

ORDINANCE NO. 21-05

**AN ORDINANCE ESTABLISHING A
SHORT-TERM RENTAL OPERATOR LICENSE FEE**

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 a Short-Term Rental Operator License Fee; now therefore

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

Section 1. Definitions.

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 the term "this Ordinance" shall be deemed to include all amendments hereafter made to this Ordinance.

The following words and phrases, as used herein, shall have the following meanings:

City. The City of Manzanita.

City Council. The City Council of the City of Manzanita, Oregon.

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 appliance) 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

Fee Administrator. The City Manager of the City of Manzanita or designee.

Occupancy. The use or possession, or the right to the use or possession, for lodging or sleeping purposes, of any rooms of a Short-Term Rental.

Operator. The Person who is the proprietor of the Short-Term Rental in any capacity. Where the Operator performs functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an Operator for the purposes of this Ordinance are jointly and severally liable and shall have the same duties and liabilities as the Operator.

- Owner. Any Person who, alone or jointly, has title to or an Ownership interest in any Dwelling Unit 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.
- Rent. The full consideration charged, whether or not received by the Operator, for the Occupancy of the Short-Term Rental valued in money or in goods, labor, credits, property, or other consideration valued in money, without any deduction. Except as otherwise provided in this Ordinance, Rent includes all fees, charges and assessments (including but not limited to processing fees, cleaning fees or fees for maid service and pet fees) charged, assessed or allocated by the Operator for the Occupancy of the Short-Term Rental, the payment for which is not optional and not refundable. Rent does not include:
1. Any taxes, fees, or assessments levied by any other governmental entity.
 2. The sale of any goods or services which are separate and independent from Occupancy.

Short-Term Rental. A Dwelling Unit that is Rented to any Person on a day-to-day basis or for a period of less than thirty (30) consecutive nights.

Short-Term Rental License. A permit to operate a Short-Term Rental in accordance with this and all City Ordinances. The licensing year is August 1st to July 31st of the following year and the fee of which is not subject to proration.

Section 2. Fee Imposed. For the privilege of operating a Short-Term Rental within the City of Manzanita, the property Owner of a Short-Term Rental shall pay to the City a quarterly Short-Term Rental Operator License Fee based upon gross revenue receipts of the rental each quarter. This quarterly license fee is due within thirty (30) days at the end of each quarter on any Short-Term Rental accommodation where rental Occupancy is less than thirty (30) consecutive days. If the rental Occupancy exceeds twenty-nine (29) consecutive nights, the revenue received for this stay shall not be included the gross revenue for that quarter. The Fee imposed by this Ordinance shall apply only to those Transient Lodgings located within the incorporated area of the City of Manzanita.

Section 3. Collection of Short-Term Rental Operator License Fee; Rules for Collection.

- a) Every Short-Term Rental Owner renting a Short-Term Rental within Manzanita, the Occupancy of which is not exempted under the terms of this ordinance or Manzanita Ordinance 10-03 and Manzanita Ordinance 16-03, shall pay the quarterly Short-Term Rental Operator License Fee.
- b) The Fee Administrator shall enforce the provisions of this ordinance and shall have the power to adopt rules and regulations consistent with this Ordinance as may be necessary to aid in the enforcement.
- c) The Short-Term Rental Operator License Fee shall be assessed in accordance with the Short-Term Rental Operator License Fee table included as “Exhibit A”.

Section 4. License required. A property Owner shall obtain and maintain a license as provided in this Ordinance for any qualified Dwelling Unit that is to be used as a Short-Term Rental. A license shall 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. A Short-Term Rental License shall be surrendered immediately to the City upon sale of the property or cessation of use as a Short-Term Rental at the address named on the license.

Section 5. Due Date; Returns and Payments.

- a) The Short-Term Rental Operator License Fee imposed by this ordinance shall be paid by the Owner of the Short-Term Rental to the Fee Administrator and is due and payable to the Fee Administrator on a quarterly basis on the last day of the following month for the preceding three (3) months and is delinquent on the first day following the month in which the Short-Term Rental Operator License Fee is due.
- b) The Short-Term Rental Operator License Fee shall be filed in such form as the Fee Administrator may prescribe for payment of the quarterly license fee, even if no Short-Term Rental activity has taken place within a quarter.
- c) The person required to file the quarterly Short-Term Rental Operator License Fee shall deliver the fee, together with the remittance of the amount of the fee due, to the Fee Administrator's office, either by personal delivery, by US mail, or electronically. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- d) For good cause, the Fee Administrator may extend for not to exceed one month the time for making any return or submittal of fees. No further extension shall be granted, except by the City Council. Any Short-Term Rental Owner to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of fees due. If a quarterly payment is not submitted, and the license fee and interest due is not paid by the end of the extension granted, then the interest shall become a part of the quarterly Operator fee for computation of penalties described elsewhere in this ordinance.

Section 6. Penalties, Interest and Revocation

- a) **Penalty-Original Delinquency.** Any Short-Term Rental Owner who has not been granted an extension of time for remittance of fees due and who fails to remit the Short-Term Rental Operator License Fee imposed by this ordinance prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the Short-Term Rental Operator License Fee due in addition to the amount of the quarterly Short-Term Rental Operator License Fee.
- b) **Penalty-Continued Delinquency.** Any Short-Term Rental Owner who has not been granted an extension of time for remittance of Short-Term Rental Operator License Fee due, and who failed to pay a delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the license fee due plus the Short-Term Rental Operator License Fee and the ten percent (10%) penalty first imposed.
- c) **Penalty-Fraud.** If the Fee Administrator determines that the nonpayment of any

remittance due under this Ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the Fee shall be added thereto in addition to the penalties stated in A and B of this Section.

- d) Interest. In addition to the penalties imposed, any transient lodging rent collector who fails to remit any fee imposed by this ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof without proration for portions of a month, on the amount of the fee due, exclusive of penalties, from the date on which the remittance first become delinquent until paid.
- e) Penalties and Interest Merged with Fee. Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the fee herein required to be paid.
- f) Petition for Waiver. Any Short-Term Rental Owner who fails to remit the quarterly Short-Term Rental Operator License Fee herein levied within the time herein stated shall pay the penalties herein stated; provided however, Short-Term Rental Owner may petition the Board of Commissioners for waiver and refund of the penalty or any portion thereof, if a good and sufficient reason is shown, and waive and direct a refund of the penalty or any portion thereof.
- g) Revocation. 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 a Short-Term Rental permit, revocation of a Short-Term Rental Operator license, denial of an application to renew a permit or license, and enforcement and penalties as outlined in this ordinance. Licenses that are terminated for non-renewal or non-payment will result in revocation of a Short-Term Rental permit.

Section 7. Refunds

- a) Refunds by the City to the Short-Term Rental Owner. Whenever the amount of any Short-Term Rental Operator fees, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Fee Administrator under this ordinance, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Fee Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Fee Administrator. If the claim is approved by the Fee Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the Short-Term Rental Owner from whom it was collected or by whom paid and the balance may be refunded to such transient lodging rent collector, his/her administrators, executors, or assigns.

Section 8. Administration

- (a) Examination of Records; Investigations. The Fee Administrator or its agent, may examine during business hours the books, papers, and accounting records relating to transient lodging sales of any Short-Term Rental Owner after notification to the Short-Term Rental Owner liable for the Short-Term Rental Operator License Fee, may obtain copies of the records, and may investigate the information pertaining to the Short-Term

Rental in order to ascertain and determine the Short-Term Rental Operator License Fee amount required to be paid based upon the information provided.

Section 9. Appeal to the Board of Commissioners

Any person aggrieved by any decision of the Fee Administrator may appeal to the City Council by filing notice of appeal with the Fee Administrator within twenty (20) days of the serving or mailing of the Short-Term Rental Operator fee collection notice or a decision given by the Fee Administrator. The Fee Administrator shall transmit such notice of appeal, together with the file of such appealed matter to the City Council who shall fix a time and place for hearing such appeal. City Council shall give appellant not less than twenty (20) days written notice of the time and place of hearing of such appealed matter.

Section 11. Severability

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional or otherwise invalid such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 12. Violations

It is unlawful for any Short-Term Rental Owner or other person so required, to fail or refuse to register, furnish any required return, furnish a supplemental return, or other data required by the Fee Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due under this ordinance.

Section 13. Penalties

Violation of any provision of this Ordinance shall be considered a Class A Civil Infraction enforceable under the procedures described in Manzanita Ordinance No. 15-01 and subject to penalties described therein. The remedies provided by this section are not exclusive and shall not prevent the City of Manzanita and/or the Fee Administrator from exercising any other remedy available under the law and this Ordinance, nor shall the provisions of this Ordinance prohibit or restrict the City of Manzanita or other appropriate prosecutor from pursuing criminal charges under State law or City Ordinance. Each day that a violation remains uncured is a separate infraction.

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PASSED FIRST READING by the Council this ___ day of _____, 2021.

PASSED SECOND READING by the Council this ___ day of _____, 2021.

APPROVED by the Mayor this ___ day of _____, 2021.

Exhibit A

**Quarterly Operator Fee Based on Gross Receipts
Short-Term Rentals**

<u>Gross Receipts - 2021 Q2</u>	<u># Units</u>	<u>Quarterly Operator Fee</u>
None		\$0
\$1- \$4,999		\$50
\$5,000-\$9,999		\$100
\$10,000-\$19,999		\$200
\$20,000-\$29,999		\$300
\$30,000-\$39,999		\$400
\$40,000-\$49,999		\$500
\$50,000 or more		\$600
TOTAL		