

SEP 14 2017
TASSI O'NEIL
COUNTY CLERK (CB)

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

In the Matter of Regulating Short Term)
Rentals, Establishing Standards and) ORDINANCE #84
Fees, Providing for a Permit, and)
Creating Penalties for Violations of)
This Ordinance)

The Board of Commissioners for Tillamook County ORDAINS as follows:

Section 1. Title

This Ordinance shall be known as the "Tillamook County Short Term Rental Ordinance" and may be cited and pleaded as such and shall be cited herein as "this Ordinance", or by any reference to a section or subsection of this Ordinance.

Section 2. Authority

This Ordinance is enacted pursuant to ORS 203.035.

Section 3. Purpose

- (a) The purpose of this Ordinance is to regulate short term rentals in order to enhance public safety and livability within Tillamook County.

Section 4. Applicability

This Ordinance shall apply within the unincorporated areas of Tillamook County, including areas within urban growth boundaries, but shall not apply within the boundaries of any incorporated City. This Ordinance does not apply to Bed and Breakfasts or motels, regulated under the Tillamook County Land Use Ordinance, or to condominiums for which a state license has been granted under Oregon Administrative Rule, Chapter 333, Division 29.

Section 5. Definitions

- (a) For the purpose of this Ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory and the term "this Ordinance" shall be deemed to include all amendments hereafter made to this Ordinance.

- (b) The following definitions apply to this Ordinance:
- (A) "Contact Person". The owner or if designated on the application for a permit, the agent of the owner, authorized to act for the owner.
 - (B) "Dwelling Unit". One (1) or more rooms occupied, designed or intended for occupancy as separate living quarters and containing three (3) or more of the following:
 - Refrigeration
 - Cooking facility (including cooking stove, hot plate, range hood, microwave oven or similar facility)
 - Dishwashing machine
 - Sink intended for meal preparation (not including a wet bar)
 - Garbage disposal
 - Toilet
 - (C) "Onsite Wastewater Treatment System". Means any existing treatment and dispersal system of residential wastewater.
 - (D) "Owner". The owner or owners of a short term rental.
 - (E) "Permit". A Short Term Rental Permit.
 - (F) "Person". Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.
 - (G) "Rental". An agreement granting the use of a dwelling unit to a person. Use of a dwelling unit by a recorded owner or other person or persons without monetary consideration shall not be considered to be a rental under this Ordinance.
 - (H) "Rented". The use of a dwelling unit granted to a person in exchange for monetary consideration.
 - (I) "Renter". A person who rents a short term rental.
 - (J) "Serious Fire or Life Safety Risk." A building code or ordinance violation involving those construction, protection and occupancy features necessary to minimize danger to life from fire, including smoke, fumes or panic as well as other considerations that are essential to life safety.

- (K) "Short Term Rental". A dwelling unit (including any accessory guest house on the same property) that is rented to any person on a day to day basis for a period of less than thirty (30) days.
- (L) "Sleeping Area". A room or other space within a dwelling unit designed, intended or used for sleeping. Tents and recreational vehicles shall not be considered a sleeping area.

Section 6. Standards

- (a) All short term rentals shall comply with the following standards:
 - (A) The hours of 10:00 p.m. until 7:00 a.m. the next day are required quiet time. Renters who violate this standard may be issued a citation and be subject to a fine pursuant to this Ordinance.
 - (B) The contact person shall notify every renter, in writing, of the quiet times and that a renter may be fined for violations under this Ordinance.
 - (C) The contact person shall attempt to contact a renter by phone or in person within twenty (20) minutes of receiving any complaint concerning the conduct of a renter.
 - (D) The name and phone number of the contact person shall either be posted or provided in one of more of the following manner(s):
 - (1) Signage: If the short term rental has a sign identifying it as a short term rental, then the current name and phone number of the contact person shall either appear on the sign or otherwise be conspicuously posted so that it is visible from outside the front entrance of the short term rental. If this option is invoked, the required signage must be maintained in compliance with this Ordinance in perpetuity, or until the dwelling is no longer being utilized as a short term rental.
 - (2) Written Notification: If the short term rental does not have a sign identifying it as a short term rental, then the name and phone number of the contact person shall be posted as described in subsection 6(a)(D)(1) or shall be provided in writing to the local fire chief and to each dwelling owner located within two

hundred fifty feet (250') of the short term rental. In this case, the owner shall provide such written notice each time there is a change to the name or phone number of the contact person.

- (3) Notification by Tillamook County: In lieu of the owner providing the written notice to the local fire chief and to each dwelling owner within two hundred fifty feet (250') of the short term rental as required by subsection (D)(2) of this Section, the County will provide such written notice upon payment by the owner to the County of an additional One Hundred Dollar (\$100) fee for each such request.
- (E) The owner shall provide covered garbage containers that can be secured by means approved by the local franchised garbage hauler. The contact person shall notify guests that all garbage must be kept in secured containers provided for that purpose. As required by Tillamook County Ordinance #4, garbage shall be removed by the local franchised garbage hauler a minimum of one (1) time per week unless arrangements are made with the local franchised garbage hauler to suspend or modify service during the times when the short term rental is not rented. The contact person shall provide guests with information about recycling opportunities.
- (F) At least one (1) functioning fire extinguisher shall be accessibly located within the dwelling unit.
- (G) All plug-ins and light switches shall have face plates.
- (H) The electrical panel shall have all circuits labeled.
- (I) Ground Fault Circuit Interrupter (GFCI) protected receptacles shall be provided at outdoor locations and at kitchen and bathroom sinks.
- (J) Smoke detectors shall be placed and maintained in each sleeping area, outside each sleeping area in its immediate vicinity and in each additional story and basement without a sleeping area.
- (K) A combination carbon monoxide/smoke detector device shall be placed and maintained on each floor of a short term rental and within fifteen feet (15') of each sleeping area.

- (L) All fireplaces, fireplace inserts, and other fuel burning heat sources shall be properly installed and vented.
- (M) All interior and exterior stairways with four (4) or more steps and that are attached to the structure, must be equipped with a hand railing.
- (N) All interior and exterior guardrails, such as deck railings, must be able to withstand a two hundred pound (200#) impact force.
- (O) Emergency Escape and Rescue Openings:
 - (1) For all dwelling units constructed after the effective date of this Ordinance every sleeping area shall have at least one (1) operable emergency escape and rescue opening. Sill height shall not be more than forty-four inches (44") above the floor. Openings shall open directly into a public way or to a yard or court that opens to a public way.

Minimum net clear opening at grade floor openings shall be five (5) square feet and five point seven (5.7) square feet at upper floors. Minimum net clear height is twenty-four inches (24") and net clear width is twenty inches (20").

- (2) For all dwelling units constructed prior to the effective date of this Ordinance, every sleeping area shall have at least one (1) operable emergency escape and rescue opening that complies with subsection 6(a)(N)(1) of this Section. If no such emergency escape or rescue opening exists, then an alternative may be accepted by the Tillamook County Building Official pursuant to the currently-adopted Oregon Residential Specialty Code.
- (3) Every sleeping area in a short term rental that does not comply with either subsection 6(a)(N)(1) or 6(a)(N)(2) of this Section, shall not be used as a sleeping area and shall be equipped with a door that remains locked at all times when the dwelling unit is being used as a short term rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the short term rental. The contact person shall notify every renter, in writing, that the non-compliant sleeping area may not be used for sleeping.

- (4) At any time after a permit has been granted for a short term rental pursuant to this Ordinance, the owner may bring a non-compliant sleeping area into compliance and upon a re-inspection and certification of compliance for such sleeping area, a new permit shall be issued that includes the increase in maximum occupancy associated with bringing a non-compliant sleeping area into compliance.
- (P) Exterior hot tubs shall have adequate structural support and shall have a locking cover or other barrier to adequately protect against potential drowning when a hot tub is not available for permissive use.
- (Q) Short Term Rental Served by Sewer: The maximum occupancy for a short term rental unit shall be calculated on the basis of an average of two (2) persons per sleeping area plus an additional two (2) persons. For the purpose of maximum occupancy, those under two (2) years of age shall not be counted. Tents and recreational vehicles shall not be used to increase the number of people approved to occupy a short term rental.
- (R) Short Term Rental with Onsite Sanitation: The maximum occupancy for a short term rental unit shall not exceed the capacity of the Onsite Wastewater Treatment System. The capacity is based on the gallons per person per day. Tents and recreational vehicles shall not be used to increase the number of people approved to occupy a short term rental.
- (S) There shall be one (1) parking space available for each approved sleeping area in a short term rental, plus one (1) additional parking space. Off-street parking shall be used if physically available. If a sufficient number of off-street parking spaces are not available for the authorized number of vehicles, then on-street shall be limited to two (2) vehicles. Parking shall not, under any circumstances, hinder the path of any emergency vehicle. Trailers for boats and all-terrain vehicles may be allowed but shall not exceed the allowable on street parking for each short term rental property. Renters may be cited and fined under existing State law or this Ordinance in the event they park illegally.
- (T) The contact person shall notify every renter in writing of the required off-street parking and other parking spaces available to serve the short term rental. Language shall be included in the notice that parking shall not, under any

circumstances, hinder the path of any emergency vehicle and that renters may be cited and fined if this requirement is not adhered to.

- (U) A house number, visible from the street, shall be maintained.
 - (V) The Onsite Wastewater Treatment System must be functioning as required with no discharges to the surface of the ground, surface waters or backups inside or under the structure. The Onsite Wastewater Treatment System may not be subjected to its design flow capacity in gallons per day.
- (b) The County will provide to short term rental owners, either by direction on the County's website or by email or mail (if requested), with the Inspection Checklist in written form prior to the inspection so that the owner can determine what improvements, if any, will be needed before an inspection is scheduled. The owner shall ensure that all items on the checklist have been completed prior to the contact person calling for an inspection. All reinspections due to incomplete items will be subject to the reinspection fee described in Section 8 of this Ordinance.

Section 7. Short Term Rental Permit Required

- (a) Any new short term rental owner shall obtain a permit prior to using the dwelling unit as a short term rental. Failure to comply with this Section shall be considered a violation that may be enforced under Section 12 of this Ordinance and subject to a fine of not less than Two Hundred Fifty Dollars (\$250) and not more than Five Hundred Dollars (\$500) per day, which must be paid prior to the issuance of a Short Term Rental Permit. After being made aware of the permit requirement by the Tillamook County Department of Community Development, continuing or subsequent instances of renting without a permit shall be subject to a fine of not less than Five Hundred Dollars (\$500) and not more than One Thousand Dollars (\$1,000) per day.
- (b) The owner of each existing short term rental shall apply for and pay the appropriate fee for a Short Term Rental Permit. Within thirty (30) days of applying for the Short Term Rental Permit, it is the contact person's responsibility to contact the Tillamook County Department of Community Development to schedule an inspection and ensure that entry to the structure can be granted by a person eighteen (18) years of age or above. When a call for inspection is received by the Tillamook County Department of Community Development, the inspection will be performed before the end of the next working day.

- (c) A permit shall not be issued until a short term rental passes inspection. Once a permit is issued, a permit shall be good for one (1) year from the date issued, unless subsection 7(f)(A) applies.
- (d) In any case where an inspection is not approved by the County Inspector, the County Inspector shall allow thirty (30) days' time for minor repairs or sixty (60) days' time for major repairs, at the completion of which the owner or agent must call the Tillamook County Department of Community Development for a re-inspection. A re-inspection fee of Seventy Five Dollars (\$75) may apply. If the repairs identified in the original inspection are not rectified at the time of reinspection, the permit application shall be invalidated and the contact person must reapply and pay the requisite application and inspection fees.
- (e) All Short Term Rental Permits shall be renewed annually by the end of the month of their application anniversary date and are subject to the annual fee.
 - (A) Either at the time of initial application or upon annual renewal, an owner may pay the annual fee for multiple years in advance. In cases where the annual fee is paid for multiple years in advance, the permit will not be subject to renewal again until the anniversary date for which no advance payment was made.
 - (B) A permitted vacation rental shall not be required to pass a new inspection when a permit is renewed, except in the following cases:
 - (1) there has been a fire, flood or other event that caused substantial damage to the structure;
 - (2) the permit was revoked;
 - (3) there has been an addition or substantial modification to the structure; or
 - (4) the permit has lapsed for more than one hundred eighty (180) days.
 - (C) Billing notice will be sent to the owner in the month prior to the permit renewal date. Such payment will be due by the last business day of the anniversary month.
 - (D) If notice under subsection 7(f)(C) is provided to the owner and the payment is not received by the renewal date, a

notice that the Tillamook County Department of Community Development intends to terminate the permit shall be sent to the contact person (if applicable). This notice shall allow an additional thirty (30) days to comply with renewal provisions and shall specify that failure to comply will result in termination of the permit and the necessity to reapply as a new permit application, including a re-inspection of the dwelling unit.

- (g) The Short Term Rental Permit is transferable to a new owner, so long as the owner of record submits a Short Term Rental Permit application and agrees in writing, to comply with the requirements of this Ordinance. Notification of ownership change shall be made to the Tillamook County Department of Community Development within thirty (30) days of change.
- (h) Revocation of Permit
 - (A) If the terms and conditions of a permit are not met, including compliance with Tillamook County Ordinances #74 and #75: Tillamook County Transient Lodging Tax (TLT), the permit may be revoked as provided in Section 11 of this Ordinance. Permits that are terminated for non-renewal or non-payment under Section 7 of this Ordinance shall not be considered a revocation of a permit and shall not be subject to the procedures contained in this subsection.
 - (B) In the sole discretion of the County Building Official, when a Building Code or Ordinance violation exists at a short term rental that presents an immediate serious fire or life safety risk, the County Building Official may immediately revoke the Short Term Rental Permit as an emergency revocation and shall arrange for an expedited hearing before the Board of Commissioners pursuant to subsection 11(b)(B) of this Ordinance. The County Inspector shall provide written documentation (in layman's terms) of the violation prior to leaving the inspection site.
 - (C) Upon an emergency revocation, the short term rental shall not be rented or used as a short term rental unless the revocation is lifted and the permit reinstated or a new Short Term Rental Permit is obtained.
 - (D) At any time following the emergency revocation of a Short Term Rental Permit pursuant to this subsection, the County Building Official may reinstate the permit upon a re-inspection by the County Building Official verifying that the

subject Building Code or Ordinance violation has been corrected.

- (i) If an application for a permit or the renewal of a permit is denied, or a permit is revoked, the owner may appeal to the Board of County Commissioners by written notice delivered within thirty (30) days of denial or revocation.
- (j) Except as set forth in subsections 7(g) and 11(b)(B) of this Ordinance, a short term rental may continue to operate unless and until a permit is otherwise finally revoked as provided in Section 11.

Section 8. Fees Established

- (a) At the time an owner submits an application for a Short Term Rental Permit, the owner shall pay to the County a Two Hundred Fifty Dollar (\$250) license fee as well as a One Hundred Dollar (\$100) Dollar inspection fee for the services of a County Inspector for the initial certification required by subsection 9(a)(B) of this Ordinance.
- (b) An owner shall pay the Special Inspection fee established by the Tillamook County Department of Community Development for each re-inspection.
- (c) Except where advance payment for multiple years has been made pursuant to subsection 7(f) of this Ordinance, an owner shall pay a Two Hundred Fifty Dollar (\$250) renewal fee on the anniversary date of the Short Term Rental Permit.
- (d) The fees established by this Section shall be reviewed annually and, if necessary, increased by Board Order in amounts sufficient to reimburse the County's costs for administering the short term rental program, except that:
 - (A) The County's fee charged to short term rentals for inspections or reinspections shall not be more than amounts charged for other building inspections.

Section 9. Short Term Rental Permit Application Requirements

- (a) An application packet for a Short Term Rental Permit shall be completed and submitted to the Tillamook County Department of Community Development by the owner of the short term rental on forms provided by the Tillamook County Department of Community Development and shall include, or be followed by, the following information:

- (A) A list of all property owners of the short term rental including names, address and telephone numbers. Property ownership for the purposes of this Ordinance shall consist of those persons listed on the Tillamook County tax records.
- (B) A certification by a publicly employed Certified Building Inspector (County Inspector) which includes the following:
 - (1) That, based on an inspection, the short term rental complies with Standards found in subsection 6(a) of this Ordinance;
 - (2) The maximum occupancy for the short term rental as defined by subsection 6(a)(P) of this Ordinance; and
 - (3) A sketch or narrative describing the location of the available parking spaces as required by subsection 6(a)(Q) of this Ordinance.
- (C) The name, address and telephone numbers of the contact person who shall be responsible and authorized to respond to complaints concerning the use of the short term rental.
- (D) If the owner provides written notice to adjoining property owners pursuant to subsection 6(a)(D)(2) of this Ordinance, a copy of the letter, including all addresses, to whom notice was provided.
- (E) Notarized Affidavit: The owner shall provide to the Tillamook County Department of Community Development the signed and notarized Affidavit of Notice of Short Term Rental on a form furnished by the Tillamook County Department of Community Development verifying notice of the short term rental has been provided to adjoining property owners, at the time of Short Term Rental Permit application submittal.
- (F) Proof of liability insurance coverage on the short term rental.
- (G) Proof of garbage service from the local franchised garbage hauler.
- (H) Completed Transient Lodging Tax Registration Form (Tillamook County Ordinance #75).

Section 10. Continuation of a Short Term Rental

- (A) All short term rentals shall be subject to re-inspection by the Tillamook County Building Official every five (5) years from

the date of permit approval. The five (5) year re-inspection cycle shall commence upon date of adoption of this Ordinance.

- (B) The fee for a five (5) year re-inspection fee shall be the Special Inspection fee established by the Tillamook County Department of Community Development.

Section 11. Complaints

All complaints shall proceed as follows:

- (a) The complaining party shall first attempt to communicate with the contact person designated on the permit and describe the problem.
- (b) The contact person shall promptly respond to the complaint and make reasonable efforts to remedy any situation that is out of compliance with this Ordinance.
- (c) If the response is not satisfactory to the complaining party and if the area vacation rentals are associated to provide the service of resolving complaints, the complaining party may next use that service to resolve the complaint.
- (d) If the complaint is not resolved informally or through a vacation rental association, if used, then the complaining party may next provide a written complaint to the Director of the Tillamook County Department of Community Development, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the County. The Director of the Tillamook County Department of Community Development shall attempt to resolve the complaint. Communications shall include a written response by the County that will be provided to the contact person, complaining party, and association if there is one.
- (e) If not resolved to the satisfaction of either party, within thirty (30) days after the Director of the Tillamook County Department of Community Development concludes efforts under subsection 10(d) above, either party may appeal to the Board of County Commissioners for a hearing by written notice to the Board and to the other party.
- (f) Within thirty (30) days after a party receives notice of an appeal to the Board of County Commissioners as provided in subsection 10(e) above, each party, the short term rental association if one exists and the Director of the Tillamook County Department of

Community Development shall provide the Board of County Commissioners with copies of all prior communications related to the complaint which are in possession of that person.

Section 12. Compliance, Hearings, Revocation and Arbitration

(a) Compliance

- (A) Owners of short term rental units shall obey all applicable Ordinances of the County and shall be subject to permit revocation procedures provided in this Section.
- (B) If there have been three (3) or more violations of this Ordinance related to the same short term rental within one (1) year or if there have been three (3) or more violations of other County Ordinances related to the same short term rental within one (1) year, the Board of County Commissions may conduct a hearing to consider revocation of the permit held by that short term rental.
- (C) Written notice of closure or discontinuation of a short term rental shall be submitted to the Tillamook County Department of Community Development in writing.
- (D) Re-activation of a short term rental is considered to be a new short term rental and must comply with current requirements.

(b) Hearings

- (A) If a hearing is to be conducted pursuant to subsection 7(h), subsection 10(e) or subsection 11(a)(B), the Tillamook County Department of Community Development shall give thirty (30) days written notice to all relevant parties of the time, date and place of the hearing; that the Short Term Rental Permit may be revoked as a result of the hearing and of the allegations upon which revocation will be considered. At the hearing, each party shall present such witnesses, testimony and other evidence as that party deems relevant to the issues. At the conclusion of the hearing process, the Board of County Commissioners shall either revoke the permit, rule that the permit remains in effect or may continue the hearing.
- (B) Upon notification by the County Building Official of an emergency revocation of a Short Term Rental Permit pursuant to subsection 7(h) of this Ordinance, the County Commissioners office shall schedule an expedited revocation hearing to be held at the next available

opportunity to convene a quorum of the Board of County Commissioners and provide public notice of the hearing. In such a case, the owner shall be notified of the date, time, and place of the hearing and be afforded an opportunity to appear and be heard. At the date and time of the hearing, the Board will hear testimony from the County Building Official concerning the building code violation or Ordinance violation that lead to the emergency revocation. The contact person need not be present. At the conclusion of the hearing the Board may ratify the emergency revocation, reinstate the license or continue the hearing. In the event the Board ratifies the emergency revocation of the Short Term Rental Permit, the owner may nevertheless apply for and receive a full hearing pursuant to subsection 11(b)(A), or demand arbitration pursuant to subsection 11(c)(A) of this Ordinance.

(c) Arbitration

(A) When a permit is revoked, the owner may demand review by arbitration as permitted by Oregon law. Except as a Court may otherwise determine, the decision of the arbitrator or arbitrators shall be final and binding upon all parties to the dispute, including the owner, the County and any citizen complainant. As provided in subsection 7(j), the owner may continue to operate his or her short term rental during the arbitration process. The non-prevailing party shall pay the costs of the arbitrator but each party shall be responsible for their own attorney fees or other costs of arbitration.

(d) The provisions of this Section are in addition to and not in lieu of any other enforcement and penalty remedies contained in this Ordinance or other County Ordinance or State law.

Section 13. Enforcement, Penalties

(a) Enforcement

It shall be the duty of the Director of the Tillamook County Department of Community Development to supervise the administration and the enforcement of this Ordinance, except as otherwise specified in this Ordinance.

(b) Penalties

(A) Violation of subsections 6(a)(A) and 6(a)(Q) of this Ordinance is subject to citation and fines under the Tillamook County Code Enforcement Ordinance, Ordinance #35, as it may be amended from time to time.

- (B) Each day of violation of said provisions of this Ordinance constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.
- (C) The provisions of this Section are in addition to and not in lieu of, any criminal prosecution or penalties as provided by County or State law.

Section 14. Severability

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity or the remaining portions of this Ordinance and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance, irrespective of the portion thereby declared to be unconstitutional or invalid, be valid.

Section 15. Repeal of Conflicting Ordinances

Any portions of any other Ordinance previously enacted by this County, which are inconsistent with the provisions of this Ordinance, are hereby repealed.

Section 16. Emergency

This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

//
//
//

Date of First Reading: September 6, 2017.

Date of Second Reading: September 13, 2017.

ADOPTED this 13th day of September, 2017.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
<u>Bill Baertlein</u> Bill Baertlein, Chair	✓	_____	_____ / _____
_____	_____	_____	_____ / ✓
<u>David Yamamoto</u> David Yamamoto, Commissioner	_____	_____	_____ / _____

ATTEST: Tassi O'Neil, County Clerk

By Isabel Gilda _____
Isabel Gilda, Special Deputy

APPROVED AS TO FORM:

William K. Sargent
William K. Sargent,
County Counsel

