inspection by City staff upon request.

**33.207.080 Pre-Established Bed and Breakfast Facilities**

The term "bed and breakfast facilities" is retained for those facilities that were approved prior to the change in terminology to "accessory short-term rentals". This ensures that those facilities may continue under the terms of their prior approvals, and do not need to obtain a new approval through a conditional use or permit.



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Language to be **deleted** is shown in ~~strike through~~

### **33.~~207212.0780~~ Pre-Established Bed and Breakfast Facilities**

- A. Facilities without a revocable permit.** Bed and breakfast facilities that were operating before May 24, 1988 and which did not receive a revocable permit, may continue to operate as an approved conditional use if the operator can show proof that the operation was established through City licensing. The requirements for verification are listed below.
1. The facility was operating with a City business license or was granted exemption from the business license requirement;
  2. City transient lodging taxes were paid part or all of the tax period preceding May 24, 1988; and
  3. The owner or operator can document that the Portland Bureaus of Planning or Buildings approved the site for a bed and breakfast facility prior to purchase, construction, or remodeling of the facility.
- B. Alterations and Expansions.** The approved conditional use status provided for in Subsection 070.A. ~~above~~ applies only to the number of bedrooms, and size of facility that existed on January 1, 1991. Any expansions of building area or alterations, that increase the intensity of the facility, are not allowed unless approved through a conditional use review as provided in Section ~~33.207212.0560.A.2.~~
- C. Facilities with a revocable permit.** Bed and breakfast facilities operating under approved revocable permits are subject to the regulations for revocable permits in 33.700.120, Status of Prior Revocable Permits.

## Items #12, 13, 14: Short-term Rentals

### 33.910 DEFINITIONS

#### 33.910.030 Definitions

##### **Household**

The current definition of household recognizes marriage and other legally established relationships, but omits domestic partnerships, which were established by the State in 2007. ORS 106.340 grants any privilege, immunity, right or benefit that a married individual has to an individual in a domestic partnership. This amended language ensures that the City's zoning code is applied consistently with State law.

Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.910**  
**DEFINITIONS**

**33.910.030 Definitions**

The definition of words with specific meaning in the zoning code are as follows:

**Household.** One or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

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### 33.920 DESCRIPTIONS OF THE USE CATEGORIES

#### 33.920.110 Household Living

Technical amendments to Chapter 33.920, Description of Use Categories replaces reference to bed and breakfast facilities with accessory short-term rentals.

Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strike through~~

**CHAPTER 33.920**  
**DESCRIPTIONS OF THE USE CATEGORIES**

**33.920.110 Household Living**

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales And Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy housing (SROs), that do not have totally self contained dwelling units are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, residential homes as defined by the State of Oregon are included in the Household Living category (see Chapter 33.910, Definitions).
- B. Accessory Uses.** Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, ~~bed and breakfast facilities~~ accessory short-term rentals, and food membership distribution are accessory uses that are subject to additional regulations.
- C.-D. [No change]**



### **III. Amendments to other Titles of City Code**

The following additional amendments affect non- Title 33 zoning code portions of the City’s regulations. These regulations are contained in separate Titles of City Code. They are being presented in a separate section of this report, because while they are intended to complement the regulations in the Zoning Code, they are not land use regulations and are subject to a different legislative adoption process.

Like the previous section of this report, the amendments to code language are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about the proposed amendment.

For more information about the zoning code amendments, refer to Section II.

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### Amendments to Title 3 Administration

The amendments to 3.30.040.B.5 give the Bureau of Development Services Director the authority to revoke a Type A Accessory Short-Term Rental Permit for failing to comply with the regulations in Chapter 33.207.

Other changes are grammatical in nature.



Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strike~~through

### **3.30.040 Administration and Enforcement.**

In order to carry out the duties as set forth in Section 3.30.010, the Director of the Bureau of Development Services may:

**A.-C.** [No change]

**D.** Gain compliance by:

- 1.** Instituting an action before the Code Hearings Officer in the manner provided for by Title 22 of this Code;~~;~~~~or~~
- 2.** Causing appropriate action to be instituted in a court of competent jurisdiction;~~;~~~~or~~
- 3.** Issuing a code violation citation directly to the contractor or person responsible for carrying out the work. Any person receiving a citation for violating the provisions of the City Code administered by the Bureau of Development Services shall be subject to a fine of up to \$1,000 for each citation issued.
- 4.** Taking other lawful action.
- 5.** Revoking a Type B home occupation permit for failure to comply with the regulations of City Code Chapter 33.203 or revoking a Type A accessory short-term rental permit for failure to comply with the regulations of City Code Chapter 33.207 by using the following procedures:
  - a. – d.** [No change]

**E.** [No change]

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### Amendments to Title 6 Special Taxes

To promote consumer information and aid in tracking short-term rental permit activity, Title 6, Administration, Chapter 6.04 Transient Lodging Tax amendments require Type A Permit Numbers or Type B Conditional Use case file numbers in all advertisements for the short-term rental. Additionally, the permit number or conditional use case file number is required to be prominently displayed in the rental unit. Staff from the Revenue Bureau and Planning and Sustainability collaborated on these amendments.

Language to be **added** is underlined  
Language to be **deleted** is shown in ~~strike~~through

#### **6.04.060 Registration of Operator; Form and Contents; Execution, Certification.**

**A.-C. [No change]**

**D.** Operators of Type A and Type B accessory short-term rentals as described in Section Chapter 33.207 must include their Type A Permit Number or Type B Conditional Use case file number, as applicable, in all advertising and other listing services. No person shall advertise or otherwise represent that an accessory short-term rental has received approval unless that person holds a current, valid permit or Conditional Use case file. Additionally, this Permit Number or Conditional Use case file number shall be prominently displayed in the rental unit so as to be seen by all short-term occupants.



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