

City Council Action Item Cover Sheet

DATE: May 1, 2019

Agenda Item:

Vacation Rental Pilot Program

Question Before Council:

Review of Pilot Program

Person/Group Initiating Request:

Council

Item Summary/Background:

In September 2017, the Council implemented a vacation rental pilot program for 2 years
(see September 6, 2017 minutes attached).

Further, Council established Ordinance 347 and Resolution 2017-10-01 regulating vacation rentals.
(see ordinance and resolution attached).

**CITY OF YACHATS
ORDINANCE NO. 347
AN ORDINANCE AMENDMENT TO
YACHATS MUNICIPAL CODE CHAPTER 4.08 RELATED TO VACATION RENTALS**

Whereas, the City has regulated vacation rentals for over twenty years so it has been able to observe the impact of the regulations on the community and observe what areas of the regulations could be improved to better obtain the desired results; and

Whereas, the City desires to maintain a strong sense of community and not overwhelm neighborhoods with short-term rentals that impact livability for owner-occupied and long-term rental homes; and

Whereas, the City has a record of responding to complaints related to vacation rentals and the impacts that these rentals have on neighborhoods, including noise, excessive trash, and parking problems; and

Whereas, setting a cap on the total number of vacation rental licenses within the City will help to maintain the community feel of our City by controlling the number of vacation rental licenses issued in the City; and

Whereas, the City has limited resources and staff that can be devoted to enforcement of vacation rental complaints, so limiting the total number of vacation rental licenses will ease the burden on City resources; and

Whereas, the City understands the needs of owners that choose to rent out their homes on a short-term basis, so the City seeks to balance the wants of such owners with the wants of their neighbors that deal with the nuisance impacts that can result from vacation rentals; and

Whereas, in order to ease the burden of vacation rentals on City staff and neighbors, so that complaints are responded to within two hours of notification, each vacation rental must have a local contact person that has authority to act in relation to the vacation rental; and

Whereas, the City wants to encourage all those property owners that engage in short-term renting of their property to license their activities so that all property owners are operating under the same rules,

NOW THEREFORE, the City of Yachats ordains as follows:

Section 1. Yachats Municipal Code Chapter 4.08.

Yachats Municipal Code Chapter 4.08 shall be amended to read as follows:

Section 4.08.010 Purpose.

The vacation rental license is in recognition of the desire of many owners to rent their property on a short-term basis and to provide for the orderly use and regulation of such rentals to

preserve the health, safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. These standards and procedures are in the addition to City ordinances and federal and state laws and regulations. The purpose of an inspection is to ensure the health and welfare of the occupants. (Ord. 328, 2014; Ord. 311, 2012; Ord. 291a, 2010; Ord. 148 § 1, 1992)

Section 4.08.020 Definitions.

“Dwelling unit” means any building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation.

“Incident” means an offensive activity or breach of the standards.

“Overnight” means anytime between the hours of 10:00 p.m. and 7:00 a.m. on the following day.

“Local contact person” means a person with the authority to take action or make decisions concerning the management of a licensed vacation rental property.

“Rental occupant” means a person over the age of four years who occupies a rented dwelling unit.

“Sleeping area” means a bedroom or loft within a dwelling unit which meets the requirements of the building code as adopted by the State of Oregon.

“Surfaced” means a gravel, paved, tile, brick or concrete surface suitable for parking a vehicle.

“Vacation rental” means a single-family dwelling, duplex or triplex which is rented, or held out as available for rent, for periods of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A dwelling which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental. It shall be a rebuttable presumption that a dwelling unit is a vacation rental if it is visited overnight by at least four different vehicles over the course of a month, for three consecutive months. The exchange of consideration is not necessary to meet the definition of a vacation rental if the dwelling otherwise is held out as available for occupancy for periods of less than 30 days. (Ord. 328, 2014; Ord. 311, 2012; Ord. 291a, 2010; Ord. 226, 2002; Ord. 148 § 1, 1992)

Section 4.08.030 Standards.

A vacation rental license shall be issued to the dwelling owner providing the following standards are met:

A. Except for individual units located on the same property, such as a duplex or triplex as defined above in Section 4.08.020, a person holding a vacation rental license or an interest in a property covered by a vacation rental license shall not be eligible to apply for or hold, as a member of a group or any other form of beneficial ownership, a vacation rental license

covering any other property. Any change of ownership, in whatever form, shall be reported to the City within 30 days.

B. Vacation rentals in residential zones shall have no more than four bedrooms. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 328, adopted November 13, 2014.)

C. A vacation rental shall comply with all applicable laws. Basic visitor rules as provided by the City must be prominently displayed on the inside of the primary exit door.

D. Each vacation rental shall have a local contact person who must live within 10 miles of the City of Yachats and be available for response to alleged violations, within two hours of notification. The contact information for the local contact person shall be kept current with the City of Yachats; identified on the vacation rental application; and available by phone at all reasonable times (8:00 am to 11:00 pm.) and respond within two hours if there is a problem during the dwelling's use as a vacation rental. The City license, with the name and phone number of the local contact, shall be posted on the front of the vacation rental building, where the public can easily read it. The license placard furnished by the City will be a specific color matched to property management companies, to further assist the public in identifying the responsible party. The house number for the vacation rental shall be prominently displayed on the exterior of the building, using numbers at least four inches in height, and be readily visible from the street. A copy of the local contact person agreement, in a form approved by the City, which lists the duties and responsibilities of the local contact person, signed by both the property owner and the local contact person, shall be filed with the City, and kept current.

E. One on-property parking space, as defined in Section 9.04.030 for off-street parking, shall be provided for each bedroom in the dwelling, but in no event shall fewer than two spaces be provided for the vacation rental. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 226, adopted 1/15/2002.) If access to the rental property crosses private property via an easement, right-of-way, or other conveyance all parking must be contained on the rental property. Owners are required to provide parking that is unimpeded, surfaced, useable and available to renters. The parking shall be mapped and posted in the home, and a copy given to the City with the vacation rental license application, and again whenever the location of designated parking spaces change. The owner shall require renters to use only the parking spaces that are surfaced and marked on the map.

F. The maximum number of overnight vehicles allowed on the property shall not exceed the number of surfaced parking areas on the property or six vehicles, whichever is less. Daytime parking is limited to surfaced parking on the property. If access to the rental property crosses private property via an easement, right-of-way, or conveyance, ingress and egress must be accomplished without encroachment on other properties adjoining the privately maintained access road or driveway. In such situations applicants will provide evidence of their right to use the privately maintained access road or driveway consistent with vacation rental before a vacation rental license is granted.

G. There shall not be any noise, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental that violates Yachats Municipal Code.

H. The maximum allowable number of overnight occupants shall be two persons per sleeping area plus two additional persons per vacation rental. The rental agent shall match the

number of persons and vehicles to the particular property being rented. Advertisements for the rental shall not list a number of occupants that exceeds the number authorized by the City. Recreational vehicles, campers, tents and similar structures shall not be allowed on vacation rental properties. Parking a boat trailer of moderate size, with or without a boat, is permitted as a substitute for one vehicle.

I. Weekly solid waste collection service shall be provided. A sufficient number of suitable garbage receptacles shall be provided and must have bear-proof mechanisms. Except on collection day, these garbage receptacles shall not be readily visible from the street. Renters shall be advised not to place trash outside in plastic bags.

J. Each vacation rental shall provide and maintain a container for the disposal of cooking grease into a solid waste receptacle to prevent the grease from entering the sewer system.

K. All pets must be under control at all times. Methods of control include a leash or demonstrated effective voice command. The person having the control, custody or possession of a dog shall clean up after the dog by using a dog waste bag or other suitable method.

L. Vacation rental licenses are non-transferable.

M. The licensee must comply with the requirements of the occupancy tax ordinance as a condition for issuance or renewal of a vacation rental license.

N. Licensees shall keep all information on the GoYachats website current and notify City Hall of any changes in mailing address, email address or agent or contact person. Email addresses, mailing addresses and phone numbers for the owner, local contact person and person responsible for tax reporting shall be kept current with the City. Failure to keep contacting information current shall constitute a violation of this Chapter.

O. Licensees may not advertise a vacation rental for a higher occupancy than the maximum allowable number of overnight occupants listed on the license.

P. Vacation rentals shall comply with the standards in this section, whether or not the vacation rental is occupied by a renter, owner, or other person.

(Ord. 328, 2014; Ord. 324, 2013; Ord. 311, 2012; Ord. 291, 2010; Ord. 237, 2003; Ord. 226, 2002; Ord. 191, 1997; Ord. 148 § 3, 1992)

Section 4.08.040 Inspection, license and annual fee.

A. The City shall prepare an application form for a vacation rental license. Prior to issuance of a vacation rental license, the City will inspect the subject property to determine occupancy capacity, parking and access compliance. Upon receipt of the completed application, the annual license fee, inspection and attestation that the licensing standards have been met, the City shall issue a license to the applicant (not the dwelling) for a period of one year. The license may be renewed annually if all standards are met. If a license is renewed annually until at least five consecutive years have elapsed the City will re-inspect before issuing a license for the sixth year. The City retains the right to re-inspect the property at any time. Complaints received by the City may trigger a re-inspection. An inspection fee will be assessed for the initial inspection, for additional inspections undertaken due to complaints, and for each five-year inspection completed by the City. A vacation rental licensee shall not be required to pay a business occupation license

fee in addition to the annual license fee. The annual license and inspection fees shall be set by resolution of the City council. All fees are non-refundable.

B. All licenses shall be obtained prior to any rental of the property. The required application and license fee are due on January 1 of each year for the fiscal year commencing with that date and are delinquent on February 1. The delinquency fee will be set by resolution.

C. Upon the effective date of this ordinance, the City shall stop issuing new vacation rental licenses, and establish a cap of 125 licenses. City staff shall process fully-completed applications that have been submitted up to that date. Applications submitted prior to the effective date of this ordinance that are missing information or are otherwise incomplete as of the effective date of this ordinance shall not be processed. The provisions in this subsection on issuing new licenses shall be in effect from October 15, 2017 through October 14, 2019. Prior to that date, City Council will consider the status of current vacation rental licenses and may consider whether to begin accepting applications for new licenses. That determination must be made of record prior to the expiration of this provision, in the form of an ordinance amendment. For license renewals each year, priority will be given to existing licenses seeking renewal, so long as the renewal application is delivered to the City by December 29, or the next business day if December 29 falls on a day City Hall is closed. After December 29, if existing licenses are below 125 in total number, and there are licenses available after accounting for all license renewal, new applications will be accepted on a first-come-first-served basis, with process identified through administrative policy. (Ord. 328, 2014; Ord. 311, 2012; Ord. 291, 2010; Ord. 284, 2009; Ord. 199 § 1, 1997; Ord. 148 § 4, 1992)

Section 4.08.050 Complaints.

All complaints shall be in writing on a form provided by the City and signed by the complainant. The complainant must show or attest that they have made a timely attempt to resolve the issue with the person representatively responsible for management of the property. The complainant is expected to initiate the process while the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations. All complaints filed with the City shall be verified by the City for validity.

A. When a complaint is filed that is verified by the City to be valid, the owner and local contact person will be notified in writing by mail or email, and provided with a copy of the complaint. Either the owner or the local contact person will be required to meet with a City representative to discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, City staff will prepare a report for City council action.

B. Upon a second complaint that is verified by the City to be valid, the owner and local contact person will again be notified in writing by mail or email and provided with a copy of the complaint. Either the owner or local contact person will again be required to meet with a City representative to further discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time the City recorder will prepare a report for City council action.

C. Upon a third complaint within a 90-day period that is verified by the City to be valid, the owner and agent, if any, will be notified in writing by mail or email and provided with a copy of the complaint.

a. City staff may schedule a hearing and prepare a report for City council action.

b. The City council may schedule a hearing.

c. Either the City Manager or City Council may, without a hearing, revoke the license immediately.

d. In the event that a license is revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the council shall be filed with the City within 15 days of the notice of revocation.

D. Standards of judging complaints shall include, but are not limited to, the following:

1. Noncompliance with vacation rental license standards as stated in Section 4.08.030;

2. Monopoly of on-street parking;

3. Other offensive activities not in harmony with the residential neighborhood such as trespass, excessive noise or pets running loose.

E. The City Council, upon hearing the evidence, may (1) approve the license as it exists; (2) revoke the license; (3) impose appropriate restrictions on the operation of the license. (Ord. 328, 2014; Ord. 311, 2012; Ord. 226, 2002; Ord. 148 § 5, 1992)

Section 4.08.060 Violations—Penalties.

It is unlawful for any person so required to fail or refuse to apply for a license, or operate without a license as required herein. Any person who violates any provisions of this chapter is subject to a fine of up to \$1,000 per violation, with each day of a continuing violation constituting a separate violation. The third violation within any consecutive twelve month period shall result in revocation of the vacation rental license for twelve months, after which time the owner may reapply for a new license, in accordance with Section 4.08040(C). Violations shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended or revised. (Ord. 328, 2014; Ord. 185 § 4, 1996; Ord. 148 § 6, 1992)

ADOPTED by unanimous vote on September 6, 2017 and September 13, 2017. (Stanley, Scott, Frye, Glenn and Tooke: 5-0)

DATED this 13th day of September, 2017.

Gerald F. Stanley, Mayor

ATTESTED:

Joan Davies, City Manager

CITY OF YACHATS

RESOLUTION NO. 2017-10-01

A RESOLUTION AMENDING RESOLUTION 2014-01-01 BY SETTING FEES FOR VACATION RENTAL LICENSE, INSPECTION AND RE-INSPECTION FEES AND VIOLATION PENALTY

WHEREAS, the City has invested time and money to establish a means by which to license, administer and monitor properties offered as vacation rentals; and

WHEREAS, in an effort to streamline the application and renewal processes by transitioning to an electronic system, contracting for code enforcement and developing a data base to improve the monitoring Code violations, license renewals and tax payments; and

WHEREAS, the fees charged have not been adjusted since 2014, under Resolution 2014-01-01;

NOW THEREFORE, the City of Yachats resolves to set the annual vacation rental license fee, inspection fee, re-inspection fee and violation penalty as follows:

Section 1. License Fees.

- A. All vacation rental fees shall be determined by resolution of the City Council.
- B. Annual licensure rates, due by December 29 of any given year shall be as follows:
 - 1. \$200 per year for two bedrooms or less
 - 2. \$250 per year for three bedrooms
 - 3. \$300 per year for four bedrooms
 - 4. \$400 per year for more than four bedrooms (grandfathered only)
- C. Inspection fees and re-inspection fees shall be as follows:
 - 1. \$100 for first inspection
 - 2. \$50 for any additional trip required to conclude inspection
 - 3. \$50 for subsequent years (every five years, according to Code)

Section 2. Penalties.

- A. Violation of any provision under Yachats Municipal Code 04.08 (Vacation Rentals):
 - 1. A penalty of \$1,000 per violation, per day may be imposed upon property owner (YMC 1.12.Civil Infractions).
 - 2. Failure to register and obtain a license, or to provide a tax return shall constitute such a violation. (YMC 3.08 Occupancy Tax).
 - 3. Any apparent vacation rental for which there is no documented exchange of value shall pay to the City a \$30 per day fee, in lieu of tax, if no license was obtained. This includes non-cash exchanges of value, including barter.
 - 4. Within any 12-month period: first violation of any type, property owner receives a written warning; second violation of any type, property owner is cited with a penalty of up to \$1,000 per incident, per day; third violation of

any type, property owner's vacation rental license is suspended for a full year. Renewal of the license after one year is subject to available licenses below the 125 imposed cap.

___ **PASSED AND ADOPTED** this 11th day of October, 2017.

THIS RESOLUTION IS EFFECTIVE ON OCTOBER 15, 2017.

Gerald F. Stanley, Mayor

Shannon Beaucaire, City Manager