

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF CLATSOP**

In the Matter of:

**An Ordinance adopting amendmens
to Chapter 5.12, Clatsop County Code,
to address processing and application
requirements for short-term rentals
within unincorporated Clatsop County,
excluding Arch Cape**

ORDINANCE NO. 18-09

Doc # _____ **RECORDED**

Recording Date: _____ **DEC 14 2018**
Doc# 2018120024

RECITALS

WHEREAS, on January 24, 2018, the Clatsop County Board of Commissioners adopted Ordinance 18-01, establishing regulations for short-term rentals in unincorporated Clatsop County, excluding Arch Cape; and

WHEREAS, Clatsop County staff from the County's Manager's Office, Assessment and Taxation, Budget and Finance, Community Development, and Public Health were assigned the responsibility of preparing an application package and establishing procedures for processing applications; and

WHEREAS in March 2018, County staff mailed application packages to 175 short-term rental owners, beginning implementation of the requirements of Ordinance 18-01; and

WHEREAS, during the course of processing returned short-term rental applications, staff identified procedural and applicaton requirements that were not foreseen and thus not included in Ordinance 18-01. Staff also identified specific items included in the ordinance that should be revised to reflect actual procedures associated with processing short-term rental applications; and

WHEREAS, on October 24, 2018, staff presented the Clatsop County Board of Commissioners with an update on the status of the short-term rental ordinance. This presentation included a discussion of possible revisions to the short-term rental ordinance that were recommended by staff; and

WHEREAS, the proposed revisions are intended to address public health concerns, codify existing procedures and clarify the process for both property owners and staff, resulting in a more efficient experience for all parties;

THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAINS AS FOLLOWS:

SECTION 1. ADOPTION

The Board of County Commissioners hereby adopts amendments to Chapter 5.12, Clatsop County Code as shown in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 2. SEPARABILITY

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. CONFORMANCE OF STATE LAW

This Ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the state of Oregon, or its agencies, or any ordinance, rule, or regulation of Clatsop County.

SECTION 4. INCONSISTENT PROVISIONS

This Ordinance shall supersede, control and repeal any inconsistent provision of any County Ordinance as amended or any other regulations made by Clatsop County.

SECTION 5. APPLICABILITY

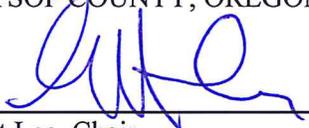
This Ordinance shall apply within the unincorporated areas of Clatsop County but shall not apply within the boundaries of any incorporated City.

SECTION 6. EFFECTIVE DATE

This Ordinance shall take effect on the 30th day following adoption by the Board of Commissioners as provided in Chapter III, Section 8(B) of the Home Rule Chapter for the Government of Clatsop County.

Approved this 12 day of December, 2018

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By 
Scott Lee, Chair

Date December 12, 2018

By 
Theresa Dursse, Recording Secretary

First Reading: 11/7/18
Second Reading: 12/12/18
Effective Date 1/12/19

EXHIBIT A

Chapter 5.12 SHORT-TERM RENTALS

Sections:

- 5.12.010 Short title.**
- 5.12.020 Purpose and findings.**
- 5.12.030 Separability.**
- 5.12.040 Conformance of state law.**
- 5.12.050 Inconsistent provisions.**
- 5.12.060 Applicability.**
- 5.12.070 Definitions.**
- 5.12.080 Standards.**
- 5.12.090 Permits required.**
- 5.12.100 Fees established.**
- 5.12.110 Complaints.**
- 5.12.120 Compliance, revocation and appeals.**

5.12.010 Short title.

This chapter shall be known as the “Clatsop County Short-Term Rental Ordinance” and may be cited and pleaded as such. (Ord. 2018-01 § 1)

5.12.020 Purpose and findings.

- A. The purpose of this chapter is to regulate short-term rentals in order to enhance public safety and livability within Clatsop County.
- B. The findings attached as Exhibit “A” to the ordinance codified in this chapter are incorporated herein by reference. (Ord. 2018-01 § 2)

5.12.030 Separability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter. (Ord. 2018-01 § 3)

5.12.040 Conformance of state law.

This chapter shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule, or regulation of Clatsop County. (Ord. 2018-01 § 4)

5.12.050 Inconsistent provisions.

This chapter shall supersede, control and repeal any inconsistent provision of any County Ordinance as amended or any other regulations made by Clatsop County except Sections 4.109 to 4.115 of the Clatsop 5.12.060 82-1 (Clatsop County Supp. No. 10, 6-18) County Land and Water Use Ordinance, which will take precedence within the Arch Cape Rural Community Overlay District. (Ord. 2018-01 § 5)

5.12.060 Applicability.

This chapter shall apply within the unincorporated areas of Clatsop County including within urban growth boundaries, but shall not apply within the boundaries of any incorporated city. Provided, for short term rentals located within an urban growth boundary, and subject to an Urban Growth Management Agreement, the relevant city comprehensive plan and zoning ordinances will apply. This chapter does not apply to hotels, motels, bed and breakfast facilities, hostels, licensed or registered campgrounds or RV parks, or other traveler's accommodation which are inspected and licensed pursuant to Oregon Administrative Rule. (Ord. 2018-01 § 6)

5.12.070 Definitions.

The following definitions apply to this chapter:

“Certified installer” means a person who is certified by DEQ to construct or install or oversee the construction or installation of onsite sewage disposal systems.

“Certified maintenance provider” means a person who is certified by DEQ to inspect, maintain, or certify or supervise maintenance on onsite systems using alternative treatment technologies, recirculating gravel filters, sand filters, or pressurized distribution systems.

“Cesspool” means a lined pit that receives raw sewage, allows separation of solids and liquids, retains the solids, and allows liquids to seep into the surrounding soil through perforations in the lining.

“Contact person” means the owner, or if designated on the application for a permit, the agent of the owner, authorized to act for the owner.

“DEQ” is the Oregon Department of Environmental Quality.

“Dwelling unit” means one room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sleeping and sanitation facilities.

“Enforcement Officer” is the Building Official and/or person designated by the Clatsop County Manager to enforce the provisions of this chapter.

“Holding tank system” means an alternative system consisting of the combination of a holding tank, service riser, and level indicator (alarm), designed to receive and store sewage for intermittent removal for treatment at another location.

“On-site wastewater treatment system” means any existing or proposed subsurface onsite wastewater treatment and dispersal system, including, but not limited to, a standard subsurface, alternative, experimental, or non-water-carried sewage system.

“Owner” is the owner or owners of a short-term rental.

“Permit” means a short-term rental permit.

“Person” means 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.

“Rental” means 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 chapter.

“Rented” means the use of a dwelling unit granted to a person in exchange for monetary consideration.

“Renter” is a person who rents a short-term rental.

“Serious fire or life safety risk” means 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.

“Sewage disposal provider” means a person with a valid license issued by DEQ to perform those services.

“Short-term rental” is a dwelling unit (including any accessory guest house on the same property) that is rented to any person or entity for a period of up to 30 consecutive nights.

“Sleeping area” is 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. (Ord. 2018-01 § 7)

5.12.080 Standards.

All short-term rentals shall comply with the following standards:

- A. No more than one dwelling unit may be rented on a single lot or parcel.
- B. All applicable County transient room taxes shall be paid pursuant to County Code of Regulations Chapter 3.16.
- C. 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 Clatsop County Code Chapter 8.12.
- D. 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 chapter.
- E. The owner or contact person shall attempt to contact a renter by phone or in person within 20 minutes of receiving any complaint concerning the conduct of a renter.
- F. The current short-term rental permit shall be permanently and prominently displayed inside and near the front entrance of the short-term rental and provided to adjacent property owners within 100 300 feet of the property, and shall list the following:
 - 1. The name, address and phone number of the owner and designated agent;
 - 2. The maximum occupancy and vehicle limits for the short-term rental unit;
 - 3. Identification of the number and location of parking spaces available;
 - 4. A map showing the property boundaries;
 - 5. For properties within a tsunami inundation zone, the tsunami evacuation route.

The property shall, within seven (7) calendar days of the issuance of the short-term rental permit, provide a notarized affidavit verifying that a copy of the permit and contact information for the designated agent has been provided to property owners within 300 feet of the subject property. Alternatively, the County may provide the required notice, provided the property owner provides

the required information and payment, as established by the Clatsop County Board of Commissioners.

- G. The owner shall provide covered garbage containers that can be secured. All garbage must be placed and be kept in secured containers provided for that purpose. Containers shall not block access to the property or dwelling unit. Garbage shall be removed a minimum of one time per week unless the shortterm rental is not rented. Owners shall provide guests with information about recycling opportunities.
- H. At least one functioning fire extinguisher shall be accessibly located on each floor within the dwelling unit.
- I. All plug-ins and light switches shall have face plates.
- J. The electrical panel shall have all circuits labeled.
- K. Ground fault circuit interrupter (GFCI) protected receptacles shall be provided at outdoor locations and at kitchen and bathroom sinks.
- L. A smoke detector must be provided 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.
- 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 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 200 pound impact force.
- P. Emergency Escape and Rescue Openings.
 - 1. Sleeping areas in premises rented as a short-term rental shall have at least one operable emergency escape and rescue opening. Sill height shall not be more than 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.
 - 2. Minimum net clear opening at grade floor openings shall be five square feet and 5.7 square feet at upper floors. Minimum net clear height is 24 inches and net clear width is 20 inches. If the emergency escape or rescue opening does not meet these standards, then an alternative may be accepted by the Clatsop County Building Official that meets the standards of the Oregon Residential Specialty Code.
 - 3. A sleeping area in a short-term rental that lacks the required emergency escape opening, shall not be used as a sleeping area. Where equipped with a door, it 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.
- 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. The maximum occupancy for a short-term rental unit shall be calculated on the basis of an average of three persons per sleeping area plus an additional two persons in the rental unit. For the purpose of maximum occupancy, those under two 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. There shall be at least one off-street parking space available for each approved sleeping area in short term rental, plus one additional parking space. If otherwise permitted, trailers for boats and all-terrain vehicles will be allowed in available off-street 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 in the event they park illegally.
- T. 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.
- U. A house number, visible from the street, shall be maintained.
- V. If the property is not connected to a public sewer the on-site wastewater treatment system must be able to handle the capacity of the number of bedrooms of the home and the total number of occupants. The owner must either provide an existing system evaluation report for on-site wastewater systems completed by a DEQ qualified evaluator, or provide current DEQ records showing appropriate capacity. Cesspools are prohibited for use with short-term rentals. A holding tank may be used if the owner has a signed pumping contract with a DEQ licensed sewage disposal service, and an alarm system that meets DEQ requirements. (Ord. 2018-01 § 8)
- W. The owner shall provide annual water sampling results for non-regulated water supplies, including private wells and springs. The results should include bacteria and nitrate levels, results for inorganic materials and volatile organic chemicals.

5.12.090 Permits required.

- A. An owner shall obtain and maintain a current permit whenever a dwelling unit is used as a short term rental.
- B. Within 90 days after the effective date of the ordinance codified in this chapter, the owner of each existing short-term rental shall apply for and pay the appropriate fee for a permit. Within 30 days of Following receipt of a completed application, the annual required permit fee and where applicable, an existing system evaluation report for onsite wastewater systems or current DEQ records showing capacity, supporting documents as listed on the application checklist, inspections will be scheduled by Clatsop County Environmental Health and Building Codes Division. Upon final approval Clatsop County Environmental Health and Building Codes Division, a permit shall be issued to the owner which shall be good for five years from the date issued, or such longer period as provided in subsection G.
- C. Any new short-term rental owner shall obtain a permit prior to using for that purpose.
- D. An application for a short-term rental permit shall be completed and submitted to Clatsop County by the owner of the short-term rental on forms provided by Clatsop County and shall include, or be followed by, the following information:
 - 1. A list of all property owners of the short-term rental including names, address and telephone numbers. Property ownership, for the purposes of this chapter, shall consist of those persons listed on the Clatsop County tax records.

2. An application for certification by the Clatsop County Building Official to verify that the short-term rental complies with standards found in section 5.12.080. including which includes the following:
 - a. ~~Based on an inspection, the short term rental complies with standards found in Section~~
 - b. ~~The maximum occupancy for the short term rental.~~
 - c. ~~A sketch or narrative describing the location of the available parking spaces.~~
 3. A certification by the Clatsop County Planning Department that the proposed use is permitted in the zone where the building is located and that no violations exist on the property.
 4. 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.
 5. Proof of liability insurance coverage on the short-term rental.
 6. 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 chapter.
- E. When a call for inspection certification application is received by the County Building Codes Division, the inspection will be scheduled for the next available regular inspection day. A permit shall not be issued until a short-term rental passes inspection.
- F. The County will have inspection checklists available so that owners can determine what improvements, if any, will be needed before an inspection is scheduled. An owner should ensure that all items on the checklist have been completed prior to calling for an inspection. All re inspections due to incomplete items will be subject to a re-inspection fee.
- G. All short-term rental permits shall be renewed every five years on their application anniversary date and are subject to a permit fee on renewal. A permitted short-term rental shall be re-inspected every five years of operation. An interim inspection will be required 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; or
 3. There has been an addition or substantial modification to the structure.
- H. 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 chapter. (Ord. 2018-01 § 9)

5.12.100 Fees established.

The Board of Commissioners of Clatsop County may, by Board Order, establish fees for applications for permits, licenses, appeals, and services provided for in this chapter. (Ord. 2018-01 § 10)

5.12.110 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 chapter.
- C. If the response is not satisfactory to the complaining party, the complaining party may lodge a complaint with the County by submitting a written complaint including the time, date and nature of the alleged violation.

- D. The County may investigate and determine whether a violation of this chapter has occurred. The property owner shall allow the County to inspect any records related to the short-term rental dwelling unit upon request of the County.
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- E. If a violation is found to have occurred, the County may take enforcement action or issue a citation for the violation, pursuant to Section 5.12.120. (Ord. 2018-01 § 11)

5.12.120 Compliance, revocation and appeals.

- A. Compliance.
1. Owners of short-term rental units shall comply with this chapter and obey all applicable ordinances and regulations of the County, and shall be subject to the enforcement and penalty proceedings contained in this chapter.
 2. If a violation of this chapter is found by the County Enforcement Officer to have occurred, the County may issue a citation pursuant to Clatsop County Code Chapter 1.11, or initiate enforcement action pursuant to Clatsop County Code Chapter 1.12.
 3. In addition to any other remedy allowed under Chapters 1.11 and 1.12 of the Clatsop County Code, the County Enforcement Official may: (a) attach conditions to the existing short-term rental permit; (b) require another inspection; (c) suspend the short-term rental permit until conditions are met; or (d) revoke the short-term rental permit.
- B. Revocation of Permit.
1. If there have been three or more separate violations (i.e., occurring on three separate dates) of this chapter related to the same short-term rental within one year, **or if the property owner fails to submit required water testing results on an annual basis,** the property owner's short term rental permit shall be revoked.
 2. Emergency Revocation.
 - a. In the sole discretion of the County Building Official, when a building code or ordinance violation exists at a short-term rental that presents an immediate serious fire or life safety risk, the County Building Official may immediately revoke the short-term rental permit as a fire or life safety risk, **the County Building Official may immediately revoke the short term rental permit as an emergency revocation.** The Building Official shall provide written documentation (in layman's terms) of the violation, and notification of a property owner's right to appeal, prior to leaving the inspection site.
 - b. In the sole discretion of the County Public Health Director, when annual water testing results indicate that testing levels may precipitate an acute public hazard, the County Public Health Director may immediately revoke the short-term rental permit as a public safety risk. The Public Health Director shall provide written documentation (in layman's terms) of the hazard, and notification of a property owner's right to appeal.**
 - bc.** Upon an emergency revocation, the short-term rental shall not be rented or used as short term rental unless the revocation is lifted and the permit reinstated or a new short-term rental permit is obtained.
 - ed.** 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.
 - de.** Notice of any conditions, suspension, or revocation established by the Enforcement Official shall be delivered by personal service or certified mail to the address of the property owner on the permit. The notice shall contain a provision on the appeal rights and date by which an appeal must be filed.
 - ef.** Should a short-term rental permit be revoked, the owner may not obtain any short-term rental permit sooner than one year after the date of revocation.

C. Appeal.

1. If an application for a permit or the renewal of a permit is denied, or an owner disagrees with a decision of the County Enforcement Officer, the owner may appeal the decision to a hearings officer by filing a request with the County Enforcement Officer within 20 days of the date of the notice of conditions, suspension or revocation. The appearance by the property owner, hearing procedure, and decision of the hearings office shall follow the process of Clatsop County Code Sections 1.12.140 through 1.12.160. If an application for a permit or 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 30 days of denial or revocation by the hearings officer.
2. Except in cases of an emergency revocation by the Building Official or Public Health Director, a short-term rental may continue to operate unless and until a permit is otherwise revoked in a final decision.

D. Costs. Any property owner found in violation of the provisions of this chapter shall be required to reimburse the County for its costs of enforcement including reimbursement of staff time, investigation costs, mailings, service fees, mileage and other costs related to the investigation and prosecution of the violation in question.

E. Additional Remedies. The provisions of this section are in addition to and not in lieu of any other enforcement and penalty remedies contained in this chapter or other County ordinance or State law. (Ord. 2018-01 § 12)