

**Curry County Planning Commission
Staff Report
July 14, 2022**

Application: ZOA 2022.1

Amendments to the Curry County Zoning Ordinance (CCZO)

Land Use Changes to the CCZO: Several changes to the CCZO are proposed to carry out four (4) primary land use objectives. They are:

- 1.) Increase housing opportunities in the R-2 zoning district (Attachment G);
- 2.) Regulation of Short-Term Rentals (STRs) using clear and objective standards (Attachment N);
- 3.) Allowing an Accessory Dwelling Unit (ADU) on Rural Residential land (Attachment L);
and
- 4.) Defining requirements for Lot Line Adjustments (Attachment O).

Legislative Review Process: Amendments to the CCZO require a Legislative Review Process in accordance with Section 2.300 of the CCZO. Section 2.300(2)a) states:

The Planning Commission will conduct the first evidentiary hearing on the application and notice of the hearing will be prepared in accordance with ORS 215.503 as applicable”.

Finding: The first evidentiary hearing is scheduled for July 21, 2022 before the Curry County Planning Commission. Notice of the hearing was published in three newspapers within Curry County – The Pilot (6/24/22), The Port Orford News (6/29/22) and the Curry Reporter (6/29/22).

The purpose of the first evidentiary hearing before the Planning Commission is to:

“Consider the application, the Director staff report and recommendation, and the evidence presented at the public hearing, and then recommend the Board of Commissioners either approve, approve with conditions, or deny the application”.

Finding: The Planning Commission considered and discussed the proposed CCZO amendments at a public workshop held on May 19, 2022 and updated at a public meeting on June 16, 2022. The Board of Commissioners held a public workshop on the proposed CCZO amendments on June 8, 2022. No comments were received from the public during these scheduled and publicly notified meetings. However, several comments were made and received about short term rentals prior to the development of the CCZO language to address short-term rentals. Staff has earnestly tried to incorporate these early comments into the CCZO language proposed for adoption.

Increasing Housing Opportunities in the R-2 Zoning District (Attachment G): The proposed CCZO amendments would increase the allowed housing units for properties zoned Residential-Two (R-2). The R-2 zone currently only allows single family dwellings. The proposed CCZO change allows density increases including duplexes, triplexes and fourplexes provided sewerage, water and transportation services can be provided to support the increases in housing density. The R-2 zone is exclusively applied to properties inside the Urban Growth Boundaries (UGB) of Brookings, Gold Beach and Port Orford. These are areas planned for future urban densities and represent one of the few opportunities for the County to be able to increase the potential to allow more housing.

Finding: The State of Oregon declared a Housing Emergency and the Legislature enacted HB 2001 in 2019 to both mandate in larger cities and encourage in small jurisdictions, increasing housing densities throughout the state. This effort, being led by the Department of Land Conservation and Development (DLCD), is focused on increasing the housing supply, affordability, density and housing options available.

In 2019, the Curry County Board of Commissioners declared a Housing Emergency for Curry County (Resolution 2019-40). Data (2022) presented by ECO Northwest indicates that the median home sale price in Curry County is \$557,000. And the median gross rent is \$1200. – 1600. Per month. A household would now need to earn over \$74,000 per year to afford housing in Curry County. This precludes affordable housing options for most people. The majority of housing purchases over the past two years have been from higher-end, out of county working professionals (internet linked companies) and retirees. The proposed CCZO amendments to the R-2 zone are expected to increase affordable housing options inside the UGB.

Regulation of Short-Term Rentals (STRs) using Clear and Objective Standards (Attachment N): Short-Term Rentals (STRs) are proposed to be regulated through an Administrative Conditional Use process. The process requires public notification in accordance with CCZO Section 2.070(2) Administrative Decisions. The standards for review/compliance are defined as Clear and Objective. Therefore, if an applicant meets the standards, the administrative application most likely will be approved by the Director. Appeal of an STR approval by the Planning Director will be to the Planning Commission in accordance with CCZO Section 2.170 Appeal of a Land Use Decision.

Finding: The issues discussed in multiple public forums over the past year regarding the potential to regulate STRs in Curry County are established in the attached memorandums (June 3, 2021 and November 16, 2021).

Allowing an Accessory Dwelling Unit (ADU) on Rural Residential Zoned Land (Attachment L): Allowing ADUs on Rural Residential zoned properties is governed by the 2021 Oregon Legislature adopted SB391. The legislative allowance is required to be adopted into local land use codes and is restricted by provisions set forth from SB391 and now included as state law. The significant provisions include a requirement that the ADU be within a fire district, can be

located no further than 100 feet from the existing single-family dwelling, is restricted to 900 square feet in size, the parcel must be at least 2-acres in size and the ADU cannot be used as a vacation rental.

Finding: Adoption of the ADU provisions per SB391 will allow Curry County to approve additional housing units outside the UGB on properties zoned for Rural Residential development. While the state allowance is restrictive, it may increase housing options and coupled with the implementation of SB762 (Fire Bill) has increased the interest by Fire Chiefs throughout the County to 1. Evaluate consolidation of fire districts, and 2. annex additional vulnerable county areas not currently served by a fire district into a district.

Defining Requirements for Lot Line Adjustments (Attachment O): The proposed Lot Line Adjustments amendments to the CCZO would codify the procedure and requirement for lot line adjustments. Requirements include survey and property descriptions to be completed by a licensed surveyor, determination of lot legality, and formatting documents consistent with those acceptable to be filed with the County Clerk.

Finding: Lot Line adjustments are legal actions for land transactions. Currently, Curry County refers to vague language set forth in state statute as guidance for lot line adjustments. Multiple issues concerning the legality and lack of land use review of these applications have raised concerns by the County Surveyor, Planning Department, and the Assessor's office. The proposed procedures would clearly define the review process, application requirements and filing format of these land use actions.

Staff Recommendation: Staff recommends approval of the proposed CCZO amendments.



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MEMO

TO: Planning Commission

DATE: June 3, 2021

**FROM: Becky Crockett
Planning Director**

RE: Vacation Rentals

Discussion Question: Should the County Further Regulate Short Term Rentals (Vacation Rentals)?

Short Term Rentals (STRs) or Vacation Rentals have become a significant factor in Curry County. They have eroded the availability of long-term rentals and displaced work force housing. However, they continue to be a positive influence in promoting tourism and bringing added dollars to both the individuals who own the vacation rentals and the businesses that serve the vacationers. Curry County is not a “day-trip” destination. Having a wide variety of short-term housing available is paramount to attracting tourists.

It is estimated that there are up to 400 short-term rentals (STRs) currently operating in the unincorporated areas of the county. The only regulatory requirement is that they have a county business license and pay the 7% Transient Lodging Tax (TLT). Approximately 100 STR owners have a county business license and during the summer months approximately 300 pay the county TLT tax.

The county continues to experience the effects of the increasing amount and influence of STRs. Daily, we address general questions, structural changes to homes, long-term rentals and Accessory Dwelling Units (ADUs) into STRs, violations, nuisances, building code violations, zoning violations and enforcement actions. Below is a short list of some of the pros and cons of STRs in Curry County to facilitate discussion at the Planning Commission meeting:

PROS

- Revenue for homeowners
- Needed supplemental income for homeowners including retirees
- Less liability for homeowners over long-term renters
- Less property damage over long-term renters
- Easier to manage and rent with international and national vacation rental services
- Homeowner Insurance rates lower for STRs than long-term renters
- Oregon Rental laws discourage housing long-term renters
- Attracts more tourists to Curry County
- Increases revenue for area businesses
- Results in better maintenance of structures/landscaping

CONS

- Multiple safety and building code violations in vacation rental structures
- Facilitates crisis for work force housing
- Noise complaints
- Neighbor complaints
- Parking
- Parties!!!
- Lack of contact person responsible for problems
- Vacationers lost at night knocking on neighbor's door
- Barking dogs
- Unknown people in the neighborhood
- Vacant property squatters
- Road access limitations
- Vandalism and theft of neighboring properties
- Litter and Obnoxious vacationers

QUICKNOTES

Regulating Short-Term Rentals

The concept of renting rooms or homes on a short-term basis is not new. Many cities have boarding houses that rent rooms by the week or month, just as many small towns and rural areas host bed and breakfasts. And in some tourist hotspots, dedicated vacation rentals are common. However, new online services that facilitate short-term rentals have led to a rapid proliferation of home sharing as an alternative to more traditional visitor lodging arrangements in communities across the country. In many places, this trend has sparked debates about whether or not new regulatory or enforcement mechanisms are necessary to mitigate potential effects on host communities. While different localities are likely to draw varying conclusions about the necessity of new standards or procedures, the following sections provide some context and recommendations for local policy.

Background

In many communities, home sharing is one facet of a larger trend commonly referred to as the “sharing economy.” This phrase often encompasses a wide range of transactions mediated by websites or mobile technology related to sharing property or services. Because home sharing has the potential to change the character of established residential areas, many communities are taking a closer look at how best to accommodate the demand for new types of lodging without undermining goals related to housing, land use, or transportation.

There are three basic varieties of short-term rentals: (1) hosted sharing, where the primary occupants of a residence remain on-site with guests; (2) unhosted sharing, where the primary occupants of a residence vacate the unit while it is rented to short-term guests; and (3) dedicated vacation rentals, where there are no primary occupants. Home sharing and vacation rental services can provide residents and landlords an easy way to make some extra income and, in some cases, offering residences exclusively as short-term rentals can be far more lucrative than traditional leases. Meanwhile, the properties marketed through home sharing and vacation rental sites often appeal to travelers looking for a more authentic local experience or affordable alternatives to downtown hotels and motels.

For communities with a mature short-term rental market, new regulations or enforcement mechanisms may seem unnecessary. Many of these cities and counties either already have standards and procedures addressing short-term rentals on the books or have decided, based on experience, that such provisions are unnecessary. Similarly, communities with an abundance of affordable rental housing and relatively inelastic demand for conventional short-term lodging space may not feel the need to add new standards or procedures to their codes. This is because home sharing is unlikely to create housing shortages or provide direct competition for hotels and motels. However, in places with a surge in home sharing combined with a shortage of affordable rental housing or unmet demand for rooms in hotels or motels, new standards and procedures may be appropriate.

Clarify Use Definitions

Many localities explicitly prohibit the rental of rooms or dwelling units for periods shorter than one month, unless owners comply with all applicable local regulations for boarding houses, hotels, motels, or bed and breakfasts. Meanwhile, many other cities and counties explicitly permit the short-term rental of dwelling units, subject to specific operational or location restrictions. However, few localities address short-term rentals in instances where a unit is occupied as a primary residence for the majority of the year. Often this means hosted or unhosted home sharing is either explicitly or implicitly prohibited. Given the prevalence of home sharing, it may make sense to consider adding new definitions for different types of sharing situations, such as hosted or unhosted accessory home sharing and vacation rentals as a primary use.



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In some communities with especially high demand for short-term rentals, landlords may be tempted to take units out of the long-term rental market.



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Identify Appropriate Locations

Some cities and counties with mature short-term rental markets permit full-time sharing in zoning districts that include a mix of primary residences and vacation rentals. Others restrict vacation rentals to tourist-oriented districts. One potential risk of permitting home sharing in residential districts is that it may incentivize landlords to take rental properties off the market, creating a shortage of affordable rental housing. Another potential risk is that frequent unhosted sharing and vacation rentals may lead to increased complaints related to noise, traffic, or parking. In areas with high concentrations of home-sharing or vacation rentals, there is also a chance that the fundamental character may change from residential to quasi-commercial.

Consider New Zoning or Licensing Standards

While some cities and counties have elected to explicitly prohibit home sharing altogether, several others have made recent code amendments to accommodate short-term rentals in residential districts, subject to specific zoning or licensing standards intended to mitigate community impacts. These standards address topics such as registration and record keeping, advertising, fees or taxes, annual limits on the total number of short-term rental nights, spatial concentration, inspections, and insurance coverage.

For example, San Francisco prohibits dedicated vacation rentals and requires residents or landlords to register all hosted and unhosted short-term rental units. It limits unhosted rentals to 90 days per year and requires registrants to pay hotel taxes and carry liability insurance for claims up to \$500,000 (§41A.5.g).

Meanwhile, Portland, Oregon, recently added new standards for accessory short-term rentals to address hosted and unhosted home sharing. For units where no more than two bedrooms are offered as short-term rentals, residents or landlords must obtain an administrative permit and limit unhosted sharing to a maximum of 95 days per year. Accessory short-term rentals offering more than two bedrooms are subject to a conditional use approval process. In both cases, no more than 25 percent of units in multifamily buildings can be used as short-term rentals (§33.207).

In Aspen, Colorado, short-term vacation rentals are permitted by right in most residential districts, provided owners obtain a business license and a vacation rental permit, designate a local property manager, notify any affected home owners association, and pay sales and lodging taxes (§26.575.220).

Evaluate Enforcement Alternatives

Without data from home-sharing and vacation rental services, communities may be dependent on complaint-driven enforcement of regulations for short-term rentals. Instead, cities and counties may find it beneficial to establish a proactive enforcement system to ensure that registered properties are complying with applicable standards. This may involve routine monitoring of listings on home-sharing service websites. In communities with short-term rental regulations, violators are typically subject to fines or the revocation of registrations or permits.

Summary

Home-sharing and vacation rental services are growing trends that show no sign of slowing down. While some communities may ultimately decide that short-term rentals do not have a place in established residential districts, there may be no effective enforcement mechanism for a blanket prohibition. Practically speaking, the key is making regulations that are clear, easily enforced, and do not make residents or landlords out to be scofflaws unnecessarily.

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FURTHER READING

1. Published by the American Planning Association

Hutchinson, Nate. 2002. "Short-Term Vacation Rentals: Residential or Commercial Use?" *Zoning News*, March.

2. Other Resources

City Policies for Short-Term Rentals. 2015. Oakland, California: Sustainable Economies Law Center. Available at theselc.org/str_discussion.

Garvin, Elizabeth. 2015. "RMLUI Corner: Thinking About Regulating the Sharing Economy." *Western Planner*, February. Available at <http://tinyurl.com/q4x3zhq>.

National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions." Available at <http://tinyurl.com/pxcdwww>.

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PRACTICE SHORT-TERM RENTALS



Peering into the Peer Economy: Short-Term Rental Regulation

By Dwight H. Merriam, FAICP

You will recall, or if you are a millennial (18 to 34 years old), you might have read about the mantra that James Carville dreamed up for President Bill Clinton's 1992 campaign: "It's the economy, stupid."

Today, for planners, thanks to the entirely new perspective brought to us by the millennials, our theme must be "It's the sharing economy, stupid." It is called variously collaborative consumption, the peer economy, and the sharing economy. More than half of millennials have used sharing services. It is permeating our daily lives in many ways.

This new ethic about our relationship to things, to transportation, to where we bed down, and even to other people has taken us away from owning and exclusively using, to not owning, not possessing, and not using alone. We see the sharing economy in three broad spheres—transportation, goods and services, and housing. While our focus here is on short-term rentals, it helps to understand the larger context for "home sharing."



⊕ This four-bedroom colonial home in Wetherfield, Connecticut, rents for \$385 per night, with a four-night minimum stay.

RIDE-SHARING REVOLUTION

Transportation may be the most obvious and most pervasive face of the sharing economy. Millennials own fewer automobiles than other age cohorts. Millennials purchased almost 30 percent fewer cars from 2007 to 2011 (Plache 2013). Why? Because they use short-term car rentals, public transportation, and ride-sharing services. They are less likely to get driver's licenses. One-third of 16 to 24 year olds don't have a driver's license, the lowest percentage in over 50 years (Tefft et al. 2013). At the same time, so we don't get too carried away with this trend, as the millennials age, they will buy more cars. Forty-three percent said they are likely to buy a car in the next five years (Kadlec 2015).

Ride sharing as a generic term encompasses short-term rentals, making your car available to others, sharing rides, and driving or riding in taxi-like services brokered online through companies like Uber.

Instead of owning a car, you can rent one on a short-term basis from companies such as Zipcar and Enterprise Rent-A-Car. Why own a car when you can conveniently pick one up curbside and use it to run errands for a few hours?

Sharing a ride and splitting the cost is made easier with services like Zimride (also by Enterprise Rent-A-Car), which links drivers with riders at universities and businesses. You boomers will remember the ride-share bulletin boards on campus. Same thing.

Got a car, not making much use of it, and interested in making some money? You can make it available to others on a short-term basis through peer-to-peer car-sharing services including Getaround, which presently operates in Portland, Oregon; San Francisco; San Diego; Austin, Texas; and Chicago. They will rent your car for you while you are away. Cars are covered with a \$1 million policy, and they even clean it for you. RelayRides connects neighbors to let them rent cars by the hour or the day, and if you're traveling more than 14 days, they will take your car at the airport, rent it for you, and pay you. You can even do it for boats with Boatbound. With the help of Spinlister, you can connect with others and rent a bicycle, surfboard, or snowboard.

Dwight Merriam, FAICP, founded Robinson & Cole's Land Use Group in 1978, where he represents land owners, developers, governments, and individuals in land-use matters. He is past president of the American Institute of Certified Planners and received his masters of Regional Planning from the University of North Carolina and his juris doctor from Yale.

Want to make some money by driving others around in your car, or are you a rider who wants to be driven? Just about everyone has heard of Uber, the leader in this form of ride sharing, which includes other services such as Lyft and now Shuddle for ferrying children around and Sidecar for both people and packages. Wireless communications, the Internet, and smartphones have made such ride-sharing and delivery services possible. This is a big deal. Lyft and Uber are worth \$2.5 billion and \$50 billion (more than FedEx and 405 companies in the S&P 500) respectively (Dugan 2015; Tam and de la Merced 2015). And want to be a driver but don't have a car? You can rent one from Breeze just for that purpose.

GOODS AND SERVICES PEER TO PEER

Beyond transportation, the sharing economy extends to relationships between people and service providers. There is peer-to-peer or collaborative consumption through services like TaskRabbit and Skillshare which provide help, paid or bartered, or sometimes free. Instacart will grocery shop for you and claims it will deliver to your door in an hour. You can be a shopper and delivery person for them, making up to \$25 an hour.

NeighborGoods lets you share all those things you have but use so little, from leaf blowers, to pressure washers, to . . . well, take a look in your garage, that place where you used to park your car. If you live in Austin, Texas; Denver; Kansas City, Missouri; Minneapolis; or San Francisco, Zaarly seeks to create a marketplace

to help freelance home-service workers connect with home owners.

There seems no end to the sharing. Fon, touting over 7 million members, lets you share your home WiFi in exchange for access. The Lending Club connects borrowers and investors, enabling, so they say, better rates than credit cards and more return for lenders than what banks offer. Over \$11 billion has been borrowed since it started in July 2007, with investors earning a median of 8.1 percent. Poshmark lets you show your unneeded clothing in a virtual closet and get linked with people who share your sense of style. You can even share your dog, or become a sitter, with DogVacay and Rover helping you find a local dog sitter to care for your dog at your home or theirs.

The power of the Internet in facilitating collaborative consumption was probably best evidenced first when eBay and Craigslist provided an online marketplace never experienced before. Today, we have web-based services like Freecycle where people can post things they don't want, the remnants of our overconsumption, and others can take that flotsam and jetsam for free. Yes, for free. It solves the donor's solid waste disposal problem and provides free goods for the takers.

SHARING THE ROOF OVER OUR HEADS

That brings us to the subject matter of greatest interest to planners—the sharing of space.

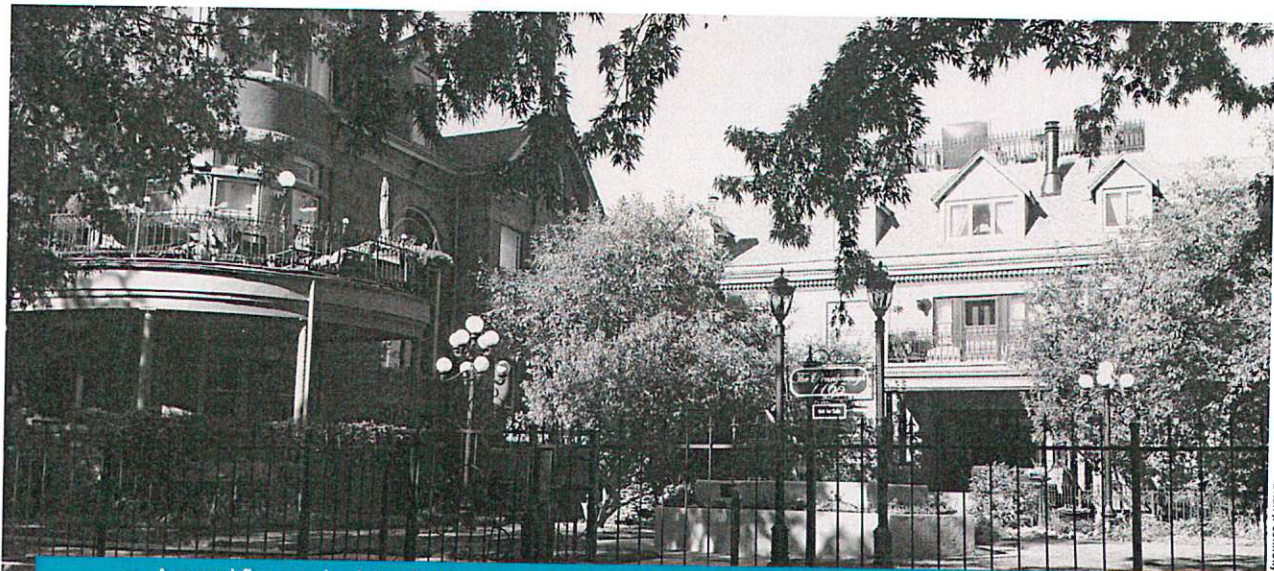
Maybe it began with the sale of timeshares in the United States in 1974. These fractional interests have proved difficult to sell. Short-term vacation rentals emerged as a better way for many, linking property owners with vacationers through companies like HomeAway and its numerous related entities, claiming over one million listings. FlipKey does much the same with what it says are over 300,000 listings in 179 countries.

But Airbnb goes beyond vacation rentals. You can rent a shared or private room for a night, a whole house, an apartment for your exclusive use for a week, a British castle (Airbnb says it has 1,400-plus castles), a teepee, an igloo, a caboose, or an eight-foot by 14-foot treehouse in Illinois (\$195 a night) if you wish.

The company, originally "AirBed & Breakfast," was founded in 2008 by Brian Chesky, Joe Gebbia, and later Nathan Blecharczyk. It began when Chesky and Gebbia, to help pay their rent, rented sleeping accommodations on three air mattresses in their San Francisco apartment living room and made breakfast for the guests (Salter 2012). The company is now worth \$25.5 billion and joins the ranks of the rest of the great ideas we wish we had thought of first (O'Brien 2015).

GOOD OR BAD?

Are short-term rentals good or bad for your community? Like so many things, it depends.



➡ A second-floor condominium in this converted mansion in Denver's Capitol Hill neighborhood offers a private bedroom and bath rental for \$105 per night, with a two-night minimum stay.

Brian I. Connolly



Sorell E. Negro

➡ This three-bedroom home near Miami's Coconut Grove rents for \$325 per night, with a five-night minimum stay.

Affordable Housing

Short-term rentals (STRs) increase the stock of furnished, short-term accommodations. Because many of the rentals involve renting a room in a permanently occupied dwelling, they are often less expensive than commercial lodging. The benefit for home owners or long-term tenants who host STR guests is additional income, which can help offset mortgage or rent payments.

Some contend that STRs may exacerbate the shortage of lower cost rentals because landlords, attracted by the higher revenue stream from STRs, are taking apartments out of long-term rentals, especially in tight markets like New York and San Francisco (Monroe 2014; Moskowitz 2015). Others say high tenant demand and demographics are the cause of the problem, not STRs, which are a small share of the market (Lewyn 2015; Rosen 2013).

Aging in Place

Short-term rentals of rooms in homes and apartments not only provide additional revenue for those aging in place, but they may provide an opportunity for sharing of chores and bartering for services, just as accessory apartments do. This can enable older people to stay in their homes longer before transitioning to an independent or assisted living facility.

Commercial Lodging

The only possible benefit of STRs with regard to existing commercial lodging is that it may stimulate competition and lower prices for the consumer. The negatives are several. Short-



Robert H. Thomas

➡ This condo hotel in downtown Honolulu includes owner- and long-term renter-occupied units, privately owned units available for daily rental through the building's hotel operator, units owned by the hotel operators, and privately owned units available for short-term rental through Airbnb and similar sites.

term rentals may reduce commercial lodging revenues. In many situations STRs have an advantage over commercial lodging because the STRs do not pay the occupancy taxes paid by commercial lodging. Short-term rentals generally do not need the service workers employed in commercial lodging. Unions and service workers often oppose STRs.

State and Local Government

Revenues to state and local government may go down as a result of STRs because, as noted, such rentals usually do not pay the occupancy and other taxes levied on commercial lodging. Airbnb does provide 1099 forms to hosts to report their income, and it has begun collecting and remitting hotel and tourist taxes in San Francisco; San Jose, California; Chicago; and Washington, D.C. (Hantman 2015).

Health and Safety

Much of the STR market today is unregulated. Those who rent typically do not have their premises inspected to determine compliance with health, building, housing, and safety codes. For its part, Airbnb does clearly state in its terms of service that some localities have zoning or administrative laws that prohibit or restrict STRs and that "hosts should review local laws before listing a space on Airbnb."

Airbnb also provides a guide to responsible hosting on its website, and what they do address is good guidance for local planners and regulators, and thus worth reading. How many hosts read and follow up on the suggestions is another matter. Airbnb's list is still a good starting point for local action.

Many STR hosts do not have home owners and liability insurance to cover losses that may result from occupancy. There is a life safety issue here, and in the event of death, injury, or property damage, there may not be insurance coverage or sufficient assets available to cover the liability.

AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

So said Benjamin Franklin, and it is apt here. You need only take a few relatively easy steps to get out ahead of the potential problems with STRs and capitalize on the good that such rentals can provide your community.

Moratorium

This is not a recommendation, but something worth considering. As you work down this list of

steps you will have the sense that you need to do six things at once. You do. One way to get a grip on it is take a “planning pause” moratorium on all STRs for, say, six months, during which time no one can rent. However, given that the number of such rentals in many places is still relatively small, it is unlikely that much harm will come from letting them continue on while you plan and prepare to regulate. It may not be worth the effort to have a moratorium. A moratorium takes time—for drafting, maybe some legal advice, and the expenditure of political capital in most cases—and may cause some pushback from those already renting, all of which may cost more than the planning pause is worth. Moratoria sometimes serve only to delay the inevitable hard work and are often extended. Back to Ben Franklin: “Don’t put off until tomorrow what you can do today.”

Education

Learn what is available out there now by going to all of the websites and services that you can find, most of which are identified here. Look online to see what STRs are being offered in your community. You may be surprised at how many of your friends and neighbors are already in the STR business. Don’t forget to check Craigslist as well, and use an online search engine, such as Google, with a few key terms, like “rentals Anytown” and “house-sharing Anytown,” to find other STR activity.

Conduct educational sessions in your community (“Everything You Need To Know About Short-Term Rentals”) even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance, fire prevention, emergency response, following rules for rent controlled units, first aid, protecting privacy (e.g., disclosing security cameras), insurance coverage, parking, noise, smoking, pets, childproofing, operation of heating and ventilating systems (including fireplaces and heating stoves), safe access, occupancy limits, deciding what to tell neighbors, home owners association approval, tax obligations, and any required zoning approvals. These sessions may also provide an opportunity to learn who is renting and to connect with them. Consider establishing a section of your municipal website as a resource portal. You will not have all the answers to all the questions as you start, but you need to start.

Planning

Yes, planning. The rational planning model in its simplest terms is what do you have, what do

you want, and how do you get it. You need to know who is renting and what is being rented to whom for how long. You need to determine what you may expect in the future. What do you think the demand is for STRs, in what mix of accommodations, and for what length of tenancy? This will prove useful to deciding whether you need to limit the number of units available for STR and to regulate the length of occupancy.

Regulate

Regulation probably will come in two forms: licensing of individual hosts to insure code compliance and general regulation (either through zoning or licensing standards) as to location, number of units, and terms of tenancy. You will have to draw the line somewhere as to what is an STR and what is simply an unregulated rental.

Conduct educational sessions in your community even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance.

Is an STR a rental of less than 30 days or 90 days, or some other somewhat arbitrary number of days, and everything else is just an unregulated rental? It is for you to decide. You will also want to consider whether owner-occupied STRs might be regulated less strictly, given that the owner is present during the STR.

Austin, Texas, has a robust program with licensing. They carve out three types of STRs: owner-occupied single-family, multifamily, or duplex units (Type 1); single-family or duplex units that are not owner occupied (Type 2); and multifamily units that are not owner occupied (Type 3). There is a three percent limit by census tract on the Type 2 single-family and duplex STRs, a three percent limit per property on Type 3 STRs in any noncommercial zoning district, and a 25 percent limit per property on Type 3 STRs in any commercial zoning district. However, each multifamily property is allowed at least one Type 3 STR, regardless of these limits.

Austin has separate application forms for Type 1 primary, secondary, and partial STRs. All of these forms include owner and property identification information as well as insurance information, number of sleeping rooms, occupancy limit, and average charge per structure. To qualify as a Type 1 primary STR, the unit must be owner occupied at least 51 percent of the time and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 2 secondary STR, the unit must be accessory to an owner-occupied principal residence and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 1 partial unit, namely a room rental, the unit must provide exclusive use of a sleeping room and shared bathroom access. Only one partial unit can be rented out at a time, to a single party of individuals, and for periods of 30 days or less. Owners must be present for the duration of the rental.

The annual licensing fee for STRs in Austin is \$235. Applicants must also pay a one-time notification fee of \$50.

Of course, as with all regulation there are those with schemes to beat the regulation. There are sites online that advise potential STR hosts to avoid posting on Craigslist, use Airbnb’s community and social features to screen the reservations (presumably to avoid enforcement types), “hide your home” by using Airbnb’s public view that only shows a large circle within which the unit is located, use word of mouth (or social networking sites) to rent the unit, and “get lost in the crowd” in that there are thousands of listings in large places like Austin (but not in the rural counties, suburbs, and small towns). This advice to those interested in breaking the law suggests that it will not always be easy for code enforcement to find the STRs. Perhaps some notice to all property owners, maybe a note with the tax bill, telling them of the need to register would help. Free, simple, online registration might increase compliance. The critical issue is life safety—you need to find all of these STRs to make sure they are safe.

San Francisco has an Office of Short-Term Rental, and in 2014 the city adopted major revisions to its planning codes for STRs. Those amendments include some useful definitions of hosting platform, primary residence, residential unit, short-term residential rental, and tourist or transient use. The code requires registration, occupancy of the unit by the owner not less than 275 days a year, maintenance of records for two years, certain insurance coverage, payment of transient occupancy taxes, compliance with the

housing code, posting the registration number on the hosting platform's listing, and a clearly printed sign inside of the front door with the locations of all fire extinguishers in the unit and building, gas shut-off valves, fire exits, and pull fire alarms. The application fee and renewal fee every two years is \$50. The hosting platform has numerous responsibilities, and there are fines for violations. It is a good model from which to start.

Isle of Palms, South Carolina, regulates STRs through zoning, defining an STR to be three months or less. The city's STR standards limit the number of overnight occupants to six and daytime occupants to 40 (can we assume a wedding party or the like?), set a minimum floor area per occupant, and establish off-street parking requirements.

Monterey County, California, also regulates STRs in its zoning code, defining STRs as rentals between seven and 30 consecutive calendar days. The county considers stays of less than seven days to be a motel/hotel use. The regulation provided for administrative approval of all STRs in operation at the time of its adoption in 1997 if the property owners applied within 90 days. Most of the existing, legal STRs date from that initial round of approvals. Since then, there have been some discretionary approvals, and many STRs are believed to be operating without the required permits.

San Bernardino County, California, permits STRs, defined as rentals of less than 30 days, by zoning in the "Mountain Region" by special use permit exempting multifamily condominium units in fee simple and timeshares with a previous land-use approval. The development standards include code compliance, maximum occupancy based on floor area per occupant and the number of beds, off-street parking requirements, and signage specifications. Conditions of operations address the contents of the rental agreement, posting of the property within the unit with all the conditions of use, and details of fire safety and maintenance, even including a prohibition on the use of extension cords.

Miami Beach, Florida, prohibits STRs in all single-family homes and in many multifamily buildings in certain zoning districts.

Registering all these STRs can be burdensome. Since May 1, 2015, Nashville has issued 1,000 permits, and staff estimates the city still has 800 illegal hotels and motels (Bailey 2015). Wait times for all types permits went from 30 minutes to four hours because of all the STR registrations (Bailey 2015).

THE MAKINGS OF WORKABLE PROGRAM

Overarching issues to consider include the nature of the activity you aim to regulate, the management structure of the STR, and the limits on STR use.

What Is the Nature of the Activity You Will Regulate?

Presumably, hosting a STR is a private enterprise and almost certainly not a commercial lodging business. It is a type of lodging that is largely advertised online, through social media, and on bulletin boards. How will you draw the line between that modest, private activity and a commercial operation?

How Is It Managed?

Does the host have to be the owner, and does the host need to be there during the rental? If not, will you regulate differently in terms of numbers of units allowed, number of days per year, or terms of occupancy?

What Is the Limit of Use?

Will you require the host to live in the residence at least some minimum number of days per year? Will you limit rentals to some maximum number of days per year? Will you define STR as a rental of 30 consecutive days or less and not regulate longer rentals in any way? Will you regulate whole-house, exclusive-use rentals differently, for example by only regulating when the house is rented for less than a week or two weeks? And will you regulate renting of rooms on a different schedule, for example by including room rentals only if they are less than one month and otherwise not regulating longer room rentals, which may be covered by zoning anyway, possibly under the definition of a rooming house? There are so many questions to be answered and so many lines to be drawn.

A checklist of considerations for hosts and public officials for planning, regulation, and operation might include current zoning requirements; applicable codes (sanitation, health, building, occupancy among many); business licensing; business organization (none, limited liability corporation, general or limited liability partnership, Subchapter S, etc.); home owners association covenants and restrictions; other easements, covenants, restrictions on the land; lodging to be offered (room, whole house, host-occupied, length of stay); 911 marking at the street; emergency notifications; food service (permitted? licensed?); federal, state, and local taxes; safety inspections; fire, smoke, CO₂, and other detectors; fire extinguishers; child safety; parking; insurance; emergency notifications; water and septic; safe hot water temperature; electrical and plumbing in good repair; pest/vermin-free (especially bed bugs); ventilation, heat, air conditioning adequate; no hazards; no mold or excessive moisture; working doors, windows, and screens; adequate means of egress; linen sanitation; and pool and spa maintenance.

YOU'VE MADE YOUR BED . . .

So goes the idiom from the French as early as 1590: "Comme on fait son lit, on le trouve" (As one makes one's bed, so one finds it). In planning for and regulating STRs, you will indeed be the ones making the bed, and you will have to lie in it. There are benefits and burdens in how you permit STRs and many considerations to be weighed. If you start with life-safety issues first, you can be quite certain the most important aspect of this rapidly emerging sharing economy phenomenon will be addressed. After that, it is the usual planning and politics.



➡ This building in downtown Boston includes a two-bedroom loft apartment that rents for \$245 per night, with a seven-night minimum stay.

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DOES YOUR COMMUNITY
REGULATE SHORT-TERM
RENTALS?

10



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MEMO

TO: Board of Commissioners

DATE: November 16, 2021

**FROM: Becky Crockett
Post Planning Director**

RE: Vacation Rentals

Workshop Discussion: Should the County Regulate Vacation Rentals?

The Opportunity Exists to Protect the Long-term Viability of Vacation Rentals and Reduce the Growing Number of Neighbor Complaints in Curry County.

Background: Short Term Rentals (STRs) or Vacation Rentals have become a significant factor in Curry County. They continue to be a positive influence in promoting tourism and bringing added dollars to both the individuals who own the vacation rentals and the businesses that serve the vacationers. Curry County is not a “day-trip” destination. Having a wide variety of short-term housing available is paramount to attracting tourists. However, some have become conduits for nuisance violations and neighbor complaints. They are also believed to erode the availability of long-term rentals and displace needed work force housing.

It is estimated that there are up to 400 short-term rentals (STRs) currently operating in the unincorporated areas of the county. The only regulatory requirement is that they have a county business license and pay the 7% Transient Lodging Tax (TLT). Approximately 100 STR owners have a county business license and during the summer months approximately 300 pay the county TLT tax.

The county continues to experience the effects of the increasing amount and influence of STRs. Daily, we address general questions, structural changes to homes, long-term rentals and Accessory Dwelling Units (ADUs) transitioning into STRs, violations, nuisances, building code violations, zoning violations and enforcement actions. While they are economically valuable to the county, they are also an increasing conduit for neighbor complaints.

It is important for the county to protect the long-term viability and investments made in the numerous, well managed vacation rentals. It is also important to put in place standards to address those units that are marginally managed and have been a conduit for nuisance violations.

Impact of Vacation Rentals (Short Term Rentals): The literature as well as the growing experience with STRs in the coastal towns of Oregon including Curry County provide an expansive wealth of information regarding the impacts of this type of activity. It seems that for every positive attribute one can argue that there is a negative attribute. Below is a short list of some of the pros and cons shared with Curry County staff of STRs for consideration in the discussion:

PROS

- Revenue for homeowners
- Innovative and exciting venues for vacationers (houseboats, forest lodges, etc.)
- Needed supplemental income for homeowners including retirees
- Less liability for homeowners over long-term renters
- Less property damage over long-term renters
- Easier to manage and rent with international and national vacation rental services
- Homeowner Insurance rates lower for STRs than long-term renters
- Oregon Rental laws discourage housing long-term renters
- Attracts more tourists to Curry County
- Increases revenue for area businesses
- Results in better maintenance of structures/landscaping

CONS

- Multiple safety and building code violations in vacation rental structures
- Facilitates crisis for work force housing
- Noise complaints
- Trespass onto adjacent properties
- Parking
- Parties!!!
- Lack of contact person responsible for problems
- Vacationers lost at night knocking on neighbor's door
- Barking dogs
- Unknown people in the neighborhood
- Vacant property squatters
- Road access limitations
- Vandalism and theft of neighboring properties

Protection for Vacation Rentals: The Board of Commissioner's decision to proceed with the discussion on STRs was largely influenced by the decision on November 2, 2021 by the voters in Lincoln County to phase out STRs in residential zones over the next five (5) years. Ballot Measure 21-203 in Lincoln County to get rid of STRs passed 58% to 42%. A large reason for the success of 21-203 was the fact that the citizens repeatedly asked the Lincoln County BOC to do better enforcement on STRs and that just never happened. Lincoln County regulated STRs by issuing a license for them. The Curry County BOC, as well as County Code Enforcement and Planning have received numerous letters and phone calls of nuisance complaints about STRs.

Considering the success of Measure 21-203, county staff requested a legal opinion on the following question: "If Curry County regulates vacation rentals under the land use code, can they be subject to a vote to have them shut down in the future"? County Counsel's legal opinion indicates that if we regulate vacation rentals (STRs) by requiring them to have an administrative conditional use permit (land use permit) then they will be "safe" from being shut down by a voter referendum. This should be good news to those people who own/operate vacation rentals in Curry County. However, it does mean that they will need to go through the land use permitting process to gain this protection.

County-wide Moratorium on Short-term Rentals (STRs): Determining the feasibility and impact of a moratorium on short term rentals in the county would require an accurate assessment of the number of STRs in the context of the amount of housing with specific information on the availability of housing. It has been suggested that STRs negatively affect the availability of long-term rentals and work force housing. There may be some impact but sorting out the issue of “availability” of long-term rentals needs to factor in other considerations including what is a “qualified” long term renter? Unfortunately, there are several people who desire affordable, long-term rentals in the county but have effectively disqualified themselves through drug use, destruction of prior rentals, animals, spotty employment history, lack of rent payments, etc. Placing a moratorium on STRs may result in some additional housing availability but other factors may be of greater importance in attempting to alleviate the affordable housing shortage in Curry County. A moratorium on STRs without an assessment of the potential benefit of such an action would appear to be premature.

Regulation of Short-Term Rentals (Vacation Rentals): There are several important things to consider if it is determined that Curry County should regulate STRs within the land use code. Close coordination between Planning, Building and Code Enforcement will be required to have an effective program. Considerations should include:

- Fire, life Safety Risk review of STR structures
- Land Use Process – neighbor opportunity for input
- Land Use Law – legal lots, zoning and permitted structure
- Parking
- Compatibility Standards – quiet hours, signage, contacts, emergency, etc.
- Utility connections and capacity (i.e., sewage disposal)
- Garbage disposal
- Nuisance abatement
- Access
- Clear address for vacationers and Emergency Response
- Earthquake/Tsunami Evacuation Notice
- Complaint resolution
- Enforcement/Penalties for non-compliance
- Fees
- Other

Based on research and review of multiple STR regulatory ordinances in place across the country, the following ordinance concepts are presented for discussion:

Curry County Zoning Ordinance (CCZO): The STR Ordinance could be incorporated into the Conditional Use section of the CCZO. This provides a standard administrative process for review, public notification, opportunity for appeals to the Planning Commission and a format to define required compatibility standards. A standard land use application can be used with information that allows staff to verify legal lot, zoning, and structure status. This application process also requires the applicant to disclose utility information including required signatures from fire districts, electric provider, sewerage agencies and to identify the STR water source. The CCZO Conditional Use process also allows staff to add conditions to an application where there are special concerns of compatibility that are unique to an applicant’s proposed STR.

Fire, Life Safety Risk: The County Building Inspector would check the structure proposed for a STR. The primary purpose of the “check” would be for Fire, Life and Safety Risk. There would **NOT** be a review of structures and subsequent building code requirements unrelated to Fire, Life and Safety Risk. However, the “check” by the Building Official may likely include onsite review of other requirements set forth in the Administrative Conditional Use permit such as the number of required parking spaces, signage, etc. This onsite review of other land use related standards by the Building Official would negate the need for more than one staff person having to visit the STR. A sample checklist from Tillamook County is attached.

Enforcement: Unpermitted STRs and permitted STRs that are in violation of any requirements are subject to citation and fines through County Code Enforcement. Code Enforcement citations start at \$440., and non-payment usually results in a court appearance. Multiple complaints and/or violations would likely result in revocation of the STR land use permit.

Fees: An Administrative Conditional Use permit is currently \$2,000. A required renewal request is suggested every three (3) years with a fee of \$500. The Fire, Life Safety check fee would likely be \$200., and \$108. for each additional Building Inspector check for a non-compliance fix and required re-checks.

Staff Recommendation: As your Planning Director for the past three (3) years I have never requested that the Board adopt more regulations of any type. If there was a way to eliminate many of the land use regulations we are bound to in Oregon, your Post Planning Director would be driving that process. However, we are at a crossroads on the issue of STRs. We have experienced a significant increase in the complaints about STRs over the past year. We also receive a phone call or email almost every single day in the Planning and Building Department requesting the new development of a STR or the transition of an existing structure (house, shed, barn, yurt, boat) for the purpose of an STR. We have engaged in multiple enforcement actions on illegal structures including “impromptu” STRs that very typically have serious Fire, Life Safety issues. For the county to continue to acknowledge the serious upswing in the number of STRs, the number of complaints and the serious issues faced during enforcement and not take some action puts the county in a position of risk and potential liability. This position, coupled with the risk of a citizen driven referendum to eliminate STRs unfortunately leads to a recommendation from staff to regulate STRs in Curry County through the land use process. This recommendation recognizes the desire to protect the investment and long-term viability of the numerous STRs that continue to be well managed from a referendum to eliminate or phase them out. Further, it acknowledges that some STRs that have a history of significant neighborhood impacts, are within illegal structures, or have Fire, Life Safety compliance deficiencies likely will not be able to continue. It is expected that STRs in this latter category will become compliant or fail to attempt to apply for a land use permit. Some of these will likely revert to long term rentals or be sold.

CC: Curry County Planning Commission

SHORT TERM RENTAL INSPECTION CHECKLIST

Provisions found accordingly in Tillamook County Ordinance #84

STVR # _____

Property Address: _____ Permit Application #: _____

Property Owner: _____ Inspection Contact: _____

Local Contact: _____ Phone Number: _____

OF ACTUAL UNITS: _____ Management: _____

- 1. Authorized parking per approved application [] YES [] NO
- 2. Covered garbage container [] YES [] NO
- 3. Visible house numbers [] YES [] NO
- 4. Required contact information signage [] YES [] NO
- 5. Accessible fire extinguisher in visible location [] YES [] NO
- 6. Electrical switch and outlet face plates [] YES [] NO
- 7. Electrical panel circuits permanently labeled [] YES [] NO
- 8. Ground fault circuit interrupter protected receptacles [] YES [] NO
- 9. Required smoke detectors/carbon monoxide detectors [] YES [] NO
- 10. Properly installed wood stoves, fireplaces, and fuel burning heat sources [] YES [] NO
- 11. Required handrails – Required guardrails [] YES [] NO
- 12. Sleeping area emergency escape and rescue openings [] YES [] NO
- 13. Hot tub barrier [] YES [] NO
- 14. Tsunami evacuation Poster [] YES [] NO

INSPECTION APPROVED [] APPEARS TO MEET THE REQUIREMENTS OF ORDINANCE #84

INSPECTION DENIED [] REINSPECTION REQUIRED WITHING:
30 DAYS [] (MINOR REPAIRS)
60 DAYS [] (MAJOR REPAIRS)
 (APPLICATION SUBJECT TO CANCELLATION IF NOT COMPLETED WITHIN THE REQUIRED TIMEFRAME)

****REINSPECTION FEE REQUIRED [] **REINSPECTION FEE WAIVED []**

DATE OF INITIAL INSPECTION _____ INSPECTOR SIGNATURE _____
INSPECTOR COMMENTS:

OWNER / RENTAL MGMT SIGNATURE _____ DATE _____

INSPECTION MUST BE COMPLETED WITHIN 30 DAYS OF APPLICATION DATE – ALL FAILED INSPECTIONS WILL REQUIRE SPECIAL REINSPECTION FEE PAID PRIOR TO SCHEDULING UNLESS REINSPECTION FEE IS WAIVED BY INSPECTOR**