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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

APR 19 2019
TASSI O'NEIL
COUNTY CLERK

In the Matter of Regulating Short Term)
Rentals, Establishing Standards and) ORDINANCE #84
Fees, Providing for a Permit, and) Amendment #1
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

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 travelers accommodations 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 with monetary compensation. Use of a dwelling unit by a recorded owner or other person or persons without monetary compensation 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 or is an occupant in 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 consecutive period less than 30 days during the year.
- (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. Any owner, contact person, or renter who violates any standards, or allows any standards to be violated, is subject to citation and fines in addition to and not in lieu of any other enforcement and penalties contained in this Ordinance or other County Ordinance or State law.
 - (A) The hours of 10:00 p.m. until 7:00 a.m. the next day are required quiet time and there shall be no unreasonable noise disruptive to neighbors during this time.
 - (B) The contact person shall notify every renter, in writing, of the quiet times.
 - (C) The contact person shall attempt to contact a renter by phone or in person within twenty (20) minutes of delivery of any complaint concerning the conduct of a renter.
 - (D) The name and active phone number of the contact person shall be posted so that it is visible from outside the front entrance of the short term rental. 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.
 - (E) No recreational vehicle, travel trailer, or tent or other temporary shelter shall be used as or in conjunction with a short-term rental. No occupancy of a parked vehicle, including recreational vehicles as defined in the Tillamook County Land Use Ordinance, in conjunction with the short-term rental is permitted.
 - (F) The owner shall provide covered garbage containers that can be secured. 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. Rentals located outside of a franchise area shall meet the provisions of Section 9(e). The contact person shall provide guests with information about recycling opportunities.

- (G) At least one (1) functioning fire extinguisher shall be accessibly located within the dwelling unit.
- (H) All plug-ins and light switches shall have face plates.
- (I) The electrical panel shall have all circuits labeled.
- (J) Ground Fault Circuit Interrupter (GFCI) protected receptacles shall be provided at outdoor locations and at kitchen and bathroom sinks.
- (K) 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.
- (L) A combination carbon monoxide/smoke detector device shall be placed and maintained on each floor of a short term rental and within 15-feet of each sleeping area.
- (M) All fireplaces, fireplace inserts, and other fuel burning heat sources shall be properly installed and vented.
- (N) 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.
- (O) All interior and exterior guardrails, such as deck railings, must be able to withstand a two hundred pound (200#) impact force.
- (P) 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)(O)(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)(O)(1) or 6(a)(O)(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.
- (Q) 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.
- (R) 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.

- (S) 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.
- (T) 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.
- (U) 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.
- (V) A house number, visible from the street, shall be maintained.
- (W) 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.
- (X) For those properties located within a tsunami inundation zone, a copy of an Oregon Department of Geology and Mineral Industries (DOGAMI) Tsunami Evacuation Brochure shall be posted in a visible location as close as possible to the main entrance of the short term rental. The brochure

shall be furnished by the Tillamook County Department of Community Development at the time of Short Term Rental Permit issuance and renewal.

- (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 re-inspections due to incomplete items will be subject to the re-inspection fee described in Section 8 of this Ordinance. The County reserves the right to modify inspection requirements at the discretion of the Tillamook County Building Official to ensure compliance with fire and life safety requirements.

Section 7. Short Term Rental Permit Required and Revocation

- (a) All short term rentals shall comply with the following requirements. Any owner or contact person who violates any requirements or allows any requirements to be violated, is subject to citation and fines in addition to and not in lieu of any other enforcement and penalties contained in this Ordinance or other County Ordinance or State law.
- (b) Any owner shall obtain a permit prior to using the dwelling unit as a short term rental. Upon notification of the permit requirement by the Tillamook County Department of Community Development, continuing or subsequent instances of renting or advertising as a short term rental without a permit shall be subject to citation and fines in addition to and not in lieu of any other enforcement and penalties contained in this Ordinance or other County Ordinance or State law. A permit shall not be issued until fines related to a violation of this Ordinance and outstanding Transient Lodging Taxes for the subject property are paid in full.
- (c) 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.

- (d) A permit shall not be issued until a short term rental passes inspection. Once a permit is issued, a permit shall be valid for one (1) year from the date issued.
- (e) In any case where an inspection is not approved by the County Inspector, the County Inspector shall allow thirty (30) days for minor repairs or sixty (60) days 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. The re-inspection fee adopted in the Community Development fee schedule may apply. If the repairs identified in the original inspection are not rectified at the time of re-inspection, the permit application shall be invalidated, and the contact person must reapply and pay the requisite application and inspection fees.
- (f) 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) A permitted 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 three (3) year inspection is required.
 - (B) 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.
 - (C) If notice under subsection 7(e)(B) 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) and owner. This notice shall allow an additional thirty (30) days to comply with renewal provisions and shall specify that failure to comply will result in expiration of the permit.
- (f) 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.

- (g) Revocation of Permit
 - (A) Violating any provision in this Ordinance, as well as non-compliance with any term or condition of a Short Term Rental permit, including non-compliance with Tillamook County Ordinances #74 and #75: Tillamook County Transient Lodging Tax (TLT), or violating any County or State law, may result in revocation of permit, denial of an application to renew a permit, enforcement and penalties as outlined in this Ordinance. Permits that are terminated for non-renewal or non-payment shall not be considered a revocation of a permit.
 - (B) In the sole discretion of the County Building Official, where 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. The County Building Official shall provide written documentation (in layman's terms) of the violation and reason for revocation 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.
 - (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 or a new Short Term Rental Permit is obtained.
- (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 to the Tillamook County Department of Community Development within thirty (30) days of denial or revocation.
- (i) The provisions of this Section are in addition to and not in lieu of any other enforcement and penalties contained in this Ordinance or other County Ordinance or State law.

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) 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) Any increase in the annual short term rental license fee shall not exceed five percent (5%) annually; and
 - (B) The County's fee 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 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) Certification by the County Building Official or their designee 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)(Q and R) of this Ordinance; and
 - (3) A site plan depicting the dimensions and location of the available parking spaces as required by subsection 6(a)(S) 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) Proof of liability insurance coverage on the short term rental.
 - (E) Proof of garbage service from the local franchised garbage hauler if rental is located within a franchise service area as outlined in Section 6(a)(E). Rentals outside of a franchise service area and where no franchise exists shall provide written confirmation at the time of short term rental permit application submittal of proposed method of garbage disposal at the time of permit application submittal.
 - (F) 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 three (3) years from the date of initial permit approval. The three (3) year re-inspection cycle shall commence upon date of adoption of this Ordinance with the re-inspection cycle of a short term rental determined from the date of initial permit approval.
- (B) The fee for a three (3) year re-inspection fee shall be the Special Inspection fee established by the Tillamook County Department of Community Development.

Section 11. Complaints

All complaints regarding short term rentals shall proceed as follows:

- (a) The complaining party shall, unless the situation justifies an immediate call to law enforcement, first attempt to communicate with the contact person designated on the permit and describe the problem.

- (b) The contact person shall respond to the complaint within the 20 minute response period and make reasonable efforts to remedy any situation that is out of compliance with this Ordinance within a reasonable timeframe.
- (c) If the contact person fails to take timely action to resolve the complaint or the complaint is not resolved satisfactorily, then the complaining party may report such failure with their contact information by any means of communication to the Director of the Tillamook County Department of Community Development. The Director shall log the complaint and contact the complaining party to assist in preparation of a written report documenting the circumstances of the complaint in writing, including available evidence regarding failure to resolve the complaint. The report shall be signed by the complaining party and a copy shall be provided to the owner and contact person. The owner and contact person may file a written response within 10 business days from the date of the Director's report. The Director shall provide a written response with a determination whether the complaint is a violation and such determination will be provided to the property owner, vacation rental management company (if applicable), complaining party, and subdivision homeowner's association (if applicable). A record of signed reports, determinations and any written responses shall be maintained by the Department and may be used in any enforcement action under this Ordinance, including but not limited to the issuance of a citation, the revocation of a permit or the denial of a request for renewal of a permit.
- (d) The provisions of this Section are in addition to and not in lieu of any other enforcement and penalties contained in this Ordinance or other County Ordinance or State law.

Section 12. Compliance, Hearings, and Arbitration

- (a) Compliance
 - (A) Owners of short term rental units shall obey all applicable Ordinances of the County, as well as all County and State laws.
 - (B) 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, may result in revocation of the permit or the denial or an application to renew a permit. Violations include but are not limited to non-compliance of the requirements of this Ordinance. Failure to comply with Transient Lodging Tax

Ordinances #74 and #75 will also result in an immediate violation.

- (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) Failure to renew a Short Term Rental Permit within the 30-days of the permit renewal date will result in permit expiration. Re-activation of a Short Term Rental Permit is considered to be a new permit and must comply with current requirements and fees.

(b) Hearings

- (A) If a hearing before the Tillamook County Board of Commissioners is to be conducted for appeal of a revoked or denied Short Term Rental Permit, the hearing shall be scheduled at the earliest possible date and the Director of Community Development shall provide thirty (30) days written notice to all relevant parties of the time, date and place of the hearing, reason for the hearing, and a description of the allegations upon which resulted in revocation or denial of the permit shall be furnished in written form to the Board of County Commissioners and relevant parties at least seven days prior to the date of the hearing. At the hearing, each party shall present such witnesses, testimony and other evidence as that party deems relevant to the issue(s). At the conclusion of the hearing process, the Board of County Commissioners shall either deny the appeal and uphold the Department of Community Development's decision to revoke or deny a permit, reinstate the permit, rule that the permit shall be approved, continue the hearing to a date and time certain where a decision will be rendered, or take the matter under advisement and issue a written decision.

(c) Arbitration

- (A) When a permit is revoked or denied, and after completing an appeal to the Tillamook County Board of Commissioners, 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. 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 penalties contained in this Ordinance or other County Ordinance or State law.

Section 13. Enforcement, Penalties

(a) Enforcement

- (A) It shall be the duty of the Director of the Tillamook County Department of Community Development to supervise the administration of this Ordinance, except as otherwise specified in this Ordinance. This Ordinance may be enforced by a member or designee of the Tillamook County Department of Community Development or a member of the Tillamook County Sheriff's Office.
- (B) Whomever issues a citation shall be responsible for representing the County and prosecuting the citation in court, unless the defendant hires an attorney, then the Tillamook County Counsel shall represent the County in court.

(b) Penalties

- (A) Any owner, contact person, or renter who violates any part of this Ordinance is subject to citation and fines.
- (B) Violations of this Ordinance shall be deemed to be a violation and shall be punishable upon conviction by a minimum fine of \$250 per day and a maximum fine of \$1,000 per day, with a total fine not to exceed \$3,000 for each citation.
- (C) Each day of violation of any part of this Ordinance constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.
- (D) The penalties in this Section are in addition to and not in lieu of any other authorized actions the County may take under other Sections of this Ordinance, and 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.

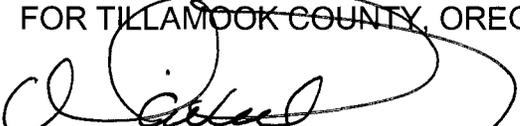
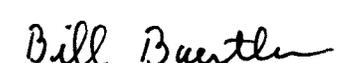
Section 16. Effective Date

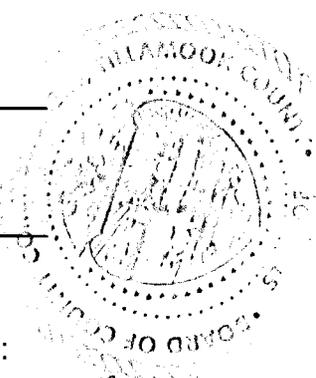
The Board of Commissioners finds that the enactment of this Ordinance is necessary for the public health, safety and general welfare, that an emergency exists and this Ordinance shall take effect immediately upon passage by the Board of County Commissioners.

Date of First Reading: March 27, 2019.
Date of Second Reading: April 15, 2019.

ADOPTED this 17th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

	Aye	Nay	Abstain/Absent
 _____ David Yamamoto, Chair	<u> 2 </u>	<u> — </u>	<u> 1 </u>
 _____ Bill Baertlein, Vice Chair	<u> ✓ </u>	<u> — </u>	<u> 1 </u>
 _____ Mary Faith Bell, Commissioner	<u> 8 </u>	<u> — </u>	<u> 1 </u>



ATTEST: Tassi O'Neil, County Clerk

By: 

Isabel Gilda, Special Deputy

APPROVED AS TO FORM:



Joel W. Stevens, County Counsel