



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD | OREGON CITY, OR 97045

August 10, 2023

BCC Agenda Date/Item: _____

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Board of County Commissioners
 Clackamas County

First Reading of Ordinance No. _____, adding Chapter 8.10, *Short Term Rentals* to the Clackamas County Code

Previous Board Action/Review	Adoption of Ord. 09-2020 on 11/25/20. Adoption of BO 2021-23 on 4/29/21. Repeal of Ord. 09-2020 by adoption of Ord. 02-2022 on 9/8/22. Board policy session on June 28, 2023.		
Performance Clackamas	Ensure safe, healthy and secure communities. Build public trust through good government.		
Counsel Review	Stephen Madkour	Procurement Review	N/A
Contact Person	Stephen Madkour	Contact Phone	503-742-5391

EXECUTIVE SUMMARY: Presently the County has no ordinance in place that regulates short-term rentals. Prior Boards did adopt amendments to County Code Chapter 8.10 but the effective dates for implementation of those amendments were delayed. Eventually, the Board repealed Chapter 8.10.

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The version being presented at this session is the result of Commissioners Savas and Shull and their policy advisors' efforts to draft a set of rules that would be easier to navigate and less cumbersome to implement and enforce. The proposed regulations allow for an applicant for a short-term rental to seek approval from the County by submitting an affidavit attesting to the accuracy of the statements and representations contained in the affidavit in exchange for registration from the County. A draft of that affidavit is included in this packet. No inspection of the property would be made by County staff. Part of that attestation is to comply with the Code section and to register and pay the county's transient lodging tax.

The proposed Code does not provide for an application fee to register a STR. The proposed Code does, however, contain an .85% administrative fee that would be applied to the total amount charged for the occupancy. If adopted by the Board, Chapter 8.10 would apply only to those areas of unincorporated Clackamas County.

The Tourism Development Council has authorized a one-time program funding amount of \$200,000 to provide start up for this test program.

A couple points for the Board's consideration:

- Do you want to declare an emergency and have this ordinance become effective immediately, or alternatively, it would be effective 90 days after adoption.
- Do you want to carve out an exception to the code for larger group housing facilities, which are primarily located up in Government Camp. If so, those facilities would still pay the Transient Lodging Tax, but would not be subject to the other requirements imposed by Chapter 6.10.

RECOMMENDATION: Staff respectfully requests that the BCC hold this hearing and schedule a second reading and public hearing on August 24, 2023.

Respectfully submitted,

Stephen L. Madkour
County Counsel

ORDINANCE NO. _____

**An Ordinance Adopting Clackamas County Code
Chapter 8.10, Short Term Rentals**

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

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

Section 1: Chapter 8.10, Short Term Rentals, of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

Section 2: This Ordinance shall be effective 30/60/90 days from the date of its adoption or the Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of this ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this ordinance will be effective upon its adoption.

ADOPTED this ___ day of August 2023.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Chapter 8.10 August 10, 2023

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 registering short-term rentals and enforcing violations of these standards.

[Added by Ord. 09-2000, 11/25/20]

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 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. 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.
- H. REGISTRATION means a short-term rental registration with the County as required by this Chapter.
- I. 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.
- J. 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.
[Added by Ord. 09-2000, 11/25/20]

8.10.040 Short-Term Rental Registration Requirements

- 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 online at _____ and at County offices. Applications for registrations for a short-term rental must be submitted to the County by a signed affidavit of compliance. The application documents must include at least the following:
 - 1. The location of the premises.
 - 2. The true names, telephone numbers, addresses, and email addresses of the property owners.
 - 3. That the use complies with all building and fire standards in Section 8.10.060(G), and all applicable requirements in Section 8.10.060(D-F).
 - 4. That the applicant has submitted a Transient Room Tax registration form to the County.
 - 5. The name, telephone number, address, and email address of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the short-term rental.
 - 6. Proof of liability insurance coverage on the short-term rental.
 - 7. Owner must prohibit STR renters from subleasing the property or otherwise using it to generate income, must terminate rental agreement immediately upon learning of such activities, and must not rent to anyone who the owner has reason to believe intends to use the STR for such activities.
 - 8. That the applicant has met and will continue to comply with the standards and requirements of this chapter.
- C. No short-term rental may be publicly advertised for rent unless it has been registered with the County
- D. A short-term rental registration terminates automatically if the property is transferred, or if state statutes, regulations or guidelines are modified or changed to prohibit operation of the short-term rental under this chapter.

[Added by Ord. 09-2000, 11/25/20]

8.10.050 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. Remittance of all applicable fees and taxes, namely a state lodging tax currently at 1.5%, Clackamas County Transient Lodging Tax, currently at 6%, and a Clackamas County STR administration fee, currently at .85% of the amount charged for occupancy of the STR.
- B. 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.
 - 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.
- C. Maximum Occupancy. The number of occupants in the short-term rental shall not exceed the number of occupants authorized in the registration. The maximum 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 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 12 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 12-occupant maximum.
- D. 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).
- E. Parking. One off-street motor vehicle parking space per 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. 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.

- F. 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.
- G. 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.
- H. The name and contact information for the responsible party shall be posted, while paying guests are on the property, in an area and size to be readily visible from the nearest public roadway.
- I. 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.
 5. The dwelling shall have no open building or zoning code violations.

[Added by Ord. 09-2000, 11/25/20]

8.10.060 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.

[Added by Ord. 09-2000, 11/25/20]

8.10.070 Emergency Revocation

- A. In the sole determination of the County, 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 inspection by the Clackamas County Building Official verifying that the subject building code or county ordinance violation has been corrected.

[Added by Ord. 09-2000, 11/25/20]

8.10.80 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 Department of Finance 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. When noncompliance is suspected, program staff shall issue two warnings in writing, at least 30 but not more than 90 days apart, advising an owner and/or registrant of a violation(s) of this chapter or 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) related to the same short-term rental.
- 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 while suspended from the program for a violation(s) of this Chapter shall be subject to immediate citation.
- D. A person who receives a citation for violation of this chapter shall respond within thirty (30) days of the issuance of the citation by demonstrating resolution of the violation and payment of any penalties established under this chapter, or by requesting a hearing as provided in this section.
- E. In addition to citation, the administrator or Hearings Officer may suspend the short-term rental registration, if the violation(s) have not been corrected within 30 days following the second warning, until the short-term rental is in compliance with the standards and conditions set forth in this Chapter.
- F. The provisions in this section do not apply if the administrator or Hearings Officer have reason to believe that the violation(s) pose an immediate threat to the health, life, and safety of occupants and may impose Emergency Revocation measures as identified in Section 090 of this Chapter.

[Added by Ord. 09-2000, 11/25/20]

8.10.90 Penalties

Violation of this chapter shall be punishable by suspension or revocation of a short-term rental registration, and/or by a penalty or fine in an amount set by resolution of the Board of County Commissioners.

[Added by Ord. 09-2000, 11/25/20]

8.10.100 Transition Provisions and Applicability Dates

It is the intent of the Board of County Commissioners that this Chapter be revisited in 2 years after the effective date of the adoption of the ordinance establishing this Chapter. At that time, the Board of County Commissioners shall evaluate the cost and efficacy of the program and make a determination whether to continue, amend, or discontinue the regulation of short-term rentals.



CLACKAMAS COUNTY REGISTRATION FORM Short-Term Rental (STR)

Property Address of STR: _____

Owner(s) Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Alternate Phone: _____

Email: _____

Contact Person: *(Contact person must be available 24 hours a day and be able to respond to complaints within two (2) hours.)*

Name: _____

Address: _____ City: _____ Zip: _____

Phone: _____ Alternate Phone: _____

Email: _____

The signer(s) of this registration form hereby attest, affirm, and acknowledge the following:

- This STR meets life-safety requirements (working smoke detector, fire extinguisher, maximum occupancy limits, etc.) and will continue to meet those requirements for the duration of STR operation.
- This STR has and will provide one off-street parking space per bedroom unless otherwise exempted by State law or County Code.
- The Owner(s) will maintain, at least, weekly garbage pickup service to the STR.
- The Owner(s) will provide the County with up-to-date contact information for the property owner or management company, and establishes a requirement that:
 - The Contact Person will be available 24/7 when the unit is rented as an STR.
 - The Contact Person will respond to guest or neighbor issues at the property within two hours of an initial call for service.
 - The Contact Person's business name and phone number will be posted on a removable sign, which must be present when paying guests are on the property and must be placed within ten feet of the roadway.

- The Owner(s) acknowledges the responsibility to collect, and remit to the County the Transient Lodging Tax in accordance with Clackamas County Code Chapter 8.02

- The Owner(s) acknowledges that they have filed a registration with the County in accordance with Clackamas County Code Chapter 8.02 at <https://www.clackamas.us/finance/transient.html#:~:text=How%20do%20%20register%20my,%2C%20Oregon%20City%2C%20OR%2097045.>

- The Owner(s) acknowledge that registration does not transfer with the property, and new ownership (including moving a property into a trust or LLC) requires re-registration.

- The Owner(s) have reviewed County Code Chapter 8.10, understand the Code provisions, and agree they will comply with those Code provisions, and will continue to meet those requirements for the duration of STR operation.

Owner Signature _____ Date _____

Owner Signature _____ Date _____

Contact Person Signature _____ Date _____

Within 30 days after receiving a registration for a new STR, STR Program staff will mail a notification to property owners using the DTD Planning Division's notification criteria.