



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

03/12/2013

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

FROM: Plan Amendment Program Specialis

SUBJECT: City of Sisters Plan Amendment  
DLCD File Number 005-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, March 26, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

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

Cc: Eric Porter, City of Sisters  
Gordon Howard, DLCD Urban Planning Specialist  
Karen Swirsky, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

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**DEPT OF**

**MAR 06 2013**

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

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

Jurisdiction: **City of Sisters**

Local file number: **TA 12-03**

Date of Adoption: **2/28/2013**

Date Mailed: **3/1/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 11/1/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amending the Development Code to (1) change the status of vacation rentals from conditional to outright uses in two commercial land use districts, (2) change the review process for Vacation Rentals from Type III Conditional Use permit in Residential and UAR zones to a Type I review process, and (3) reduce the fine and establish a separate enforcement process for sign violations. Amends Sisters Development Code chapters 1.4, 2.2, 2.3, 2.4, 2.5, 2.9 and 3.4.

Does the Adoption differ from proposal? Yes, Please explain below:

Original request was to remove all review processes for converting residences to vacation rental units. Adopted was the establishment of a lesser Type I process from prior Type III conditional use permit process for vacation rentals located in Residential Zones and UAR Zone to ensure neighborhood compatibility.

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **City wide**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

DLCD File No. 005-12 (19579) [17377]



If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

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

Local Contact: **Eric Porter**

Phone: **(541) 323-5219** Extension:

Address: **PO Box 39**

Fax Number: **541-549-0561**

City: **Sisters**

Zip: **97759-**

E-mail Address: **eporter@ci.sisters.or.us**

## ADOPTION SUBMITTAL REQUIREMENTS

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

## **ORDINANCE NO. 420**

AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES, AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS.

**WHEREAS**, the City of Sisters adopted the Development Code for the City of Sisters on June 28, 2001, by Ordinance No. 324 and was subsequently modified in 2010 and 2012; and

**WHEREAS**, the proposed Development Code amendments (TA 12-03) will apply to Chapter 1.4 (Enforcement), Chapter 2 (Land Use Districts and Special Provisions), and Chapter 3.4 (Signs); and,

**WHEREAS**, the Department of Land Conservation and Development (DLCD) received the Notice of Proposed Development Code Amendments at least 35-days prior to the first evidentiary hearing (sent October 31, 2012); and,

**WHEREAS**, after due notice, a public hearing on the proposed project was held before the Sisters Planning Commission at the City of Sisters Council Chambers (520 E Cascade Avenue, Sisters, 97759) on December 20, 2012 at which time findings were reviewed, witnesses were heard and evidence was received by the Planning Commission, who continued the hearing to January 17, 2013; and,

**WHEREAS**, at the continued Planning Commission public hearing on January 17, 2013, witnesses were again heard, written testimony was received, and the Planning Commission modified the proposed text and recommended that the City Council adopt Text Amendment TA 12-03 as amended by the Planning Commission; and,

**WHEREAS**, after due notice, a public hearing on the proposed text amendment was opened by the Sisters City Council on January 10, 2013, and was continued to February 7, 2013, and further continued to February 14, 2013 at which time the Planning Commission's findings were reviewed, witnesses were heard and evidence was received by the City Council; and the City Council found that the text amendment (TA 12-03) met all applicable legal requirements, including all notice requirements, and that the ordinance adopting the amendment will benefit the City of Sisters.

**NOW, THEREFORE**, the City Council of the City of Sisters ordains as follows:

**SECTION 1.** The Sisters Development Code is hereby amended as provided in Exhibits A and B to this Ordinance.

**SECTION 2.** In support of the Development Code text amendment in Section One, the City Council hereby adopts the Planning Commission's Resolution including findings

attached hereto as Exhibit C to this Ordinance, which demonstrate compliance with the Sisters Development Code, the City's Comprehensive Plan, and the applicable statewide planning goals, statutes and administrative rules.

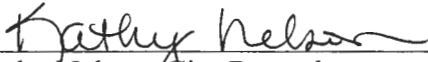
PASSED by the Common Council of the City of Sisters this 28<sup>th</sup> day of February, 2013 and APPROVED by the Mayor of the City of Sisters.



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Brad Boyd, Mayor

ATTEST:



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Kathy Nelson, City Recorder



**SISTERS CITY COUNCIL**  
**520 E. Cascade Avenue**  
**Sisters, OR 97759**

**JANUARY 10, 2013**

**7:00 P.M. CITY COUNCIL REGULAR MEETING**

- I. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- II. RECOGNITION OF OUTGOING COUNCIL MEMBERS**
- III. OATH OF OFFICE FOR NEWLY ELECTED COUNCILORS**
- IV. ELECTION OF MAYOR**
- V. ELECTION OF COUNCIL PRESIDENT**
- VI. VISITOR COMMUNICATION** -- *This is the time provided for individuals wishing to address the Council, at the Council's discretion, regarding issues that are not already on the agenda. Citizens who wish to speak should sign up prior to the beginning of the meeting on the sign-up sheet at the podium. Please use the microphone and state your name and address at the time the Council calls on you to speak.*
- VII. CONSENT AGENDA**
  - A. Minutes
    - 1. December 06, 2012 –Workshop
    - 2. December 13, 2012 - Regular Meeting
    - 3. December 20, 2012 – Workshop
  - B. Bills to Approve
    - 1. January 10, 2013 Accounts Payable
- VIII. STAFF REPORTS**
  - A. Captain Erik Utter – Deschutes County Sheriff's Department
  - B. Patty Cordoni – Economic Development Manager

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*This agenda is also available via the Internet at [www.ci.sisters.or.us](http://www.ci.sisters.or.us)*

*The meeting location is accessible to persons with disabilities. Requests for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling Kathy Nelson, City Recorder, at the number below.*  
520 E. Cascade Ave. – P.O. Box 39, Sisters, OR 97759 – 541-323-5213



**IX. COUNCIL BUSINESS**

- A. Open and Continue a Public Hearing on Text Amendment 12-03: An Amendment to the Sisters Development Code to Make Vacation Rentals Outright Permitted Uses and Change the Classification of Sign Violations to a Class A Infraction - E. Porter**
  
- B. Discussion and Consideration of Resolution No. 2013-01: A RESOLUTION SUPPORTING THE RECREATIONAL TRAILS PROGRAM APPLICATION TO THE OREGON PARKS AND RECREATION DEPARTMENT FOR THE JEFFERSON AVENUE MULTI- USE PATHWAY– P. Hardie**

**X. OTHER BUSINESS**

- A. Council Committee Appointments

**XI. MAYOR/COUNCILOR BUSINESS**

- A. Committee Reports

**XII. ADJOURN**



**SISTERS CITY COUNCIL**  
**520 E. Cascade Avenue**  
**Sisters, OR 97759**

**FEBRUARY 14, 2013**

**6:00 P.M. CITY COUNCIL WORKSHOP**

1. Local Option Levy – *Cheryl Stewart, Sisters School District Board Member*
2. FY 12-13 Supplemental Budget – *L. Young*
3. Other Business – *E. Stein*

**7:00 P.M. CITY COUNCIL REGULAR MEETING**

**I. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

**II. VISITOR COMMUNICATION**

- A. Sisters Outdoor Quilt Show “*Two Rivers, Three Sisters*” – Ann Richardson,

**III. CONSENT AGENDA**

A. Minutes

1. January 17, 2013 – Workshop
2. January 19 2013 – Goal Setting Workshop
3. January 24, 2013 – Workshop
4. January 24, 2013 – Regular Meeting
5. February 07, 2013 – Special Meeting

B. Bills to Approve

1. February, 2013 Accounts Payable

C. Liquor License Endorsement – The Belfry

**IV. STAFF REPORTS**

A. Captain Erik Utter – Deschutes County Sheriff’s Department

B. Patty Cordoni – Economic Development Manager

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*520 E. Cascade Ave. – P.O. Box 39, Sisters, OR 97759 – 541-323-5213*



**V. COUNCIL BUSINESS**

**A. Continued Public Hearing and Consideration of Ordinance No. 420:** AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES, AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS - *E. Porter*

**B. Discussion and Consideration of Resolution No. 2013-02:** A RESOLUTION OF THE SUPPORTING THE SISTERS SCHOOL DISTRICT MEASURE 9-88 LOCAL OPTION LEVY ON THE MARCH 12, 2013 BALLOT – *Councilor Womack*

**C. Discussion and Consideration of Resolution No. 2013-03:** A RESOLUTION OF THE CITY OF SISTERS ADOPTING A SUPPLEMENTAL BUDGET AND ESTABLISHING APPROPRIATIONS WITHIN THE 2012/13 BUDGET – *L. Young*

Continued to February 28, 2013 Regular Meeting.

**D. Request from Wild Mountain LLC for a Development Code Variance** – *K. Karnecki, Wild Mountain, LLC*

**E. Discussion and Consideration of a Motion** to Approve a Contract with Deschutes County for Building Official and Inspection Services – *P. Hardie*

This item was pulled.

**VI. CONTRACT REVIEW BOARD**

**A. Discussion and Consideration of a Motion** to Approve Proposal Scoring Criteria and Appoint a Proposal Review Committee for the Fir Street/Hood Avenue Waterline Improvement Project – *P. Bertagna*

**VII. OTHER BUSINESS**

A. City Parks Advisory Board Appointment

**VIII. MAYOR/COUNCILOR BUSINESS**

A. Committee Reports

**IX. ADJOURN**

**8:30 P.M. (Approx) CITY COUNCIL EXECUTIVE SESSION** – Pursuant to ORS 192.660(2)(h)

Litigation



**SISTERS CITY COUNCIL**  
**520 E. Cascade Avenue**  
**Sisters, OR 97759**

**February 28, 2013**

**8:00 A.M. CITY COUNCIL WORKSHOP**

1. 2013 Preliminary Goals and Budget Strategies – *E. Stein*
2. Other Business – *E. Stein/Council*

**6:00 P.M. CITY COUNCIL WORKSHOP**

1. Continued Discussion on FY 13-14 Budget Strategies – *E. Stein*
2. Economic Development Services Memorandum of Understanding – *E. Stein*
3. Other Business - *E. Stein/Council*

**7:00 P.M. CITY COUNCIL REGULAR MEETING**

**I. CALL TO ORDER/PLEDGE OF ALLEGIANCE**

**II. RECOGNITION – Fiscal Policy Review Committee**

**III. VISITOR COMMUNICATION**

- A. Special Event Fee Waiver - *Richard Esterman*
- B. Sisters Bicycle and Pedestrian Advisory Committee Proposal – *Michele Sims*

**IV. CONSENT AGENDA**

- A. Minutes
  1. February 07, 2013 –Workshop
  2. February 14, 2013 –Workshop
  3. February 14, 2013 – Regular Meeting
- B. Bills to Approve
  1. February Accounts Payable

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520 E. Cascade Ave. – P.O. Box 39, Sisters, OR 97759 – 541-323-5213*

**V. STAFF REPORTS**

- A. Department Updates - *Staff*

**VI. COUNCIL BUSINESS**

- A. Continued Public Hearing and Consideration of Ordinance No. 420: AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES, AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS - *E. Porter***
- B. Discussion and Consideration of Ordinance No. 421: AN ORDINANCE GRANTING TO QUANTUM COMMUNICATIONS, AN OREGON CORPORATION, A NON-EXCLUSIVE FRANCHISE AND RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN A DATA COMMUNICATIONS SERVICE FACILITY AND PROVIDE TELECOMMUNICATION SERVICES IN THE CITY OF SISTERS, OREGON – *E. Stein***
- C. Discussion and Consideration of Resolution No. 2013-03: A RESOLUTION OF THE CITY OF SISTERS ADOPTING COMPREHENSIVE FINANCIAL MANAGEMENT POLICIES – *L. Young***
- D. Discussion and Consideration of Resolution No. 2013-04: A RESOLUTION OF THE CITY OF SISTERS AMENDING THE MASTER FEE SCHEDULE – *L. Young***
- E. Discussion and Consideration of a Motion to Approve a Contract with Deschutes County for Building Official and Inspection Services and Authorize the City Manager to Execute the Contract – *P. Hardie***
- F. Discussion and Consideration of a Motion to Approve a Request for Proposal (RFP) for Audit Services – *L. Young***
- G. Discussion and Consideration of a Motion to Approve a Memorandum of Understanding (MOU) between the City of Sisters and Economic Development for Central Oregon (EDCO) for Economic Development Services and Authorize the City Manager to Execute the MOU – *E. Stein***

**VII. OTHER BUSINESS**

- A. Budget Committee Appointments

**VIII. MAYOR/COUNCILOR BUSINESS**

- A. Committee Reports

**IX. ADJOURN**



**Meeting Date:** February 14, 2013  
**Type:** Regular Meeting  
**Subject:** Development Code Update

**Staff:** Eric Porter  
**Dept:** CDD

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**Action Requested:**

**Reopen the continued public hearing of TA 12-03 and consider the adoption of Ordinance No. 420 (TA 12-03): AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES; AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS.**

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**Summary Points:** There are two main topics associated with this Development Code update, summarized as follows;

**Vacation Rentals**

- On October 25, 2012 the City Council expressed a desire to eliminate the regulation of vacation rentals from a land use perspective.
- On January 17, 2013, the Planning Commission reviewed a proposed text amendment for vacation rentals. The Commission recommends a TYPE I review rather than a TYPE II for vacation rentals in Residential / Urban Area Reserve zones and to eliminate the review in the Commercial zones.
- Approving Ordinance No. 420 (TA 12-03) would 'grandfather in' existing vacation rentals that have been paying transient room tax. There are eight operators that remit the tax in the City of Sisters; two of them are management companies that take care of multiple homes.
- After the Planning Commission hearing, the City Attorney advised staff to add the following to section 2.15.2700, subsection E, to better clarify the regulation of the grandfathered-in vacation rentals;  
  
***“Existing vacation rentals must comply with and maintain compliance with all of the approval criteria contained in subsection B, and are subject to the provisions of subsection D and the enforcement provisions of this code section.”***
- The fee for the TYPE II review of vacation rentals was recently reduced from \$1200 to \$500. If the City Council approves a Type I review process, the Planning Commission recommends that the City Council further reduce the fee to \$150.



**Sign Code Violations**

- Approving Ordinance No. 420 (TA 12-03) would change the class of infraction for a sign violation from a Class C (\$500) to a Class A (\$100) violation as supported and recommended by the Planning Commission.

**Financial Impact:** This action will reduce review fees from vacation rental units, but potentially increase overall revenue to the City from transient room tax and business license fees by making the review process for vacation rentals more streamlined and easier to comply with. Revenue from signage violations will be reduced, but these fines are rarely imposed because code compliance is usually achieved.

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**Attachments:**

A – **ORDINANCE No. 420:** AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES, AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS.

Including:

- Exhibit A – Proposed Text Changes for Sign Violations
- Exhibit B – Proposed Text Changes for Vacation Rental Housing Units
- Exhibit C – Planning Commission Resolution No. PC 2013-01 with staff report, memorandum and findings.

B – Correspondence from Clark and Caryn Vitek dated:

- October 29, 2012
- January 1, 2013
- January 2, 2013
- January 2, 2013
- January 2, 2013
- January 2, 2013
- January 2, 2013
- January 3, 2013
- January 4, 2013
- January 6, 2013
- January 7, 2013
- January 12, 2013
- January 16, 2013
- February 4, 2013
- February 5, 2013
- February 5, 2013

**Concurrence:** CM: \_\_\_\_\_ A&F: \_\_\_\_\_ PW: N/A CDD: \_\_\_\_\_



**Meeting Date:** February 28, 2013  
**Type:** Regular Meeting  
**Subject:** Development Code Update

**Staff:** Eric Porter  
**Dept:** CDD

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**Action Requested:**

**Reopen the continue the public hearing for TA 12-03, and consider the adoption of Ordinance No. 420 (TA 12-03): AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES; AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS.**

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**Summary Points:**

- During the public hearing, a question was asked whether converting a house to a Vacation Rental would trigger ADA requirements. Other discussion that requires clarification pertains to 'grandfathering in' existing vacation rentals.
- ADA requirements are only triggered when the Vacation Rental has more than 5 bedrooms, or more than 10 occupants (2 per bedroom). Once this occurs, the structure becomes a commercial use that requires ADA compliance.
- At the prior hearing, the Mayor had asked whether existing vacation rentals subject to the 'grandfather clause' had to undergo a Type I review process. While in fact they would not have to undergo the Type I review process required by new Vacation Rental units, the existing vacation rentals will still need to comply with the new standards including the requirement that states "*(r)ecycling and refuse storage bins shall not be stored within public view as established within the City's Development Code and Municipal Code*". This means that screening or some other reorientation of the trash and recycle areas may be necessary for the conversion to fully comply with these new standards.
- By comparison, a new single family dwelling must have its *recycle and trash collection areas oriented away from a street*. (Sisters Dev. Code, Chapter 2.2.300.G.3)
- Proposed section 2.15.2700, 'Vacation Rental Housing', subsection A, 'Type I Process', needs to have the words '...and property posting' stricken from the text as we are not proposing any posting requirements on a proposed vacation rental property.

**Financial Impact:** This action will reduce review fees from vacation rental units, but potentially increase overall revenue to the City from transient room tax and business license fees by making the review process for vacation rentals more streamlined and easier to comply with. Revenue from signage violations will be reduced, but these fines are rarely imposed because code compliance is usually achieved.

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**Attachments:**

A – **ORDINANCE No. 420:** AN ORDINANCE AMENDING SISTERS DEVELOPMENT CODE CHAPTERS 1, 2 AND 3 TO REDUCE THE REVIEW REQUIREMENTS FOR VACATION RENTALS IN THE RESIDENTIAL AND URBAN AREA RESERVE ZONES; TO ELIMINATE REVIEW REQUIREMENTS FOR VACATION RENTAL UNITS IN THE COMMERCIAL ZONES, AND TO CHANGE THE CLASS OF VIOLATION FOR SIGN VIOLATIONS FROM CLASS C INFRACTIONS TO CLASS A INFRACTIONS.

Including:

Exhibit A – Proposed Text Changes for Sign Violations

Exhibit B – Proposed Text Changes for Vacation Rental Housing Units

Exhibit C – Planning Commission Resolution No. PC 2013-01 with staff report, memorandum and findings.

B – Correspondence from Clark and Caryn Vitek; October 29, 2012 to February 5, 2013.

C – Agenda Item Summary (AIS) dated February 14, 2013

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**Concurrence:** CM: \_\_\_\_\_ A&F: \_\_\_\_\_ PW: N/A CDD: \_\_\_\_\_

Adopted text

## Exhibit A

### Updated 2013 Sisters Development Code Text – Sign Violations

New proposed code text is **in red font**. Stricken text is in ~~strikethrough font~~.

#### Chapter 1.4 – Enforcement

##### Section 1.4.300 Penalty

- A. Class C penalty. A violation of this **Development** Code shall constitute a Class C civil infraction **unless noted otherwise**, ~~which~~ **and** shall be processed accordingly.
- B. Each violation a separate infraction. Each violation of a separate provision of this Code shall constitute a separate infraction, and each day that a violation of this Code is committed or permitted to continue shall constitute a separate infraction.
- C. Abatement of violation required. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of other remedies available to the City.
- D. Responsible party. If a provision of this Code is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

#### Chapter 3.4, Signs

##### Section 3.4.1500, Enforcement

- A. If the Building Official shall find that any sign regulated in this chapter is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, the Building Official shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standard set forth in this chapter, within ten days after such notice, such sign may be removed or altered to comply by the city at the expense of the permittee or owner of the property upon which it is located. The Building Official may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
- B. The owner of any sign, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs, and all supporting structures of any sign, shall be repainted whenever such action is necessary to keep them in good condition.
- C. Any sign which no longer advertises a bona fide business conducted, or a product available for purchase by the public, shall be taken down and removed within six months of closing by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found, within thirty (30) days after written notification from the Building Official, and upon failure to comply with such notice within the time specified in such order, the Building Official is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached, or, if the sign is not attached to a building, by the owner of the sign.
- D. **Any signage that is determined by the City to be in violation of these sign regulations is subject to citation and associated fine as established in subsection 3.4.1600 herein.**

##### Section 3.4.1600, Penalty

1. **Violation of any portion of Chapter 3.4 of this Development Code is a Class A Violation.**



**Exhibit B**

**Updated 2013 Sisters Development Code Text – Vacation Rental Housing**

New proposed code text is **in red font**. Stricken text is in ~~strikethrough font~~.

**Chapter 2.2 – Residential District (R)**

**Table 2.2.1 Use Table for the Residential District**

<b>Land Use Category</b>	<b>Permitted/Special Provisions/Conditional Use</b>
<b>Miscellaneous</b>	
Vacation Rentals	<del>MCU</del> <b>P/SP</b>

Key: P = Permitted SP=Special Provisions MCU = Minor Conditional Use Permit  
CU = Conditional Use Permit

**Chapter 2.3 –Multi-Family Residential District (MFR)**

**Table 2.3.1 Use Table for the Multi-Family Residential District**

<b>Land Use Category</b>	<b>Permitted/Special Provisions/Conditional Use</b>
<b>Miscellaneous</b>	
Vacation Rentals	<del>MCU</del> <b>P/SP</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
CU = Conditional Use

**Chapter 2.4 – Downtown Commercial District (DC)**

**Table 2.4.1 Use Table for the Downtown Commercial District**

<b>Land Use Category</b>	<b>Permitted/Special Provisions/Conditional Uses</b>
<b>Miscellaneous</b>	
Vacation Rental	<del>MCU</del> <b>P</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
CU = Conditional Use Permit

**Chapter 2.5 – Highway Commercial District (HC)**

**Table 2.5.1 Use Table for the Highway Commercial District**

<b>Land Use Category</b>	<b>Permitted/Special Provisions/Conditional Uses</b>
<b>Miscellaneous</b>	
Vacation Rental	<del>MCU</del> <b>P</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
CU = Conditional Use Permit

**Chapter 2.9 – Urban Area Reserve District (UAR)**

**Table 2.9.1 Use Table for the Urban Area Reserve District**

<b>Land Use Category</b>	<b>Permitted/Special Provisions/Conditional Use</b>
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Land Use Category	Permitted/Special Provisions/Conditional Use
<b>Miscellaneous</b>	
Bed and breakfast inns	MCU/SP
Vacation rentals	MCU/SP <b>P/SP</b>

Key: P = Permitted SP= Special Provisions MCU = Minor Conditional Use Permit  
 CU = Conditional Use Permit

**Chapter 2.15 – Special Provisions**

**Sections:**

- 2.15.100 Purpose of Special Provisions**
- 2.15.200 Applicability**
- 2.15.300 Accessory Dwelling**
- 2.15.400 Accessory Structures**
- 2.15.500 Bed and Breakfast Inn**
- 2.15.600 Zero Lot Line Dwelling**
- 2.15.700 Home Occupations**
- 2.15.800 Affordable Housing**
- 2.15.900 Manufactured Dwellings on Individual Lot**
- 2.15.1000 Manufactured Dwelling Parks**
- 2.15.1100 Residential Care Homes and Facilities**
- 2.15.1200 Residential Uses in Commercial Districts**
- 2.15.1300 Attached Dwelling (Townhome)**
- 2.15.1400 Adult Business/Adult Entertainment**
- 2.15.1500 Service Stations**
- 2.15.1600 Drive-Through Facilities**
- 2.15.1700 Recreational Vehicle (RV) Parks/campgrounds**
- 2.15.1800 Telecommunication Facilities**
- 2.15.1900 Temporary Uses**
- 2.15.2000 Major Retail Development Standards**
- 2.15.2100 Portable Carports**
- 2.15.2200 Public Art**
- 2.15.2300 Vision Clearance**
- 2.15.2400 Dark Skies Standards**
- 2.15.2500 Solar Access Standards**
- 2.15.2600 Western Frontier Architectural Design Theme**
- 2.15.2700 Vacation Rental Housing Units**

**2.15.2700 Vacation Rental Housing Units**

- A. Type I Process.** Establishing a vacation rental housing unit in a Residential Zone and in the Urban Area Reserve zone is a Type I review process, however the approval of a vacation rental unit has a neighbor notice requirement that is not found in other Type I processes. Notice and process requirements are established in Chapter 4.1, 'Type I process', except as described herein:

1. *Neighbor notice.* A written notice shall be mailed to all neighboring properties within 100 feet of the subject site at least 14 days before the decision is issued. Any neighboring property owner who requests, shall receive notice of the decision. They may appeal the decision to the Planning Commission. Contents of the notice shall:
  - a. Provide a 14 calendar day period for submitting written comments before a decision is made on the permit, and shall list the relevant approval criteria by name and code section number;
  - b. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
  - c. Include the name and telephone number of a contact staff person regarding the action;
  - d. Identify the specific request;
  - e. Describe the street address or other easily understandable reference to the location of the site;
  - f. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
  - g. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
  - h. State that after the comment period closes, the Community Development Director or designee shall issue a Type I Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
  - i. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Sisters Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

**B. Approval Criteria.** A vacation rental application review shall meet the following standards and criteria.

1. *Business license and Transient Room Tax.* The owner of the vacation rental unit shall annually renew a business license with the City, and shall coordinate with the City's Finance Department to pay the associated Transient Room Tax as is required by the City.
2. *Prohibited uses.* No recreational vehicle, travel trailer or other temporary shelter shall be inhabited in conjunction with vacation home rental.
3. *Pets.* Pets shall comply with the City's Municipal Code.
4. *Trash and Recycling Facilities.* Recycling and refuse storage bins shall not be stored within public view as established within the City's Development Code and Municipal Code except for the vacation rental units that are identified in Section E.
5. *Noise Limits.* All activities associated with the vacation rental shall meet the Noise Standards contained within the City's Municipal Code.



6. **Conditions.** For those vacation rental housing units subject to special provisions, the City shall require such conditions as it deems appropriate to minimize any impacts on the surrounding neighbors.
- C. **Inspection.** Before operating as a vacation rental housing unit, the City's Building Official may require the unit to be inspected for verification that the unit is in compliance with all applicable Building codes.
- D. **Permit Revocation.** Complaints to the City regarding the use of the vacation rental housing unit will be reviewed by the Community Development Department. The City shall notify the property owner in writing of any necessary corrective action. The property owner shall correct the identified problem within 30 days of the date of the City's letter. In the event the City receives three or more complaints within any twelve month period, the Community Development Department may recommend to the Planning Commission that the permit for use of the property as a vacation rental housing unit be revoked or that additional special provisions as determined to be appropriate by the Planning Commission be added to the permit. The owner of the unit may appeal this decision to the City Council. The determination of the City Council shall be final.
- E. **Existing Vacation Rentals.** Any vacation rental located in a Residential or Urban Area Reserve District shall not be required to undergo a Type I review as specified in subsection A of this provision, or to obtain an inspection under subsection C of this provision as a condition to obtaining a vacation rental housing unit permit if the Community Development Director or designee determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this subsection E. Proof of existence and operation shall include payment of any transient room tax, if applicable, and any other evidence required by the City which demonstrates the existence and operation of the vacation rental. Any expansion of the vacation rental unit shall require an inspection. Existing vacation rentals must comply with and maintain compliance with all of the approval criteria contained in subsection B, except for Section B.4, and are subject to the provisions of subsection D and the enforcement provisions of this code section.





**A RESOLUTION OF THE SISTERS PLANNING COMMISSION  
OF THE CITY OF SISTERS, STATE OF OREGON  
PLANNING COMMISSION RESOLUTION PC 2013-01**

**THE SISTERS PLANNING COMMISSION DOES HEREBY FIND AND RESOLVE THAT:**

**WHEREAS**, The City seeks an amendment to the Sisters Development Code that would (1) reduce the scope of the review of vacation rentals in Residential and Urban Area Reserve zones, and make them outright permitted uses rather than conditionally permitted uses in the Commercial zones, and (2) change the class of violation for sign violations from a Class C infraction (\$500 fine) to a Class A infraction (\$100 fine); and,

**WHEREAS** the City seeks to correct these sections of Code by amending portions of Sisters Development Code Chapter 1.4 (General Administration, Enforcement and Definitions), Chapter 2 (Land Use Districts) and Chapter 3 (Design Standards); and,

**WHEREAS**, Text Amendment 12-03 is necessary to encourage more economic development and diversity in non-traditional housing types; and,

**WHEREAS**, Text Amendment 12-03 is necessary to reduce the fines associated with sign violations within the City limits; and,

**WHEREAS**, in accordance to the provisions found in the Sisters Development Code Table 4.1.200 and Section 4.1.600, the proposed Development Code amendments are processed as a Type IV application; and,

**WHEREAS**, the DLCDC received the Notice of Proposed Development Code Amendments at least 35-days prior to the first evidentiary hearing; and,

**WHEREAS**, Text Amendment 12-03 is consistent with the Statewide Planning Goals 1, 2, 9, and 10; and,

**WHEREAS**, Text Amendment 12-03 is consistent with the Comprehensive Plan; and,

**WHEREAS**, the affected areas are presently provided with adequate public facilities, services and transportation networks to support the uses; and,

**WHEREAS**, Text Amendment 12-03 will not create an action that would cause an evaluation for compliance with 4.7.600, Transportation Planning Rule (TPR); and,

**WHEREAS**, after due notice, a public hearing on the proposed project was held before the Sisters Planning Commission at the City of Sisters Council Chambers (520 E Cascade Avenue, Sisters, 97759) on December 20, 2012 at which time findings were reviewed, witnesses were heard and evidence was received; and,

**WHEREAS**, the public hearing was continued to January 17, 2013 at which time findings were reviewed, witnesses were heard and evidence was received by the Planning Commission and at which time the Planning Commission recommended that the City Council adopt Text Amendment 12-03 as amended by the Planning Commission.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF SISTERS PLANNING COMMISSION FINDS THAT:**

1. Notice has been given in the time and in the manner required by state law and city code.
2. The findings of fact in this matter are located in the staff report dated 'December 4, 2012, modified January 9, 2013' herewith attached and by this reference incorporated herein as Exhibit A, and,



**CITY OF SISTERS  
Planning Commission Resolution**

APPROVED BY THE PLANNING COMMISSION ON JANUARY 17, 2013

- 3. A memo dated January 9, 2013 is presented to the Planning Commission which establishes changes made to the draft text following the December 20, 2012 hearing; these changes supersede the draft code text within Staff Report dated Dec. 20, 2012..

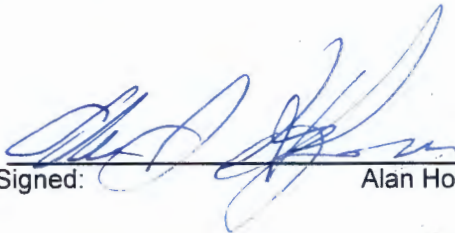
**NOW THEREFORE, BE IT FURTHER RESOLVED THAT BASED ON THE FINDINGS, THE PLANNING COMMISSION HEREBY FINDS AND RECOMMENDS THAT THE CITY COUNCIL ADOPT THE DEVELOPMENT CODE AMENDMENT TA12-03 SUBJECT TO THE FOLLOWING EXHIBITS:**

- Exhibit A – Staff Report with Findings dated December 4, 2012, modified January 9, 2013.**
- Exhibit B – Memo to the Planning Commission dated January 9, 2013**
- Exhibit C – Proposed Development Code Text Changes regarding Vacation Rentals**
- Exhibit D – Proposed Development Code Text Changes regarding Sign Violations**
- Exhibit E – Vacation Rental Regulations from other Oregon Jurisdictions**

**THE FOREGOING RESOLUTION IS HEREBY ADOPTED THIS 17<sup>th</sup> DAY OF JANUARY 2013.**

Chairman Holzman; Commissioners Tewalt, Roberts, Layne, Skelton, Gentry and Wright.

AYES:	Holzman, Roberts, Layne, Skelton, Wright	(5)
NOES:	None	(0)
ABSENT:	Tewalt, Gentry	(2)
ABSTAIN:	None	(0)

Signed:  01/23/13  
Alan Holzman, Chairman

Planning  
Commission  
Resolution +  
Findings  
(Exhibit C from Ord.)  
File No. TA 12-03

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## Exhibit A - Planning Commission Staff Report and Findings

**File #:** TA 12-03

**Applicant/Owner:** City of Sisters

**Request:** Minor changes to the Sisters Development Code by modifying 1.4 (Enforcement), 2.2 (Residential District), Chapter 2.3 (Multi Family Residential District), Chapter 2.4 (Downtown Commercial District), Chapter 2.5 (Downtown Commercial District), Chapter 2.9 (Urban Area Reserve District), 2.15 (Special Provisions), Chapter 3.3 (Vehicle and Bicycle Parking), and Chapter 3.4 (Signs). Approval would (1) allow relaxed standards for allowing Vacation Rentals as outright uses within the land use districts that presently allow them as conditional uses, and would reduce Sign code violations from a Class C violation to a Class A violation, which carries a lesser fine amount.

**Planner:** Eric Porter

**Applicable Criteria:** Sisters Development Code (SDC): Chapters 1.4, 2.2, 2.3, 2.4, 2.5, 2.9, 2.15, 3.3, 3.4 and 4.1.

**Report Date:** December 4, 2012, modified January 9, 2013

**Hearing Date:** December 20, 2012, continued to January 17, 2013

**Location:** City Hall, 520 E Cascade Avenue, Sisters OR 97759; 5:30 pm

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**I. Staff Recommendation:** Adopt a resolution recommending that the City Council adopt the proposed code text amendments as found in Option 2 attached.

**II. Discussion – Vacation Rental Housing.** The City of Sisters is known for having a strong tourism component. This is due to its proximity to national forest land and recreational activities; spectacular views of the Cascade Mountain Range; the proximity of Sisters to Bend and its recreational amenities, and the 1880's Western Architectural Theme. One of the needs of Sisters is lodging in various forms to support the tourism industry.

During the update of the City's Housing Plan in 2010, it became evident that the City of Sisters contains a number of second homes, and that many of these homes are being used as vacation rental housing based on informal checks using the internet. In the past, the City had regulated the vacation rentals by requiring them to undergo Conditional Use permit review. This land use process was intended to do several things; (1) to assure that the rental would be compatible with its surrounding neighborhood, and (2) to offer a transparent public process that enabled affected neighbors to be able to participate in the land use decision-making process associated with converting a house to a vacation rental. To date however, only one of these vacation rentals has undergone the Minor Conditional Use permit review process necessary to legitimize the vacation rental under the current Code.

On July 26, 2012, the City Council lowered the fee for a minor use permit for vacation rentals from \$1,200 to \$500 as an incentive for vacation rental owners to apply for a minor conditional use permit. During a minor code update in August 2012, the Planning Commission reviewed the question of whether vacation rentals should be regulated through land use review process. The Planning Commission at the time agreed that vacation rentals should be allowed and regulated in the commercial districts through the minor use permit process. On August 23, 2012, the



## CITY OF SISTERS

### Planning Commission Staff Report and Findings

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Title: TA12-03  
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City Council adopted an update to the Development Code adding vacation rentals into the commercial districts as minor conditional uses, and a new definition for vacation rentals was added into the Code.

On Thursday October 25, 2012, the City Council discussed whether Vacation Rental housing should be outright permitted uses in the five zones that they were allowed, and should only be required to have business licenses and pay transient room tax. By majority, the City Council agreed that Vacation Rental units should not be required to undergo a land use review process because it would be a disincentive for the vacation rental housing to obtain a business license or to pay transient room tax.

At the December 20, 2012 Planning Commission meeting, the Commission was presented with two 'options' for consideration. Option 1 would make vacation rental units outright permitted uses, but would require special provisions. Option 2 would make the units outright permitted in Commercial zones, but minor conditional uses in the other three residential zones (including Urban Area Reserve zone).

The Planning Commission asked staff for a compromise – to prepare a section that would enable a Type 1 review for vacation rentals, which ultimately leads to putting a new section in Development Code section 2.15, 'Special Provisions' for purposes of applying some parameters for their operation. A type 1 review process is similar to a building permit. The Commission also indicated that this review should entail some notice, but not necessarily the 250' notification required with other land use review processes.

The sections of Code that would be amended to allow vacation rental units as outright permitted uses subject to special provisions are Chapters 2.2, 2.3, 2.4, 2.5, 2.9, 2.15 and 3.3. Based on the direction offered by the Planning Commission at the December 20, 2012 hearing, staff has eliminated the 'options' for text amendments and is now proposing a single recommendation.

- III. Discussion – Changes to Sign Code Violations.** The downtown corridor has a history of non-compliant signs. Staff is responsible for enforcing sign regulations, however the only recourse available to staff is issue a Class C violation which carries a \$500 fine. Staff believes that the fine established in the Development Code for sign violations is excessive and should be re-examined. The recommendation here is to reclassify the sign violation from a Class C infraction to a Class A infraction, which carries a fine amount of \$100. Chapter 1.4 of the Development Code states the following.

#### **1.4.300 Penalty**

- A. Class C penalty. A violation of this Code shall constitute a Class C civil infraction which shall be processed accordingly.

#### **IV. Conclusionary Findings.**

Sisters Development Code Table 4.1.200 states that a Code Amendment is a Type IV decision and is regulated by Chapter 4.7 Land Use District Map and Text Amendments. Section 4.7.200 states that legislative amendments are policy decisions made by the City Council and shall be reviewed using the Type IV procedure in Chapter 4.1, Section 600 and shall conform to Section 4.7.600 Transportation Planning Rule (TPR) compliance, as applicable.



# CITY OF SISTERS

## Planning Commission Staff Report and Findings

Title: TA12-03  
Hearing Date: December 20, 2012, continued to January 17, 2013

### 1. Approval of the request is consistent with the Statewide Planning Goals.

The Sisters Development Code requires all text amendments comply with the requirements of the Statewide Planning Goals. Compliance with the relevant Statewide Planning Goals is evaluated below.

**Goal 1 - Citizen Involvement.** *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

Staff provided a public notice in the Nugget News newspaper in the December 5, 2012 edition which advertised two public hearings (Planning Commission, Dec. 20, 2012, and City Council, Jan. 10, 2013). This public hearing notice was also posted on the City's web site on November 1, 2012. At both public hearings, concerned citizens are given the opportunity to provide comments to the Planning Commission and the City Council. Because the Planning Commission did not reach a recommendation at the December 20, 2012 hearing, the City Council will open and continue their January 10, 2013 hearing to February 14, 2013 to give the Planning Commission the opportunity to provide a recommendation. Lastly, there is a 21 day appeal period associated with this action following the City Council's decision, and any party to this process has the right to appeal the decision to LUBA.

**Goal 2 - Land Use Planning.** *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The proposed Development Code update affects two specific things; it will change Vacation Rental units from 'minor conditional permit' to 'outright permitted uses' with special provisions in the five zoning districts that allow vacation rental units, and it will lower the Class of infraction and subsequently the fine associated with sign violations.

Staff has asked other Central Oregon jurisdictions whether they regulate vacation rental housing. The results are as follows. A more comprehensive list of jurisdictions and how they regulate vacation rentals is included as Exhibit C within this report.

<u>Jurisdiction</u>	<u>Are Vacation Rentals Regulated?</u>
City of Bend	Yes (Type I review process similar to Sisters' current Type I review process)
Deschutes County	No
Redmond	No
Madras	No
Prineville	No

Regarding sign code enforcement – the Sisters Development Code has one class of penalty and associated fine for any violation of the Development Code – the process is found in Chapter 1.4, 'Enforcement', and essentially requires a fine of \$500 per violation for each infraction. While staff agrees that the fine amount is probably appropriate for most Development Code violations, staff believes that a \$500 fine for a sign code infraction is excessive.

The way the infraction amount can be lowered is to change the Class of violation for sign violation to a Class A infraction, thereby reducing the fine amount from \$500 to \$100.

# CITY OF SISTERS

## Planning Commission Staff Report and Findings

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Title: TA12-03

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**Goal 9 - Economic Development.** *The purpose of Goal 9 is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Vacation Rental housing is a minor source of revenue for the City of Sisters via transient room tax and an annual business license fee. Allowing regular single family housing to convert to vacation rental housing also provides economic incentive for the owners of each vacation rental unit as a revenue source. There are other economic benefits to the community by allowing vacation rental housing, as they offer an opportunity for travelers to spend money at local restaurants, stores and enjoying the amenities available within and near the City of Sisters.

Staff believes that by allowing Vacation Rentals to be outright permitted uses, there is a likelihood that more owners of second homes will be more inclined to use their properties as vacation rentals, which would help to provide more economic opportunities within and around the City of Sisters. There may also be an adverse impact to existing neighborhoods, since vacation rental housing has the potential of acting similarly to a small hotel.

Regarding consistency of change to the code pertaining to sign violation penalties, there is no direct link to economic development and sign violations, other than to lower the fine amount would be more proportionate with the degree of violation that typically occurs when the sign code is violated.

**Goal 10 – Housing.** *To provide for the housing needs of the citizens of the state.*

Vacation Rental housing is not a type of housing in the sense intended by Statewide Planning Goal #10. Vacation rental occupants generally only use vacation rental housing for very limited stays similarly to hotels and motels. However, many or most of the vacation rental houses are also second homes, and some or most are used by absentee owners during warmer (or colder) months depending on the desires of the owners of each residence. Staff finds that second homes are consistent with a type of housing as it was intended by Statewide Planning Goal 10, and that the use of these second homes as a vacation rental would not jeopardise the stock of what is described as needed (lower-income) housing.

2. **Approval of the request is consistent with the Comprehensive Plan.** The following provides the relevant policies of the Sisters Urban Area Comprehensive Plan and evaluates the proposal's compliance with each goal and corresponding policies, objectives and tasks as are applicable.

### **Goal 1: Citizen Involvement**

#### 1.4 POLICIES

1. The City of Sisters shall seek out and encourage public participation in all aspects of the City planning process.

#### Tasks –

- a. Planning Commission and City Council meetings shall be held on a regularly scheduled basis.

## CITY OF SISTERS

### Planning Commission Staff Report and Findings

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- b. Planning Commission and City Council meeting agendas shall be publicized in a manner that makes this information widely available.
- d. The City shall use a variety of methods to achieve citizen involvement.

Staff posted notice of two public hearings in the December 5, 2012 edition of the Nugget Newspaper, and on the city's website on November 1, 2012. The agendas for Planning Commission and City Council meetings are publicized widely via email, and are publicly posted and also placed on the City's website. Lastly, public comments are encouraged at both public hearings, and the final decision is subject to appeal by any aggrieved party.

#### Goal 2: Land Use Planning

##### 2.4 POLICIES

1. The City of Sisters shall develop land use codes and ordinances that are based on an adequate factual basis as well as applicable local, state, and federal regulations.

##### Tasks –

- a. Codes and ordinances shall spell out responsibilities for administering and enforcing land use policies.
  - b. The City of Sisters Development Code shall be used to facilitate the development process and to implement the land use goals outlined in this Plan.
2. The City shall review the policies in the Comprehensive Plan annually to take into account changing public policies and circumstances and to ensure that it is continuing to function as a guide for community growth.

##### Tasks –

- a. The City shall ensure that other local; state and federal agencies having programs, land ownerships, or responsibilities within the planning area are included in the update process, as needed.
  - b. The City Council shall convene annually to set Council Goals and to review and coordinate those Goals with the Comprehensive Plan Goals and Policies.
3. As economic and social conditions change, it may be appropriate for the City to create new zoning designations that will work to assist the City in meeting the goals and policies of the Comprehensive Plan, the requirements of state law, and state land use goals.

##### Tasks –

- a. The City shall periodically review the Sisters Development Code to determine whether the districts set forth therein are adequate to address the goals, policies and objectives of the Comprehensive Plan and whether economic and social conditions warrant revision of the district codes, or creation of new districts. Any



# CITY OF SISTERS

## Planning Commission Staff Report and Findings

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application for a code amendment shall address the policies and facts supporting the proposed code amendments.

The Sisters City Council had historically sought to regulate vacation rentals by listing them as minor conditional uses, however because of changes to the economy and a desire to encourage a wider range of economic opportunities for Sisters residents, the City Council has indicated that they no longer seek to regulate this type of quasi-commercial housing. No longer regulating vacation rentals would put them into a 'permitted outright' land use category, although they would be reviewed for certain non-discretionary standards as shown in the proposed text. Vacation Rental houses would still be required to obtain a business license and to pay transient room tax.

Reducing the violation amount of sign non-compliance would require an amendment to the Development Code text, which is proposed through this process.

### Goal 9: Economic Development

#### 9.4 POLICIES

1. The City shall guide growth in a manner that will result in a balance between economic and environmental interests.

#### Tasks -

- c. The City shall assure development contiguous to commercial and residential zones is designed and built in a manner that is consistent and integrates with the character and quality of those zones.
- d. The City's Development Code should continue to allow mixed-use development within the Commercial Districts... and small commercial uses and home occupation mixed with residential uses.

Vacation rental housing is presently conditionally allowed in the two primary residential zoning districts, the two primary commercial districts, and in the Urban Area Reserve district.

Internet ads for Vacation Rental housing in Sisters typically state that the units are located within walking distance to the downtown. This phenomenon gives credence to the economic desirability of mixed-use neighborhoods as described within Goal 9 of the Comprehensive Plan. The downside however is that vacation rental housing may have an adverse impact on existing residential neighborhoods. The overall actual (adverse) impact to established residential neighborhoods is not known.

Decreasing the amount of sign violations will likely not have an effect on the number, type or frequency of sign violations in the City, but it may make the likelihood of meaningful enforcement of signage significantly greater, since the penalty of the violation would more closely fit the actions involved with non-compliance.

3. The property and affected area is presently provided with adequate public facilities, services and transportation



## CITY OF SISTERS

### Planning Commission Staff Report and Findings

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networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property. The applicant shall update City of Sisters Masters Plans for Water, Sewer, Parks and Transportation Systems subject to City Council approval, to reflect impacts of the rezoning on those facilities and long-range plans. The applicant must demonstrate that the property and affected area shall be served with adequate public facilities, services and transportation networks to support maximum anticipated levels and densities of use allowed by the District without adversely impacting current levels of service provided to existing users; or applicant's proposal to provide concurrently with the development of the property such facilities, services and transportation networks needed to support maximum anticipated level and density of use allowed by the District without adversely impacting current levels of service provided to existing users.

No changes are proposed to the Development Code that will place an increased demand on infrastructure; therefore this section does not apply to the requested text amendments.

#### 4. 4.7.600 Transportation Planning Rule (TPR) Compliance.

Potential impacts to transportation facilities are considered for each individual application as part of the review process.

Staff solicited comments from Oregon Department of Transportation (ODOT) on October 30, 2012 regarding both of the changes proposed to the Code. James Bryant, Interim Planning Manager for ODOT Region 4, stated "[We have no comments concerning these two code amendments](#)".

ODOT, DLCD and the City of Sisters all have the authority to administer the TPR when it is evident that an action will trigger its application. The changes proposed to the Development Code are not significant from a traffic standpoint, nor will the intensity of development change if both of the proposed code text changes are adopted. Therefore, staff finds that the TPR will not apply to this action if it is ultimately approved by the City of Sisters.

## V. Notice Requirements and Public Comments

**Department of Land Conservation and Development (DLCD) Notice.** On October 30, 2012, staff contacted Karen Swirsky, area representative for DLCD, who indicated that a formal 35 day notice to DLCD was needed for the changes to the vacation rentals. Formal notice of a public hearing was sent to DLCD on October 31, 2012, and is on file within file no. TA 12-03. Staff will send the amended portions of the Development Code to DLCD following the City Council adoption of the changes to the Code, along with 'Notice 2' as is required by DLCD.

**Public Notice.** Pursuant to Oregon Revised Statutes and Type IV noticing requirements of the City of Sisters Development Code Chapter 4.1, the City published a legal notice for the Planning Commission and City Council public hearings on December 5, 2012 in the Nugget Newspaper. Staff spoke with two residents who were concerned about making changes that would allow vacation rentals without any land use reviews. Staff also spoke with the owners of a vacation rental, who were adamantly in support of these vacation rentals, and felt that they should not be regulated. The owners, Clark and Caryn Vitek, have asked that their emails be entered into the public record. Accordingly their

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emails were forward to the Sisters Planning Commissioners on January 7, 2013, along with a power point presentation, and hard copies of the correspondence is in the city file no. TA 12-03 for the record.

**VI. Composition of the Record.** The following Exhibits make up the record in this matter. These exhibits are contained in city file TA 12-03 and are available for review at the Sisters City Hall.

- A. This Findings and Recommendation document
- B. Proposed Development Code text (included in this document)
- C. Poll of other Oregon Jurisdictions regarding Vacation Rental Units (included in this document)
- D. Correspondence provided by Clark and Caryn Vitek, including a power point presentation (distributed to the Planning Commissioners via email on January 7, 2013).
- E. Nugget News Legal Notice dated December 5, 2012
- F. Notice No. 1, "Notice of Proposed Amendment" as was sent to DLCD on October 31, 2012.

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### EXHIBIT B – MEMO TO THE PLANNING COMMISSION

**To:** Sisters Planning Commission  
**Date:** January 9, 2013  
**Subject:** File No. TA 12-03 – Two Additions to Proposed Text

**Introduction.** On January 14, 2013, staff met with Chair Holzman to discuss the Vacation Rental text under consideration. Two suggestions raised at the meeting were (1) the need to include a reference to the City's Transient Room Tax that is collected on each legitimate vacation rental housing unit, and (2) clarification of when a Type I review process is needed.

**I. Transient Room Tax.** Vacation rental housing units are treated similarly to hotels and motels in that they are required to pay a transient room tax to the City of Sisters. The transient room tax requirement was established by Ordinance No. 107 in 1979, and has been since amended through Ordinances No. 196, 263 and 377. To be consistent with the adopted Ordinances in place for transient room tax collection, staff suggests adding the following text (in **green font**):

#### **2.15.2700 Vacation Rental Housing Units**

**B. Approval Criteria.** A vacation rental application review shall meet the following standards and criteria.

- 1. Adequate parking.** Each vacation rental housing unit located in a Residential Zone or in the Urban Area Reserve shall provide two on-site parking spaces. Each space shall conform to City parking spaces standards.
- 2. Business license and Transient Room Tax.** The owner of the vacation rental unit shall annually renew a business license with the City, and shall coordinate with the City's Finance Department to pay the associated Transient Room Tax as is required by City policy.

**II. Type I Review Process in Residential Zones only.** The second discussion point that came up was the difference in reviews of Vacation Rentals being proposed for Residential/Urban Area Reserve (UAR) zones versus Commercial zones. The wording of the text in the January 17, 2013 Memorandum dated January 9, 2013, states that establishing a vacation rental unit requires a Type I review process. However, the intent was to allow vacation rental units as 'outright permitted uses' in Commercial zones with no review required, but to require the Type I review in Residential and UAR zones. For clarification, staff suggests adding the following text into section 2.15.2700, subsection A (**green font**):

#### **2.15.2700 Vacation Rental Housing Units**

**A. Type I Process.** Establishing a vacation rental housing unit in a Residential Zone and in the Urban Area Reserve zone is a Type I review process, however the approval of a vacation rental unit has a neighbor notice and property posting requirement that is not found in other Type I processes. Notice and process requirements are established in Chapter 4.1, 'Type I process', except as described herein:

If the Planning Commission agrees with these two amended text changes, then the Motion made on TA 12-03 should reflect these changes by reference.



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**EXHIBIT C – PROPOSED CODE TEXT CHANGES – VACATION RENTAL HOUSING UNITS**

New proposed code text is **in red font**. Stricken text is in ~~stricken font~~.

**I. Vacation Rental Housing Units.** New proposed code text is **in red font**. Stricken text is in ~~stricken font~~.

**Chapter 2.2 – Residential District (R)**

**Table 2.2.1 Use Table for the Residential District**

Land Use Category	Permitted/Special Provisions/Conditional Use
<b>Miscellaneous</b>	
Vacation Rentals	<del>MCU</del> <b>P/SP</b>

Key: P = Permitted SP=Special Provisions MCU = Minor Conditional Use Permit  
 CU = Conditional Use Permit

**Chapter 2.3 –Multi-Family Residential District (MFR)**

**Table 2.3.1 Use Table for the Multi-Family Residential District**

Land Use Category	Permitted/Special Provisions/Conditional Use
<b>Miscellaneous</b>	
Vacation Rentals	<del>MCU</del> <b>P/SP</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
 CU = Conditional Use

**Chapter 2.4 – Downtown Commercial District (DC)**

**Table 2.4.1 Use Table for the Downtown Commercial District**

Land Use Category	Permitted/Special Provisions/Conditional Uses
<b>Miscellaneous</b>	
Vacation Rental	<del>MCU</del> <b>P</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
 CU = Conditional Use Permit

**Chapter 2.5 – Highway Commercial District (HC)**

**Table 2.5.1 Use Table for the Highway Commercial District**

Land Use Category	Permitted/Special Provisions/Conditional Uses
<b>Miscellaneous</b>	
Vacation Rental	<del>MCU</del> <b>P</b>

Key: P = Permitted SP = Special Provisions MCU = Minor Conditional Use Permit  
 CU = Conditional Use Permit



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### Chapter 2.9 – Urban Area Reserve District (UAR)

Table 2.9.1 Use Table for the Urban Area Reserve District

Land Use Category	Permitted/Special Provisions/Conditional Use
<b>Miscellaneous</b>	
Bed and breakfast inns	MCU/SP
Vacation rentals	MCU/SP <b>P/SP</b>

Key: P = Permitted SP= Special Provisions MCU = Minor Conditional Use Permit  
CU = Conditional Use Permit

### Chapter 2.15 – Special Provisions

#### Sections:

- 2.15.100 Purpose of Special Provisions
- 2.15.200 Applicability
- 2.15.300 Accessory Dwelling
- 2.15.400 Accessory Structures
- 2.15.500 Bed and Breakfast Inn
- 2.15.600 Zero Lot Line Dwelling
- 2.15.700 Home Occupations
- 2.15.800 Affordable Housing
- 2.15.900 Manufactured Dwellings on Individual Lot
- 2.15.1000 Manufactured Dwelling Parks
- 2.15.1100 Residential Care Homes and Facilities
- 2.15.1200 Residential Uses in Commercial Districts
- 2.15.1300 Attached Dwelling (Townhome)
- 2.15.1400 Adult Business/Adult Entertainment
- 2.15.1500 Service Stations
- 2.15.1600 Drive-Through Facilities
- 2.15.1700 Recreational Vehicle (RV) Parks/campgrounds
- 2.15.1800 Telecommunication Facilities
- 2.15.1900 Temporary Uses
- 2.15.2000 Major Retail Development Standards
- 2.15.2100 Portable Carports
- 2.15.2200 Public Art
- 2.15.2300 Vision Clearance
- 2.15.2400 Dark Skies Standards
- 2.15.2500 Solar Access Standards
- 2.15.2600 Western Frontier Architectural Design Theme
- 2.15.2700 Vacation Rental Housing Units**

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#### 2.15.2700 Vacation Rental Housing Units

A. **Type I Process.** Establishing a vacation rental housing unit in a Residential Zone and in the Urban Area Reserve zone is a Type I review process, however the approval of a vacation rental unit has a neighbor notice and property posting requirement that is not found in other Type I processes. Notice and process requirements are established in Chapter 4.1, 'Type I process', except as described herein:

1. *Neighbor notice.* A written notice shall be mailed to all neighboring properties within 100 feet of the subject site at least 14 days before the decision is issued. Any neighboring property owner who requests, shall receive notice of the decision. They may appeal the decision to the Planning Commission. Contents of the notice shall:
  - a. Provide a 14 calendar day period for submitting written comments before a decision is made on the permit, and shall list the relevant approval criteria by name and code section number;
  - b. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
  - c. Include the name and telephone number of a contact staff person regarding the action;
  - d. Identify the specific request;
  - e. Describe the street address or other easily understandable reference to the location of the site;
  - f. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
  - g. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
  - h. State that after the comment period closes, the Community Development Director or designee shall issue a Type I Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
  - i. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Sisters Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

B. **Approval Criteria.** A vacation rental application review shall meet the following standards and criteria.

1. ~~Adequate parking. Each vacation rental housing unit located in a Residential Zone or in the Urban Area Reserve shall provide two on-site parking spaces. Each space shall conform to City parking spaces standards.~~ (Note: the Planning Commission felt that this was too restrictive in situations that would not normally warrant two parking spaces, such as converting a multi-family dwelling unit to a VR. They asked that the stricken text be retained so the City Council was aware that it had been in, but was struck by majority of the PC).



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2. **Business license and Transient Room Tax.** The owner of the vacation rental unit shall annually renew a business license with the City, and shall coordinate with the City's Finance Department to pay the associated Transient Room Tax as is required by the City.
  3. **Prohibited uses.** No recreational vehicle, travel trailer or other temporary shelter shall be inhabited in conjunction with vacation home rental.
  4. **Pets.** Pet care shall comply with the City's Municipal Code.
  5. **Trash and Recycling Facilities.** Recycling and refuse storage bins shall not be stored within public view as established within the City's Development Code and Municipal Code.
  6. **Noise Limits.** All activities associated with the vacation rental shall meet the Noise Standards contained within the City's Municipal Code.
  7. **Conditions.** For those vacation rental housing units subject to special provisions, the City shall require such conditions as it deems appropriate to minimize any impacts on the surrounding neighbors.
- C. **Inspection.** Before operating as a vacation rental housing unit, the City's Building Official may require the unit to be inspected for verification that the unit is in compliance with all applicable Building codes.
- D. **Permit Revocation.** Complaints to the City regarding the use of the vacation rental housing unit will be reviewed by the Community Development Department. The City shall notify the property owner in writing of any necessary corrective action. The property owner shall correct the identified problem within 30 days of the date of the City's letter. In the event the City receives three or more complaints within any twelve month period, the Community Development Department may recommend to the Planning Commission that the permit for use of the property as a vacation rental housing unit be revoked or that additional special provisions as determined to be appropriate by the Planning Commission be added to the permit. The owner of the unit may appeal this decision to the City Council. The determination of the City Council shall be final.
- E. **Existing Vacation Rentals.** Any vacation rental located in a Residential or Urban Area Reserve District shall not be required to undergo a Type I review as specified in subsection A of this provision, or to obtain an inspection under subsection C of this provision as a condition to obtaining a vacation rental housing unit permit if the Community Development Director or designee determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this subsection E. Proof of existence and operation shall include payment of any transient room tax, if applicable, and any other evidence required by the City which demonstrates the existence and operation of the vacation rental. Any expansion of the vacation rental unit shall require an inspection.

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### Exhibit D – Proposed Code Text Changes – Sign Violations

New proposed code text is **in red font**. Stricken text is in ~~strikethrough font~~.

#### Chapter 1.4 – ‘Enforcement’

##### Section 1.4.300 Penalty

- A. Class C penalty. A violation of this **Development** Code shall constitute a Class C civil infraction **unless noted otherwise, which and** shall be processed accordingly.
- B. Each violation a separate infraction. Each violation of a separate provision of this Code shall constitute a separate infraction, and each day that a violation of this Code is committed or permitted to continue shall constitute a separate infraction.
- C. Abatement of violation required. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of other remedies available to the City.
- D. Responsible party. If a provision of this Code is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

#### Chapter 3.4, Signs

##### Section 3.4.1500, Enforcement

- A. If the Building Official shall find that any sign regulated in this chapter is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, the Building Official shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standard set forth in this chapter, within ten days after such notice, such sign may be removed or altered to comply by the city at the expense of the permittee or owner of the property upon which it is located. The Building Official may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.
- B. The owner of any sign, including supporting structures, shall keep the same in a presentable condition at all times. All painted signs, and all supporting structures of any sign, shall be repainted whenever such action is necessary to keep them in good condition.
- C. Any sign which no longer advertises a bona fide business conducted, or a product available for purchase by the public, shall be taken down and removed within six months of closing by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found, within thirty (30) days after written notification from the Building Official, and upon failure to comply with such notice within the time specified in such order, the Building Official is hereby authorized to cause removal of such sign, and any expense



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incident thereto shall be paid by the owner of the building or structure to which such sign is attached, or, if the sign is not attached to a building, by the owner of the sign.

- D. **Any signage that is determined by the City to be in violation of these sign regulations is subject to citation and associated fine as established in subsection 3.4.1600 herein.**

#### **Section 3.4.1600, Penalty**

1. **Violation of any portion of Chapter 3.4 of this Development Code is a Class A Violation.**

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**Exhibit E – Vacation Rental Information from Other Oregon Jurisdictions**

Data collected from City Manager’s List Serve on October 24, 2012

CITY	Transient Rm Tax	Register w/ City	Business License	Land Use Review	Comments
Ashland	Y	N	Y	Y	Register through business license
Bandon	Y	Y	N	Y	No bus. License, CU's in certain zones and regulated by separation distance
Bend	Y	Y	Y	Y	
Brookings	Y	Y	Y	Y	
Coburg	N	N	N	N	However, a B&B must acquire a home occupation land use approval and BL.
Coos Bay	Y	Y	Y	N	Register through business license
Coquille	N/A	N	N	Y	CU only at Public School Facilities. Allowed outright everywhere else.
Cornelius	-	-	-	-	No lodging facilities
Falls City	N	N	N	N	No vacation rental properties.
Florence	Y	N	Y	Y	Register through business license
Garibaldi	Y	Y	Y	Y	
Gold Beach	Y	Y	Y	Y	
Hood River	Y	Y	Y	Y	
Nehalem	Y	Y	N	N	No bus. license. Rentals allowed outright in all res / commercial zones.
North Bend	Y	Y	N	Y/N	Depends on the residential zones
Port Orford	Y	Y	Y	N	
Rockaway Beach	Y	Y	Y	Y	
Seaside	Y	Y	Y	Y	
Wood Village	N	N	N	N	

<b>Total:</b>				
<b>Yes</b>	14	12	11	11
<b>No</b>	3	6	7	6
<b>Other</b>	2	1	1	2

# TESTIMONY RELATED TO TA-12-03

Kathy Nelson

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**From:** clark@thevitek.com  
**Sent:** Tuesday, February 05, 2013 4:19 PM  
**To:** Eric Porter  
**Cc:** Kathy Nelson  
**Subject:** Re: Vacation Rentals TA12-03 Report

I understand as a matter of record this is appropriate.

However, if the question comes up, it may be noted that is our intent that the Feb 4 correspondence supersedes any prior correspondence for City Council consideration as it is complete, addresses all code issues of concern (instead of only the development code) and is more current than prior submissions.

Thanks again for assistance in helping us understand the various hearings and dates. It would be very hard without attending every meeting to know when and to whom to submit comments and we have appreciated the open communication by staff about the upcoming meetings and proceedings throughout this process.

Clark

-----Original Message-----

**From:** Eric Porter [mailto:epor@ci.sisters.or.us]  
**Sent:** Tuesday, February 5, 2013 03:22 PM  
**To:** 'Clark'  
**Subject:** RE: Vacation Rentals TA12-03 Report

Clark,

Understood.

Since you've submitted the prior material, all of it will be included in the City Council packet for the meeting on the 14<sup>th</sup>.

Also, the Council hearing was continued inadvertently to Feb 7, which falls on a workshop day rather than a regular hearing day. On Feb. 7, the Mayor will open and continue the hearing to Feb 14, at which time your material submitted will be of record. There will not be testimony taken at the workshop on the 7<sup>th</sup>, but rather notice will be read that continues the matter to the 14<sup>th</sup>.

Thanks again for your thoughtful comments. I'll update you immediately after the hearing on the 14<sup>th</sup> to let you know what direction the Council chose, and the corresponding code text that will apply to VR's.



Take care,

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

**From:** Clark [mailto:clark@thevitek.com]  
**Sent:** Tuesday, February 05, 2013 9:07 AM  
**To:** Eric Porter  
**Subject:** RE: Vacation Rentals TA12-03 Report

Thanks, I thought that might be the case. The feb 4 letter with attachments can replace that one or just note that attachment A of our feb 4 letter is the same material as attachment B in the packet. The feb 4 letter and our new attachment B to that letter are new submissions you have not seen before (although the content will be similar to other communication)

We wanted to pull together our disjointed conversations over the past 5-6 years with finance, city manager and now planning into a single set of clear proposals for all the related code sections. Attachment B to the Feb 4 letter provides our suggestions written as text change proposals rather than just commentary, which we haven't been at a point to try yet really until the planning commission put forth their goals. We think we have addressed the planning commission goals in our proposals but in a more fair way and also we propose to address title 3 and 5 issues for 2nd home homeowners like ourselves.

Clark

Eric Porter <[eport@ci.sisters.or.us](mailto:eport@ci.sisters.or.us)> wrote:

## Kathy Nelson

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**From:** clark@thevitek.com  
**Sent:** Monday, February 04, 2013 8:31 PM  
**To:** Kathy Nelson; Brad Boyd; McKibben Womack; David Asson; Catherine Childress; Wendy Holzman  
**Cc:** Alan Holzman; Daryl Tewalt; David Gentry; Darren Layne; Doug Roberts; Valerie Skelton; Bob Wright; Eileen Stein; caryn@thevitek.com; Lisa Young; Pauline Hardie; Eric Porter  
**Subject:** Vacation Rentals TA12-03 Report  
**Attachments:** Vitek\_Letter\_Vacation\_Rentals\_Feb4\_2013.pdf;  
Attachment\_A\_Vitek\_Presentation\_to\_Planning\_Commission\_Jan17\_2013.pdf;  
Attachment\_B\_Vitek\_Proposals.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To: Sisters City Council

cc: Planning Commission  
City Manager and Staff  
Kathy Nelson, City Recorder

Please find our attached letter dated February 4, 2012 which is related to the recently passed report of the January 17, 2013 planning commission (TA12-03). We understand this report is scheduled for discussion by the City Council on February 14.

Unfortunately, we will not be able to attend this meeting in person, and therefore we wish to submit the attached observations and alternative recommendations by written testimony in advance.

Note that there are three attachments to this email in pdf format:

- 1- Our Letter Dated February 4, 2013
- 2- Attachment A: Copy of our written testimony submitted to the planning commission for the January 17, 2013 meeting
- 3- Attachment B: Our proposals for changes to Titles 3 and 5 of the municipal code and 2.15.2700 of the development code (alternative to those contained in the TA12-03 report)

Please note that this communication summarizes positions we have presented in previous correspondence with staff, and our Planning Commission presentation on January 17.

As such, this letter and its attachments may be considered representative of our complete and current suggestions to the City Council on the topic of vacation rentals as of February 4, 2013.

Sincerely,  
Clark and Caryn Vitek  
Sisters Homeowners  
503-314-0493

Feb 4, 2013

To: City of Sisters, Oregon  
City Council and Planning Commission

cc: City Staff

From: Caryn and Clark Vitek  
Homeowners

Re: Planning Commission TA12-03 Report

We urge the city council to reject the TA12-03 Exhibit C recommendations for vacation rentals and direct staff and the planning commission to better assist the City Council with new proposals for both the municipal code and development code that are consistent with the following objectives. This letter explains our reasoning and in Attachment B to this letter we provide our specific recommendations for text changes to Titles 3 and 5 of the municipal code, and new section 2.15.2700 of the development code.

Here are the goals we think the City Councilors should consider:

- 1. Titles 3 and 5 of the municipal code should be independent of each other, and independent from the development code.**

City of Sisters, Municipal code Title 3 (Finance), chapter 3.04 application and enforcement should not depend on the definitions and provisions contained in Title 5 (Business Licensing), and vice versa. Similarly the Development Code needs to be drafted in a manner that it can be applied and enforced independently from the municipal code Titles 3 and 5. We believe that the mixed clauses and requirements in the present municipal code, and further mixing of requirements as proposed by TA12-03 will lead to continued difficulty in determining applicability and enforceability with respect to vacation rentals.

- 2. The City's development code needs to differentiate between "Second homes rented in lieu of the owner's own similar use" from other vacation rental types, particularly those that constitute a land use change.**

TA12-03 acknowledges that "many or most of the vacation rental houses are also second homes, and some or most are used by absentee owners" (quote from TA12-03, introduction). However, there is presently no distinction provided in the TA12-03 Exhibit C proposals for treatment of these types of homes from other types of vacation rentals. TA12-03 Exhibit C should be rejected in order to better address this most common type of vacation home in Sisters. Principally, the planning commission should give greater consideration to the question of whether a second home rented for use in a manner similar to the owner's own use (short or long term) represents any land use change. We do not believe that it does, and therefore requiring special conditions,



inspections, fees or planning review when no development or use change has actually occurred is not an appropriate use of the city's granted power to draft and enforce land use code.

As an example of existing precedent, the master development plan and CC&Rs recorded for our neighborhood in Sisters specifically state that a single family home can be used as "a residence, a vacation home, or a rental" without any reference to the duration of any of these uses. Since 2005 we have consistently used our home as a short term residence (a.k.a. vacation home) for ourselves and as a short term rental for our guests when we are not in residence. When our guests are in residence, they use our home in exactly the same way that we do; as a single family vacation home. Therefore we do not believe that our rental activity similar to ours would constitute a land use change that would justify the special provisions of TA12-03 including the 14 day notification requirement for initial use and a change from unconditional to conditional use, with annual permitting required (via business license requirement in TA12-03). If annual inspections, fees, and conditional use permits are justified for some residential rental properties regardless of whether or not a land use change has occurred, then the requirements of TA12-03 should be applied equally to all rental properties in the city limits and not just second homes.

For cases when a Type 1 review is still believed appropriate, (i.e. vacation rentals that are not also used as a second home by the owners), we would recommend the Type 1 review should focus primarily on providing information to the homeowner about their obligations under the city code (garbage, noise, etc) and screening out potential land use conversions that may result from the proposed rental activity. For example, conversion of a home from single family use to multi-family use through the rental activity should not be permitted without a type II review and process. We detailed this type of conversion in written testimony to the January 17th meeting of the planning commission (included as Attachment A to this letter for reference). At this time we believe the "one size fits all" approach of TA12-03 does not address the potential for material use conversions and we continue to believe that a focus on potential land use conversion and providing information to homeowners on applicable city code is a much more appropriate use of the Type 1 process. Our draft proposal of Attachment B to this letter provides a Type 1 process that we believe is consistent with the original objectives of TA12-03. Our proposal specifically exempts the case of a second home that is rented without any material change in use from the owner's own use while strengthening the language significantly to allow staff rejection of a Type 1 applications that present a use conversion as a result of the rental activity.

- 3. Titles 3 and 5 of the municipal code need to acknowledge and separate the case of an owner part time occupied second home from other types of vacation rentals and hotels/motels.**

We agree with the TA12-03 statement that the majority of vacation homes in Sisters are homeowner second homes. As such these types of homes represent the greatest potential vacation home rental revenue source under Title 3 (Finance, Transient Room

Tax). An important disagreement we have with the TA12-03 commentary is that we do not believe second homes are used like "hotels or motels" simply because they are rented (at times) for periods less than 30 days. There is no front desk, no walk up registration, no employees, no deliveries, no expectation of services offered in a second home vacation home rental. In fact, these properties are used much more like private homes in the same way that their owners use them i.e. for periods of residence less than 30 days.

A problem with TA12-03 is the inclusion of the Title 5 municipal code business license as a direct land use requirement for a second home that is rented. In many cases second home rental activity is not "for profit" and revenue derived is a cost sharing activity that is not subject to Title 5 of the Municipal Code. Title 5 as amended by resolution 417 specifically states a business license is required if the activity is "carried on for profit, whether or not a profit is actually made". We note that this is a 2 part requirement; Part 1 is whether the intended activity is "carried on for profit", Part 2 is a statement that the business license is required whether or not this intent is successful. Since many second home homeowners are renting on a cost sharing basis as the intent, Part 1 is not satisfied and therefore the activity is not subject to the business license requirement of Title 5. However, we believe that any type of short term rental activity (for profit or not) should still be subject to the Title 3 transient tax. This is why we have collected the transient tax since 2006 on behalf of the city, even though we are not a business. As such, the transient tax collection system should not be designed to require a business license in order for a second home homeowner to collect the transient tax on behalf of the City for occasional transient rentals. The Title 3 applicability and process should be fully independent of Title 5 (and the development code) for the largest pool of vacation rental home applicability and ease of staff enforcement.

We note that the existing Municipal Code already specifies the use of our recommended Certificate of Authority process to collect the transient tax, although this registration process required by Chapter 3.04 has never been implemented by city. Furthermore, Section 3.04.070 (2) of the existing Title 3 municipal code states specifically "The tax administrator shall within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant." It would seem that TA12-03 proposed 14 day notification waiting period, land use application fee and business license fee could be viewed as inconsistent with the "without charge" and "10 day" provisions of the existing Title 3, if the present proposed TA12-03 text is adopted without further amendments.

We strongly recommend that the City establish the procedures already stipulated in the existing Title 3 code and start providing a Certificate of Authority to homeowners to collect the Title 3 transient tax without applicability of Title 5. We believe that the present lack of independence between Title 3 and Title 5 will lead to a lower level of compliance and ultimately reduced collections for the transient tax because Title 3 can be applied much more generally if it is taken independently from Title 5. As an example Deschutes County has provided what we believe to be a simple and more

enforceable system for their Certificate of Authority process that allows homeowners to self-register and begin collecting the tax for the county. For enforcement, homeowners are required to post their Certificate of Authority registration number on all advertisements. This same type of system could work for the City of Sisters and would provide the needed independence between Title 3 and Title 5, allowing for a greater level of compliance with the transient tax collection objectives of Title 3.

With respect to the above goals we have prepared specific recommendations for changes to Title 3, 5 and the development code for the City Council's consideration. These are attached as Appendix B to this letter. We believe our proposals can be considered as a comprehensive and complete alternative to adopting the TA12-03 Exhibit B text. As such we urge the council to reject TA12-03 Exhibit B as presently drafted and consider our specific alternative text proposals as presented in Attachment B to this letter.

Thank you for your consideration,

*Caryn and Clark Vitek*

Caryn and Clark Vitek  
February 4, 2013

#### ATTACHMENTS TO THIS LETTER

##### ATTACHMENT A : 13 pages

Copy of Written Testimony Submitted to the Sisters Planning Commission  
(presentation partially presented in person)  
January 17, 2013

##### ATTACHMENT B: 8 Pages

Recommended text changes for Titles 3 and 5 of the City of Sisters Municipal Code  
and new section 2.15.2700 of the development code (alternative to TA12-03 proposal)



## TITLE 5: BUSINESS LICENSING

The following markup text of the Sisters Municipal Code, Title 5 is provided for consideration by Clark and Caryn Vitek, owners of a vacation home in Sisters.

Proposed deletions are shown in ~~strikethrough~~, additions shown in *italics*.

We propose to add the following single exemption at the end of the present (resolution 417 adopted) text.

### 5.04.020 License -- Required.

...

#### *(3) Exemptions*

*(a) Second home used as a vacation rental: A single residential unit rented in lieu of the owner's own similar use and occupancy is not required to obtain a business license. An owner may claim this exemption for not more than one (1) residential unit located within the city limits on an ongoing basis.*

## TITLE 3 REVENUE AND FINANCE

The following markup text to the City of Sisters municipal Code, Title 3, is provided for consideration by Clark and Caryn Vitek, homeowners.

Proposed deletions to present code are shown in ~~strikethrough~~, proposed additions are shown in *italics*.

For Title 3, Chapter 3.04 of the municipal code we propose to delete the incidental use exemption and substitute the term "transient rental activity" for "business activity" to clarify that the transient tax is applicable to all types of transient rentals.

We also propose to add a clause to clarify that the Certificate of Authority issued by the City shall contain a unique number assigned by the Tax Administrator and the requirement that this number is to be posted on all advertisements, forms and materials used in conjunction with the short term rental activity.

### Chapter 3.04 TRANSIENT ROOM TAX

...

3.04.060 Exemptions. No tax imposed under this chapter shall be imposed upon:

(1) Any occupant for more than thirty (30) successive calendar days; a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient;

~~(2) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof;~~

~~(3)~~ (2) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people. (Ord. 107 §6, 1979.)

3.04.070 Registration of operation -- Form and contents -- Execution -- Certification of Authority.

(1) Every person engaging or about to engage ~~in business as an operator of a hotel~~ as the operator of a *transient rental* within the city shall register with the tax administrator on a form provided by her. Operators engaged in ~~business~~ *transient rental activity* at the time the ordinance codified in this chapter is adopted must register not later than thirty (30) calendar days after passage of the ordinance codified in this chapter. Operators ~~starting business offering transient rentals~~ after the ordinance codified in this chapter is adopted must register within fifteen (15) calendar days. ~~after commencing~~

~~business~~. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name and address under which an operator ~~transacts or intends to transact business~~ *offer transient rental units and collect rents*, ~~the location of his place or places of business~~ and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the operator.

(2) The tax administrator shall within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of ~~business~~ *transient rental* activity at the location named or upon its sale or transfer. Each certificate shall state the place of ~~business~~ *the transient rental unit or units* to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel *or other transient rental unit*;
- (c) The date upon which the certificate was issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Ordinance of the City of Sisters by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any Board, Commission, department or office of the City of Sisters. This certificate does not constitute a permit." (Ord. 107 §7, 1979.)
- (e) *A unique City of Sisters Certificate of Authority Registration Number (CSCA number).*

(3) *The City of Sisters Certificate of Authority (CSCA) Registration Number shall be included on all advertisements, forms and materials used in conjunction with the transient rental activity as follows : CSCA#nnnn, where nnnn represents the unique registration number assigned by the Tax Administrator.*



## ATTACHMENT B: RECOMMENDATIONS FOR DEVELOPMENT CODE

The following markup text is provided for consideration by Clark and Caryn Vitek, homeowners.

Proposed deletions to staff recommendation TA12-03 Exhibit C are shown in ~~strikethrough~~, additions are shown in *italics*.

The proposals for this section are based on the staff recommendations TA12-03 Exhibit C "Vacation Rental Housing Units" with the following major differences:

- The Type I review process is eliminated for a single residential unit that is rented in lieu of the owner's own similar use and occupancy
- The Type I review process is retained for other proposed vacation rental uses without the notification requirement. The notification requirement is replaced with an explanation of vacation home use considerations that may be used by staff as a basis for requiring a Type II process which requires notification.
- The current "special provisions" are converted to "informative" not "normative" requirements in this section. This is because most of the original proposed special conditions are already required by other sections of the development or municipal code.
- 

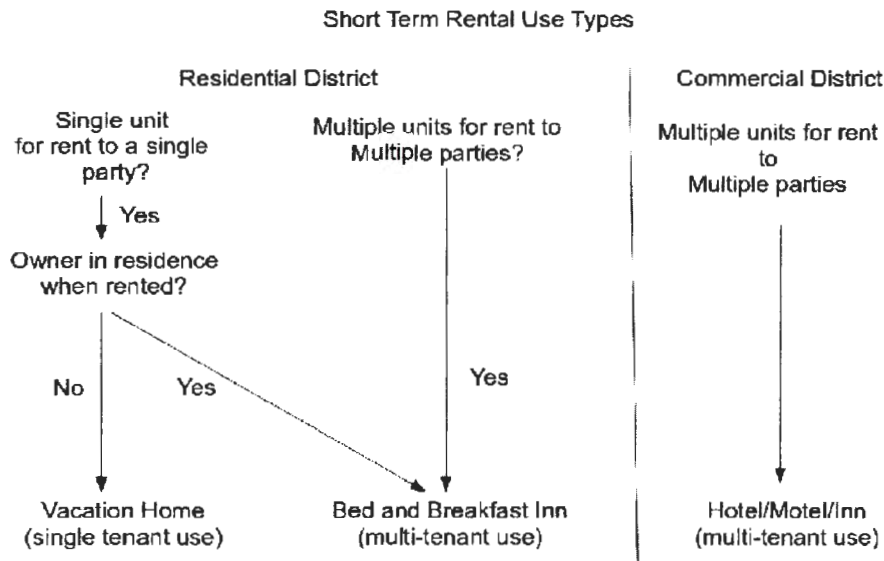
We note that although we propose to eliminate the notification requirement for properties that we believe do not constitute a use conversion, the requirement to notify and is retained for any proposal at the judgment of staff that could include a use conversion. This would be achieved in practice by rejecting the type I application and invocation of the Type II process if staff believes a proposed rental may result in a use conversion.

2.15.2700 Vacation Rental Housing Units

**A. Type I Process and Use Considerations.**

(1) *Establishing a vacation rental housing unit is an outright permitted use in a Residential Zone or the Urban Area Reserve Zone. As such, any single residential unit may be rented in lieu of the owner's own similar use and occupancy and is not required to submit to the Type 1 process described in this section. An owner may claim short term vacation rental activity is in lieu of their own similar use and occupancy for not more than one (1) residential unit located within the city limits on an ongoing basis. Additional units, or any unit rented on a short term basis that otherwise may not be considered similar and in lieu of the owner's own use is subject to the Type I approval process with special conditions as described in this section. Notice and process requirements are established in Chapter 4.1, 'Type I process', except as described herein.*

(2) **Conforming Use.** *Any proposed rental activity must not result in a use conversion, principally it is noted that a single tenant residential unit in a Residential Zone or the Urban Area Reserve Zone may not be converted by the proposed rental activity to a multi-tenant use without a Type II application and process. The following chart provides a guide for various vacation rental activities.*



~~A. Type I Process. Establishing a vacation rental housing unit in a Residential Zone and in the Urban Area Reserve zone is a Type I review process, however the approval of a vacation rental unit has a neighbor notice and property posting requirement that is not found in other Type I processes. Notice and process requirements are established in Chapter 4.1, 'Type I process', except as described herein:~~

~~1. Neighbor notice. A written notice shall be mailed to all neighboring properties~~

~~within 100 feet of the subject site at least 14 days before the decision is issued. Any neighboring property owner who requests, shall receive notice of the decision. They may appeal the decision to the Planning Commission. Contents of the notice shall:~~

- ~~a. Provide a 14 calendar day period for submitting written comments before a decision is made on the permit, and shall list the relevant approval criteria by name and code section number;~~
- ~~b. State the place, date and time the comments are due, and the person to whom the comments should be addressed;~~
- ~~c. Include the name and telephone number of a contact staff person regarding the action;~~
- ~~d. Identify the specific request;~~
- ~~e. Describe the street address or other easily understandable reference to the location of the site;~~
- ~~f. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;~~
- ~~g. State that all evidence relied upon by the Community Development Director or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;~~
- ~~h. State that after the comment period closes, the Community Development Director or designee shall issue a Type I Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;~~
- ~~i. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Sisters Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."~~

B. Approval Criteria. A vacation rental application review shall meet the following standards and criteria for approval by the Type 1 process.

1. *The proposed rental use must conform to the existing use. The Type 1 process described in this section may not be utilized for a use conversion (e.g. single tenant to multi-tenant use).*
2. *In addition, owners shall be advised in writing of the following information during the Type 1 review process*
  - (a) *Adequate Parking: Each rental housing unit should provide a minimum of two on site parking spaces. Each space should conform to the City parking spaces standards.*



- (b) *Business license and Transient Room Tax: Owners are advised to review Titles 3 and 5 for applicability to their proposed rental activity. Title 3 of the Municipal Code requires owners to register and collect a transient room tax on behalf of the city. Title 5 requires a business license for some types of vacation rentals. In general Titles 3 and 5 may be independently applied to vacation rentals as provided in the municipal code. A type 1 approval (or exemption) under this section of the development code does not provide approval (or exemption) to the Title 3 or 5 requirements of the municipal code.*
- (c) *Use conversions and prohibited uses: Owners are advised that the proposed rental use must conform to the existing approved use at all times. In particular, owners of a single tenant rental unit must not convert the unit to a multi-tenant use as a result of the rental activity. Owners are advised that recreational vehicles, travel trailers or other temporary shelters inhabited in conjunction with a vacation home rental may be considered to be a prohibited use conversion to multi-tenant use and subject to enforcement action.*
- (d) *Pets: Owners are advised to ensure that tenant Pet care complies with the City's municipal Code.*
- (e) *Trash and Recycling Facilities: Owners must ensure that recycling and refuse storage bins are not within public view as established within the City's Development Code and Municipal Code.*
- (f) *Owners must ensure that all tenant's activities associated with the vacation rental shall meet the Noise Standards contained within the City's Municipal Code.*

- ~~1. Adequate parking. Each vacation rental housing unit located in a Residential Zone or in the Urban Area Reserve shall provide two on-site parking spaces. Each space shall conform to City parking spaces standards. (Note: the Planning Commission felt that this was too restrictive in situations that would not normally warrant two parking spaces, such as converting a multi-family dwelling unit to a VR. They asked that the stricken text be retained so the City Council was aware that it had been in, but was struck by majority of the PC).~~
- ~~2. Business license and Transient Room Tax. The owner of the vacation rental unit shall annually renew a business license with the City, and shall coordinate with the City's Finance Department to pay the associated Transient Room Tax as is required by the City.~~
- ~~3. Prohibited uses. No recreational vehicle, travel trailer or other temporary shelter shall be inhabited in conjunction with vacation home rental.~~
- ~~4. Pets. Pet care shall comply with the City's Municipal Code.~~

- ~~5. Trash and Recycling Facilities. Recycling and refuse storage bins shall not be stored within public view as established within the City's Development Code and Municipal Code.~~
  - ~~6. Noise Limits. All activities associated with the vacation rental shall meet the Noise Standards contained within the City's Municipal Code.~~
  - ~~7. Conditions. For those vacation rental housing units subject to special provisions, the City shall require such conditions as it deems appropriate to minimize any impacts on the surrounding neighbors.~~
- C. Inspection. Before operating as a vacation rental housing unit, the City's Building Official may require the unit to be inspected for verification that the unit is in compliance with all applicable Building codes.
- D. Permit Revocation. Complaints to the City regarding the use of the vacation rental housing unit will be reviewed by the Community Development Department. The City shall notify the property owner in writing of any necessary corrective action. The property owner shall correct the identified problem within 30 days of the date of the City's letter. In the event the City receives three or more complaints within any twelve month period, the Community Development Department may recommend to the Planning Commission that the permit for use of the property as a vacation rental housing unit be revoked or that additional special provisions as determined to be appropriate by the Planning Commission be added to the permit. The owner of the unit may appeal this decision to the City Council. The determination of the City Council shall be final.
- E. Existing Vacation Rentals. Any vacation rental located in a Residential or Urban Area Reserve District shall not be required to undergo a Type I review as specified in subsection A of this provision, or to obtain an inspection under subsection C of this provision as a condition to obtaining a vacation rental housing unit permit if the Community Development Director or designee determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this subsection E. Proof of existence and operation shall include payment of any transient room tax, if applicable, and any other evidence required by the City which demonstrates the existence and operation of the vacation rental. Any expansion of the vacation rental unit shall require an inspection.



Vacation Homes and Land Use

Presentation to Sisters Planning Commission

By

Clark and Caryn Vitek

January 17, 2013



# The Viteks in Sisters



Clockwise: On top of Black Crater, with Grandma at the quilt show, visiting with our friends in Bend, time with Aunt Paige on horseback, Grandma and Grandpa on most recent visit to Sisters, Dee Wright with our cousins visiting from Holland

Where do we stay? Our vacation home in Sisters built in 2005.



# Our Unambiguous Position

- Renting our home to others is a simple property right
- This basic homeowner right is not revocable,
- We and other homeowners should be able to exercise this right with minimum intrusion of the City in our dealings with our tenants
- Vacation home rentals should not be subject to additional requirements/restrictions beyond what applies to ANY residential rental or resident homeowners.
- Duration of tenancy should not be used as a criteria to determine land use requirements or other restrictions,
- Actual use as single family vs multi-family is a much more straightforward criteria

# Where to look for guidance?

- Various cities have various restrictions on vacation rentals, and are in various stages of lawsuits.
- We believe eventually cities will lose, homeowners basic rights will be upheld, and the only question will be how much taxpayer money and time will have been wasted in the process of clarifying a basic property right.
- For example: Venice, Florida spent over \$500k in legal fees only to lose repeated homeowner lawsuits, and eventually the Florida legislature passed a ban on any new local municipal restrictions.
- Homeowners (ourselves included) will not give up our basic right to rent without a fight, so how do we achieve the City objectives without triggering a costly fight over property rights?



# Definitions

- Names can be confusing: vacation home, tourist home, hotel, motel, cabins, B&B, inn are all terms used in Sisters City Code
- Some new definitions / reduction of definitions may be needed but the City could instead look at already accepted citywide use definitions as a guide
- In particular we think single family vs multi family restrictions already are sufficient to provide needed distinctions in the land use code for residential areas.

## Proposed Short Term Use Considerations

- Hotel/Motel/Inn/Cabins: multiple occupancy units in a commercial district which are designed to be rented to multiple parties
- Bed and Breakfast: One or more occupancy units in a residential district which are designed to be rented to multiple parties, regardless of whether the units are within a single structure or in multiple structures.
- Vacation Home: a single residential unit that is designed to be occupied by the owner and may alternatively be rented to a single party when the owner is not in residence.



## Short Term Rental Use Types

### Residential District

Single unit  
for rent to a single  
party?

Yes

Owner in residence  
when rented?

No

Yes

Vacation Home  
(single tenant use)

Multiple units for rent to  
Multiple parties?

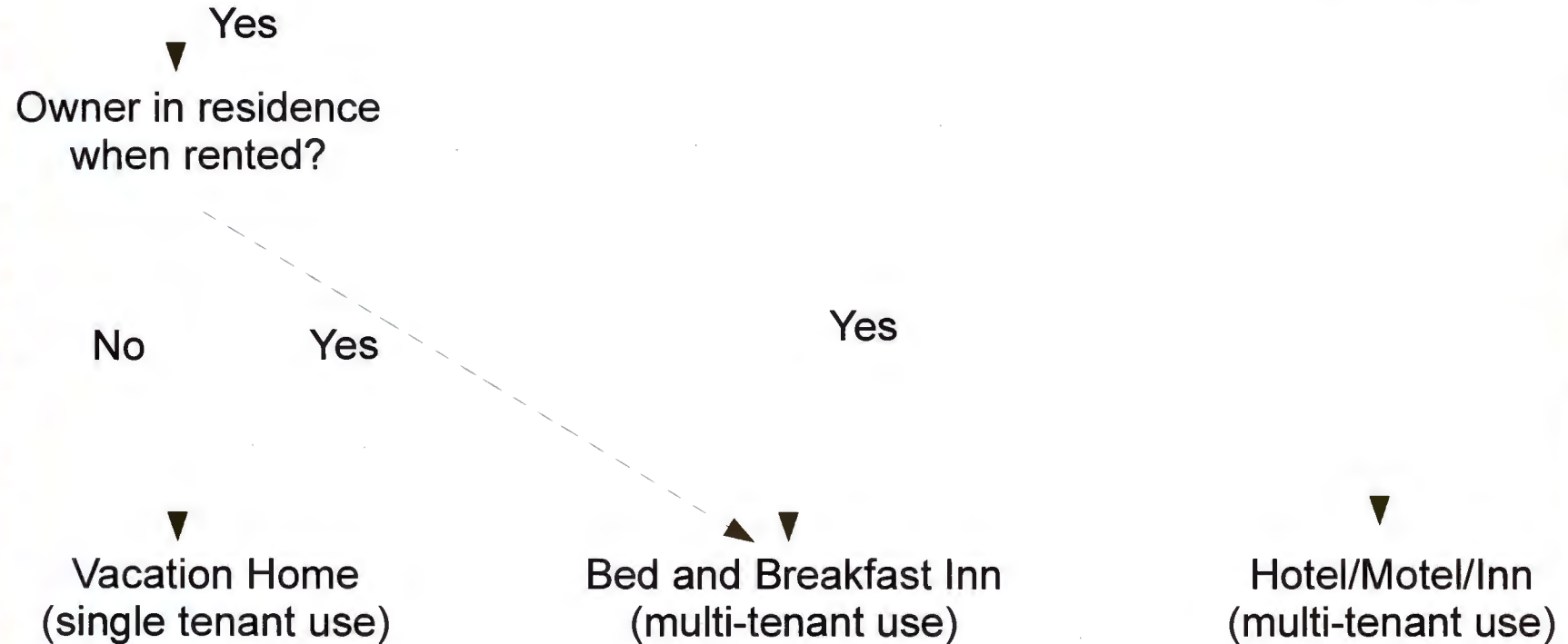
Yes

Bed and Breakfast Inn  
(multi-tenant use)

### Commercial District

Multiple units for rent  
to  
Multiple parties

Hotel/Motel/Inn  
(multi-tenant use)





# Usage based model for Residential Zone Short Term Rentals

- Vacation Home
  - Single tenant use because short term rental by a single party is the same as the owner's own entitlement to short term use
  - The renter is simply exercising the owner's right to short term use of the property when the owner is not there
  - Footnote: Short term rental is still subject to transient tax as tax is on the renter based on his/her duration of stay, and is not a tax on the property or property owner
- Bed and Breakfast
  - B&Bs are different than vacation homes because short term rental use is by multiple unrelated parties, whether comprised of multiple rental spaces made available for rent to multiple parties or owner resident use + rental use in the same space. Either way, a B&B comprises at least two unrelated parties in the same single family zoned residence at the same time and may be treated differently from a vacation home for land use consideration because a B&B is fundamentally a multi-tenant use



## Comments on Land Use and Planning

- The duration of a rental agreement alone is not a good basis to treat rentals different in the land use / planning code
- The use of the property (i.e. single family vs multi-family vs commercial) already serves as an available basis to distinguish types of short term rentals and regulate them differently
- When ANY rental activity creates a multi-family situation in a single family zone, this should be enforced and regulated (i.e. CUP process should apply). B&Bs and Hotel/Motels create multi-family use cases and deserve to be treated differently when they are located in a single family residential zone.
- However, vacation homes do not create a multi-family use when the property is rented to a single party in lieu of the owner's own use. This is regardless of whether the owner's use is short or long term, resident or vacation use. The owner should not be subject to any more restrictions due to renting than would be required for his/her own similar conforming use.



# Response to Common Concerns

- **Noise/Nuisance:** There is no reason to treat short term rentals differently for this than long term rentals or resident homeowners. ANY noise/nuisance ordinance should be applied to all residents of Sisters.
- **Parking:** What applies to long term rentals and residents should apply to short term rentals. i.e. enforce parking rules that apply such as correct side of street parking. For example, residents (long term ones), in our neighborhood seem to want to park on the wrong side of the street for some reason. Extra cars appear to be bigger problem in Sisters among long term residents than short term ones in my experience. Parking laws/enforcement should apply to all and not a select few.
- **Maintenance/appearance:** Should be applied to all homes equally if homes (rental or otherwise) are a concern
- **Public Nuisances / Unruly gatherings:** should be a citywide ordinance if needed, not limited to or requiring analysis of individual rental agreements to determine if code enforcement action is required.
- Singling out short term rentals for rules based on any of the above criteria is based on prejudice about what people do on vacation and presumes visitors behave in a less desirable way than others already in the community.
- Consider the only major problems we have had at PMV have been trespassing and vandalism by locals – not vacationers.



## Comments: Land Use and Planning

We see no real need for new land use requirements specific for vacation homes, which we propose defining as single family homes for short term rent to single party tenants in lieu of the owner's own conforming use. In other words the act of renting in itself does not change the owner's conforming use as long as the use is not converted to multi-tenant by the rental process.

If plan review is required in order to rent a vacation home, it should be limited to review of existing requirements for single family vs multi-family use in single family residential zones and should be applied to all rentals regardless of duration (over/under 30 days). If new requirements are needed to address noise/nuisance or parking enforcement, these should be applied citywide by new ordinances and not limited to vacation homes.

Restricting the ability of owners to rent a single family home to another family based on the duration of the rental agreement is a potential problem with equal protection toward homeowners. Short term stay homeowners have a right to enjoy their property and derive rental income from it the same as homeowners of other single family homes that rent their homes out for 31 days or more. This concept of homeowners rights is in process of being legally tested elsewhere, Sisters does not need the added legal expenses that may come from treating short term rentals significantly differently in the land use code than long term rentals.

Likewise, a vacationing family that is renting short term should expect be treated the same under the law as a vacationing family that owns the property and is visiting short term. There is no basis for land use restrictions on where families can rent simply because they are short term renters vs. vacationing owners, or long term renters. By this logic, Cities should regulate homeowners that travel too much for work if the goal is to dictate how much time an owner or renter spends physically in the home. Time at residence vs time away is not a valid basis for land use restrictions, it is just codifying prejudice against non-resident owners and guest families that choose to stay within the City limits of Sisters. There are a many, many other options for vacation.. including a few yards away in unincorporated Deschutes County where not similar land use restrictions would apply..



# Summary

- The City of Sisters should not “codify” prejudice against non-resident owners, or vacationers. Any new rules that are good enough to apply to short term rentals should be good enough to apply to all residences. If not, the proposed rules should be seriously questioned.
- Our home hosts families that want to visit Sisters and stay in a home, they could stay in unincorporated Deschutes County 300 yards away and get what they want, so we shouldn't make it more difficult for Sisters owners to host these guests and the City of Sisters to collect the tax revenue from “in city” stays.
- The typical profile for our guests are similar to our family, with either young children or elderly members that want to stay several days. These types of guests are not well accommodated in traditional hotels/motels, they want to stay in a home.
- Vacation homes are not hotels, motels or B&Bs. A vacation home is a single family residence, not a multifamily accommodation where different land use rules can and should apply.

# Footnote: Transient Taxes

Transient taxes are a tax on visitors to the area, not a tax on homeowners and as such not a land use consideration

Homeowners could benefit from a more clear process to be enabled to collect the tax on behalf of the city, but this is independent of land use considerations

Developing a process for homeowners to register to collect the tax on behalf of the city should not be used to impose new land use restrictions or create a new conditional use for renting a vacation home in an otherwise conforming manner (i.e. single family use in a single family zone).



## Eric Porter

---

**From:** clark@thevitek.com  
**Sent:** Wednesday, January 16, 2013 1:20 PM  
**To:** clark@thevitek.com; Eric Porter; caryn@thevitek.com  
**Subject:** Re: Vacation Rental standards - memo to the PC (Sisters)

Eric :

Just checking in to see if this is still planned to be on the agenda for tomorrow's 5:30 PM meeting.

If the plan is to review / approve the draft as planned I would like to present the testimony below verbally which is a review of the specific draft.

If the commission is treating this more as a working session and interested in considering other alternatives, i.e. the possibility to enforce a use based model determined primarily by whether the use is single tenant vs multi tenant, I will present the pdf file I prepared. (otherwise this can just be entered into written testimony).

Thanks,  
Clark

-----Original Message-----

**From:** clark@thevitek.com [mailto:clark@thevitek.com]  
**Sent:** Saturday, January 12, 2013 02:06 AM  
**To:** 'Eric Porter', clark@thevitek.com, caryn@thevitek.com  
**Subject:** Re: Vacation Rental standards - memo to the PC (Sisters)

Eric:

Thank you for forwarding this. Since it is not reviewed by legal yet, it may be premature to comment but we had some time this evening to review and prepare some specific comments.

We appreciate the grandfathering provision, this reduces the possibility for a compensation claim in our case against the City but does not eliminate it and there are still a lot of concerns with the proposal as drafted, mainly due to the concept of "revocability" and conditions which differ greatly for short term rentals from long term rentals.

We understand renting to be a homeowner right that is not revocable except in cases of extreme health and safety or other code violations and the type of minor violations created in this document (a barking dog left inside, a garbage can left outside) that could lead to losing one's ability to derive income from their property is just too far separated in our view to be considered a fair and equal application of the power given to the city in its ability to write land use code. Its a potential for abuse that the City should really take much more seriously than they have been and think about the idea that they are writing in the ability to literally take away someone's home (through revoking of the ability to rent short term, which may cause them financial distress leading to loss) for these types of minor code violations. It is way out of proportion to what would be considered acceptable if the same proposals were brought forward to apply to 30 day or more residential rentals.

Summary:

As drafted we feel 2.15.2700 is bad policy and we recommend that the City of Sisters Planning Commission does not adopt this text which includes the requirement for type I review and

special conditions. The City should seek in this section of code only to clarify that vacation rentals are an approved use in any residential zone and refer to a certificate of authority registration process in the finance code. We believe the City Council did not provide sufficient consideration of all the contingent and related issues in its request to the planning commission to draft this text, and as such we recommend that the Planning Commission does not forward any text to the council for approval that would impose a type I process on vacation homes, unless this proposal is significantly "lightened" or amended from the present draft. As drafted, the proposed text includes several new and restrictive conditions for initial approval that go well beyond requirements for health and safety applicable to long term rentals. Additionally, the permit described is "revocable" which is a type of permit not generally applied to residential rental property except in cases of condemnation due to extreme health and safety code (habitability) violations.

The premise that the proposed changes to 2.15.2700 are a "relaxing" of present requirements is not factual. As detailed in our 2008 letter to the Finance Dept, the previous code did not apply to single family residential vacation homes and as such this is new regulation on homeowners and imposes a major land use change, i.e. a Type I conditional and revocable permit in order to rent one's own home to others for a period of less than 30 days. This creates multiple new risks and responsibility for the City which we believe have not been adequately considered by the Council in its request to the Planning Commission to draft this Type I process.

#### Details:

We recommend a process similar to Deschutes County for collection of the state authorized transient tax. Section 2.15.2700 should state simply that vacation rentals are allowed as long as the rental does not convert the use of the property from single family / single tenant to multi-family or multi-tenant as described in our presentation. Use conversions are already subject to code enforcement and this should be the primary means to control the less desirable types of vacation rentals when a material conversion has been found to have occurred. We do not believe that renting for a time period or manner that would otherwise be allowed for the owner's own use represents a material conversion of the use of the property worthy of the added burden to homeowners that this new type I permitting process and special provisions would impose.

#### Notification Provisions:

The notification provisions are not based on any "need to know" and we believe are just based on prejudice against non-local homeowners and their guests. We believe this notification makes vacation homeowners, their family, and guests a target for harassment and burglary. Is the city ensuring that the notifications don't go to convicted burglars or drug offenders? This notification will lead to unnecessary complaints to the city as neighbors will believe they are entitled to more enforcement over a vacation rental (<30 day rental) than they would have over other renters (i.e. >30 days). The city should not be expending its resources investigating code compliance complaints on vacation rentals that turn out to be crying babies in the middle of the afternoon, etc. We believe this notification will encourage neighbors to believe they are "entitled" as locals to heightened city enforcement over vacation renters, more than would apply to their other neighbors, i.e. local homeowners and long term renters. As such the vacationers, homeowners, families, and guests, will become the focus of aggression for every perceived infraction (real or not) of the already minor infractions defined as enforceable by this new code (e.g. a barking dog left inside, a garbage can left outside) which presumably happens with people on vacation more than locals. This type of prejudice should not be enshrined in the city code through a notification procedure. In another era this type of requirement would have required notification to neighbors of what race or religion our family and renters are. We find the notification requirement completely baseless and no less offensive.

## Eric Porter

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**From:** clark@thevitek.com  
**Sent:** Saturday, January 12, 2013 2:07 AM  
**To:** Eric Porter; clark@thevitek.com; caryn@thevitek.com  
**Subject:** Re: Vacation Rental standards - memo to the PC (Sisters)

Eric:

Thank you for forwarding this. Since it is not reviewed by legal yet, it may be premature to comment but we had some time this evening to review and prepare some specific comments.

We appreciate the grandfathering provision, this reduces the possibility for a compensation claim in our case against the City but does not eliminate it and there are still a lot of concerns with the proposal as drafted, mainly due to the concept of "revocability" and conditions which differ greatly for short term rentals from long term rentals.

We understand renting to be a homeowner right that is not revocable except in cases of extreme health and safety or other code violations and the type of minor violations created in this document (a barking dog left inside, a garbage can left outside) that could lead to losing one's ability to derive income from their property is just too far separated in our view to be considered a fair and equal application of the power given to the city in its ability to write land use code. Its a potential for abuse that the City should really take much more seriously than they have been and think about the idea that they are writing in the ability to literally take away someone's home (through revoking of the ability to rent short term, which may cause them financial distress leading to loss) for these types of minor code violations. It is way out of proportion to what would be considered acceptable if the same proposals were brought forward to apply to 30 day or more residential rentals.

Summary:

As drafted we feel 2.15.2700 is bad policy and we recommend that the City of Sisters Planning Commission does not adopt this text which includes the requirement for type I review and special conditions. The City should seek in this section of code only to clarify that vacation rentals are an approved use in any residential zone and refer to a certificate of authority registration process in the finance code. We believe the City Council did not provide sufficient consideration of all the contingent and related issues in its request to the planning commission to draft this text, and as such we recommend that the Planning Commission does not forward any text to the council for approval that would impose a type I process on vacation homes, unless this proposal is significantly "lightened" or amended from the present draft. As drafted, the proposed text includes several new and restrictive conditions for initial approval that go well beyond requirements for health and safety applicable to long term rentals. Additionally, the permit described is "revocable" which is a type of permit not generally applied to residential rental property except in cases of condemnation due to extreme health and safety code (habitability) violations.

The premise that the proposed changes to 2.15.2700 are a "relaxing" of present requirements in not factual. As detailed in our 2008 letter to the Finance Dept, the previous code did not apply to single family residential vacation homes and as such this is new regulation on homeowners and imposes a major land use change, i.e. a Type I conditional and revocable permit in order to rent one's own home to others for a period of less than 30 days. This creates multiple new risks and responsibility for the City which we believe have not been adequately considered by the Council in its request to the Planning Commission to draft this Type I process.

Details:

We recommend a process similar to Deschutes County for collection of the state authorized transient tax.



Section 2.15.2700 should state simply that vacation rentals are allowed as long as the rental does not convert the use of the property from single family / single tenant to multi-family or multi-tenant as described in our presentation. Use conversions are already subject to code enforcement and this should be the primary means to control the less desirable types of vacation rentals when a material conversion has been found to have occurred. We do not believe that renting for a time period or manner that would otherwise be allowed for the owner's own use represents a material conversion of the use of the property worthy of the added burden to homeowners that this new type I permitting process and special provisions would impose.

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#### Approval Criteria:

We propose to remove the type I process in favor of simple self registration process for certificate of authority. As such there would be no approval criteria. After statement that vacation renting is an approved use, this section could be replaced with advisory information for the homeowner to check that he is in fact compliant with other code provisions, such as the use conversion chart (single use vs multi use) and references other sections of the city code that the owner and renter should take heed, i.e. noise, parking ordinances. Therefore, suggestions and comments below are aimed at conversion of the Approval Criteria to "information for vacation homeowners" which could also be furnished at the time of registration for the certificate of authority providing the list of city wide code references and relevant information.

1. Parking - Parking provisions should apply equally to all city residents. A city wide parking ordinance should be fairly applied, i.e. enforce the parking rules that already exist and if new rules are needed make them apply to all properties within the city limits. It is not fair to single out vacation homeowners for special rules on parking that do not apply to long term renters or homeowners. If there is a need for a parking ordinance, it should be applied citywide.

2. Business License: This provision has no place in this section of the code. If this provision is kept we would question it under equal protection principal because it is not being applied to homeowners that rent their homes for more than 30 days. If short term residential rentals are businesses then long term ones are too and should be subject to all the same requirements. Note that the present Sisters code (resolution 417) states that vacation homes operated for profit must obtain a license. Those like ours that are not operated for profit the resolution 417 code does not apply. So, having this in the requirements to be able to rent a vacation home regardless of for profit or not is not consistent with resolution 417.

3. Prohibited uses: This would fall under the use conversion criteria we proposed but only if rental was to more

than one family. My kids like to sleep in a tent on the lawn sometimes, I have relatives that visit in their motorhome. Why can the neighbors camp out in their yards but we can't? If the answer is because our home is a vacation rental and the neighbors are long term renters, this is not fair. If it is an allowed use for the owner, it should be an allowed use for the renter who is renting in lieu of the owner's own use. Renting a tent to someone in your yard while you sleep indoors would be a use conversion (single tenant to multi-tenant), as would parking a trailer and renting it out separately from the home. If this is not permitted in the city (I assume it is not for single family units), then this is the basis to enforce a situation where someone is renting in such a way (short or long term). It should be enforced equally across the city.

4. Pets : this has no place in vacation rental specific 2.15.700. It should be city wide applicable if needed. Again, equal protection is an issue - if a dog is barking in my neighbors house next door I have zero recourse, but if there is one in my home he can do financial damage by complaining 3 times and getting my permit revoked. Ridiculous.

5. Trash and Recycling: Citywide rule if a rule is needed

6. Noise: Citywide rule applies (already).

C. Inspection: What applies now to long term rentals should apply to short term rentals. These are private homes. Special inspections are not justified or a good use of city resources.

D. Permit Revocation: This is a very dangerous concept to put into the code. We have calculated the value of our rental activity at a present value of \$435,000 (based on rents we collect as a vacation rental until we retire). Taking away an owner's ability to rent his property is a condemnation and the City will lose on this as other city's already have been. More important, including this provision sets up the potential for expensive litigation. We suggest that the idea of revocation of a short term rental ability has to meet the same tests as revocation of long term rental ability.

E.1. should only apply if it is a use conversion. Expansion of the home will require a building permit and subject the home to all normal health and safety inspections that would apply if the home is used for owner occupation, long term rental, or short term rental. For example, our home has space in the attic that is engineered to convert to an office at some point, I would not accept that my non-revocable right to rent is converted to a revocable privilege at the city's discretion just because I added a few square feet to my home and did not change its use. Instead of getting a permit and getting inspection when I convert this space, this would be a reason to consider not pulling a permit for the expansion. There should not be a penalty for trying to follow the correct rules, and building code on an expansion project is a more important as a health and safety issue such that we should want to encourage the highest level of compliance. I wouldn't want someone to be penalized because they tried to comply with building code and pulled a permit for a project that is unrelated / has no material impact on the use of the overall residence as a rental.

Thank you again for giving us the opportunity to comment on this draft. The above comments may/may not apply to the final version as reviewed by the lawyer and since the proposal does include provision for grandfathering we hope the above will be considered as our views as representative homeowners in our community. We started this discussion 5 years ago with the statement that we wanted the City of Sisters to develop the transient tax as an important source of revenue and we want the city to have the highest level of compliance from homeowners. This is most readily achieved by a simple homeowner self registration process similar to that required for unincorporated Deschutes County. We believe many of the proposals inherent in the proposed type I process can be achieved by citywide codes that would apply equally and fairly to all residents and homeowners. We further believe that from a code enforcement standpoint many of the types of vacation rental activity that would cause concern can already be enforced by single tenant vs multi-tenant use

classifications as we outlined in our presentation. In cases where short term rental activity is similar to and in lieu of the owner's own short term use we believe that the type I process is simply not justified.

We recommend that the planning commission reject this text and return the response to the City council with clarification that "relaxing" the present requirements is not possible since no requirements applied previously and/or were abandoned for many years while the City collected transient taxes from homeowners like ourselves. The new proposed text should only seek to clarify that vacation rental is an allowed use, the transient tax must be collected, and in some cases a business license may be required.

Clark and Caryn Vitek

-----Original Message-----

**From:** Eric Porter [mailto:epor@ci.sisters.or.us]  
**Sent:** Friday, January 11, 2013 10:48 AM  
**To:** clark@thevitek.com, caryn@thevitek.com  
**Subject:** Vacation Rental standards - memo to the PC (Sisters)

Clark / Caryn,

We have not yet heard back from the City Attorney regarding the proposed review standards for vacation rental units in Sisters. Due to our deadline to have the Planning Commission packets available today, we are moving forward with the text as amended per the Planning Commission's direction, which I've attached.

It is possible that the City Attorney will advise us to somehow amend the text for legal reasons prior to the Planning Commission hearing on Jan 17<sup>th</sup>. If so, I will let you know as soon as I hear from him.

Meanwhile, please look over the proposed text. As I had indicated previously, as proposed, your home would be grandfathered in with no further review required (unless you were to expand the house).



Take care,

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

DISCLOSURE NOTICE: Messages to and from this E-mail address may be subject to Oregon Public Records Law.

## Eric Porter

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**From:** clark@thevitek.com  
**Sent:** Monday, January 07, 2013 12:23 PM  
**To:** Eric Porter; clark@thevitek.com  
**Cc:** caryn@thevitek.com  
**Subject:** Re: vacation home permitted use

Thanks Eric,

Clark

-----Original Message-----

**From:** Eric Porter [mailto:epor@ci.sisters.or.us]  
**Sent:** Monday, January 7, 2013 09:44 AM  
**To:** clark@thevitek.com  
**Cc:** caryn@thevitek.com  
**Subject:** RE: vacation home permitted use

Clark,

I'll send the draft text to you once it's been discussed with our City Attorney. We meet at noon; I should have something to you before end-of-day today.

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

**From:** clark@thevitek.com [mailto:clark@thevitek.com]  
**Sent:** Sunday, January 06, 2013 10:58 PM  
**To:** Eric Porter  
**Cc:** caryn@thevitek.com; clark@thevitek.com  
**Subject:** Re: vacation home permitted use

Eric:

We had a few potentially new thoughts on this over the weekend, attached is a pdf file which we would like to enter into testimony for the planning commission meeting on 1/17/2013. This summarizes many of our prior points in email but makes some new observations about single tenant vs multi-tenant use that we think could be useful in the discussion (slide 7 has a flowchart). The proposal is that the City can and should limit short term

rentals that create multi-tenant uses in single tenant areas but probably should not create new requirements/restrictions for true single tenant rentals regardless of stay duration. This is explained in the attached.

I will plan to attend in person and could give this presentation if time permits, or just answer questions about it if time is limited.

If the new draft text is available for review ahead of the meeting, we will review and offer comments on it specifically. The attached is to try to 1) make our basic position clear to the commission members, and 2) provide some alternative suggestions that may be useful to help meet the objectives of some commission members in a minimally objectionable way to homeowners rights.

Sorry for the multiple emails on this, we are scrambling on several fronts but attached is drafted to address the "planning/use" issues we see more tightly than our prior emails which included finance/business licensing related issues that are probably not of much interest or relevance to the land use and planning discussion

Clark

-----Original Message-----

**From:** Eric Porter [<mailto:eporter@ci.sisters.or.us>]

**Sent:** Friday, January 4, 2013 07:59 AM

**To:** [clark@thevitek.com](mailto:clark@thevitek.com)

**Subject:** RE: vacation home permitted use

Thanks Clark.

We're proposing text that would grandfather in existing vacation rentals. Our City Attorney will review proposed text on Monday. We'll have a better sense of whether there is political support for this proposal following the Planning Commission hearing on the 17<sup>th</sup>.

Take care,

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

**From:** [clark@thevitek.com](mailto:clark@thevitek.com) [<mailto:clark@thevitek.com>]



## Eric Porter

---

**From:** clark@thevitek.com  
**Sent:** Sunday, January 06, 2013 10:58 PM  
**To:** Eric Porter  
**Cc:** caryn@thevitek.com; clark@thevitek.com  
**Subject:** Re: vacation home permitted use  
**Attachments:** Vitek\_Planning\_Commission\_Jan17\_2013.pdf

Eric:

We had a few potentially new thoughts on this over the weekend, attached is a pdf file which we would like to enter into testimony for the planning commission meeting on 1/17/2013. This summarizes many of our prior points in email but makes some new observations about single tenant vs multi-tenant use that we think could be useful in the discussion (slide 7 has a flowchart). The proposal is that the City can and should limit short term rentals that create multi-tenant uses in single tenant areas but probably should not create new requirements/restrictions for true single tenant rentals regardless of stay duration. This is explained in the attached.

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Sorry for the multiple emails on this, we are scrambling on several fronts but attached is drafted to address the "planning/use" issues we see more tightly than our prior emails which included finance/business licensing related issues that are probably not of much interest or relevance to the land use and planning discussion

Clark

-----Original Message-----

**From:** Eric Porter [mailto:eporter@ci.sisters.or.us]  
**Sent:** Friday, January 4, 2013 07:59 AM  
**To:** clark@thevitek.com  
**Subject:** RE: vacation home permitted use

Thanks Clark.

We're proposing text that would grandfather in existing vacation rentals. Our City Attorney will review our proposed text on Monday. We'll have a better sense of whether there is political support for this proposal following the Planning Commission hearing on the 17<sup>th</sup>.

Take care,

Eric J. Porter  
Principal Planner  
City of Sisters  
(541) 323-5219

**From:** clark@thevitek.com [mailto:clark@thevitek.com]  
**Sent:** Thursday, January 03, 2013 5:31 PM  
**To:** clark@thevitek.com; Eric Porter; Caryn Vitek  
**Cc:** Pauline Hardie  
**Subject:** Re: vacation home permitted use

Eric:

Attached is our 2008 letter to Sisters explaining our review of the code at the time. This interpretation was unchallenged for 4-5 years and in fact we were instructed to continue paying the transient tax which we did regularly for the past several years. If you haven't seen this before it explains the statements below in detail with references to the 2008 code (note date of this letter was 2008, not 2006)

Based on the review we gave in this letter, my claim is that renting by a homeowner of his/her own home for duration of their choosing is a homeowner right already exercised by some and not available for simple taking by the city and giving back by some new process. This creates the need for grandfathering existing vacation rentals since the new requirements are not really a "relaxing" of the prior ones, they are new requirements.

Prior to 2008 our home was rented by a manager remitting the tax (2006-2007) (without any permit) and we stayed in other homes in the city limits prior to that (2005) which also had no type II or III permits. The attached interpretation that the development code in place at the time applied to B&Bs but not private homes was unchallenged by the city for over 4 years while we and others remitted transient taxes based on short term rentals on a very regular basis. The only response we received was "continue to pay the tax" which to us implied the city had no objection to our rental activity.

You do not need to offer any individual response on this as I understand lawyers may have to argue the fine points at some time in the future if the city elects not to grandfather and/or adopts some new process that we simply can not abide. But I thought you should have the background letter / information / history of our communication with Sisters. All other communication dates from 2012 and essentially repeats the same information as in the attached.

I am going to try to make it to the meeting on Jan 17th, but if you are available to circulate the proposal for comment ahead of time this may not be necessary if we don't have any major concerns. On the other hand if I have any lingering concerns, I will try to be there to offer testimony in person.

Clark Vitek

October 22, 2008

Lisa Young  
Director of Finance and Administration  
City of Sisters, Oregon  
520 E. Cascade Ave, PO Box 39  
Sisters, OR 97759

Re: Requested business license application

This letter is a follow up to our phone conversation on Friday, October 17 expressing our concern with the request to apply for a City of Sisters business license. We believe this request was based on our submission of payments for the Sisters Municipal Code Title 3 transient tax during the first nine months of 2008.

We do not believe that Title 5 (business licenses and regulations) applies to our situation. Our second home rental activity does not meet any of the definitions of a business as put forth in Title 5.04.020. Thus, we do not agree with the interpretation that reporting rental income under Title 3 and paying the transient tax means that Title 5 automatically applies to a homeowner who rents their home.

The summary of our situation is as follows:

- Our home is located within the city limits, within the development of Pine Meadow Village, new construction completed in 2006.
- The home was managed by a Sisters area professional property management service 2006-2007, who arranged tenants and collected and paid the Title 3 transient tax on our behalf.
- We terminated professional management in 2008 January and began submission of the transient tax directly ourselves at that time.
- We received a letter dated October 8, 2008 requesting that we apply for a business license under Title 5 of the City of Sisters Municipal Code.
- We believe that the Title 5 request was based on an incorrect interpretation of the present code and we are not applying for a business license at this time.
- We intend to continue to collect and remit the Title 3 transient tax for the City of Sisters as we have been doing since Jan 2008 and prior to that period as was collected and remitted by our property manager.
- We are suggesting that the City of Sisters consider revising the process to register and collect this tax, as well as clarify the land use questions that are related by adoption of an improved process similar to that used by Deschutes County or the City of Bend (as examples)



### Applicability of Sisters Municipal Code Titles 3 and 5

We have remitted the transient tax since January 2008 because we believed that municipal code for the City of Sisters, Title 3 (Revenue and Finance) was already being applied to our property by the local property management service for 2 years (2006-2007). Furthermore, we have no objection in principle to collecting this tax on behalf of the City of Sisters and saw no need to revisit the property manager's interpretation. Given the attraction of the Sisters area to visitors, and the fact that similar taxes apply in other cities and unincorporated areas of Deschutes County, we believe that transient taxes provide an important source of revenue for the City of Sisters. We are willing to continue to collect this tax on behalf of the City of Sisters unless it is determined that rental of our home to others is actually incidental and should be exempted from the tax under Title 3.04.060 (2).

However, we believe that Title 5 simply does not apply to our situation based on the language of 5.04.020. The activity of renting one's personal home to others does not seem to fit any of the activities presently described in this section of the Municipal Code.

### Comments on Sisters Development Code, Chapter 2

Our development plan for Pine Meadow Village contains extensive development and use information which we reviewed carefully prior to purchasing the lot for construction in 2006 and we have adhered to for the rental of our property. The development plan provides several conditions for the renting of our home such as limiting the maximum number of occupants to six, but it does not place any restrictions on the rental period or make any additional restrictions on vacation rental use vs long term rental use.

We are not sure if the development and use information in the PMV development plan takes precedence over the current Chapter 2 of the Sisters Development Code. Based on recent news reports regarding the proposed hotel in Pine Meadow, it may be that conformance to the PMV development and use plan takes precedence over Chapter 2 of City of Sisters Development code for our individual situation. We don't fully understand this other than we believe we are fully compliant with the uses contained in the PMV development plan, including all applicable restrictions on rental use in a residential area.

In early 2008 we reviewed the Sisters Development Code, Chapter 2, and even if this code does not actually apply to Pine Meadow Village, we would encourage the City of Sisters to better define a process that is simple for second homeowners to comply with for vacation rental use.

At present, Chapter 2 Table 2.1.110A (6) states that vacation rentals are a

permitted use for residences but requires a conditional use permit. This table makes reference to paragraph 2.1.200 for further conditions. However, paragraph 2.1.200 provides no further conditions for vacation rentals, only "Bed and Breakfast Inns" (section H). The conditions stated therein are clearly applicable only to bed and breakfast inns and vacation rentals are not further mentioned. When we inquired with the City of Sisters about this at the beginning of 2008 we were told that this meant the conditional use permit could only be granted by a type III process, including a public hearing and over \$1000 in planning dept fees. Chapter 4 of the Development Code provides a further description of conditional use permit process which seemed ridiculously burdensome for a vacation home and we concluded must not have been intended to address second homes rented by individual homeowners. In our view, vacation home rentals were a well understood property use elsewhere in Deschutes County (i.e. just outside the City Limits) and in other surrounding communities so it does not seem to be the correct intent that the City would require a Type III process for this use.

### Suggested Improvements

At a minimum we would suggest that conditions for vacation rentals could be given in Chapter 2 directly (paragraph 2.1.200 H) such that a Type I process could be applied by the City to issue a permit, if a special permit is in fact believed necessary. The impact and benefits of vacation rentals to the community should already be well understood by the City as of 2008, so it should be possible to state standard conditions directly in the code that do not require a public hearing or Type II/III review. This is similar to the City of Bend review process for vacation homes, information and the application form is available online at the City of Bend website. A key aspect of the Bend application process is that the property use is presumed conforming if all the information on the form is submitted and checked by the homeowner's own declaration. This consists of a set of requirements for the homeowner stated in the form of a simple checklist (attached for reference).

Alternatively, we would encourage the City of Sisters to consider the process used by Deschutes County that is applied to homes just outside the City Limits. The county process clearly enables compliance for homeowners and provides a simple method to collect and enforce the transient tax. This process is detailed in Deschutes County Code Chapter 4.08. The county places no special restrictions on the homeowners use of the property as a vacation rental and provides a simple one page form to self register the property for the purpose of collection of the tax. The county then requires the approval number "DCCA#" to appear in all advertisements and provides reasonably severe penalties to ensure compliance.

In summary, we believe an owner self registration process and forms that mirror the City of Bend or Deschutes County processes would be the best way forward

to address the needs for the City of Sisters. We believe that providing homeowners a simple means for self registration would be the most effective and simplest way to encourage compliance with both the land use and revenue objectives of the City of Sisters, including enforcement of the collection of the Title 3 transient tax revenues from homeowners that rent out their property for vacation use.

Sincerely,  
Clark and Caryn Vitek  
9461 NW Murlea Ln.  
Portland, OR 97229-6360

(503)291-9121

Attachments (Examples for Reference):

- City of Bend Vacation Rental Application (2 Pages)
- Deschutes County Vacation Rental Registration Form (1 page)

**Clark Vitek**

Digitally signed by Clark Vitek  
DN: cn=Clark Vitek, o=Aruba  
Networks, ou=Engineering,  
email=cvitek@arubanetworks.  
com, c=US  
Date: 2008.10.22 17:16:59  
-07'00'



## Eric Porter

---

**From:** clark@thevitek.com  
**Sent:** Thursday, January 03, 2013 5:31 PM  
**To:** clark@thevitek.com; Eric Porter; Caryn Vitek  
**Cc:** Pauline Hardie  
**Subject:** Re: vacation home permitted use  
**Attachments:** BusinessLicResponse.pdf

Eric:

Attached is our 2008 letter to Sisters explaining our review of the code at the time. This interpretation was unchallenged for 4-5 years and in fact we were instructed to continue paying the transient tax which we did regularly for the past several years. If you haven't seen this before it explains the statements below in detail with references to the 2008 code (note date of this letter was 2008, not 2006)

Based on the review we gave in this letter, my claim is that renting by a homeowner of his/her own home for a duration of their choosing is a homeowner right already exercised by some and not available for simple taking by the city and giving back by some new process. This creates the need for grandfathering existing vacation rentals since the new requirements are not really a "relaxing" of the prior ones, they are new requirements.

Prior to 2008 our home was rented by a manager remitting the tax (2006-2007) (without any permit) and we stayed in other homes in the city limits prior to that (2005) which also had no type II or III permits. The attached interpretation that the development code in place at the time applied to B&Bs but not private homes was unchallenged by the city for over 4 years while we and others remitted transient taxes based on short term rentals on a very regular basis. The only response we received was "continue to pay the tax" which to us implied the city had no objection to our rental activity.

You do not need to offer any individual response on this as I understand lawyers may have to argue the fine points at some time in the future if the city elects not to grandfather and/or adopts some new process that we simply can not abide. But I thought you should have the background letter / information / history of our communication with Sisters. All other communication dates from 2012 and essentially repeats the same information as in the attached.

I am going to try to make it to the meeting on Jan 17th, but if you are available to circulate the proposal for comment ahead of time this may not be necessary if we don't have any major concerns. On the other hand if we have any lingering concerns, I will try to be there to offer testimony in person.

Clark Vitek

-----Original Message-----

**From:** clark@thevitek.com [mailto:clark@thevitek.com]  
**Sent:** Wednesday, January 2, 2013 01:11 PM  
**To:** 'Eric Porter', 'Caryn Vitek'  
**Cc:** 'Pauline Hardie', 'CLARK Vitek'  
**Subject:** Re: vacation home permitted use

Eric:

Point of clarification: There is no easing proposal here, this is new regulation. The type II process you thought may have been in place before actually did not apply to homeowner owned

short term rentals, only B&Bs as we detailed in our first letter ~2006 to the City of Sisters. As such you need to be very mindful of the need for grandfathering, we have engaged in this type of rental with the city's knowledge since 2006 without a type II permit or a business license being required.

Any new requirements that could result in loss of our ability to rent our home by City action is a six figure "taking" in my view since we plan to continue the same as we have for the past six years for another 20 years until we retire and move into the house. If the city fails to grandfather existing short term rentals and subjects us to potential loss by "revocation", "ban" or whatever, instead of getting a few dollars a year in revenue from transient taxes on our rental it could cost the city hundreds of thousands in legal fees and settlements. The city can't take basic rights already exercised away by new permit/license/etc requirements without compensation.

Here is a link to a story about a town in Florida that has been trying for years to outright ban short term rentals. They've spent over \$400,000 in legal fees and recently the district judge ruled it was a taking in at least one case where the owner who had rented their property before didn't obtain the newly required business license and was ordered to stop. The taxpaying citizens of Sisters (ourselves included) don't need this kind of pain. Just make it a registration and collect the transient tax and eliminate the land use review. The type II wasn't in place before under the city code (it applied to B&B' but not vacation homes, as we made very clear in our prior letters). We need to keep it simple and especially not change for existing owners what rental activity has already been allowed by the city, taxes collected and happily accepted for the past six years without ANY kind of permit or license.

<http://www.heraldtribune.com/article/20101112/ARTICLE/11121062>

Clark

-----Original Message-----

**From:** Eric Porter [mailto:eporter@ci.sisters.or.us]  
**Sent:** Wednesday, January 2, 2013 10:45 AM  
**To:** 'Caryn Vitek'  
**Cc:** 'Pauline Hardie', 'CLARK Vitek'  
**Subject:** RE: vacation home permitted use

Caryn,

These are great points ? thanks for your thoughts.

I did not mean to be offensive in any way about the contact being listed on the vacation rental ? I'm not convinced that there would be any problems, and I believe that most people who are in a position to own these vacation homes would be responsible and respectful. The listed contact idea is in direct response to concerns raised by three people that I've spoken to who are in opposition to easing the review requirements. Each has stated their fears of abuse of the vacation rentals, and they have very, very strong feelings about the potential. Also, Cannon Beach and Manzanita have a requirement for a local contact, which they feel enhances accountability. They do however have a much greater number of vacation rentals than we do.

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You might consider testifying at the hearing if you disagree with any aspect of what we are proposin

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

**From:** Caryn Vitek [mailto:caryn@thevitek.com]  
**Sent:** Wednesday, January 02, 2013 10:33 AM  
**To:** Eric Porter  
**Cc:** Pauline Hardie; CLARK Vitek  
**Subject:** Re: vacation home permitted use

Hi Eric,

Thank you for including us in the process. I would like to address your points below.

1. Adequate parking - Using Bend's requirements, a parking spot for each bedroom, may be reasonable for long-term rentals or owner occupants? Why not?
2. Accountability - The city is showing its prejudice against short term rentals if it assumes that they are treated any differently than any renter or homeowner. I absolutely would refuse to post any signage or phone number on my house... really I am offended, should I place a yellow star in the window when I have a VR there?! If a severe nuisance or disturbing the peace occurs, this is treated the same for any type of rental or owner... the sheriff should be called to investigate. Has the city asked the sheriff whether there is any difference in call rates for owner occupied vs. long term renters vs. short term renters? If someone wants to contact the owner about their property, they can look up the owner of public record on county property tax website.
3. Permit Revocation - The Bend Vacation Application sets forth 4 compliance criteria: occupancy, prohibited use and monitoring. These criteria must be met in order to receive the approval (and that v



imply compliance is necessary or it could be revoked). Again, how do you protect the neighborhood long term renter or homeowner that is chronically problematic? A short term rental should be held to ordinances. In my personal case with my vacation home that I use for myself, my family, and some renters, how can code enforcement tell if problems are coming from renters, my family, or me? If problems will be noted by city code enforcement, resulting in letters and fines to the owners.

4. Business License - Business License may be required. Agree, this is separate discussion from land planning.

It is important to remember with respect to residential rentals (short or long term) that the city is attempting to regulate what goes on in a privately owned home. There are rights and expectations that all homeowner tenants have regardless of whether they are resident or non-resident. When renting one's private home, the same standards need to be applied to short or long term rentals. We see no distinction and a disparity among owner occupied properties. If regulations do not apply equally to long term rentals or owner occupied properties, then there is discrimination. The owner's property rights and tenant's right to private enjoyment are the same and regulation needs to be applied.

Also note the focus of our suggestions for the City of Sisters are to develop revenue from a transient tax. This is most easily achieved by a voluntary self-registration form similar to Deschutes County, without a permit or use review. We question whether it is worth instituting a land use process at all versus a simple self-registration. In the case of self-registration the City clearly will gain the tax revenue with minimal risk of litigation and costs for additional planning review and code enforcement. By instituting a land use review process, we believe the City is at risk for new expenses to review and enforce the new code, and for potential litigation from homeowners who view it as within their rights to rent their home to whomever they choose for the duration they choose.

In any case, the planning must consider grandfathering as Bend's process does, to avoid taking rights already exercised. We are not lawyers, but we believe homeowners will view the new process as a potential measure 49 claim since the new rules could result in loss of ability to rent and use a home in the manner we have been used. In our personal case, we would complete a simple registration form to authorize collection of a transient tax, but we can not accept a requirement to participate in a new process that could result in any potential loss of our ability to rent and use our home in the manner we have since we built it.

Thank you and please send the draft text when it is ready.

Caryn & Clark Vitek

On 01/02/2013 08:08 AM, Eric Porter wrote:

Caryn,

Thank you for taking the time to provide comments to us? they are helpful.

I'm drafting text to take to the Planning Commission and City Council in the upcoming several months.

initially wrote some text that was regarded internally as being a bit overly lengthy; therefore I'm going to simplify the process and subsequent text that will be added to our Development Code.

Here are the key elements that we need to have addressed in the text as we understand it. I'd like you to look at it, since this directly affects your rental unit:

1. Adequate parking ? I'll use Bend's requirements.
2. Accountability ? the owner or manager of the unit need to have their contact info somehow posted perhaps in a window facing a street, in order for the City or neighbors to have a way of contacting the manager in the event that the unit is being abused by renters. Most owners / managers will adequately address the renters, however there needs to be a way of contacting them if their renters are disturbing the peace.
3. Permit revocation. This is a means of protecting the neighborhood if a rental becomes chronic or problematic. I need to establish a process where the City Council can revoke the Type I approval if a rental is poorly managed.
4. Business license. This requirement is not coming from the Planning Department ? it is coming from the Finance Department. For the purpose of Development Code text, I'm satisfied putting in "business license" to be required, and let Finance decide whether or not a business license is necessary.

Feel free to check in with me next week to look at the draft text. It goes to the Planning Commission on January 17, and to the City Council at the February Council meeting (tentative date is Feb 14).

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

**From:** Caryn Vitek [<mailto:caryn@thevitek.com>]

**Sent:** Tuesday, January 01, 2013 6:04 PM

**To:** Pauline Hardie

**Cc:** Eric Porter; CLARK Vitek

**Subject:** vacation home permitted use

Pauline:

Thank you for the information on the upcoming meetings.

Following the process of City of Bend or unincorporated Deschutes County has been one of our suggestions to the city Finance Director for several years and we believe it would work for City of Sisters.

From a planning perspective, a key element in the City of Bend's process is that it clarifies that rental use is an approved use in any residential district. The Bend type I process collects information from the homeowner with the Vacation Home Rental application. Bend does not publish the addresses of these homes on the web or in a list of "businesses" which we think is important for privacy and security.

The second step of Bend's process is referred to as a "certificate of authority" and not a business license. The purpose of collecting the transient room tax. Trying to characterize all vacation homes as a business is problematic in our view. Our second home in Sisters is not a business, we have no employees, we are required to file self-employment schedule or business schedule, we do not make a profit nor intend to. Any cost-sharing activity is subsequent and incidental to our own homeowner use by ourselves and our family. We believe the newly drafted Resolution 417 language does not apply to us and we will not apply for a business license.

However, we believe at this time that the transient room tax does apply, as it is a tax on tourists, not homeowners. Therefore we have been collecting the transient room taxes without objection since we moved home in 2006. It is also worth noting that we interpreted this first from the state of Oregon (which has a clear definition), and secondly as told to us by the city Finance Director, that we should collect it.

We suggest that the City of Sisters adopt a Type 1 process + certificate of authority, similar to Bend's, which would garner the city the best transient room tax participation. The Type 1 + certificate of authority process is clear that the homeowner is 1) allowed to conduct short term rental activity in a residential zone, and 2) authorized to collect the transient tax on behalf of the city. The bed tax collection is irrespective of whether or not the transient rental use is a business as defined in Resolution 417, and should apply to any transient rental activity, including the increasingly popular trend (see [www.airbnb.com](http://www.airbnb.com)) of renting a room out of one's home. Real estate rental activity often requires different definitions than other commercial business activities. The IRS, states and localities have created separate processes for vacation rentals from commercial business licensing. It is not necessary to link the transient room tax collection to business licensing. The City of Sisters should have a stand-alone process for allowing short term rental and collection of the bed tax that is fully separate from business licensing.

Clark and Caryn Vitek

----- Original Message -----

**Date:** Mon, 31 Dec 2012 14:17:18 -0800

**From:** Pauline Hardie <[pahardie@ci.sisters.or.us](mailto:pahardie@ci.sisters.or.us)>

**To:** 'caryn@thevitek.com' <[caryn@thevitek.com](mailto:caryn@thevitek.com)>

**CC:** 'clark@thevitek.com' <[clark@thevitek.com](mailto:clark@thevitek.com)>, Eric Porter <[eporter@ci.sisters.or.us](mailto:eporter@ci.sisters.or.us)>

Hi Caryn, I wanted to let you know that the Planning Commission started reviewing vacation rentals permitted uses in Sisters. They continued the hearing to January 17<sup>th</sup> so that staff can look at Bend's process and see if that would work for Sisters. The January 17<sup>th</sup> Hearing will be held at the City of Sisters.



Hall at 5:30pm. We can send you a copy of the staff report for the upcoming meeting when it is available. Once the Planning Commission reviews the changes on the 17<sup>th</sup>, they will make a recommendation to the City Council. The City Council will likely review it on January 24<sup>th</sup>. Please don't hesitate to contact me if you have any questions. Thank you.

Pauline Hardie, AICP

Community Development Director

City of Sisters

(541) 323-5208

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## Eric Porter

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**From:** Caryn Vitek [caryn@thevitek.com]  
**Sent:** Wednesday, January 02, 2013 1:42 PM  
**To:** Eric Porter  
**Cc:** Pauline Hardie; CLARK Vitek  
**Subject:** Re: vacation home permitted use

Eric,

These are unfounded fears about vacation rentals. I read the Nugget sherrif's report and I cant recall ever reading about vacationers. These views are prejudiced and I think you can replace the word 'vacationer' with 'non-native' or any racial epithet and get the idea. I am not offended by you Eric, I am offended by the locals who would burglarize, threaten, or hassle me or my guests for not being a full-time resident.

The reason we have been willing to communicate with the Finance Dept and now with Planning, is because for 6 years we have been doing everything right. We spend quite a bit of time at our home in Sisters and we enjoy it, but we are not ready to retire there yet. We cost-share our home, we pay the bed taxes, we limit our guests to 6 maximum, we have a garage and ample street parking, we don't allow pets, we participate with our HOA, we know our neighbors, we pay our bills, we maintain our home, and we have never had a complaint.

I appreciate your work on this matter. I am not sure we can make the 1/17/13 meeting due to our other commitments, but please use any of my emails in testimony.

Caryn

On 01/02/2013 10:45 AM, Eric Porter wrote:

Caryn,

These are great points -- thanks for your thoughts.

I did not mean to be offensive in any way about the contact being listed on the vacation rental -- I'm personally not convinced that there would be any problems, and I believe that most people who are in a position of renting these vacation homes would be responsible and respectful. The listed contact idea is in direct response to the concerns raised by three people that I've spoken to who are in opposition to easing the review requirements. Each have stated their fears of abuse of the vacation rentals, and they have very, very strong feelings about the potential. Also, Cannon Beach and Manzanita have a requirement for a local contact, which they each believe enhances accountability. They do however have a much greater number of vacation rentals than we do, being coastal towns.

I do agree with you in concept that traditional law enforcement may be adequate to deal with this specific issue. Our problem here is that we do not have a city police force, and only limited law enforcement coverage at night by the Sheriff's Department. I also believe that there needs to be a permit revocation option put forth to the City Council for discussion and consideration in the event that a specific VR becomes repetitively problematic.

You might consider testifying at the hearing if you disagree with any aspect of what we are proposing.

Eric J. Porter

Principal Planner

City of Sisters

(541) 323-5219

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**Cc:** Pauline Hardie; CLARK Vitek

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Eric J. Porter

Principal Planner

City of Sisters

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**Sent:** Tuesday, January 01, 2013 6:04 PM

**To:** Pauline Hardie

**Cc:** Eric Porter; CLARK Vitek

**Subject:** vacation home permitted use

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Clark and Caryn Vitek

----- Original Message -----

**Date:** Mon, 31 Dec 2012 14:17:18 -0800

**From:** Pauline Hardie <[phardie@ci.sisters.or.us](mailto:phardie@ci.sisters.or.us)>

**To:** '[caryn@thevitek.com](mailto:caryn@thevitek.com)' <[caryn@thevitek.com](mailto:caryn@thevitek.com)>

**CC:** '[clark@thevitek.com](mailto:clark@thevitek.com)' <[clark@thevitek.com](mailto:clark@thevitek.com)>, Eric Porter <[eporter@ci.sisters.or.us](mailto:eporter@ci.sisters.or.us)>

Hi Caryn, I wanted to let you know that the Planning Commission started reviewing vacation rentals as permitted uses in Sisters. They continued the hearing to January 17<sup>th</sup> so that staff can look at Bend's Type I process and see if that would work for Sisters. The January 17<sup>th</sup> Hearing will be held at the City of Sisters City Hall at 5:30pm. We can send you a copy of the staff report for the upcoming meeting when it is available. Once the Planning Commission reviews the changes on the 17<sup>th</sup>, they will make a recommendation to the City Council. The City Council will likely review it on January 24<sup>th</sup>. Please don't hesitate to contact me if you have any questions. Thank you.



Pauline Hardie, AICP

Community Development Director

City of Sisters

(541) 323-5208

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**From:** Caryn Vitek [<mailto:caryn@thevitek.com>]  
**Sent:** Monday, October 29, 2012 3:54 PM  
**To:** Lisa Young  
**Cc:** 'clark@thevitek.com'; Eileen Stein; Pauline Hardie; Lynne Fujita-Conrads  
**Subject:** Re: City Council Directive on Vacation Rental Regulations

Thank you for the update.  
Caryn Vitek

On 10/29/2012 03:22 PM, Lisa Young wrote:

Clark & Caryn Vitek,

I am getting back to you after the City Council meeting on 10/25/12 as I was out of the office on 10/26/12.

At the October 25<sup>th</sup> City Council workshop, Council discussed and deliberated on vacation rental regulations; business license, transient room tax and land use. At the end of the workshop meeting, Council's direction was to require a vacation rental to have a business license and pay transient room tax, but *not require* the vacation rental go through a type II land use process. Therefore at a later date, the Community Development staff will be coming back to City Council to recommend an amendment to the Development Code's vacation rental section.

At the October 25<sup>th</sup> regular meeting, Ordinance No. 417 was approved and will take effect 30 days after its approval (effective date - November 24<sup>th</sup>). Before the effective date, the Finance staff will be sending out an information letter and business license application to all vacation rental operators to complete a business license application.

Thank you for your patience and valued input in this process.

Lisa Young

Director of Finance & Administration

City of Sisters

520 E. Cascade Avenue

Sisters, OR 97759

Phone (541) 323-5204

Fax (541) 549-0561

OF SISTERS  
left.  
ox 39  
is, OR 97759



DEPT OF

MAR 06 2013

LAND CONSERVATION  
AND DEVELOPMENT

ATTEN: PLAN AMEND. SPECIALIST  
DLCD  
635 CAPITOL ST. NE, #150