

AN ORDINANCE ESTABLISHING RULES AND REGULATIONS RELATING TO SHORT TERM RENTALS AND AMENDING SECTION 6.030 OF ORDINANCE 95-4

WHEREAS, Ordinance 95-4 defines short term rentals as an outright allowed use in residential zones; and

WHEREAS, the City of Manzanita wishes to establish rules and regulations relating to short term rentals within the City to ensure the safety and convenience of renters, owners and neighboring property owners; now therefore

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. The following words and phrases, as used herein, shall have the following meanings:

Contact Person. The owner or, if designated on the application for a permit, a rental agency or other agent of the owner authorized to act for the owner.

Dwelling Unit. Means one or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing four (4) or more of the following:

- refrigeration
- cooking facility (including cooking stove, hot plate, range hood, microwave, or similar facility) or wiring or venting to support same
- dishwashing machine
- sink intended for meal preparation (not including a wet bar)
- garbage disposal
- toilet
- shower or bathtub

Owner. The person who owns the dwelling unit used as or proposed to be used as a short term rental.

Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

Short Term Rental. A dwelling unit that is rented for a period not to exceed 29 days.

Section 2. Permit required. A property owner shall obtain and maintain a permit as provided in this Ordinance whenever a dwelling unit is to be used as a short term rental. A permit must be obtained prior to using a dwelling unit as a short term rental or advertising in any manner the availability of the dwelling unit for short term rental.

Section 3. Short Term Rental Application Requirements

a. Eligibility to apply for permit. A property owner who holds title or a recorded land sale contract to a property with a dwelling which has passed a final building inspection may apply for a short term rental permit. Applications will be processed in the order received by the City. At the time of processing and notification by the City, applicants shall advise the City in writing to process or to withdraw their application from consideration.

b. Application. An application for a short term rental permit shall be completed and submitted to the City by the owner of the dwelling unit on forms provided by the City. The application shall be signed by all persons shown as owners of the dwelling unit on the most recent Tillamook County Assessor's tax records. At the time of application, an inspection fee as determined by resolution of the City Council shall be paid to the City.

c. Limitations on application. Effective (*insert date of Ordinance*), a person holding a short term rental permit or an interest in a property covered by a short term rental permit shall not be eligible to apply for or hold, as a member of a group or any other form of beneficial ownership, a short term rental permit covering any other property. Any change of ownership, in whatever form, shall be reported to the City within thirty (30) days. A person shall not hold more than one short term rental permit at a time. The short term rental permit is issued to the owner and does not transfer with the sale or conveyance of the property. The transfer of the property from natural persons to a trust serving the same natural persons is deemed not be a transfer of ownership for purposes of this Ordinance.

d. Initial inspection. At the time of initial application, the dwelling unit shall be inspected by the Building Official or designee. The purpose of this inspection will be to determine the conformance of the dwelling unit with the State of Oregon Residential Specialty Code regulations related to potential safety issues. Applicants must correct any identified deficiencies before a short term rental permit is issued.

e. Permit issuance. Except as provided in Section 3(f) below, the owner shall be issued a permit for a short term rental upon completion of all required forms, approval of the dwelling unit by the Building Official or designee, and payment of the annual permit fee as determined by resolution of the City Council. Such annual permit fee may include an amount which may be credited towards the transient lodging tax due to the City under Ordinance 87-5.

f. Waiting list in certain areas. If the dwelling unit is located within the area subject to the cap placed on the number of short term rentals by Section 6.030(3)(a) of Ordinance 95-4 and no permits are available, the owner who is otherwise eligible to receive a permit will be placed on a waiting list. As a permit within the capped area becomes available, it will be issued to the owner whose application has been on the list for the longest time.

g. Hardship permit. The City Council at its discretion may approve a special hardship permit where it is determined that a medical condition, death of a spouse or other extraordinary financial burden is likely to jeopardize the owner's ability to maintain ownership of the designated property. The Council may attach a time limit with a hardship permit, and this permit shall be revoked upon the sale or conveyance of the property.

Section 4. Standards. A short term rental shall be operated to meet the following standards:

a. House Number. A house number visible from the street must be provided and maintained.

b. Identification Sign. The owner shall provide and maintain a sign attached to the outside of the dwelling unit which is no larger than 1 ½ square feet, is visible from the street, identifies the dwelling unit as a short term rental, and lists a telephone number for the applicable rental agency, if any, or other contact person.

c. Parking. Off street parking spaces for a minimum of 2 vehicles shall be provided. Such spaces shall not be blocked and shall be available for use by people using the short term rental. Location and design of parking spaces shall comply with all applicable City ordinances.

d. Contact Person. The owner shall keep on file with the City the name and telephone number of a contact person who shall be responsible for responding to questions or concerns regarding the operation of the short term rental. The contact person must be available to accept telephone calls at all times that the short term rental is rented and occupied. The contact person must be able to respond physically to the short term rental to address issues or must have arranged for another person to address issues within a reasonable timeframe.

e. Garbage Removal. The owner shall provide covered garbage containers and provide for regular garbage removal. Garbage shall be removed a minimum of one (1) time per week, unless the short term rental is not being rented.

f. Emergency information. The owner shall provide in the dwelling unit information and equipment to assist renters in dealing with natural disasters, power outages and other emergencies. The minimum information and equipment to be provided in the short term rental shall be as determined by resolution of the City Council.

g. Payment of Transient Lodging Tax. Proper reporting and payment of transient lodging taxes due to the City shall be made within thirty (30) days of each preceding calendar quarter. Failure to submit timely reports and make timely payment of short term rental taxes due may result in revocation of the owner's short term rental permit.

Section 5. Permit renewals

a. Renewal fee. Upon payment of the fee determined by resolution of the City Council, a short term rental permit may be extended for an additional twelve (12) month period. Failure to pay the required fee within sixty (60) days of the due date will result in revocation of the permit.

b. Periodic reinspection. Every short term rental permit shall be subject to reinspection of the dwelling unit by the Building Official or designee at the City's discretion, but no less than every five (5) years. The purpose of this inspection will be to determine the conformance of the dwelling unit with the State of Oregon Residential Specialty Code regulations related to potential safety issues. The City shall notify the owner at least six (6) months prior to the renewal of the short term rental permit that reinspection is required. The owner shall arrange for a reinspection by the Building Official or designee and must correct any identified deficiencies. Failure to complete correction of the identified potential safety deficiencies by the renewal due date for short term rental permits shall result in revocation of the short term rental permit.

c. Occupancy Capacity. The occupancy of a short term rental shall be specified at the time a short term rental permit is issued. That capacity shall not be increased by construction of any addition to the structure covered by the permit or by construction of any other structure located on the property.

Section 6. Penalties.

a. Fines. A person found in violation of this Ordinance or any part thereof shall be subject to the following fines:

- First Offense - \$100.00
- Second Offense - \$200.00
- Third Offense – Not to exceed \$500.00

b. Revocation of permit. In addition to the penalties specified in this section, the City may determine that an appropriate penalty is the revocation of the short term rental permit. The City Council shall hold a hearing on a proposed revocation of a short term rental permit. At the conclusion of the hearing, based on the evidence presented, the Council may: Take no action on the request for the revocation of the permit; attach conditions to the existing permit; or revoke the permit. Should a permit be revoked, the owner may reapply for a new permit 1 year after the date of revocation. Revocation of a short term rental permit shall not constitute waiver of short term rental fees and taxes due at the time of revocation.

Section 7. Severability. The separate provisions of this Ordinance are hereby declared to be independent from one another; and if any cause, sentence, paragraph, section or part of this Ordinance shall for any reason be adjudged invalid by any court of competent jurisdiction, all remaining parts shall remain in full force and effect.

Section 8. Section 6.030 (3) of Ordinance 95-4 is hereby amended to read as follows:

“Section 6.030 General Provisions Regarding Accessory Use. An accessory use shall comply with all requirements for a principal use, except as this Ordinance specifically allows to the contrary, and shall comply with the following limitations:

3. Short Term Rental. A short term rental operated according to the following standards and procedures:
 - a) A cap shall be placed on short term rentals in the R-2, R-3 and the SR-R zones. This cap shall be 17.5% of the dwelling units within these zones. This percentage cap is based on the ratio of registered short term rentals to the total number of dwelling units in the R-2 and R-3 zones as of January 5, 1994, the date this cap was initially established for the R-2 and R-3 zones. [Amended by Ord. 06-03, passed 9/18/06]
 - b) Any property owner who proposes to operate a short term rental shall make application to the City upon suitable forms furnished by the City. The application shall be signed by all persons shown as owners of the property by the most recent Tillamook County Assessor’s tax records. A property owner shall have only one short term rental permit. Where a property owner held more than one permit prior to January 5, 1994, those permits shall remain valid until sale or conveyance of the property. Where a property owner within the SR-R zone held a permit prior to September 18, 2006, that permit shall remain valid until sale or conveyance of the property, and that property shall not be included in the calculation of the percentage cap on short term rentals under subsection (a) of this section until such time as the permit is no longer valid.

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~~The short term rental permit is issued to the owner and does not transfer with the sale or conveyance of the property. At the time of initial application, the dwelling unit shall be subject to inspection by the Building Official or his designee. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the State of Oregon Residential Specialty Code. Smoke detectors are required and must be operable. [Amended by Ord. 06-03, passed 9/18/06]~~

- ~~e) — An approved visible house number is required.~~
- ~~d) — There shall be provisions for regular garbage removal. Garbage containers shall be secured and placed behind the dwelling.~~
- ~~e) — Off street parking for a minimum of 2 vehicles and a maximum of 4 shall be provided. All vehicles must be parked off the street and on the property of the dwelling being used as a short term rental. For the purposes of this Section, a vehicle includes but is not limited to cars, trucks, RV's, boats and their trailers and motorcycles. Guests of a short term rental shall complete a registration form for each vehicle which will be parked at the rental site. Registration forms shall be completed according to the instruction contained on the form. Location and design of parking spaces shall comply with all applicable City Ordinances.~~
- ~~f) — The property owner shall designate a representative who permanently resides within the 368 telephone prefix area. The owner may be the designated representative where the owner resides in the 368 telephone area. Where the owner does not reside in the 368 area, the owner shall designate a resident in the 368 telephone prefix area as his representative. The representative shall serve as a contact person if there are questions regarding the operation of the short term rental. The owner is responsible for the operation of the short term rental and ensuring that it complies with all applicable City Ordinances and regulations. The name, address, and telephone number of the representative shall be clearly posted in the dwelling and also registered with the City.~~
- gc) Owners and guests of short term rentals shall obey all applicable Ordinances and regulations of the City. Any individual found in violation of a City Ordinance shall be subject to the enforcement and penalty provisions contained in the applicable Ordinance. Any property owner who operates a short term rental dwelling in violation of the conditions of this Section shall be subject to the Abatement and Penalty provisions of Section 11.040.

~~In addition to the penalties specified in Section 11.030, the City may determine that an appropriate penalty is the revocation of the short term rental permit. The City Council shall hold a hearing on a proposed revocation of a short term rental permit. At the conclusion of the hearing, based on the evidence presented, the Council may: Take no action on the request for the revocation of the permit; attach conditions to the existing permit; or revoke the permit. Should a permit be revoked, the owner may reapply for a new permit 1 year after the date of revocation. [Section 6.030(3)(a) – (g) created by Ord. 94-3, passed April 20, 1994].”~~

PASSED FIRST READING by the Council this ____ day of _____, 2010.

PASSED SECOND READING by the Council this ____ day of _____, 2010.

APPROVED by the Mayor this ____ day of _____, 2010.

Garry R. Bullard, Mayor

ATTEST:

Jerald P. Taylor, City Manager/Recorder