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ORDINANCE NO. 16-05

AN ORDINANCE AMENDING SECTIONS 1 THROUGH 6 OF ORDINANCE NO. 10-03 RELATING TO RULES AND REGULATIONS FOR SHORT TERM RENTALS

WHEREAS, Ordinance No. 10-03 established rules and regulations relating to short term rentals within the City to ensure the safety and convenience of renters, owners and neighboring property owners; and,

WHEREAS, the City Council determines that it is the public interest to clarify the rules and regulations to make them more understandable and enforceable; now, therefore,

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

SECTION 1. Sections 1 through 6 inclusive of Ordinance No. 10-03 are hereby amended to read as follows:

“Section 1. 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 the term "this Ordinance" shall be deemed to include all amendments hereafter made to this Ordinance.

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

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

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

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.

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

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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 ~~for a period of 29 consecutive days or less per rental period~~ 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. License required. A property owner shall obtain and maintain a license as provided in this Ordinance ~~whenever a~~ for any qualified dwelling unit that is to be used as a short term rental. A license ~~must~~ 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.

a. Short Term Rental License. The short term rental license shall state the address of the short term rental, the name and phone number of the local contact person(s), the maximum allowable number of overnight occupants, the license number, the expiration date of the license, and any other information required by the City of Manzanita. The license shall be prominently displayed in the rental so as to be seen and readily noticed by any and all occupants. Such license also will serve as the Manzanita Certificate of Authority required by the Manzanita Transient Lodging Tax Ordinance No. 16-03.

~~Advertising the availability of a dwelling unit for rent on a short term rental basis without first obtaining the license required by this section shall constitute a rebuttable presumption of a violation of this section.~~

It is a Class A Civil Infraction as provided in Ordinance No. 15-01 to rent or make a dwelling unit available for rent as a short term rental without obtaining the license required by this section or to rent the property on a short term basis without the current license posted conspicuously in the rental property as required above.

b. Advertising. All advertising soliciting business for a short term rental shall include the license number issued by the City of Manzanita to the rental owner. All advertisement appearing through any medium including any print, electronic, or audio media, including, but not limited to, advertisements appearing in newspapers, magazines, newsletters, flyers, internet sites, bulletin boards, or any other advertising medium, regardless of origin, distribution method, or distribution location of such medium soliciting reservations or rental availability shall include the short term rental license number. Such identification shall appear as "MCA #" (Manzanita Certificate of Authority) followed by the City-issued license number in a readable size and font, and be placed in such location that it is readily noticed as a part of the advertisement.

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It is a Class C Civil Infraction as provided in Ordinance No. 15-01 to place advertising soliciting business by any means for the short term rental property without having the short term rental license number included.

Section 3. Short Term Rental License Requirements.

a. Eligibility to apply for license. A property owner who holds title or a recorded land sale contract to a property with a dwelling unit which has passed a final building inspection may apply for a short term rental license. 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 license shall be completed and submitted to the City by the owner of the dwelling unit on forms provided by the City. The application shall identify and be signed by all persons shown as owners or having any beneficial ownership in any form of ownership of the dwelling unit on the most recent Tillamook County Assessor's tax records or recorded title. Any additional cost incurred by the City in obtaining verification of such information shall be added to the cost of the license. At the time of application, an ~~inspection~~ application fee as determined by resolution of the City Council shall be paid to the City. The fee shall include the cost of the initial health and safety inspection and one follow-up inspection. Additional inspections, including pre-purchase inspections, are available for an additional fee. A short term rental applicant must have the initial inspection completed and all deficiencies corrected within six months of the application submittal date. Failure to complete the inspection process within six months of the application submittal date shall result in the expiration of the application.

c. Limitations on application. Effective June 4, 2010, a person holding a short term rental license or an interest in a property ~~covered by~~ for which a short term rental license has been issued 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 license covering any other property within Manzanita. A short term rental license may be issued only for a single dwelling unit on a single property or for a single dwelling unit within a duplex on a single property.

~~Any change of ownership of a short term rental, in whatever form, shall be reported to the City within thirty (30) days prior to closing. A person shall not hold more than one short term rental license at a time. The short term rental license is issued to the owner and does not transfer with the sale or conveyance of the property. All short term rental license holders must report to the City any change of ownership of their short term rental, in whatever form, before the conveyance deed is recorded. The transfer of the property from (1) natural persons a natural person(s) to a Trust serving the same natural persons person(s) or to a family member pursuant to will a Trust or (2) the transfer of ownership pursuant to a will or bequest upon the death of the owner is not deemed not to 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 City 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, and with all other standards required by the City. Applicants must correct any identified deficiencies and a final safety inspection must be passed before a short term rental license is issued.

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e. License issuance. Except as provided in Section 3(f) below, the owner shall be issued a license for a short term rental upon completion of all required forms, inspection approval of the dwelling unit by the Building Official or designee, and payment of the annual license fee as determined by resolution of the City Council.

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 licenses are available, the owner who is otherwise eligible to receive a license will be placed on a waiting list. The City shall notify the applicant, in writing, of the status of the pending license. If at any time the applicant chooses to withdraw their application from consideration, the applicant must do so in writing.

As a license within the capped area becomes available, it will be ~~issued~~ offered to the owner whose approved application has been on the list for the longest time. Within one week of notification, the license fee and all documentation required must be submitted to the City. Failure to ~~comply~~ reply submit the license fee and required documentation to the City will result in the license being offered to the next applicant on the waiting list.

g. Hardship license. The City Council at its discretion may approve a special hardship license 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 license, and this license shall be revoked upon the sale or conveyance of the property.

h. Utilization of License Required. Holders of short term rental licenses issued after June 4, 2010, including those issued to owners on the waiting list described in Section 3(f) above as of June 4, 2010, who report no rental income for a period of ~~twelve (12)~~ nine (9) months from the initial ~~reporting~~ license issuance date shall be considered as having abandoned the license, and the license shall be ~~voided~~ automatically revoked. This requirement shall apply to subsequent ~~twelve (12)~~ nine (9) month periods.

i. License Limitation on Listed Property. A property owner who holds title or a recorded land sale contract to a property which is a currently licensed short term rental who lists said property for sale, shall limit the extent of future reservations/bookings to no more than forty-five (45) days from the date the reservation was made. Any and all outstanding reservations/bookings, beyond and including the date of the recording of the deed of sale of that property, shall be cancelled.

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 ~~or Neighbor Notification~~. In addition to the signs permitted by Section 4.070 of Ordinance 95-4 the owner or rental agency may provide and maintain a sign attached to the outside of the dwelling unit which identifies the dwelling unit as a short term rental, and lists a telephone number for the applicable rental agency, if any, or other local contact person as required under Section 4(d). Such signage shall be visible from the street and shall be no smaller than 72 square inches nor larger than 90 square inches. Such sign shall include the City short term rental license number for the dwelling unit as described in Section 2(b) of this Ordinance.

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~~If the owner chooses not to provide the identification sign described above, the owner shall notify neighboring dwelling units within 100 feet from the rental dwelling unit in writing that the property is a permitted short term rental and shall provide a telephone number of the rental agency, if any, or other local contact person as required by Section 4(d).~~

c. Parking. All short term rental properties must provide ~~off~~ 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~~ to people using the short term rental. Location and design of parking spaces shall comply with all applicable City ordinances.

d. Local Contact Person. The owner shall post as required in Section 2(a) and keep on file with the City the name and telephone number of a local contact person(s) who shall be responsible for responding to questions or concerns regarding the operation of the short term rental. This information must be kept current. This information also shall be posted in a conspicuous location within the dwelling unit. Any change in local contact person must be reported to the City at least 14 days prior to the date the change takes effect. A new Short Term Rental Local Contact Person Registration form must be completed and submitted to the City, and the re-issued City license must be posted as required in Section 2(a) before the property may be again rented.

The local contact person must be available to accept and immediately respond to telephone calls on a 24 hour basis at all times that the short term rental is rented and occupied. At all other times, the local contact person shall respond within 24 hours. The local contact person must have a key to the rental unit and be able to respond physically ~~to the short term rental~~ within thirty (30) minutes to address issues at the dwelling unit or must have arranged for another person to address issues perform the same duties within the same timeframe. The name and phone number of this alternative contact person must be kept on file with the City and be listed as a secondary local contact person on the Short Term Rental License Certificate. The requirement for identifying a local contact person applies to each person or entity making arrangements for renting a given short term rental.

e. Garbage Removal. During periods of rental, the owner shall provide covered and properly secured garbage containers and provide for sideyard garbage removal. An exception to the sideyard garbage removal requirement may be allowed if the garbage container is stored in a closed area and moved to and from the curbside collection point on the same day as garbage is collected. Garbage shall be removed a minimum of one (1) time per week, unless the short term rental is not being rented. Information providing directions to community recycling facilities shall also be provided in the ~~rental~~ dwelling unit.

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 under Transient Lodging Tax Ordinance ~~87-5~~ 16-03 shall be made ~~within thirty (30) days of each~~ by the last day of the month following the preceding calendar quarter (or by the last day of the month following the preceding month if mandated by the Tax Administrator). Late tax reports and/or payments are subject to a minimum fine, plus interest and penalties as set out in Transient Lodging Tax Ordinance 16-03, even if there was zero rent to report. Failure to submit timely reports and make timely

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payment of short term rental taxes due may result in revocation of the owner's short term rental license. This provision applies to all persons responsible for transient lodging tax reporting and payment for a given short term rental.

h. **[Moved from Section 5(c) below]** Occupancy Capacity. The maximum allowable overnight occupancy for each short term rental dwelling unit shall be calculated on the basis of two (2) persons per sleeping room plus an additional four (4) persons. For this purpose, a sleeping room is defined as fully-enclosed habitable space with a heat source and an emergency ~~escape~~ egress or rescue opening.

The maximum allowable overnight occupancy of a short term rental shall be determined at the time a short term rental license is issued or renewed. That capacity shall not be increased by construction of any addition to the structure covered by the license or by construction of any other structure located on the property.

It is a Class C Civil Infraction as provided in Ordinance No. 15-01 to violate any of the standards outlined in this section

Section 5. License Renewals and Reinspections

a. Renewal Fee. ~~Upon payment of the fee determined by resolution of the City Council, a short term rental license 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 license. All short term rental licenses shall be renewed annually for the period of August 1 of the current year to July 31 of the following year provided all requirements in this Ordinance and Transient Lodging Tax Ordinance No.16-03 continue to be met. If the owner is out of compliance with the provisions of this Ordinance or any other City Ordinance, the City will not renew the license, and the property shall no longer be used as a short term rental. Failure to pay the required license renewal fee, determined by resolution of the City Council, by the annual August 1 due date shall result in the assessment of a \$25 late fee. Failure to pay the required license renewal fee within thirty (30) days of the annual August 1 due date shall be considered abandonment of the short term rental license and the license shall be subject to revocation by the City Council.~~

b. Periodic Reinspection. Every short term rental license shall be subject to reinspection of the dwelling unit by the City 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 which may be directly related to potential safety issues, and with all other standards required by the City. The City shall notify the owner of required reinspections at least six (6) months prior to the renewal date of the short term rental license ~~that reinspection is required.~~ The owner shall pay a fee as determined by resolution of the City Council and arrange for a reinspection by the City Building Official or designee and must correct any identified deficiencies. Failure to arrange for the reinspection and complete correction of the all identified potential-safety deficiencies by the annual August 1 renewal due date for the short term rental license shall result in- ~~revocation~~ be considered abandonment of the short term rental license and the license shall be subject to revocation by the City Council.

Alternatively, an owner may comply with this requirement of periodic reinspection by utilizing a building inspector currently certified by the State of Oregon as an Oregon Residential Specialty Code inspector or

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other provider approved in advance by the City. The City reserves the right to modify such reinspection requirements and procedures, and to reinspect the rental dwelling unit upon receipt of a safety related complaint.

e. **[Moved to a new Section 4(h) above.]**

c. The owner of a short term rental shall be required to schedule and pass a new health and safety inspection when there has been a fire, flood or other event that has caused substantial damage to the structure or when there has been an addition or substantial modification to the structure holding the dwelling unit.

d. The City may perform random health and safety inspections of a short term rental dwelling unit (1) upon receipt of safety related complaints or (2) to verify that the required emergency information and current short term rental license listing accurate contact information are posted in short term rentals as required in this Ordinance.

Section 6. Violations and Penalties.

a. ~~Violations.~~

1) ~~It is a violation of this Ordinance to rent or make a dwelling unit available to rent as a short term rental without obtaining the license required by Section 2 of this Ordinance. Advertising the availability of a dwelling unit for rent on a short term rental basis without first obtaining the license required by Section 2 of this Ordinance shall constitute a rebuttable presumption of a violation of this section.~~

2) ~~It is a violation of this Ordinance to fail to meet any of the standards described in Section 4 of this Ordinance.~~

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

First Offense—\$500.00

Second Offense—\$1,000.00

Third Offense—Not to exceed \$3,000.00

a. Each day in which a property is used in violation of any part of this Ordinance shall be considered a separate violation.

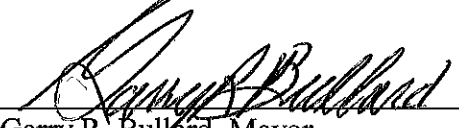
eb. Revocation of license. In addition to the penalties specified in this Ordinance, the City may determine that an appropriate penalty is the revocation of the short term rental license. The City Council shall hold a hearing on a proposed revocation of a short term rental license. At the conclusion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

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PASSED FIRST READING by the Council this 9th day of November, 2016.

PASSED SECOND READING by the Council this 7th day of December, 2016.

APPROVED by the Mayor this 7th day of December, 2016.



Garry R. Bullard, Mayor

ATTEST:



Jerald P. Taylor, City Manager/Recorder