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TASSI O'NEIL
COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

In the Matter of Regulating Short Term Rentals, Establishing Standards, Providing for a Permit, Establishing Fees And Creating Penalties for Violations Of this Ordinance	)	ORDINANCE #69

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. Findings and Purpose

(a) The findings attached as Exhibit "A" are incorporated herein by reference.

(b) 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 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) "Owner". The owner or owners of a short term rental.

(D) "Permit". A short term rental permit.

(E) "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.

(F) "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.

(G) "Rented". The use of a dwelling unit granted to a person in exchange for monetary consideration.

(H) "Renter". A person who rents a short term rental.

(I) "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 or for a period of time of up to thirty (30) consecutive nights.

(J) "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 owner or 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 owner or 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 the following manner:

(1) 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.

(2) 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 (250') feet 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.

(E) The owner shall provide covered garbage containers that can be secured by a bungee cord or other means. The owner shall notify guests that all garbage must be kept in secured containers provided for that purpose. Garbage shall be removed a minimum of one (1) time per week unless the short term rental is not rented.

(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) Provide and maintain a smoke detector in each sleeping area, outside each sleeping area in its immediate vicinity and in each additional story and basement without a sleeping area.

(K) All fireplaces, fireplace inserts and other fuel burning heat sources shall be properly installed and vented.

(L) 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.

(M) All interior and exterior guardrails, such as deck railings, must be able to withstand a two hundred (200#) pound impact force.

(N) 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 (44") inches 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 (24") inches and net clear width is twenty (20") inches.

(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 or provide an emergency escape and rescue opening that was compliant at the time the dwelling was constructed. If no such emergency escape or rescue opening exists, then an alternative may be accepted by the Tillamook County Building Official pursuant to (A)(J)102.6 and (A)(J)102.7, Appendix J, 2008 Oregon Residential Specialty Code which is hereby adopted for this purpose.

(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 where equipped with a door, shall remain locked at all times when the dwelling 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 owner or 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 a 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.

(O) 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.

(P) The maximum occupancy for a short term rental unit shall be calculated on the basis of an average of three (3) 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.

(Q) 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 parking may be used. If otherwise permitted, trailers for boats and all terrain vehicles will be allowed in available parking spaces. Parking shall not, under any circumstances, hinder the path of any emergency vehicle. Renters may be cited and fined under existing State law or this Ordinance in the event they park illegally.

(R) The owner or 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.

(S) A house number, visible from the street, shall be maintained.

(b) The County will provide short term rental owners 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.

Section 7. Permit Required

(a) Subject to subsection 7(b) of this section, an owner shall obtain and maintain a current permit whenever a dwelling unit is used as a short term rental.

(b) Within ninety (90) days after the effective date of this Ordinance, the owner of each existing short term rental shall apply for and pay the appropriate fee for a permit. Within thirty (30) days of receipt of a completed application, the annual permit fee and compliance with section 9(a) of this Ordinance, a permit shall be issued to the owner which shall be good for one (1) year from the date issued, or such longer period as provided in subsection 7(e).

(c) Any new short term rental shall obtain a permit prior to using the dwelling unit as a short term rental.

(d) If the owner of a short term rental is unable to submit with the application the inspection certification required by section 9(a)(B) of this Ordinance, due to the unavailability of a County Building Inspector, the owner shall have until such time as the County Building Inspector is able to complete

such inspection. If an inspection is done in accordance with section 9(a)(B) and the short term rental does not pass inspection, the owner shall have twelve (12) months from the date of the inspection report to remedy all issues found.

(e) All short term rental permits shall be renewed annually on their application anniversary date and are subject to the annual fee. 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.

(f) The short term rental permit is transferable to a new owner, so long as the new owner submits a short term rental permit application and agrees in writing, to comply with the requirements of this Ordinance.

(g) If the terms and conditions of a permit are not met, the permit may be revoked as provided in section 11 of this Ordinance.

(h) 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.

(i) Unless and until a permit is finally revoked as provided in section 11 of this Ordinance, a short term rental may continue to operate.

Section 8. Fees Established

A fee of One Hundred Fifty ($150) Dollars shall be collected by the County from the owner at the time an owner submits an application for a short term rental permit and annually thereafter on the anniversary date except where advance payment for multiple years has been made pursuant to subsection 7(e) of this Ordinance. An owner shall also pay a separate fee for the services of a County Building Inspector for the initial certification required by section 9(a)(B) of this Ordinance. The fees established by this section shall be in amounts sufficient to reimburse the County's costs for administering the short term rental program. The annual license fees shall be reviewed annually and, if necessary, increased by Board Order in amounts not to exceed five (5%) percent annually. The County's inspection fee may also be reviewed annually and, if necessary, increased by Board Order, except that the amounts charged to short term rentals for inspections or re-inspections shall not be more than amounts charged for other building inspections.

Section 9. Short Term Rental Permit Application Requirements

(a) An application for a short term rental permit shall be completed and submitted to Tillamook County by the owner of the short term rental on forms provided by Tillamook County 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 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 a 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 notice to adjoining owners pursuant to subsection 6(a)(D)(2) of this Ordinance, a copy of the letter, including all the addresses, to whom notice was provided.

(E) Proof of liability insurance coverage on the short term rental.

(F) A statement that the owner of the short term rental has met and will continue to comply with the standards and other requirements of this Ordinance.

Section 10. 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 Tillamook County Community Development Director, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the County. The Community Development Director shall attempt to resolve the complaint. Communications shall include a written response by the County that will be provided to the owner, 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 Community Development Director 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 Community Development Director 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 11. 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.

(b) Hearings

(A) If a hearing is to be conducted pursuant to subsection 7(h), subsection 10(e) or subsection 11(a)(B), the County 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.

(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 section 7(i), 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 12. Enforcement, Penalties

(a) Enforcement

It shall be the duty of the Tillamook County Community Development Director 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 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 13. 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 14. 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 15. Effective Date

This Ordinance shall take effect on the ninetieth (90th) day after the date this Ordinance is adopted.

Section 16. Sunset

This Ordinance shall remain in effect for five (5) years from its effective date unless otherwise re-enacted by separate Ordinance proceedings.

Date of First Reading: September 23, 2009

Date of Second Reading: October 21, 2009

ADOPTED this 28 day of October, 2009.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
Tim Josi, Chair	✓		/
Mark Labhart, Vice-Chair	✓		/
Charles J. Hurliman, Commissioner	✓		/

ATTEST: Tassi O'Neil, County Clerk

By: Susan L. Becraft
Special Deputy

APPROVED AS TO FORM:

William K. Sargent,
County Counsel

BOARD OF COUNTY COMMISSIONERS, TILLAMOOK COUNTY ★ STATE OF OREGON ★

EXHIBIT "A"
TILLAMOOK COUNTY ORDINANCE #69

(a) Findings

(A) Over the last two (2) decades there has been a tremendous growth in the use of second homes as short term rentals to the extent that these are universally referred to as "the vacation rental industry".

(B) The vacation rental industry is now a sizeable piece of the second home market. According to the "2002 National Association of Realtors (NAR) Profiles of Second Home Owners", one (1) in three (3), or thirty-one (31%) percent of second home owners nationally say they use their properties as an investment or income producing vehicle.

(C) In Tillamook County seven thousand eight hundred (7,800) of the fifteen thousand two hundred fifty-one (15,251) homes are owned by property tax payers who reside outside Tillamook County. Based on the NAR profiles, it is estimated that about two thousand four hundred (2,400) of the seven thousand eight hundred (7,800) homes owned by absentee owners in Tillamook County are vacation rentals, also known as short term rentals.

(D) Short term rentals are allowed in Tillamook County in recognition of the fact that property owners may desire to allow others to use their home as a short term rental on occasions when the owners themselves are not using it and the accommodation option that best fulfills the desires of many guests visiting Tillamook County is a rental of a private home during their stay.

(E) In January 2009, a leading travel research firm conducted the industry's first ever dedicated market study, finding:

(1) One million two hundred fifty thousand (1,250,000) second homes are available as short term rentals.

(2) Fifty-six (56%) percent of that vacation rental market are represented by rent-by-owners,

(3) Fifty (50%) percent of the rent-by-owners are casual renters, offering their units to friends, family and by word-of-mouth.

(4) As the economy continues to place additional financial burdens on second home owners, it is expected, by industry experts, that more of these casual renters will become increasingly active.

(F) Based on the above, it is anticipated that the number of short term rentals in Tillamook County will continue to increase.

(G) It is recognized that short term rentals play an important role in Tillamook County's economy and make significant financial contributions to the communities in which they are located.

(H) It is also recognized that the vast majority of short term rental units complied with building codes at the time they were constructed and are operated responsibly by the owners.

(I) All owners of property in Tillamook County have a common interest in maintaining and promoting livable and viable neighborhoods for residents and visitors alike.

(J) The ever increasing number of short term rentals may have a cumulative negative effect on neighborhoods by creating nuisances, including but not limited to, excessive loud noise, excessive numbers of parked vehicles interfering with access along public roadways and blocking private drives and litter migrating onto adjacent properties from untended solid waste receptacles.

(K) Public safety requires that occupancy levels and associated parking for short term rentals be regulated to ensure adequate and safe passage on public roads for emergency vehicles.

(L) Unlike hotels, motels and bed & breakfasts, that are regulated, short term rentals that are not presently regulated can result in the following circumstances or characteristics:

(1) Vacation rentals, by their nature, are commonly used for large extended family gatherings, wedding parties, reunions or other group celebrations.

(2) Because occupancy levels are not regulated, there is a tendency for short term rental guests to maximize the number of occupants in the unit either to facilitate such

events or as a way to minimize the lodging costs for each guest.

(3) Since many short term rental owners are absentee, it is difficult for them to control occupancy levels.

(4) The average household size in Tillamook County is two point seven (2.7) persons. If left unregulated, occupancy levels in short term rentals can negatively affect the increasing noise levels, traffic congestion and solid waste issues.

(5) On-site mangers are typically not present at short term rentals to deal with occupancy issues, noise, parking complaints, solid waste concerns or other types of problems that can occur with transient lodging populations.

(M) Over the last several months, the County has received complaints about short term rentals that include the following:

(1) A short term rental where two (2) bedrooms are stubbed into a garage with no windows for emergency egress and located next to a storage room containing a leaking fifty (50) gallon storage tank where diesel fuel had saturated the concrete floor.

(2) A short term rental where an uninsulated stove pipe penetrated a wood wall which was charred as a result of its improper use and installation.

(3) A short term rental occupied by guests where the floor collapsed.

(4) During salmon season, a two (2) bedroom short term rental in Netarts, at the end of the block with parking for two (2) vehicles, has hosted four (4) pickup trucks each towing sixteen to twenty-one (16' – 21') foot boats, blocking access by emergency vehicles.

(N) According to Tillamook County Sheriff Todd Anderson, who also serves as the Chair of the Tillamook County Emergency Communications District (911), the call load at the 911 Center increases dramatically during the summer months concerning second homes/short term rentals. A number of persons have complained to Sheriff Anderson concerning short term rentals. In

Cape Meares, for example, there have been a number of complaints about large groups at short term rentals.

(O) Based on the long term experience of Tillamook County's building inspectors, it has been revealed that a portion of the housing stock in Tillamook County was either unpermited when constructed, has had unpermited work since initial construction or has conditions of age and deterioration that have created unsafe conditions in the dwellings.

(P) In as much as more than fifty (50%) percent of Tillamook County's housing stock is comprised of second homes, it is reasonable to assume that a portion of those dwellings are also subject to the same unsafe conditions described and yet are also susceptible to use as short term rentals.

(Q) Short term rentals are not currently subject to the similar kinds of special fire and life safety regulations that are imposed upon other types of lodging industry facilities such as hotels, motels and bed & breakfasts.

(R) Unlike owner occupied homes, where homeowners may choose to knowingly accept risks associated with the conditions of their homes, guests of short term rentals, who pay a fee for their stay, have a reasonable expectation to the same fire and life safety safeguards that are present in the remainder of the lodging industry.

(S) The reasonable expectations to a basic level of fire and life safety protections by short term rental guests would, at a minimum, include smoke alarms, a fire extinguisher, safe electrical and heating systems, appropriate emergency egress routes in case of fire, structurally appropriate railings on stairways and decks and hot tubs with adequate structural support and safeguards to minimize the risk of accidental drowning.