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September 7, 2023

BCC Agenda Date/Item: _____

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Board of County Commissioners
Clackamas County

Second Reading of Ordinance No. 04-2023, 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. The first reading of Ord. 04-2023 took place on August 10, 2023.		
Performance Clackamas	Ensure safe, healthy and secure communities. Build public trust through good government.		
Counsel Review	Stephen Madkour	Procurement Review	N/A
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EXECUTIVE SUMMARY: Presently the County 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 Eventually, the Board repealed Chapter 8.10.

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 6.10 would apply only to those areas of unincorporated Clackamas County.

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

After the first reading of the proposed ordinance on August 4, 2023, the Board held a public hearing and heard from a number of constituents. Based on those comments, staff was tasked with revising the proposed ordinance to incorporate some of the concerns raised. The attached redlined version of Chapter 8.10 dated August 29, 2023 reflects those changes. Primary among them is the elimination of requiring STR owner/operator from positing their name. It is only the contact number that is required. Another change concerns loosening the parking requirements for those properties approved as "resort accommodations." The enforcement provisions under section 8.10.80 have also been refined to better align with existing code enforcement processes. Staff proposes that if adopted that the ordinance take affect 90 days from the date of adoption to allow the County to implement the program and to allow STR owners/operator an opportunity to register their operations as required by the code.

An additional point for the Board's consideration involves whether there is any interest in excluding certain zones or uses from the STR registration requirements. For example, the Mountain Recreational Resort (MMR) zone and the Rural Tourist Commercial (RTC) zone, or exempting resort accommodations, duplexes, triplexes, quadplexes, townhouses, and multifamily dwellings in those two zones. Such a change would align with the County Zoning and Development Ordinance.

RECOMMENDATION: Staff respectfully requests that the BCC hold this public hearing for a second reading of Ordinance 04-2023 which amends Chapter 8.10. Staff recommends the Board approved Ordinance 04-2023. Alternatively, if the Board were inclined to make additional changes the public hearing on the second reading could he held open and be continued to a later date.

Respectfully submitted,



Stephen L. Madkour
County Counsel

ORDINANCE NO. 04-2023

**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 90 days from the date of its adoption.

ADOPTED this 7th day of September 2023.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Chapter 8.10 August 22, 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, [lodging and resort accommodations in commercial zones](#), 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 [Clackamas.us/str](#) 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 [other](#) applicable requirements in [Section 8.10.050.60\(D-F\)](#).
 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 152 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 152-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.

~~E.~~

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.

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F. 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.

~~F.G.~~ 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 and secured to prevent spillage. Recycling container(s) shall be available for use by renters.

~~G.H.~~ Registration Identification. The registration identification number assigned to the short-term rental by the Aadministrator shall be included on any advertisement or rental platform where the short-term rental is offered to the public for occupancy.

~~H.I.~~ ~~The name and C~~contact information for the responsible party as well as the County's registration identification number 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.J.~~ 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 an [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.

- ~~A.B.~~ 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 an alleged 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. Two is the maximum number of warnings a short-term rental is entitled to receive before formal enforcement actions are initiated.
- ~~B.C.~~ 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.D.~~ 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.E.~~ 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 A 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 .0970 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.