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Memorandum

To: Lincoln County Board of Commissioners

From: Wayne Belmont
County Counsel 

Date: May 29, 2019

Re: Short Term Rental Licensing Program Update

In 2016 the Board of Commissioners adopted the provisions of LCC 4.405 through 4.460 to create a licensing program for short term residential dwelling units (STRs)¹ after numerous public meetings and examination of other county regulatory practices. The purpose of the program, as stated in the Code, it to regulate the effects of short-term rentals including noise, garbage, parking and overcrowding. The intent was to allow the operation of rentals in a manner that respects and protects the livability of neighborhoods where the rentals are located. LCC 4.405.

Since 2016, the Code has been amended once to clarify the delegated authority of the Board's designated Licensing Authority (the Lincoln County Sheriff's Office), to adopt rules, procedures, forms and practices consistent with the overall intent of the Code, to implement, administer and operate the licensing program.

To date, approximately 518 licenses have been reviewed by the Sheriff's Office (including pending and others in process). This constitutes about 4% of the total housing stock in the unincorporated areas of the County. The County will be working on taking the data from the licensees to map out where the properties are located and what the underlying zoning and service availability (sewer and water especially) is in the various locations. It will take some time to complete this project, but we feel the information is vital in assisting the Board in making future decisions around the licensing program.

¹ The units are also commonly referred to as Vacation Dwelling Units (VRDs) by both the County and other regulatory entities in the state. While the terms can be different, they are used interchangeably in Oregon.

Through our initial three years of experience with the program, we have monitored other jurisdictions changing regulatory environments. We have received inquiries and information provided by both interested citizens and communities, and STR operators. We are learning from the experiences both locally and across the state that changes to our current licensing scheme need to be made to reflect best practices and to open the conversation again about the ultimate scope and size of the STR presence in our county.

Towards that end, and based on recent evaluations, we are proposing the County undertake a three-part examination of our program to discuss possible changes to the Code. The first two parts are tweaks to the current Code that should be reviewed, discussed publicly, and if desired implemented in a short period of time.

Part One: Septic Systems

First, we have learned that the interplay of onsite septic system capabilities with our calculations of maximum STR occupancy needs to be refined and clarified. This is a two-fold issue. In some cases, the maximum capacity of installed septic systems, expressed as the number of allowed bedrooms in the onsite septic permit, is different than (and usually smaller) than the claimed number of sleeping areas in the STR application. This has resulted in occupancies greater than what should be allowed under the septic permit. This can be remedied, and is a best practice now instituted in at least one county adopting licensing after our Code was developed, by setting occupancy calculations based on the septic permit capacity as part of the calculation of the overall allowed occupancy. Under no circumstances could the occupancy exceed the capacity based on the septic system. Although it is my opinion we could institute this requirement now, I understand there has been some concern that alternatives (e.g. water usage data) might be considered, so we are prepared to develop clarifying language and a starting date in the future to implement this change.

The second part of the septic system capability issue is that about 50 of the septic systems in licensed STRs have no record of septic permits. This could be for any number of reasons, but most likely because these are older systems for which no information is available. There is a way, however, that we could incorporate review of those septic systems into the licensing program. The Oregon Department of Environmental Quality has administrative rules (Oregon Administrative Rules [OAR] 340-071-0155) that establish requirements for what is known as an Existing System Evaluation Report. These evaluations are undertaken by qualified persons as defined by DEQ. The evaluations can include a determination of the capacity of the system. OAR 340-071-0155(1)(b)(D). We would recommend that such an evaluation and determination be required for any license for a unit system lacking adequate records. The evaluation is now generally required to obtain financing in the sale of homes. The timing and implementation of the evaluation and subsequent maximum occupancy calculations for existing licensees will need to be determined.

Part Two: Short Term Code Amendments

There are several clarifications or changes that need to be discussed and implemented in the current Code language over the short term. These include but are not limited to: posting of contact information (signage) visible to the public and neighbors; local contact information and

availability²; complaint procedures and verifications. Part of the need is that larger rental management entities like VASA and Sweet Dreams have a growing number of units under their management. We will also take the opportunity to survey more recent enactments by Cities and Counties across the state to see if there are other modifications that would improve our program.

Part Three: Other Code Amendments and Overall Limitations on STRs

Currently the County licenses STRs but otherwise does not limit the number of licenses that can be issued. We also need to review rental variations such as home-shares, and the models used by services like Air B and B and others to insure we are capturing all the possible rental situations in the licensing program. If the Board desires, staff is prepared to look at other possible limitation and regulation methodologies currently in use in Oregon. While no County to our knowledge has placed a cap or limit on the number of STRs³, cities have taken varying approaches to the limitations question. Counties have different statutory requirements than cities if the County were to regulate STRs through the land use system and we would need to approach that avenue very carefully. We must recognize those differences in any new regulatory action in this area. But we are prepared to discuss alternatives for the future with the community, service providers and the Board.

² In June, the City of Newport will be hosting several national/regional vendors who specialize in “contact services” and other related STR regulation services. County staff will be able to sit in on those demonstrations to see if similar services might better, and more cost effectively, serve the County. If so, there may be additional amendments to the Code needed to authorize those services.

³ Some Counties prohibit them in certain resource zones, while allowing them outright (subject to a license) in residential zones. See e.g. Hood River County.