

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 04-09A
COMPREHENSIVE PLAN AND MUNICIPAL)
CODE TO IMPLEMENT CHANGES TO CITY)
REGULATIONS CONCERNING THE RENTAL)
OF DWELLINGS IN RESIDENTIAL ZONES FOR)
PERIODS OF 30 DAYS OR LESS.)

Section 1.

Amend the Comprehensive Plan, Housing Policy 8 to read as follows:

The City finds that transient occupancy of dwelling units constitutes a visitor oriented commercial use in the City's residential areas. In order to maintain the residential character and livability of its neighborhoods and to prevent the adverse effects of the transient occupancy of dwelling units on residential neighborhoods, it is necessary to limit and regulate the transient occupancy of dwelling units.

Section 2.

Amend the Comprehensive Plan, Housing Policy 9 by deleting the policy in its entirety:

Section 3.

Amend the Zoning Code, Section 17.04.548 Definitions, Transient by deleting this definition in its entirety.

Section 4.

Amend the Zoning Code, Section 17.04.552 Definitions, Transient Occupancy to read as follows:

17.04.552 Transient rental occupancy. "Transient rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of less than fourteen calendar days, counting portions of days as full days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property.

Section 5.

Amend the Zoning Code, Section 17.04 Definitions, by adding a new definition of vacation home rental occupancy to read as follows:

Vacation home rental occupancy. "Vacation home rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time between fourteen and thirty days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property.

Section 6.

Amend the Zoning Code, Chapter 17.77 to read as follows:

Chapter 17.77 Short-Term Rental of Dwelling Units

17.77.010 Purpose.

The purpose of this section is to protect the character of the city's residential neighborhoods by limiting and regulating the transient rental occupancy and the vacation home rental occupancy of dwelling units.

In the adoption of these regulations, the City finds that the rental of dwelling units for periods of thirty days or less has the potential to be incompatible with surrounding residential uses. Therefore, special regulation of dwellings used for transient rental occupancy or vacation home rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

17.77.020 Transient Rental Occupancy Requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for transient rental occupancy except:

1. A dwelling for which there is a transient rental business license issued by the City on the effective date of the ordinance codified by this Chapter and where a transient rental permit has been issued to the owner of that dwelling; or

2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for transient rental occupancy shall be considered a motel and subject to compliance with the requirements of Municipal Code, Chapter 3.12, Transient Room Tax.

C. The transient rental occupancy of a dwelling unit, as permitted by Section 17.77.020.A.1, shall comply with the standards of Section 17.77.040.A.

D. No person shall be issued a new transient rental permit who holds another transient rental permit. Converting or replacing a transient rental business license that exists on the effective date of Ordinance 04-09 into or with a transient rental permit is not considered the issuance of a new transient rental permit. For the purposes of the Chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit

E. A transient rental permit is issued to a specific owner of a dwelling unit. The transient rental permit shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the transient rental permit except as provided below. For purposes of the section, "sale or transfer" shall mean any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse, or transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime. A permit holder may transfer ownership of the real property to: a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to the section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his/her interest in the entity to another person, the transient rental permit held by the transferor shall be revoked.

F. It is the City's intention to maintain ninety-two (92) transient rental permits. When a transient rental permit is revoked pursuant to Section 17.77.020.E, 17.77.040.A.1 or 17.77.050, the City will accept a new application for a transient rental permit as follows. The City will maintain a roster of property owners who are interested in obtaining a transient rental permit for their dwelling unit. A property owner may place his or her name on the roster at any time. When an opportunity for a new transient rental permit arises, the City will select a name from the roster by means of a random selection. The person so selected will have 180 days to obtain a transient rental permit. If the person so selected does not obtain a transient rental permit within 180days, a new name will be selected from the roster by random selection.

G. The maximum period of time that a person may hold a transient rental permit obtained by means of random selection, as described in Section 17.77.020.F, is five years. At the end of the five year period,

a new a transient rental permit holder will be selected by means of random selection as described in Section 17.77.020.F.

H. A person who held a transient rental permit obtained by means of random selection as described in Section 17.77.020.F, may not be considered for a new permit in the next lottery following the end of that permit's five year period.

17.77.030 Vacation Home Rental Occupancy Requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for vacation home rental occupancy except:

1. A dwelling for which a vacation home rental permit has been issued to the owner of that dwelling.

2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for periods of less than thirty days shall be considered a motel and subject to the requirements of Chapter 3.12, Transient Room Tax.

C. Vacation Home Rental Tenancy. The use of a dwelling for vacation rental occupancy shall not exceed one individual tenancy within fourteen consecutive calendar days. However, occupancy of the dwelling is not required to occur for that entire time period. No additional occupancy, with the exception of the property owner, shall occur within that fourteen day period. An individual tenancy means a specific person or group of persons who together may occupy a dwelling for periods of between one and fourteen days.

D. The vacation home rental occupancy of a dwelling unit, as permitted by Section 17.77.030.A shall comply with the standards of Section 17.77.040.B.

E. No person shall hold more than one vacation home rental permit. For the purposes of the Chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a revocable trust where the natural person is the trustee, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit.

F. A vacation home rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the new owner shall apply for and receive a vacation home rental permit before using the dwelling as a vacation home rental.

G. A person who holds a transient rental permit shall not be permitted to hold a vacation home rental permit.

17.77.040 Standards.

A. The transient rental occupancy of a dwelling unit, as permitted by Section 17.77.020, or the vacation home rental occupancy of a dwelling unit, as permitted by Section 17.77.030, shall comply with the following standards:

1. Permit.

a. Any person who is permitted to engage in the rental of a dwelling for transient occupancy, pursuant to Section 17.77.020.A.1, shall make application to the City, upon suitable forms furnished by the City, for a revocable transient rental permit no later than July 1, 2005. A complete permit application and applicable fee are due no later than on July 1st for the fiscal year commencing with that date. If a complete application and applicable fee has not been received by the City by August 1st of the applicable fiscal year, the transient rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the City shall commence the revocation of the permit pursuant to

the procedure described in Section 17.77.050.B.7. Upon issuance, the permit is valid for a period of one year and must be renewed annually. Until July 1, 2005, holders of transient rental business licenses may rent a dwelling for transient occupancy pursuant to that license.

b. Commencing on July 1, 2005, any person who is permitted to engage in the rental of a dwelling for vacation home rental occupancy pursuant to Section 17.77.030.A. shall have obtained a revocable vacation home rental permit before the rental of the dwelling for vacation home rental occupancy. Application for such a permit shall be made upon suitable forms furnished by the City. The permit is valid for one year, or the remainder of the fiscal year in which the permit is issued, and must be renewed annually. Renewal of the permit requires a complete permit application and fee no later than on July 1st for the fiscal year commencing with that date. If a complete application and applicable fee has not been received by the City by August 1st of the applicable fiscal year, the vacation home rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the City shall commence the revocation of the permit pursuant to the procedure described in Section 17.77.050.B.7.

c. The City shall issue the permit where it finds the standards of Section 17.77.040.A.2 are met.

2. The issuance of a transient rental permit or a vacation home rental permit shall be subject to the following:

a. Inspection.

i. At the time of application for a new transient rental permit pursuant to Section 17.70.020.F, or a new vacation home rental permit 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 Uniform Housing Code, 1988 Edition. Prior to the issuance of the transient rental permit or the vacation home rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code.

ii. Beginning on July 1, 2005, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a transient rental permit so that, over a five-year period, all dwellings that have a transient rental permit will have been reinspected. A condition of granting the annual transient rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code. The required alteration shall be completed within 30 days of the Building Official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050.B.7.

iii. Beginning on July 1, 2008, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a vacation home rental permit so that, over a five-year period, all dwellings that have a vacation home rental permit will have been reinspected. A condition of granting the annual vacation home rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the Building Official pursuant to the Uniform Housing Code. The required alteration shall be completed within 30 days of the Building Official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050.B.7.

- b. Occupancy.
 - i. The maximum occupancy for the dwelling shall be two persons per bedroom and two additional persons (e.g., a two-bedroom dwelling is permitted a maximum occupancy of six persons). The maximum occupancy may be further limited by the requirements of Section 17.77.040.A.2.e of this section. In no event shall the occupancy of a dwelling exceed twelve persons, unless a transient rental business license issued prior to January 1, 2005 established an occupancy of more than twelve persons. For the purpose of this section, a bedroom is as defined in the CABO One and Two-Family Dwelling Code. For the purpose of establishing occupancy, a person is defined as an individual at least two years of age.
 - ii. The maximum occupancy on the property shall be that determined by the occupancy of the dwelling unit, per Section 17.77.040.A.2.b.1). No recreational vehicle, travel trailer, tent or other temporary shelter shall be used by any tenant on the premises for living or sleeping purposes.
 - iii. When an owner applies for a building permit for a dwelling that has a transient rental occupancy permit or a vacation home rental permit that will increase the occupancy of that dwelling unit, the owner will provide the City documentation that additional off-street parking as required by Section 17.77.040.A.2.e will be provided
- c. Transient Room Tax. Compliance with the requirements of the Municipal Code, Chapter 3.12, Transient Room Tax is required.
- d. Local Representative.
 - i. The property owner shall designate a local representative who permanently resides within the Cannon Beach urban growth boundary or a licensed property management company with a physically staffed office within 10 vehicular miles of the Cannon Beach urban growth boundary. The owner may be the designated representative where the owner resides in the Cannon Beach urban growth boundary. Where the owner does not reside within the Cannon Beach urban growth boundary, the owner shall designate either a resident in the Cannon Beach urban growth boundary, or a licensed property management company within 10 vehicular miles of the Cannon Beach urban growth boundary as his representative.
 - ii. The property owner or the designated local representative shall maintain a guest and vehicle register for each tenancy of the transient rental or vacation home rental. The register shall include the names, home addresses and phone numbers of the tenants; the vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. The above information must be available for City inspection upon request; failure to maintain or provide the required information constitutes a violation and is grounds for a penalty pursuant to Section 17.77.050.
 - iii. The local representative must be authorized by the owner of the dwelling to respond to tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for transient rental or vacation home rental purposes. The local representative must respond to those complaints in a timely manner to ensure that the use of the dwelling complies with the standards for transient rental occupancy or vacation home rental occupancy, as well as other pertinent City ordinance requirements pertaining to noise, disturbances, or nuisances, as well as State law pertaining to the consumption of alcohol, or the use of illegal drugs.

iv. If the Police Department is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation pursuant to Section 17.77.050.B and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050.B.4.

v. The designated local representative may be changed by the permit holder from time to time throughout the term of the permit. However, to change the local representative, the permit holder must file a revised permit application that includes the name, address and telephone number of the new local representative. Failure to notify the City of a change in the local representative constitutes a violation pursuant to Section 17.77.050.B and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050.B.4.

vi. The City will notify property owners and or residents within 200 feet of the dwelling of the name, address and telephone number of the owner or the local representative. The purpose of this notification is so that adjacent property owners and residents can contact the responsible person to report and request the resolution of problems associated with the operation of the transient rental or vacation home rental.

e. **Parking.** One off-street parking space shall be provided for each three persons of dwelling occupancy, as determined by Section 17.77.040.A.2.b; fractions shall be rounded to the next highest whole number (e.g., a dwelling with a permitted occupancy of eight persons shall provide three off-street parking spaces.) Where the number of parking spaces required by this section cannot be provided on-site, the permitted occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking (e.g., a dwelling with a potential occupancy, pursuant to Section 17.77.040.A.2.b of eight persons, which provides only two off-street parking spaces shall have its occupancy limited to six persons.) Notwithstanding the above provision, each dwelling shall be permitted a minimum occupancy of six persons. No more vehicles shall be parked on the property than there are designated off-street parking spaces.

f. **Solid Waste Collection.** Weekly solid waste collection service shall be provided during all months that the dwelling is available for transient or vacation home occupancy.

g. **Permit Posting.** The transient rental permit or vacation home rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:

- i. The name of the local representative and a telephone number where the representative may be reached;
- ii. The name and a telephone number where the property owner can be reached;
- iii. The telephone number and web site address of the City of Cannon Beach and the Cannon Beach Police Department;
- iv. The maximum number of occupants permitted to stay in the dwelling;
- v. The maximum number of vehicles allowed to be parked on the property;
- vi. The number and location of on-site parking spaces; and
- vii. The solid waste collection day.

B. Variance from the standards of Section 17.77.040.A.1 – 7 shall not be permitted.

17.77.050 Violations and Penalties

A. The following conduct shall constitute a violation for which the penalties and sanctions specified in Section 17.77.050.B may be imposed. For purposes of this section, violation shall mean a violation which has been finally adjudicated in a court of competent jurisdiction.

1. Any property owner, or person acting as an agent for the property owner, such as a motel, real estate broker or property manager, who arranges or otherwise provides for the transient occupancy of a dwelling, or the vacation home rental occupancy of a dwelling unit in violation of the provisions of this section; or
2. The owner has failed to comply with the standards of Section 17.77.040; or
3. The owner has failed to pay the Transient Room Tax as required by Municipal Code, Chapter 3.12; or
4. The tenants of the dwelling have created noise, disturbances, or nuisances, in violation of the City Municipal Code, or violations of State law pertaining to the consumption of alcohol, or the use of illegal drugs.

B. Penalties

1. Penalties for violations described in Section 17.77.050.A.1 – 3 shall be assessed in conformance with Chapter 17.94.
2. Each day in which a dwelling is used in violation of Section 17.77.050.A.1 & 2 shall be considered a separate violation of this Chapter.
3. Penalties for violations described in Section 17.77.050.A.4 shall be assessed in conformance with the City Municipal Code or applicable State statute.
4. In addition to the penalties described in Section 17.77.050.B.1 & 3, the following sanctions will be imposed:
 - a. For the first two violations within a 24-month period, the sanction shall be a warning notice.
 - b. For the third violation within a 24-month period, the sanction shall be a suspension of the permit for 30 days.
 - c. For the fourth violation within a 24-month period, the sanction shall be a suspension of the permit for 90 days.
 - d. For the fifth violation within a 24-month period, the sanction shall be a suspension of the permit for 180 days.
 - e. For the sixth violation within a 24-month period, the penalty shall be a revocation of the permit
5. The City shall provide the permit holder with a written notice of any violation of Section 17.77.050.A.4 that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.
6. Pursuant to Section 17.77.050.B.4.b – d, the City shall provide the permit holder with a written notice of the permit suspension and the reason for that suspension. The permit holder may appeal the suspension to the City Council by filing a letter of appeal with the City Manager within twenty days after the date of the mailing of the City Manager's order to suspend the permit. The City Manager's suspension shall be stayed until the appeal has been determined by the City Council. The City Council shall conduct a hearing on the appeal within 60 days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the Council may uphold, modify, or overturn the decision of the City Manager to suspend the permit based on the evidence it received.
7. Pursuant to Section 17.77.050.B.4.e, the City shall provide the permit holder with a written notice that it intends to revoke the permit and the reasons for the revocation. The City Council shall hold a hearing on the proposed revocation of the permit. At the hearing, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the Council may determine not to revoke the permit, attach conditions to the permit, or revoke the permit.
8. A person who has had a transient rental occupancy permit or a vacation home rental permit revoked shall not be permitted to apply for either type of permit at a later date.

Section 7.

Amend the Zoning Code, Section 17.82.070, Nonconforming transient occupancy of dwelling units by deleting this section in its entirety:

Section 8.

Amend Municipal Code, Section 3.12.010, Transient Room Tax, Definitions, Transient, to read as follows:

“Transient” means an individual who occupies or is entitled to occupy space in a hotel for a period of thirty consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the thirty day period if the transient is not charged rent for that day. A person occupying space in a hotel shall be considered a transient until a period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy of the tenant actually extends occupancy more than thirty consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a transient.

Section 9.

Amend Municipal Code, Section 5.04.095 Transient rental business licenses by deleting this section in its entirety.

ADOPTED by the Common Council of the City of Cannon Beach this 5th day of November, 2004, by the following roll call vote:

YEAS: Councilors: Dooley, Swigart, Vetter
NAYS: Councilor Ayres, Mayor Rouse
EXCUSED None

David S. Rouse, Mayor

Attest:

Approved as to Form:

Peggy Coats, City Manager

William Canessa, Attorney