

BEFORE THE COMMON COUNCIL OF THE CITY OF CANNON BEACH

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 19-05
THE MUNICIPAL CODE, CHAPTER 77,)
SHORT-TERM RENTALS OF)
TITLE 17, ZONING.)

WHEREAS, the City of Cannon Beach periodically amends the Zoning Ordinance to maintain the land use planning system in Cannon Beach, as prescribed by Chapter 17.86 of Cannon Beach Municipal Code; and

WHEREAS, the Cannon Beach Comprehensive Plan directs the City to continue to balance between the residential and resort elements of the community, by managing the resort aspects in a manner that is not disruptive to the residential character of the community; and

WHEREAS, the Cannon Beach Comprehensive Plan finds that transient occupancy of dwelling units constitutes a visit or 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; and

WHEREAS, the Cannon Beach Zoning Ordinance has standards to protect the character of the city's residential neighborhoods by limiting and regulating the short-term rental of dwelling units. The city permits three categories of short-term rentals. The three categories are: lifetime unlimited permits, five-year unlimited permits and fourteen-day permits. (Ord. 17-5 § 1); and

WHEREAS, the Cannon Beach Planning Commission has conducted public hearings and meetings on February 28 and March 28, 2019 recommending adoption of the proposed changes; and

WHEREAS, the Cannon Beach City Council, held a duly noticed public hearing on August 6, 2019;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF CANNON BEACH AMENDS CHAPTER 17.77, SHORT TERM RENTALS, OF THE MUNICIPAL CODE BY DELETING THE CURRENT TEXT AND REPLACING IT WITH THE FOLLOWING:

SECTION 1.

Chapter 17.77 SHORT-TERM RENTALS

17.77.010 Purpose.

The purpose of this chapter is to protect the character of the city's residential neighborhoods by limiting and regulating the short-term rental of dwelling units. The city permits three categories of short-term rentals. The three categories are: lifetime unlimited permits, five-year unlimited permits and fourteen-day permits.

17.77.020 Definitions.

Five-Year Unlimited Permit. "Five-year unlimited permit" allows the property owner to rent the property any and all days of the year. This permit expires and cannot be renewed at the end of five years. The five-year period begins on the date that the permit is issued.

Fourteen-Day Permit. "Fourteen-day permit" allows the property owner to rent the property to one tenancy group once in a fourteen-day period of time.

Lifetime Unlimited Permit. "Lifetime unlimited permit" allows the property owner to rent the property any and all days of the year. Upon the sale or transfer (see definition in subsection E), the lifetime unlimited permit is void.

Persons. "Persons," for the purposes of this chapter, 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 or her 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 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 rental permit.

Professional Management. "Professional Management", for purposes of this chapter, means management of a short-term rental unit by a licensed property management company holding a Cannon Beach business license, engaged primarily in the business of managing rental property, and with a physical office in Cannon Beach or within the distances specified in section 17.77.080.A.

Sale or Transfer. "Sale or transfer," for purposes of this chapter, means 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, or lifetime transfers between spouses. 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 this 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 or her interest in the entity to another person, the short-term rental permit held, in all or part, by the transferor shall be void.

17.77.030 General provisions.

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 short-term rental occupancy except:

1. A dwelling for which there is a short-term rental permit (either a lifetime unlimited permit, a five-year unlimited permit or a fourteen-day permit) issued to the owner of that dwelling by the city; or
2. A dwelling which has been approved by the city for use as a bed and breakfast establishment.

B. No person shall be issued a new short-term rental permit who holds another short-term rental permit. All types of rental permits are issued to a specific owner of a specific dwelling unit. The rental permit shall be void when the permit holder sells or transfers the real property, as defined in this chapter, which was rented pursuant to the short-term rental permit.

C. **Solid Waste Collection.** Weekly solid waste collection service shall be provided during all months that the dwelling is available as a rental pursuant to this chapter.

D. **Permit Posting.** The rental permit shall be posted within the dwelling adjacent to the front door. In addition, a tsunami evacuation route map shall also be posted in the rental dwelling.

17.77.040 Taxes.

The rental of a dwelling for short-term rental occupancy shall be subject to compliance with the requirements of Municipal Code, Chapter 3.12, Transient Room Tax.

17.77.050 Lifetime unlimited and five-year unlimited permits.

A. It is the City's intention to allow lifetime unlimited permits and five-year unlimited permits to remain in force until revoked or terminated pursuant to this chapter. When a lifetime unlimited permit is revoked or terminated pursuant to this chapter, it will not be replaced. When a five-year unlimited permit is revoked or terminated pursuant to this chapter, it will not be replaced.

B. The maximum period of time that a person may hold an unlimited five-year rental permit is five consecutive years. At the end of the five-year period such permit will expire and may not be renewed.

17.77.060 Fourteen-day permit occupancy requirements.

A. The fourteen-day permit issued by the city authorizes the owner to rent the dwelling once, one individual tenancy, within fourteen consecutive calendar days.

B. An individual tenancy shall commence on the first day that the person(s) that constitute the individual tenancy occupy or are entitled to occupy the dwelling unit.

C. For the purposes of this subsection, an individual tenancy means a specific person or group of persons who together occupy or are entitled to occupy a rental with a fourteen-day permit.

D. Occupancy of the rental unit by the individual tenancy for the entire fourteen-day period is not required. However, no additional occupancy, with the exception of the property owner, shall occur within the minimum fourteen-day occupancy period that begins on the first day of an individual tenancy.

E. A fourteen-day rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the original fourteen-day permit is revoked and the new owner may apply for a new fourteen-day rental permit.

F. A person who holds a lifetime unlimited or five-year unlimited permit shall not be permitted to hold a fourteen-day permit.

G. A fourteen-day permit application may be submitted to the city at any time and, if approved, the fourteen-day permit shall last for one year from the date of issuance.

17.77.070 Inspection.

A. At the time of application for any new short-term rental permit pursuant to this chapter, the dwelling unit shall be subject to inspection by the building official or designee. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the Oregon State Building Code. Prior to the issuance of a rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the building official.

B. A dwelling with a short-term rental permit pursuant to this chapter shall be subject to inspection at any time with proper notice to the owner. The owner of the dwelling unit shall make any and all necessary alterations to the dwelling required by the building official. A failure to complete the alterations within the specified time period may result in the revocation of the permit.

17.77.080 Local representative.

A. 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 ten vehicular miles of the Cannon Beach urban growth boundary. The owner may be the designated representative where the owner permanently resides within 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 within the Cannon Beach urban growth boundary, or a licensed property management company within ten vehicular miles of the Cannon Beach urban growth boundary as his or her representative.

B. The property owner or the designated local representative shall maintain a guest register for all tenancies of the rental. The register shall include the names, home addresses and phone numbers of the tenants; and the dates 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 this chapter.

C. 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 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 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. The failure of the local representative to respond to complaints, or the failure of the local representative to respond to queries from city staff, is a violation of this chapter and is subject to the penalties listed in this chapter to include revocation of the short-term rental permit.

D. 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 this chapter and the permit is subject to suspension and possible revocation.

E. If the designated local representative is replaced, the permit holder must file a revised permit local representative certification form that includes the name, address and telephone number of the new local representative. The owner must submit this form to the city within thirty days of the replacement. Failure to do so is considered a violation of this chapter and the permit is subject to suspension or revocation.

F. The city will post the name, address and telephone number of the owner or the local representative on the city website. The purpose of posting this information 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 rental.

17.77.090 Occupancy and parking.

A. Off-street parking is required as specified below. Occupancy is limited by the number of bedrooms, and by the number of available off-street parking spaces as specified in the following table.

| Bedrooms (a) | Maximum occupancy (b) (c) | Minimum off-street parking (d) |
|--------------|------------------------------|--------------------------------|
| 1 | 6 | 2 |
| 2 | 6 | 2 |
| 3 | 8 | 3 |
| 4 | 10 | 4 |
| 5 | 12 | 4 |

Notes:

(a) A bedroom consists of a room that meets the definitional requirements of the State of Oregon Building Code.

(b) Occupancy includes only those persons 2 years of age and older.

(c) In no event shall the occupancy of a dwelling exceed 12 persons, unless a short-term rental permit issued prior to January 1, 2005 established an occupancy of more than 12 persons.

(d) Each off-street parking space must be located entirely on the property, and must be at least 9 feet wide by 18 feet long, and must be accessible from a driveway or public street.

17.77.100 Violations and penalties.

A. The following conduct shall constitute a violation for which the penalties specified below may be imposed. Note that each day of a violation is considered a separate violation for the purposes of the sanctions below.

1. The owner has failed to comply with any of the standards listed in this chapter; or
2. The owner has failed to pay the transient room tax and/or file a transient room tax return as required by Municipal Code, Chapter 3.12.

B. Penalties. For violations of this chapter, the following penalties will be imposed:

1. For the first violation within a twenty-four-month period, the penalty shall be a warning notice.
2. For the second violation within a twenty-four-month period, the penalty shall be a suspension of the permit for thirty days.
3. For the third violation within a twenty-four-month period, the penalty shall be a suspension of the permit for ninety days.
4. For the fourth violation within a twenty-four-month period, the penalty shall be a revocation of the permit.

C. Notice. The city shall notify the permit holder and local representative in writing of any penalties imposed under this chapter.

1. The City may seek injunction or other equitable relief in court to enjoin any violation of this Ordinance and may recover the costs of such actions. The City may seek such criminal or civil penalties as are authorized by Oregon law. Each day of violation may be considered a separate violation. Each violation may result in a fine of up to \$500.
2. After the revocation of a permit, or after the enforcement taken under 17.92.020 of the general provisions of 17.77.030 for renting without a license, where a penalty is awarded under the provisions of 17.94.010, the owner(s) will be prohibited from participation in the Short-Term Rental program for two years from the time of the revocation or penalty.

17.77.110 Appeal.

A. The permit holder may appeal the penalty to the city council by filing a letter of appeal with the city manager within ten days after the date of the mailing of the order. The city council shall conduct a hearing on the appeal within sixty 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 to suspend or revoke the permit based on the evidence it received.

B. A person who has a rental permit revoked shall not be permitted to apply for short-term rental permits until a period of two years has passed from the date of revocation.

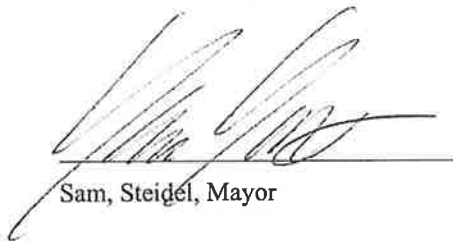
C. A person renting a property without a valid rental permit shall be in violation of the Cannon Beach Municipal Code and shall be subject to a fine of up to five hundred dollars for each day the dwelling has been rented without a permit.

17.77.120. Professional Management

A. Self-managed short-term rental permit holders with two or more violations within a twenty-four month period may defer the penalties in section 17.77.100 by placing their short-term rental unit under professional management as defined in section 17.77.020 for a minimum period of two years. If additional violations accrue during the period of professional management, the penalties in 17.77100 are applicable, including deferred penalties.

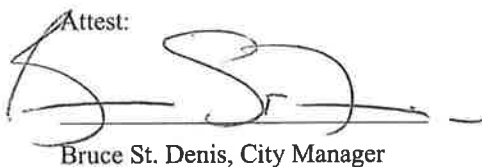
ADOPTED by the Common Council of the City of Cannon Beach this 1st day of October 2019,
by the following roll call vote:

YEAS: Councilors Benefield, McCarthy, Ogilvie, Risley and Mayor Steidel
NAYS: None
EXCUSED: None



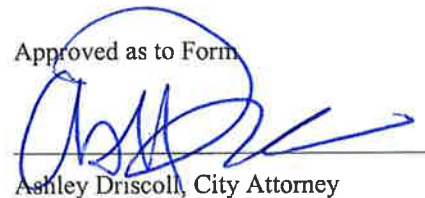
Sam, Steidel, Mayor

Attest:



Bruce St. Denis, City Manager

Approved as to Form



Ashley Driscoll, City Attorney