



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

MEMORANDUM

TO: Board of County Commissioners
Gary Schmidt, County Administrator

FROM: Stephen L. Madkour, County Counsel

DATE: May 5, 2022

RE: Repeal Chapter 8.10

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
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Shawn Lillegren
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Assistants

County Counsel proposes that the Board of County Commissioners move forward with a public hearing for the first reading of an ordinance repealing Chapter 8.10 of the county Code. Chapter 8.10 of the County Code is the County's short-term rentals program. A repeal is recommended because the program has not been funded and therefore the regulatory components of Chapter 8.10 are not enforced.

The work completed to date by County staff will remain eligible to be implemented at a future date at the Board's discretion. A repeal of the entire chapter is warranted because the County has not and will not be enforcing any aspect of the provisions of Chapter 8.10. A repeal of the ordinance will require two public hearings.

The provisions in the zoning and development ordinance, which are currently subject to the LUBA challenger, will remain.

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: May 4, 2022 **Approx. Start Time:** 10:00 AM **Approx. Length:** 30 min

Presentation Title: Short Term Rental Program Update

Department: Transportation and Development

Presenters: Dan Johnson, DTD Director; Elizabeth Comfort – Finance Director

Other Invitees: Samara Phelps – Tourism Director, Jennifer Hughes – Planning Director, Nate Boderman – Assistant County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

The main purpose of today's policy session is for staff to obtain Board direction on whether and/or how to move forward with implementation of the Short-Term Rental (STR) registration program in unincorporated Clackamas County.

EXECUTIVE SUMMARY:

A short-term rental (STR), or vacation rental, is a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies. Short-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.

After nearly two years of work and public outreach to consider the regulation of homes being used as STRs, the Board of County Commissioners adopted a STR registration and regulation program on November 25, 2020 and adopted amendments to the county's Zoning & Development Ordinance (ZDO) to support that program on December 17, 2020. The Board has yet to adopt a registration fee to support the STR registration and regulation program, for which implementation was originally scheduled to begin on July 1, 2021.

On March 30, 2021, staff updated the Board on the development of a Short-Term Rental program. See Attachment A. At that time the Board directed staff to delay start of the STR program to July 1, 2022 to allow more time to develop the program, for STR operators to recover from travel losses resulting from the COVID-19 pandemic, and for resolution of an appeal of the related Zoning and Development Ordinance amendments. On April 29, 2021, the Board adopted Board Order 2021-23 which revised the effective date of implementation from July 1, 2021 to July 1, 2022.

Since that time the County has been dealing with a number of issues limiting the ability to develop and implement the program. From staff shortages to budget shortfalls, there has been little ability to develop the necessary systems to implement the system by the July 1, 2022 deadline. Furthermore, the aforementioned appeal has not been resolved as of the date of this memorandum. To date, LUBA has found that the County's authorization of STRs in the County's resource zones conflict with state statutes (and the County zones that implement such statutes) and are therefore not allowed, but that the County's authorization of STRs elsewhere are valid. The County has appealed LUBA's decision to the Court of Appeals as to the implementation of STRs in resource zones and expects a decision by this coming summer.

At this point, similar options to those presented in 2021 remain:

Advance implementation of the STR program on the current schedule, with the July 1, 2022 effective date for registrations to begin. However based on the limited time available and lack of staff, full implementation may not be viable at this point in time.

Delay start of STR program to July 1, 2023 to allow for more time to develop the program, for the reasons mentioned above.

Repeal the adopted ordinance implementing STR program in the County Code and direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption.

While these options exist, based on the information outlined above staff would recommend, at a minimum, to delay the implementation of the program until July 1, 2023 to allow the aforementioned legal challenge to be resolved, a more detailed budgetary assessment is completed to assess costs to implement the program and staffing issues are able to be addressed.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$ Unknown What is the funding source? N/A

A registration fee that is sufficient to cover administration and enforcement costs needs to be adopted. In 2021 it was estimated to fully recover costs associated with administration and enforcement of this new program, a fee of \$800-\$900 for a 2-year registration would be needed. Development of the STR program will require initial funds (“seed money”), which in 2021 was possible from the Tourism Department; however, with COVID impacts to funding this availability of funding needs to be re-assessed.

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department’s Strategic Business Plan goals?**
The proposal aligns with the Long-Range Planning program’s purpose of providing land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.
- **How does this item align with the County’s Performance Clackamas goals?**
The proposal aligns with the Performance Clackamas goal to “Build Public Trust through Good Government” by responding to a Long-Range Planning work program priority and by creating regulations and a process by which a land use that is not currently specifically allowed in our code may become a permitted and compliant use.

LEGAL/POLICY REQUIREMENTS:

Staff is not aware of any legal requirement to allow STRs. To make changes to County Code Section 8.10, including a change to the implementation date, or to completely repeal the section would require two readings by the Board.

PUBLIC/GOVERNMENTAL PARTICIPATION:

County Staff has engaged in extensive public outreach regarding STRs with Community Planning Organizations and other groups and individuals throughout the life of the project. In addition, five public hearings were held before the Board and one before the Planning Commission.

If the Board decides to make changes to the STR program, public notice will be provided, as required by law, for any proposed amendments that come before the Board for consideration at a public hearing.

OPTIONS:

- 1.) Advance implementation of the STR program on the current schedule, with the July 1, 2022 effective date for registrations to begin.
- 2.) Delay start of STR program to July 1, 2023 to allow for more time to develop the program, and for resolution of the legal appeal of the related ZDO amendments and direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption.
- 3.) Repeal the adopted ordinance implementing STR program in the County Code and direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption.

RECOMMENDATION:

Option 2: Delay start of STR program to July 1, 2023 to allow for more time to develop the program, and for resolution of the legal appeal of the related ZDO amendments and direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption.

ATTACHMENTS:

- Attachment A: Short Term Rental Policy Session (March 30, 2021)
- Attachment B: Short Term Rental Board Order - 2021

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval *Dan Johnson*

County Administrator Approval _____

<i>For information on this issue or copies of attachments, please contact Dan Johnson @ 503-742-4325</i>
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CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Policy Session Worksheet

Presentation Date: 03/30/2021 **Approx. Start Time:** 2:30 p.m. **Approx. Length:** ½ hour

Presentation Title: Short-Term Rentals Program Update

Department: Planning and Zoning Division, Department of Transportation and Development (DTD)

Presenters: Dan Johnson, DTD Director; Jennifer Hughes, Planning Director

Other Invitees: Cheryl Bell, DTD Assistant Director; Matt Rozzell, Building Codes Administrator; Michelle Amend, Code Enforcement Supervisor; Nate Boderman, Assistant County Counsel; Elizabeth Comfort, Finance Dept. Director; Kathryn Stewart, Finance Dept.; Samara Phelps, Tourism Director; Ellen Rogalin, Community Relations Specialist; Martha Fritzie, Principal Planner

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

The main purpose of today's policy session is for Staff to obtain Board direction on whether and/or how to move forward with implementation of the Short-Term Rental (STR) registration program in unincorporated Clackamas County.

EXECUTIVE SUMMARY:

A short-term rental (STR), or vacation rental, is a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for a period of up to 30 consecutive nights. Operators/hosts may be owners, renters, or property management companies. Short-term rentals are often advertised on websites such as Airbnb, HomeAway, VRBO, VacationRentals.com, or Booking.com.

After nearly two years of work and public outreach to consider the regulation of homes being used as STRs, the Board of County Commissioners adopted a STR registration and regulation program on November 25, 2020 and adopted amendments to the county's Zoning & Development Ordinance (ZDO) to support that program on December 17, 2020. The Board has yet to adopt a registration fee to support the STR registration and regulation program, for which implementation is scheduled to be begin on July 1, 2021.

Background

In early 2019, the Board directed staff to look into the most effective ways to potentially allow and regulate STRs for the following three reasons:

1. The County's Zoning & Development Ordinance (ZDO) did not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, it was considered a prohibited use of a dwelling. However, there were and are a fairly sizeable number of homes in the County actively being used as short-term rentals and a growing interest among homeowners in pursuing this type of use legally in the county;
2. Several properties in the county operating as short-term rentals have generated enough complaints that it had become apparent that this use can cause unwanted neighborhood impacts; and

3. The Transient Room Tax (TRT) currently applies to STRs, as it does to hotels, motels and other lodging establishments. While there are a number of STRs that are paying the tax as required, there appears to be a large number that are not. Establishing a STR registration program, linking the registration to a requirement to pay the TRT, and funding enforcement of the new regulations could help level the playing field for all lodging establishments, ensuring they are all paying their fair share.

The final STR program will be housed in the County Code, which will include all the rules and regulations specific to STRs; the STR application processes and requirements; and the enforcement processes and actions; however, the program will not be in effect until July 1, 2021. This program was developed over the course of nearly two years of work which included the following actions:

- Research into STR programs in other jurisdictions;
- Several large public meetings throughout the county in the spring of 2019;
- Extensive public outreach (website, online questionnaires, social media, newsletter articles, news releases and numerous emails to interested parties);
- Two work sessions and one public hearing with the Planning Commission;
- Eight planning/policy sessions and five public hearings with the Board; and
- Feedback on initial drafts from the public, staff from other departments and agencies, and industry professionals.

Please see *Attachment 4* for the complete list of public meetings, presentations and Board and Planning Commission policy sessions and hearings.

The Short-Term Rental (STR) Program

The county's STR program includes three distinct parts; each of which have or had a separate adoption process:

1. New **County Code Section 8.10, Short Term Rentals**. This new section of the County Code houses the entire STR registration program, including all rules and regulations specific to STRs; application processes and requirements; and enforcement processes and actions. The Code amendment for this new section was adopted by the Board on November 25, 2020, but the program is not scheduled to be effective until July 1, 2021. This date was chosen because time was needed to complete the other necessary elements related to adoption (see #2 and #3 below) and to develop the program, including hiring staff and developing a webpage, forms, and database and obtaining any needed software to support the program.

Section 8.10, Short Term Rentals, as adopted, is on the project webpage (<https://www.clackamas.us/planning/str>) and found in *Attachment 2*. Key components of this program include:

- Regulations would only apply outside of city limits in unincorporated Clackamas County.
- STRs would only be allowed in a legally-established dwelling (either part or all of the dwelling could be rented, including a guest house). This would include allowing for STRs in accessory dwelling units (ADUs), but would not allow STRs in RVs, tents, barns, shops or similar structures.

- All STRs would be subject to the same regulations, except that STR properties *inside the Portland metropolitan urban growth boundary (UGB)* would be required to be the owner's primary residence or located on the same tract as the owner's primary residence. (The owner would not be required to be there when the short-term rental was occupied).
- STRs would have to be registered with the county. In addition to paying a registration fee, which the county would use to cover the costs of administration and enforcement, the short-term rental owner would also be required to provide information at the time of registration, including:
 - Location;
 - Contact information for someone who can respond to complaints;
 - An affidavit of compliance with safety standards;
 - Evidence that all county fees and taxes have been paid, including registration with the county's Transient Room Tax program;
 - Proof of liability insurance, and
 - A site plan and a dwelling unit floor plan.
- Maximum overnight occupancy of two people per sleeping area plus four additional people, not to exceed 15 people. No maximum occupancy for guests who do not stay overnight.
- One off-street parking spot required for each two sleeping areas.
- Required garbage pick-up at least once a week, with any outdoor garbage containers required to be covered.
- Posted quiet hours from 10 p.m. – 7 a.m. (in accordance with current county noise ordinance).
- Building and fire safety requirements related to smoke and carbon monoxide detectors, emergency escape routes, fire extinguishers, etc. (as established via the affidavit)
- Short-term rental owners who do not comply with the regulations may be subject to enforcement consequences ranging from citations and fines, up to liens and revocation of registration. Enforcement of the regulations will be carried out by either the Sheriff's Office or Code Enforcement, depending on the issue.

2. Zoning & Development Ordinance (ZDO) amendments (*Attachment 3*). To support the adopted STR program, it was necessary to make some amendments to the County's ZDO to eliminate conflicts between the ZDO and the County Code related to two areas:

- As noted, the ZDO did not clearly identify STRs as allowed in any homes in the county, and therefore, from a zoning perspective, was considered a prohibited use of a dwelling. The ZDO was amended to clearly identify that the rental of a dwelling on a short-term basis is allowed; and
- The ZDO specifically prohibited the use of a guest house as a "source of rental income". Since the BCC adopted regulations for operating a STR in a legal guest house, this prohibition needed to be changed to be clear that it does not apply to the use of a guest house as a source of rental income if rented on a short-term basis.

The necessary ZDO amendments were adopted by the Board on December 17, 2020 and became effective on January 17, 2021. However, these ZDO amendments have been

appealed to the Land Use Board of Appeals (LUBA) by 1000 Friends of Oregon. The outcome of this appeal is pending.

3. Adoption of the **fees and fines** associated with the STR program into **Appendix A & Appendix B of the County Code**, respectively. When the registration program was adopted, enactment of the fees and fines was planned to occur as part of the budget process this spring.

As was discussed throughout the adoption process for the STR program, to fully fund the STR program and not rely on any General Fund moneys to support the program, a registration fee would need to be charged. As adopted, implementation of the STR program is anticipated to require a 2-year registration fee of approximately \$800 - \$900 (or \$400-\$450 annually) in order to support the program. Similar to increases in fees for other types of business uses, Staff expect that this fee would be effectively “passed through” to nightly renters and would likely result in a slight increase in nightly rental rates county-wide. For example, if a unit was rented for an average of 3 nights per month (36 nights per year), nightly rates would need to increase by \$11.11 to generate \$400 annually.

Fines for non-compliance also need to be established. These fines would need to be substantially similar to other fines identified in the County Code for similar types of infractions.

Discussion Considerations

Implementation of the STR registration program will ultimately be the responsibility of the Finance Department, in large part because the Transient Room Tax is administered through this group and the STR registration is directly tied to that tax. Development, administration, and enforcement of the STR program is expected to require one additional FTE in the Finance Dept. and one additional FTE in Code Enforcement.

Prior to implementation, program development requires a fairly significant amount of work, including:

- Developing a webpage,
- Creating public outreach and educational materials,
- Creating application forms,
- Developing a registrant database,
- Technology Services support to create an online application process, and
- Finding or configuring software to use for the program.

Development of this program has not begun for a number of reasons, including:

- the uncertainty of whether STRs were generating income during the COVID pandemic;
- the temporary loss of “seed” money from the Tourism Department during the pandemic;
- the fact the Board’s membership, and possibly priorities, have changed; and
- simply the fact that both the Board and Staff have been dealing with three emergency declarations over the past year.

As such, staff would like the Board to consider delaying implementation of this program for one year.

This delay would allow time for new staff to be hired and the program developed, including Finance’s implementation of the PeopleSoft A/R module which will be used as part of

maintaining this program (launch of this module is expected in late 2021 / early 2022). More importantly, this delay would also allow STR operators more time to recover from the impacts to travel resulting from the COVID-19 pandemic. This delay would also allow for the resolution of the LUBA appeal of the ZDO amendments.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the funding source?

A registration fee that is sufficient to cover administration and enforcement costs needs to be adopted. As noted earlier, to fully recover costs associated with administration and enforcement of this new program, a fee of \$800-\$900 for a 2-year registration would be needed. Development of the STR program will require initial funds (“seed money”), which may be available from the Tourism Department.

STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department’s Strategic Business Plan goals?**
The proposal aligns with the Long-Range Planning program’s purpose of providing land use and transportation plan development, analysis, coordination and public engagement services to residents; businesses; local, regional and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.
- **How does this item align with the County’s Performance Clackamas goals?**
The proposal aligns with the Performance Clackamas goal to “Build Public Trust through Good Government” by responding to a Long-Range Planning work program priority and by creating regulations and a process by which a land use that is not currently specifically allowed in our code may become a permitted and compliant use.

LEGAL/POLICY REQUIREMENTS:

Staff is not aware of any legal requirement to allow STRs. To make changes to County Code Section 8.10, including a change to the implementation date, or to completely repeal the section would require two readings by the Board.

PUBLIC/GOVERNMENTAL PARTICIPATION:

County Staff has engaged in extensive public outreach regarding STRs with Community Planning Organizations and other groups and individuals throughout the life of the project. In addition, five public hearings were held before the Board and one before the Planning Commission. Please see *Attachment 4* for complete list of public meetings, presentations and Board and Planning Commission policy sessions and hearings.

If the Board decides to make changes to the STR program, public notice will be provided, as required by law, for any proposed amendments that come before the Board for consideration at a public hearing.

OPTIONS:

- 1.) Advance implementation of the STR program on the current schedule, with the July 1, 2021 effective date for registrations to begin.
- 2.) Delay start of STR program to July 1, 2022 to allow for more time to develop the program, for STR operators to recover from travel losses resulting from the COVID-19 pandemic, and for resolution of the LUBA appeal of the related ZDO amendments. If this option is selected, the Board will need to direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption.
- 3.) Repeal the adopted ordinance implementing STR program in the County Code and direct Staff to direct staff to make the appropriate changes to the County Code to bring back to the Board for adoption. If this option is selected and the ZDO amendments are upheld by LUBA, STRs will be allowed in all lawful dwelling units and guest houses in the unincorporated area without any STR-specific regulations. Under the zoning code, a STR will be subject only to the regulations that apply to a long-term residential rental or an owner-occupied dwelling.

RECOMMENDATION:

Staff recommends Option 2.

ATTACHMENTS

1. PowerPoint presentation for 03/30/2021
2. County Code, **Chapter 8.10 Short-Term Rentals**, as adopted November 25, 2020
3. Zoning & Development Ordinance (**ZDO Sections 202 and 833**), as adopted December 17, 2020
4. List of public outreach meetings and Planning Commission and BCC meetings and hearings

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Martha Fritzie @ 503-742-4529
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**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the matter of revising the effective date of Ordinance No. 09-2020



Board Order No. 2021-23
Page 1 of 1

This matter coming before the Board of County Commissioners, which approved Ordinance No. 09-2020 on November 25, 2020, and which will be effective by its terms on July 1, 2021; and

Whereas, it further appearing to the Board that Ordinance No. 09-2020 implements regulations related to short-term rentals and adds a new section to County Code, Chapter 8.10, and makes other conforming amendments to Chapter 2.07; and,

Whereas, it further appearing to the Board that due to other priorities that have required the attention and resources of the Board and County staff, including but not limited to the declared emergency conditions related to the COVID pandemic, wildfires, and winter storms, the County is not prepared to implement those regulations set forth in Ordinance No. 09-2020; and,

Whereas, it further appearing to the Board that delaying the implementation of Ordinance No. 09-2020 will allow the County enough time to establish the framework to administer the short-term rental program and to properly implement the regulations; now therefore,

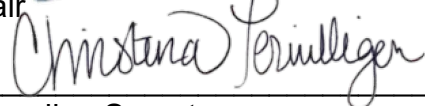
IT IS HEREBY ORDERED that the Clackamas County Board of County Commissioners hereby revises the effective date of Ordinance No. 09-2020 from July 1, 2021 to July 1, 2022.

ADOPTED this 29 day of April, 2021.

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

ORDINANCE NO. 09-2020

**An Ordinance Adding
Clackamas County Code Chapter 8.10, *Short-Term Rentals*
and Amending Clackamas County Code Chapter 2.07, *Compliance
Hearings Officer***

WHEREAS, the Board of Commissioners of Clackamas County finds that a property owner's short-term rental of a dwelling unit is an acceptable activity within the unincorporated areas of Clackamas County; and

WHEREAS, the Board finds that it is in the public's interest to regulate short-term rentals in order to enhance public safety and livability; and

WHEREAS, the Board finds that the short-term rental of dwelling units could have negative impacts on the cost of housing in Clackamas County, and therefore wish to limit those impacts by requiring those short-term rentals located within the Portland Metropolitan Urban Growth Boundary to be located on the same tract as the owner's primary residence,

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 8.10, as shown on Exhibit "A", which is attached hereto and incorporated herein by this reference, is hereby added to the Clackamas County Code.

Section 2: Chapter 2.07 is hereby amended to add a reference to Chapter 8.10, *Short-Term Rentals*, in the second paragraph of Section 2.07.010 for purposes of clarifying that enforcement of the *Short-Term Rental* Chapter shall be processed under the provisions of Chapter 2.07.

Section 2: Effective Date. This Ordinance shall be effective on July 1, 2021.

ADOPTED this 25 day of November, 2020.

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

Chapter 8.10

8.10 SHORT-TERM RENTALS

8.10.010 Purpose

The purpose of this chapter is to regulate short-term rentals in order to enhance public safety and livability within the unincorporated areas of Clackamas County. Specifically, this chapter addresses public safety concerns typically associated with short-term rentals, and clarifies the process for both property owners and staff related to permitting short-term rentals and enforcing violations of these standards.

8.10.020 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

- A. ADMINISTRATOR means the County Administrator of Clackamas County or his/her designee.
- B. DWELLING UNIT is a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purposes of this chapter only, a guest house is considered to be part of the dwelling unit to which it is accessory, even though it is a separate structure. Guest house shall have the meaning given to that term in Section 202 of the Clackamas County Zoning and Development Ordinance.
- C. OCCUPANTS means persons who are authorized to stay overnight within a short-term rental.
- D. OWNER is the owner or owners of a dwelling unit used as a short-term rental.
- E. OVERNIGHT means anytime between the hours of 10 p.m. and 7 a.m. on the following day.
- F. PREMISES means the short term rental and the lot on which it is located.
- G. PRIMARY RESIDENCE means a dwelling unit where an owner lives most of the time. At a given time, an owner does not have more than one primary residence. For purposes of determining whether a dwelling unit is a primary residence, the County may consider factors that include, but are not limited to: whether the dwelling unit is the legal residence of the owner for purposes of voting, motor vehicle/driver licensing, income tax calculation, and the time the owner has spent at the dwelling unit.
- H. REGISTRANT means the owner, or agent of the owner, designated on the registration to act for the owner, who is responsible for ensuring the short-term rental adheres to all applicable requirements to maintain a short-term rental registration.
- I. REGISTRATION means a short-term rental registration.
- J. SHORT-TERM RENTAL means a dwelling unit, or portion of a dwelling unit, that is rented to any person or entity for lodging or residential purposes, for a period of up to 30 consecutive nights.
- K. SLEEPING AREA means a room or other space within a dwelling unit designed and intended primarily for sleeping.

8.10.030 Applicability

This chapter shall apply within the unincorporated areas of Clackamas County including within urban growth boundaries, but shall not apply within the boundaries of any incorporated city.

This chapter does not apply to hotels, motels, bed and breakfast facilities, hostels, campgrounds, recreational vehicle (RV) camping facilities, or organizational camps.

8.10.040 Short-Term Rental Registration Requirements and Fee

- A. All short-term rentals shall be registered, except that any short-term rental that qualifies for an exemption to the Transient Room Tax under Section 8.02.060(C), as “incidental” use of the property, shall be exempt from the registration requirements set forth herein.
- B. Application forms for a registration for a short-term rental will be available at County offices. Applications for initial and renewal registrations for a short-term rental must be submitted to the County and must be signed under penalty of perjury. The application documents must include at least the following:
1. The location of the premises.
 2. The true names, telephone numbers, and addresses and any aliases of the persons that have, or have had within the preceding year, a financial interest in the premises.
 3. A Land Use Compatibility Statement, signed by a Planning & Zoning Division representative, affirming that the short-term rental complies with Section 8.10.060(A).
 4. Signed affidavit of compliance with all building and fire standards in Section 8.10.060(G), and all applicable requirements in Section 8.10.060(D-F).
 5. Evidence that all current taxes and fees owed to Clackamas County have been paid for the premises.
 6. Evidence that a Transient Room Tax registration form has been submitted to the County.
 7. The name, telephone number, and address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
 8. Proof of liability insurance coverage on the short-term rental.
 9. A statement that the registrant of the short-term rental has met and will continue to comply with the standards and requirements of this chapter.
 10. A site plan that identifies, at a minimum, all structures on the property, driveway(s), off-street parking spaces, and garbage receptacles.
 11. A dwelling unit floor plan that identifies, at a minimum, all sleeping areas and other rooms in the dwelling unit.
 12. If the premises includes a guest house to be used as a short-term rental, verification that the guest house is equipped with indoor plumbing equipped with a water closet, lavatory, shower, bathtub or combination bath/shower. All plumbing fixtures must be connected to an approved water supply, and an approved sanitary sewer or private sewage system.
- C. A separate registration application must be submitted for each proposed short-term rental; however only one short-term rental registration shall be approved per dwelling unit.
- D. At the time of submission of a short-term rental registration application, the registrant must pay a short-term rental registration fee. The fee amount shall be set by resolution of the Board of County Commissioners.

- E. A registration is transferable to a new registrant, so long as the new registrant submits notification to the administrator, signed by the original registrant, of the transfer and agrees in writing to comply with the requirements of this chapter. A change of registrant notification form will be available at County offices.
- F. No short-term rental may be publicly advertised for rent unless it has been registered with the County

8.10.050 Registration Termination – Renewal – Fee

- A. A short-term rental registration terminates automatically two years after the date of issuance, unless a new registration application is approved by the county.
- B. Registrants wishing to continue uninterrupted operation of a short-term rental shall submit a new application to the County a minimum of 30 days prior to the expiration of the registration.
- C. At the time of submission of a new short-term rental registration application, the registrant must pay the short-term rental registration application fee. The fee amount shall be set by resolution of the Board of County Commissioners.
- D. A short-term rental registration terminates automatically if state statutes, regulations or guidelines are modified or changed to prohibit operation of the short-term rental under this chapter.

8.10.060 Standards and Conditions

Any short-term rental must comply with the following standards at all times, in addition to any other state and local requirements:

- A. Dwelling Unit. The short-term rental must be operated within a legally-established, permanent dwelling unit.
 1. The dwelling unit associated with a short-term rental shall not have been established through a land use approval or other approval process that specifically limited the use of the dwelling unit, the occupancy of the dwelling unit, or the duration of the existence of the dwelling unit. Examples of non-qualifying dwellings include those approved as an accessory farmworker dwelling, a caretaker dwelling, or a temporary dwelling for care.
 2. Guest houses may only be used as a short-term rental if the guest house has been legally-established and where a registrant can demonstrate that the structure is equipped with indoor plumbing, a water closet, lavatory, shower, bathtub or combination bath/shower.
 3. Temporary sleeping accommodations such as tents and recreational vehicles are not considered to be dwelling units under the county's zoning and development ordinance and may not be used as a short-term rental.
- B. Maximum Overnight Occupancy. The number of overnight occupants in the short-term rental shall not exceed the number of occupants authorized in the registration. The maximum overnight occupancy shall be clearly posted in the short-term rental, disclosed in any advertising of the availability of the short-term rental, and included in any rental agreement with tenants. The maximum overnight occupancy authorized in the registration for the short-term rental shall be calculated as follows:
 1. Two occupants per sleeping area, plus four additional occupants.

2. Roll-out beds, fold-out couches, or other similar temporary beds shall not be considered a “sleeping areas” for the purposes of calculating maximum allowed occupancy, but could accommodate the four additional occupants.
 3. In no case shall more than 15 occupants be authorized by a short-term rental registration. If only a portion of a dwelling unit is used as a short-term rental, all occupants, including those occupying the portion of the dwelling unit not used as a short-term rental, shall be counted toward the 15-occupant maximum.
- C. Noise. Notice shall be clearly posted in the short-term rental that identifies and informs occupants of their obligation to abide by the County’s current noise control ordinance standards (Clackamas County Code Chapter 6.05).
- D. Parking. One off-street motor vehicle parking space per two sleeping areas is required. Garage space may be used to meet required parking standards if evidence is provided that there is sufficient cleared garage space to fit a vehicle(s). All required parking spaces must be available for occupants to use.
1. If the short-term rental contains only one sleeping area, one off-street parking space is required.
 2. If the short-term rental cannot provide the required number of parking spaces based on sleeping areas, the registrant may request a reduced maximum overnight occupancy based on available parking. In no case shall the registrant advertise for, or rent to, more persons than are authorized under the reduced maximum occupancy total.
 3. Short-term rentals in dwellings approved under the “resort accommodations” category in the Rural Tourist Commercial district are not required to provide more off-street parking than was required and approved under Zoning and Development Ordinance provisions.
 4. In no event shall vehicles block access for emergency vehicles, block access to the premise, block a parked motor vehicle, or otherwise park in a manner that violates the County’s current parking and towing ordinance standards (Clackamas County Code Chapter 7.01). Violation of this section may subject the offending vehicle to immediate tow pursuant to ORS 98.853.
- E. Garbage. All garbage from a short-term rental shall be legally removed from the premises by the owner, occupant or franchised service provider at least once per week during any week, or portion thereof, in which the short-term rental is occupied. All outdoor garbage receptacles shall be covered. Recycling container(s) shall be available for use by renters.
- F. Registration Identification. The registration identification number assigned to the short-term rental by the administrator shall be included on any advertisement or rental platform where the short-term rental is offered to the public for occupancy.
- G. Building and Fire Safety. A short-term rental shall comply with all ordinances that apply to a dwelling, and all structural components shall be kept in sound condition and good repair. In addition:
1. Working smoke detectors and carbon monoxide detectors shall be installed and maintained in locations as required by the Oregon Residential Specialty Code.
 2. Working fire extinguishers shall be placed in the kitchen and next to each wood burning appliance in an easily accessible location. A minimum of two (2) extinguishers are required in each Dwelling Unit.
 3. Code-compliant pool and hot tub barriers shall be present, if applicable.

4. Every sleeping area shall have not less than one operable emergency escape and rescue opening, including basement sleeping areas. Windows must meet the egress size required when the Dwelling Unit was built and permitted. Use the chart below to determine minimum size egress window based upon the year the house was built.

Year of Construction	Sill Height	Net Opening	Min. Height	Min. Width
Prior to 1964	No requirement	5.0 Sq. feet	No requirement	No requirement
1964 to 1970	48"	5.0 Sq. feet	24"	24"
1970-1976	48"	5.0 Sq. feet	22"	22"
1976-Present	44"	5.7 Sq. feet	24"	20"

5. All exterior building exits shall be clear, operable and available to renters. For Premises located at elevations above 3,500', doors that exit under active roof snow slide zones do not need to be available or operable when snow is present, unless the exit is part of the required primary egress for the Dwelling Unit or building.
 6. All electrical wiring shall be covered, and wall outlets, switches and junction boxes shall have code-approved covers in place.
 7. Electrical panels shall have a clear working space of at least 30 inches wide in front of the panel, and a clear space 78 inches high in front of the panel. All circuit breakers and/or fuses shall be clearly labeled in the event the power needs to be shut off to a certain area or appliance.
 8. All restrictions and prohibitions for burning as determined by the local Fire District shall be observed. All wood-burning fire pits and fireplaces shall be covered or made otherwise unavailable during burn prohibition periods. Contact information for the local Fire District shall be clearly posted in the short-term rental.
 9. The dwelling shall have no open building or zoning code violations.
- H. For any short-term rental located within the Portland Metropolitan Urban Growth Boundary, the dwelling unit to be used as a short-term rental must be located on the same tract as the owner's primary residence. However, the owner is not required to be present on the tract when the short-term rental is occupied. Tract shall have the meaning given to that term in Section 202 of the County's Zoning and Development Ordinance.

8.10.70 Registration Review

- A. The administrator shall, within thirty (30) days after receipt of a complete application for a short-term rental registration and applicable fee, either issue the owner a registration or provide notice of denial.
- B. Upon approval, the administrator shall furnish notice of the approval to all property owners of record within 300 feet of the premises, and contiguous properties under the same ownership. This approval notice shall provide the name, telephone number, and address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
- C. The administrator may deny a registration application for failure to submit the materials or fee set forth in Section 8.10.040, for failure to meet the standards and conditions set

forth in Section 8.10.060, for submitting falsified information to the County, or for noncompliance with any other applicable County ordinances.

8.10.080 Examination of Books, Records and Premises

To determine compliance with the requirements of this chapter, the Clackamas County Zoning and Development Ordinance, and any local tax measures, the administrator may examine or cause to be examined by an agent or representative designated by the administrator, at any reasonable time, the premises, and any and all financial, operational and facility information, including books, papers, and state and federal income tax returns. Every owner is directed and required to furnish to the administrator the means, facilities and opportunity for making such examinations and investigations.

8.10.090 Emergency Revocation

- A. In the sole determination of the Clackamas County Building Official, when a violation of the building code or applicable county ordinance exists at a short-term rental that presents an immediate serious fire or life safety risk, the Clackamas County Building Official may immediately revoke the short-term rental registration as a fire or life safety risk. The Clackamas County Building Official shall provide written documentation of the violation, and notification of the owner's right to appeal, as provided in 8.10.100.
- B. Upon an emergency revocation, the short-term rental shall not be rented or used as a short-term rental unless the revocation is withdrawn or a new short-term rental registration has been obtained.
- C. At any time following the emergency revocation of a short-term rental registration pursuant to this subsection, the Clackamas County Building Official may reinstate the registration upon a re-inspection by the Clackamas County Building Official verifying that the subject building code or county ordinance violation has been corrected.

8.10.100 Administration and Enforcement

The County encourages owners, registrants, occupants, and affected residents and owners of nearby properties, to cooperate directly to resolve conflicts arising from the occupancy of any short-term rental. Along those lines, the first attempt to remedy a violation of any of the standards in this chapter should be to contact the representative associated with the registration, as identified in the approval notice and the required short-term rental posting. In the event that the listed representative does not respond within 24 hours or does not adequately remedy the issue, the Clackamas County Department of Finance should be notified.

- A. For acts of noncompliance, the Code Enforcement Program of the Department of Transportation and Development shall administer, supervise, and perform all acts necessary to enforce this chapter or any other chapters of the Clackamas County Code applicable to short-term rentals, except as otherwise provided for in state law or in the Clackamas County Code such as, but not limited to, those regulations for which the Clackamas County Sheriff's Office has been vested with enforcement authority.
- B. Except as otherwise provided in this chapter, Chapter 2.07 of the Clackamas County Code shall govern the process for enforcement of this chapter, including but not limited to the notice and procedures associated with any compliance hearing.

- C. An owner that operates a short-term rental without an approved registration, or fails to pay the fees prescribed herein, shall be subject to immediate citation. Additionally, an owner that fails to pay the fees prescribed herein may have their short-term rental registration immediately revoked.
- D. A person who receives a citation for violation of this chapter shall respond within fourteen (14) days of the issuance of the citation by payment of any penalties established under this chapter, or by requesting a hearing as provided in this section.
- E. In addition to citation, the Code Enforcement Program of the Department of Transportation and Development may require an inspection of the premises.
- F. In addition to citation, the Hearings Officer may:
 - 1. Suspend the short-term rental registration until the short-term rental is in compliance with the standards and conditions set forth in Section 8.10.060; or
 - 2. Revoke the short-term rental registration if there have been three separate violations of this chapter related to the same short-term rental within the applicable two-year registration period or three separate documented violations by any occupant of the same short-term rental within the applicable two-year registration period related to the County's noise control ordinance standards (Clackamas County Code Chapter 6.05) or the County's parking and towing ordinance standards (Clackamas County Code Chapter 7.01).
- G. Alleged acts of noncompliance must be based on either:
 - 1. The personal observation of the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff; or;
 - 2. A determination by the Sheriff or designee, code enforcement officer, or Clackamas County Department of Finance staff that there are reasonable grounds to conclude that the alleged acts of noncompliance did, in fact, occur, after either an investigation or following a sworn statement of a person who personally witnessed the alleged incident.

8.10.110 Penalties

Violation of this chapter shall be punishable by suspension or revocation of a short-term rental registration, or by a penalty or fine in an amount set by resolution of the Board of County Commissioners. Except in the case of an emergency revocation, any owner may not obtain or renew a short-term rental registration on the premises sooner than one year after the date of revocation.