

1 **BEFORE THE BOARD OF COMMISSIONERS**
2 **FOR LINCOLN COUNTY, OREGON**
3 ORDINANCE # 509

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5
6 **Amendment to Lincoln County Code (Ordinances # 487 and # 490) Section 4.405 through**
7 **4.460 SHORT TERM RENTAL OF DWELLING UNITS and declaring an emergency.**
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10 WHEREAS by Ordinance # 487 adopted August 3, 2016 and made effective December
11 1, 2016 the Board created sections 4.405 through 4.460 SHORT TERM RENTAL OF
12 DWELLING UNITS in the Lincoln County Code (LCC); and
13

14 WHEREAS by Ordinance # 490 adopted November 30, 2016 the County amended the
15 code to clarify terms and delegate authority under the licensing program; and
16

17 WHEREAS the Board has determined that additional amendments are necessary to
18 address long term public health concerns with licensees operating short term rentals in dwelling
19 units with onsite wastewater treatment systems to handle effluent from these homes.¹ The
20 County has determined that a number of licensed short term rentals are located in dwelling
21 units with onsite systems for which there are either no permit records, are incomplete records or
22 have records where the number of permitted bedrooms differs from the number of sleeping
23 areas authorized under the short term rental license. In each of those cases, the Board has
24 determined that the capacity of the onsite treatment system should be a limitation on the
25 maximum occupancy of the short term use of the housing unit to protect long term public
26 health from failing systems².
27

28 WHEREAS the Board also received information concerning the timing of when
29 treatment systems without adequate records might be evaluated in accordance with Oregon
30 Department of Environmental Quality administrative rules to provide a report determining the
31 status of the systems and their capacity for purposes of determining maximum capacity; and

¹ These systems are also commonly referred to as septic systems, which is a subset of onsite wastewater systems alternatives allowable under Oregon law. They are distinguishable from homes on a public or private sewer system where effluent is collected and treated off-site at a community or public treatment facility. The County first identified issues with the capacities of onsite systems as they relate to maximum occupancy calculations in a May 29, 2019 memo from County Counsel to the Board delivered at a Board Meeting on that date. The issues were further addressed by two additional memos on August 6 and 7, 2019. The information in those Memoranda as well public testimony on May 29 and August 7, 2019 are incorporated herein as if fully set forth to support these code amendments.

² Testimony from the County's Onsite Waste Water Treatment Manager compiled in the most recent three months showed that short term rentals had a greater system failure rate than other dwellings during that period.

Note: Matter in **boldfaced** type in an amended section is new; matter in *[italic and bracketed]* is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 WHEREAS the Board has determined that the process of evaluating systems and
2 recalculating maximum occupancy should be undertaken now and therefore an emergency
3 exists to provide this amendment to the code so that this process can be instituted as soon as
4 practicable.

5
6 **NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:**

7
8 **SECTION 1.**

9 Sections 2 of this Ordinance are added to and made a part of LCC Chapter 4, Business
10 Regulation to amend LCC 4.405 through 4.460.

11
12 **SECTION 2.**

13 **SHORT TERM RENTAL OF DWELLING UNITS**

14 **4.415 Definitions**

15 For the purpose of LCC 4.405 through 4.460

16 (1) "Accessory structure or accessory use" means a structure or use incidental and
17 subordinate to the main use of a property and located on the same lot as the main use.

18 (2) "Contact Person" means:

19 (a) The owner(s) of the dwelling unit; or

20 (b) The agent of the owner(s), authorized to act for the owner(s) as designated on the
21 license application.

22 (c) The contact person, whether the owner or an agent, must be located within Lincoln
23 County, and cannot use the dwelling unit(s) licensed under this Chapter as the basis for
24 compliance with this provision unless the owner or agent resides at that location.

25 (3) "Dwelling Unit" means:

26 (a) A single unit providing complete, independent living facilities for one or more
27 persons including permanent provisions for living, sleeping, eating, sanitation and only one
28 cooking area.

29 (b) A "single family dwelling" means a structure of which all habitable portions thereof
30 are connected structurally and comprise one dwelling unit, including but not limited to factory
31 built dwellings, mobile homes and site built dwellings.

32 (c) A "two family dwelling" means a structure of which all habitable portions thereof
33 are connected structurally and comprise two dwelling units including but not limited to factory
34 built dwellings, mobile homes and site built dwellings.

35 (d) A "multi-family dwelling" means a structure of which all habitable portions thereof
36 are connected structurally and comprise three or more dwelling units, including, but not limited
37 to, factory built dwellings, mobile homes and site built dwellings.

38 (4) "License" means a short term rental license issued by Lincoln County and
39 maintained in good standing by the Owner(s) or agent of the Owner(s) in accordance with the
40 provisions of the Lincoln County Code.

1 (5) "Owner(s)" means the person or people, partnership, corporation, association, or
2 other legally recognized person(s) or entity holding title to the dwelling unit in accordance with
3 law.

4 (6) "Person" includes any natural person(s), firm, partnership, association, social or
5 fraternal organization, corporation, business or any other group or combination acting as a unit.

6 (7) "Rental Agreement" means any agreement, whether or not in writing, granting the
7 use of a dwelling unit to a person. Use of a dwelling unit by a recorded owner or other person
8 or persons without monetary consideration shall not be considered to be a rental under this
9 chapter.

10 (8) "Rent" means the authorization of use of a dwelling unit granted to a person(s) in
11 exchange for monetary consideration.

12 (9) "Renter" is a person who rents a short term rental.

13 (10) "Short Term Rental" means the renting of a dwelling unit (including any accessory
14 guest house on the same property) to any person(s) on a day to day basis or for a period of time
15 of up to thirty (30) consecutive nights.

16 (11) "Sleeping Area" is a room or other space within a dwelling unit designed, intended
17 or used for sleeping. Roll out beds, fold out couches, or other temporary sleeping
18 accommodations including tents and recreational vehicles shall not be considered a sleeping
19 area, and may not be used to increase the allowed occupancy of a short term rental as provided
20 in LCC 4.404 through 4.460. Determinations as to the number of sleeping areas within a
21 dwelling unit are reserved to the Lincoln County Licensing Authority and all determinations
22 are final. **The determination of sleeping areas shall not exceed the number of bedrooms**
23 **authorized in accordance with LCC 4.440(6) for dwellings not served by public sewer.**
24 [2016 o.487 § 4; 2016 o.490 § 2]

25 26 **4.430 Issuance of License**

27 (1) Authority to issue licenses rests with the Lincoln County Licensing Authority as
28 designated by the Board of Commissioners. In addition, an issued license is subject to
29 revocation or refusal to renew the license for failure to meet, maintain or operate the short term
30 dwelling in conformance with the requirements of this Chapter and the procedures as provided
31 in LCC 4.425.

32 (2) Within sixty (60) days of receipt of a completed application, the payment of
33 required fees, and the determination or certification of compliance with the requirements of
34 LCC 4.440 (Operational Standards) and LCC 4.425 (Application for License; Fee), a license
35 shall be issued by the Lincoln County Licensing Authority to the owner which shall be good
36 for one (1) year from the date of issuance. **Renewals shall be issued for one (1) from the**
37 **date of the previous license expiration unless the license is older than twelve (12) months,**
38 **in which case a new license will be required.**

39 (3) If an application for a permit or the renewal of a permit is denied, or a permit is
40 revoked, cancelled or not renewed the owner may appeal denial or revocation or nonrenewal
41 under LCC 4.450. Unless and until a permit is finally revoked or not renewed as provided in
42 this Chapter, a short term rental may continue to operate. [2016 o.487 § 7]

1

2 **4.440 Operating Standards**

3 As used in LCC 4.405 through 4.460, all short term rentals shall comply with the
4 following operating standards and conditions:

5 (1) Contact Person(s). The name and phone number of the contact person(s) shall be
6 posted, provided and updated in the following manner:

7 (a) *[If the short term rental has a sign identifying it as a short term rental, then the*
8 *current name and phone number of the contact person shall either appear on the sign or*
9 *otherwise be conspicuously posted near the sign so that it is visible from the street and from*
10 *outside the front entrance of the short term rental.]* **Signage clearly displaying the contact**
11 **person's name and working phone number is required for all short-term rental**
12 **properties. The sign must be a minimum size of 12"x12" and be visually accessible by the**
13 **public from the street. Visually accessible means information in a format and size that**
14 **shall be readable by a person standing in the public area viewing the sign on the property.**
15 **The signage must be updated immediately with any changes in information.**

16 (b) In addition, the owner shall provide the contact person's name and phone number in
17 writing to the local fire chief and the Lincoln County Sheriff's Office. The Sheriff's Office
18 shall supply this information to each property owner as shown on the Lincoln County
19 Assessor's records located within two hundred fifty feet (250') of the short term rental property.

20 (c) The owner shall update the posted notice and provide a new written notice to the
21 local fire chief and Lincoln County Sheriff's Office each time there is a change to the name or
22 phone number of the contact person. An additional fee, as set by the Board, shall accompany
23 the new written notice provided to the Sheriff to offset costs of the Sheriff's Office in supplying
24 this new information to property owners in accordance with LCC 4.440(1)(c) above.

25 (d) The owner or contact person shall contact a renter by phone or in person or
26 otherwise respond within a reasonable period of time which shall normally be within one hour,
27 unless circumstances would require a lesser or greater time, upon receiving any complaint from
28 a neighbor, the local fire department or the Sheriff's Office concerning the conduct of a renter.

29 (2) Quiet Time. In accordance with the requirements of LCC 2.2000 through 2.2045,
30 the hours of 10:00 p.m. until 7:00 a.m. the next day are required quiet time. Renters who
31 violate this standard may be issued enforcement mechanisms available to the County under
32 LCC 2.2045 and LCC Chapter 10. In addition multiple violations of the quiet time
33 requirements by short term dwelling renters may subject the licensee to revocation or
34 nonrenewal of the license as provided in LCC 4.450. The owner or contact person shall notify
35 every renter, in writing, of the quiet times and that a renter may be subject to sanction and
36 penalties under the County Code.

37 (3) Garbage Service. The owner shall be required to maintain adequate garbage
38 service, with **all garbage fitting inside** required secure containers, from the franchised waste
39 disposal service company serving its property. The service must be at a level commensurate
40 with the garbage generated at the dwelling, but no less than weekly service when the short term
41 rental is being rented. Owners shall notify all guests of the garbage services and requirements
42 for the dwelling.

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1 (4) Parking. The owner must provide one (1) parking space for each approved sleeping
2 area in a short term rental, plus one (1) additional parking space per unit. For dwellings
3 constructed on or after July 1, 2016, all required parking shall be provided off street. For
4 dwellings constructed prior to July 1, 2016, off-street parking must be used if physically
5 available. If a sufficient number of off-street parking spaces are not available for the authorized
6 number of vehicles, then on-street parking may be used unless otherwise prohibited. Parking
7 shall not, under any circumstances, hinder the path of any emergency vehicle. Renters may be
8 cited and fined under existing State or County law in the event they park illegally. Repeated
9 violations of prohibited parking by renters of the short term rental may be grounds for
10 enforcement against the Owners under LCC 4.460. The owner or contact person shall notify
11 every renter in writing of the required off-street parking and other parking spaces available to
12 serve the short term rental.

13 (5) House Number. A house number, visible from the street, shall be installed and
14 maintained by the Owners.

15 (6) **Onsite wastewater treatment system requirements.** "Onsite wastewater
16 treatment system" means any existing or proposed subsurface onsite wastewater
17 treatment and dispersal system, including, but not limited to, a standard subsurface,
18 alternative, experimental, or non-water-carried sewage system authorized pursuant to
19 Oregon Administrative Rules, OAR Chapter 340, Division 71.

20 (a) **If the property is not connected to a public sewer the onsite wastewater**
21 **treatment system must be able to handle the capacity of the number of bedrooms of the**
22 **home and the total number of occupants. The determination of the capacity of the system**
23 **is accomplished one of two ways:**

24 (1) **a current valid permit on file with Lincoln County Subsurface Division of the**
25 **Department of Planning and Development (Department), showing the allowed number of**
26 **bedrooms;**

27 (2) **if there is no record of a valid permit or the permit does not indicate the**
28 **number of bedrooms allowed, then the property owner must obtain an Existing System**
29 **Evaluation Report (ESER) developed in accordance with OAR 340-071-0155 by a**
30 **professional so authorized to conduct the evaluation as required by those rules. Included**
31 **in the report must be a calculation of the number of allowed bedrooms based on the**
32 **capacity of the system as it exists. Final determination of the capacity and suitability of**
33 **the septic system from the report shall be made by the County Subsurface Division of the**
34 **Department of Planning and Development upon review of the report. Current licensees**
35 **subject to the requirements under this section shall receive notification of the**
36 **requirement to obtain an ESER from the County and shall have 120 days from the date**
37 **of mailing of the notice to obtain the ESER and submit it to the Department. The**
38 **Department will issue its final determination no later than 30 days after receipt of the**
39 **ESER. If no ESER is received within 120 days, the property may not be operated as a**
40 **short term rental until the report is provided and a final determination by the**
41 **Department is made. For future licensees, no license shall be issued until the ESER is**
42 **completed and the Department makes a final determination.**

1 **(3) If the ESER indicates the system is not operating properly or needs upgrades**
2 **or repairs, a letter of non-compliance will be provided to the owner outlining the**
3 **problems with the system that must be addressed. The owner will have sixty (60) days to**
4 **correct the problems as noted in the ESER. If not repaired within that timeframe the**
5 **license granted under this Chapter will be suspended. A repair permit issued by County**
6 **Subsurface Division of the Department of Planning and Development is required for all**
7 **onsite sewage system repairs. Until the repairs are made and approved in accordance**
8 **with County and State law requirements, the property may not be operated as a short**
9 **term rental.**

10 **(7) Limits on Occupancy.** The maximum occupancy for a short term rental unit shall
11 be calculated *[on the basis of an average of]* **on the lesser of the following calculations:**

12 **(a) the request of the applicant for a license;**

13 **(b) three (3) persons per sleeping area plus an additional two (2) persons.** For the
14 purpose of maximum occupancy, those under two (2) years of age shall not be counted.
15 Accessory structures, tents and recreational vehicles and similar sleeping arrangements shall
16 not be used to increase the number of people approved to occupy a short term rental. For
17 **purposes of this calculation the number of sleeping areas is the number of bedrooms**
18 **contained in either the valid onsite wastewater treatment system permit or the ESER,**
19 **LCC 4.440(6), for dwellings subject to those requirements. The County shall recalculate**
20 **occupancy for existing licensees, where appropriate, based on the requirements of this**
21 **section and shall issue new maximum occupancies to begin January 6, 2020.**

22 **(c) Notwithstanding the forgoing, no more than 16 persons shall occupy the short term**
23 **rental unit at any one time.**

24 Notwithstanding the foregoing limits, a dwelling built and operated as a short term
25 rental unit on July 1, 2016, may be grandfathered in at a higher maximum occupancy level, not
26 to exceed 3 persons per sleeping area plus 2 additional persons, under the following conditions:

27 **(a) The owner applies for a higher occupancy limit in the initial application for a short**
28 **term rental license, which application must be received no later than December 31, 2016. No**
29 **dwelling will be allowed a higher occupancy limit unless the owner applies and qualifies during**
30 **this application period.**

31 **(b) The owner provides proof (rental agreements, ads, or other reasonable evidence)**
32 **that the unit has historically been rented and occupied by more than 16 persons.**

33 **(c) The property on which the dwelling unit is located can provide, within all applicable**
34 **laws, off-street parking as required under LCC 4.440(4) above. That requirement is one**
35 **parking space per sleeping area, plus one more.**

36 **(d) For illustrative purposes, a dwelling with six sleeping areas may be allowed a**
37 **maximum of 20 persons (three per sleeping area, plus two more) if a total of seven (7) lawful**
38 **off-street parking spaces are provided.**

39 **(e) Grandfathered occupancies cannot exceed the capacity of the onsite**
40 **wastewater system under a valid permit or Existing System Evaluation Report. This may**
41 **reduce the higher occupancy allowed effective January 6, 2020.**

1 (e) Review of the request for a higher occupancy limit shall be made by the County
2 Licensing Authority which at its sole discretion shall make all determinations as to whether or
3 not to grant, partially grant, or deny a request for higher occupancy.


4 (7) Notices to Renters. The owner must provide to each renter and post in a prominent
5 location in the dwelling, a list of rules including, but not limited to, rules on required quiet
6 times, available garbage service, parking locations and limitations on occupancy. [2016 o.487 § 8]
7

8 **SECTION 4.**

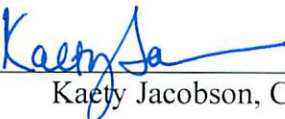
9 **This Ordinance, being necessary for the preservation and protection of the public**
10 **safety and general welfare of Lincoln County an emergency is declared to exist and this**
11 **Ordinance shall take effect immediately.**
12
13

DATED this 4th day of September, 2019.

LINCOLN COUNTY BOARD OF COMMISSIONERS



Claire Hall, Chair



Kaety Jacobson, Commissioner




Doug Hunt, Commissioner

ATTESTED TO:



Kristi Peter, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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