

**CITY OF LINCOLN CITY
CITY COUNCIL
WORK SESSION MEETING AGENDA**

APRIL 12, 2023, 5:00 PM

5:00 PM – 6:30 PM - The City Council will hold a Work Session in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting. To request information in an alternate format or other assistance, please contact the City's ADA Coordinator, Kevin Mattias, at [541-996-1013](tel:541-996-1013) or kmattias@lincolncity.org. Visit the [ADA Accessibility | City of Lincoln City, OR](#) webpage to view how the City continues to remain in compliance with Title II of the Americans with Disabilities Act regarding City programs, services, processes, and facilities.

This meeting is a **work session only** and generally does not include public comment.

1. CALL TO ORDER

2. DISCUSSION ITEMS

A. VRDs

1. VRDs

B. City Manager Report

C. Miscellaneous

3. ADJOURNMENT

Planning Staff Report

VRDs

Meeting Date: April 12, 2023

Department: City Council

Secondary Dept:

Legarza, AnneMarie Skinner

Approval:

Primary Staff Contact: AnneMarie Skinner

E-Mail: ASkinner@lincolncity.org

Secondary Contacts: Richard Appicello, Daphnee

Estimated Time:

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1. Vacation rental dwelling means a dwelling unit that is used, rented or occupied on a daily or weekly basis, or is available for use, rent, or occupancy on a daily or weekly basis, or is advertised, or listed by an agent, as available for use, rent, or occupancy on a daily or weekly basis.
 2. Unlimited use VRDs (the dwelling may be rented as a vacation rental dwelling for 365 nights per calendar year) are allowed in the following zones:
 - NBD (Nelscott Business District)
 - NBMU (Nelscott Beachside Mixed Use)
 - TVC (Taft Village Core)
 - OPOF (Oceanlake Oceanfront)
 - OPIM (Oceanlake Interior Mixed Use)
 - OPMSH (Oceanlake Main Street Highway)
 - VR (Vacation Rental)
 - RC (Recreation Commercial)
 - GC (General Commercial)
 3. Accessory VRDs (the dwelling may be rented as a vacation rental for up to and no more than 30 nights per calendar year) is allowed in the following zones:
 - R1-5 (Single-Unit Residential 1-5)
 - R1-7.5 (Single-Unit Residential 1-7.5)
 - R1-10 (Single-unit Residential 1-10)
 - R1RE (Single-unit Residential Roads End)
 - RM (Multiple-unit Residential)
 - RR (Recreation Residential)
 4. Unlimited use (the dwelling may be rented as a vacation rental for 365 nights per year) is also allowed in the R1-5 and R1RE zones, but there is a cap to the number of dwellings in the R1-5 and R1RE that are allowed unlimited use.

- a. Cap in the R1-5 zone is 10% of the lots, which equates to 194 unlimited use VRDs in the R1-5 zone. Currently 193 unlimited use licenses issued in the R1-5 zone, one in process.
 - o 53 on an unofficial waiting list to obtain an unlimited use license in the R1-5 zone. The waiting list process was never codified and no new names are being added to the list at the advice of the city attorney.
- b. Cap in the R1RE zone is 10% of the lots, which equates to 91 unlimited use VRDs in the R1RE zone. Currently 176 unlimited use licenses issued in the R1RE zone.
 - o R1RE has a phase-out program in place that allows for property owners with a valid unlimited use VRD license to sell their property and the new property owner may apply for a new unlimited use VRD license **UNTIL** November 22, 2024.
 - o After November 22, 2024, purchasers of properties with a valid unlimited use VRD license will not be allowed to apply for an unlimited use VRD license, but may apply for a limited accessory use VRD license.

5. VRD numbers by zone

Commercial #		Residential # Unlimited		# Accessory
GC	21	R1-5	193	15
NBMU	16	R1RE	176	7
NBD	1	RM	8 (nonconforming)	1
OPIM	44	RR	1 (nonconforming)	2
OPMSH	1	NCR	2 (nonconforming)	
OPOF	4	R1-7.5	1 (nonconforming)	
TVC	4			
RC	20			
VR	83			

Total Commercial Zones = 194
 Total Residential Zones Unlimited = 381
 Total Residential Zones Accessory = 25
Total = 600

32% in Commercial Zones
68% in Residential Zones

- 6. Parking Requirements for VRDs are one off-street parking space per bedroom, but no less than two spaces for each dwelling unit

STAFF RECOMMENDATIONS:

SR1 – Eliminate accessory use VRDs in all zones. Existing accessory use VRDs would remain as nonconforming until such time that they went out of business, ceased to renew their license, or didn't meet the renewal standards of criteria.

SR2 – Change the term "vacation rental dwelling" to "short-term rental" and clarify the definition by clearly identifying the maximum period.

- It would read as follows: "Short-term rental" means a dwelling unit that is used, rented, or occupied for a fee on a daily or weekly basis for a maximum period of 30 days, or is available for use, rent, or occupancy for a fee on a daily or weekly basis for a maximum period of 30 days, or is advertised, or listed by an agent or any other means, as available for use, rent, or occupancy for a fee on a daily or weekly basis for a maximum period of 30 days.
- It would be good to define the rental period in the definition. We are frequently asked about the difference between short-term rental (maximum rental period of 30 days) and long-term rental (rental periods for 31 days or more). It's more clear and transparent to specifically state it in the definition, rather than having staff verbalize it with no code to back it up.
- These changes provide clarity in the rental period and reduce confusion about the term. The general population knows short-term rentals (what our code calls vacation rental dwellings) as short-term rentals, or STRs, and are confused by our code's reference to them as VRDs. Changing the name to what the general population and most other codes use will help alleviate a lot of confusion.

SR3 – As a matter of consistency, move the application procedure and processing from 17.80.050 to 17.77 to be consistent with the other land-use applications in Title 17. This is not a substantive change, just moving the process from one section to another section in the code.

SR4 – Add clarification to the parking requirements to connect off-street parking space sizing and surfacing requirements to Chapter 17.56. The code does not state that now; rather, it's inferred. It creates problems not having it specifically stated and staff would like to add some verbiage referring to the requirements of Chapter 17.56, as well as requirements for measuring and marking the off-street parking spaces or providing proof (such as a map from a licensed land surveyor) that the required number of off-street parking spaces exist on the property.

SR5 – Change the 10% cap in the R1-5 zone to the flat number of 194. Change the 10% cap in the R1RE zone to the flat number of 91.

Note: Changes to 17.80.050 will require a city-wide Measure 56 mailing. City-wide Measure 56 mailings use a lot of staff time and are expensive to produce (printing, envelopes, postage). Accordingly, changes to 17.80.050 are recommended to be as holistic and inclusive as possible in one ordinance, rather than one or two items now and one or two items in a year and one or two items the following year, etc.

Attachments:

17.80.050 (PDF)

TRT_Source (XLSX)

2022 TRT Revenue (DOCX)

17.80.050 Vacation rental dwelling use criteria.¹**A. Purpose.**

1. Purpose. Vacation rental dwellings are allowed in recognition of the fact that property owners may desire to allow others to use a vacation home on occasions when the owners themselves are not using it, and the accommodation option that best fulfills the desires of many guests visiting Lincoln City is the rental of a private home during their stay.

2. Basis. The city council finds:

- a. The use of vacation rental dwellings can have a perceived negative cumulative effect on Lincoln City neighborhoods by creating nuisances including but not limited to excessive loud noise, excessive numbers of parked vehicles interfering with vehicle access along public roadways and blocking private drives, and litter migrating onto adjacent properties from untended solid waste receptacles.
- b. An absentee owner may not be aware of the extent to which use of a vacation rental dwelling potentially causes negative effects on neighboring properties and the livability of a neighborhood.
- c. All owners of property in the city have a common interest in maintaining and promoting livable and viable neighborhoods for residents and visitors alike.

B. Vacation Rental Dwelling Standards. Except where noted, the following standards apply to all vacation rental dwellings in the city:

1. Ownership. The approved use of the vacation rental dwelling in any zone is in the name of the property owner and the approval, including any license, is not transferable. When the owner sells or transfers the property occupied or rented as a vacation rental dwelling, the approved use shall cease.

a. For purposes of this chapter, “sale or transfer” means any change of ownership during the lifetime of the owner, whether or not there is consideration, or after the death of the owner, except a change in ownership where title is held in survivorship with a spouse or domestic partner, or transfers on the owner’s death to a trust which benefits only a spouse or domestic partner for the lifetime of the spouse or domestic partner. An owner 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 loss of approval of the vacation rental dwelling use 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 approval for the use held by the transferor shall terminate.

b. For purposes of this chapter, “person” means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his or her property to a trust of which the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit in a residential zone that has a vacation rental dwelling permit. If the owner is a business entity such as a partnership, corporation, limited liability company, limited partnership, 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 in a residential zone that has a vacation rental dwelling permit.

2. Accessory or Permitted Use.

a. Except as otherwise provided in this title, a VRD is allowed as an accessory use in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, and R-R zones, and as a permitted use in the R-1-5, R-1-RE, NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, VR, RC, and GC zones, provided the VRD meets the applicable standards of this chapter and obtains a license under Chapter 5.14 LCMC.

b. Incidental and subordinate accessory vacation rental dwelling use is not a commercial use. Commercial vacation rental dwelling use is use of a dwelling for vacation rental dwelling purposes for more than 30 nights per calendar year.

c. The total number of vacation rental dwellings operating without limits on the number of nights for which they may be rented in the R-1-5 zone shall not exceed 10 percent of the total number of lots in that zone.

d. In the R-1-RE zone, all existing licensed vacation rentals and those with complete applications per ORS 227.178(3) on the effective date of the ordinance codified in this section (November 22, 2017) shall be allowed to continue to operate as legal nonconforming uses without limits on the number of nights for which they may be rented. Nonconforming uses are subject to loss of such status per Chapter 17.64 LCMC and this section. Specifically, discontinuance or abandonment of VRD operations, including but not limited to failure to maintain a VRD license pursuant to Chapter 5.14 LCMC for a period of six months or more, shall constitute termination of the nonconforming unlimited VRD use. The director is prohibited from granting extensions to the six-month discontinuance time period. When the total number of nonconforming unlimited VRDs in the R-1-RE zone is reduced to 10 percent of the total number of lots in that zone, a cap of 10 percent shall be triggered on such unlimited VRDs and all existing nonconforming unlimited VRDs under the cap will be rendered permitted uses. In the R-1-RE zone, a VRD sale or transfer, as defined in subsection (B)(1) of this section, will terminate the nonconforming unlimited VRD use, provided the sale or transfer occurs at least seven years after the effective date of the ordinance codified in this section.

3. Parking. In any residential or commercial zone, one off-street parking space will be provided for each bedroom in the dwelling unit, and no less than two spaces will be provided for each dwelling unit. If the proposed VRD use cannot provide the required parking and also meet the other standards of subsection (B) of this section, including required landscaping, the vacation rental occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking and made a condition of licensing under Chapter 5.14 LCMC.

a. The director has the discretion to require such changes as are necessary to conform the dwelling to available approved parking and shall inspect the dwelling as necessary to confirm the occupancy has been so conformed prior to approving the use in any allowed zone. An example is changing a bedroom to another use.

b. No more vehicles shall be parked on the property than there are designated off-street parking spaces.

c. No variance from the parking standards is allowed.

4. Solid Waste. The owner must provide securable receptacles of sufficient size for the deposit of solid waste generated by the vacation rental dwelling use and subscribe to a solid waste collection service for service sufficient for the vacation rental dwelling during all months the dwelling is used for vacation rental. No dumpsters are allowed.

5. Landscaping.

a. Residential Zones (R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R) and the VR Zone. The owner must landscape in accordance with the standards of LCMC 17.55.030. Additionally, a minimum of 50 percent of the front setback area must be landscaped. For oceanfront properties constrained by a need to be set back from the bluff edge due to geological hazards, landscaping may be reduced in order to accommodate required parking.

b. Commercial Zones (NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, RC, and GC). The owner shall install and maintain landscaping to meet the landscaping standards of LCMC 17.55.030.

6. Signs. In any of the zones, any sign on the property shall be in compliance with the sign requirements for the R-1 zone, as established in LCMC 17.72.060(B).

7. TRT. The owner shall comply with Chapter 3.04, Transient Room Tax.

8. VRD License. Prior to making a VRD available for use, including advertising by any means or otherwise offering the VRD for use, the owner shall obtain a valid VRD License as provided in Chapter 5.14 LCMC.

9. Subject to the limitations and provisions of this section and of Chapter 5.14 LCMC, a vacation rental dwelling located in the R-1-7.5, R-1-10, R-M, R-R, or NCR zone that, prior to December 1, 2016, had received a vacation rental dwelling land use approval and a vacation rental dwelling license approval for the 2016 license year, and that has such approvals remaining valid as of January 18, 2017, may continue to operate without compliance with the 30-night accessory use limitation of this section, and continue as nonconforming approvals pursuant to the land use terms and conditions of their existing land use approvals. Except for existing conditional use approvals, this authorization terminates upon the sale or transfer of the property as defined in subsection (B)(1) of this section.

C. Application and Review.

1. Application Requirements.

a. The owner of the property or authorized agent shall apply for a vacation rental dwelling on a form provided by Lincoln City. The owner shall sign the application. No application shall be accepted without payment of the application fee.

b. At a minimum, the names, mailing addresses, and telephone numbers of all persons holding an ownership interest in the property, or holding an ownership interest in the entity that owns the property, shall be provided in the application.

c. The applicant shall certify that the person identified as the owner on the application does not own other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, if the application is for a vacation rental dwelling in a residential (R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R) zone.

d. The applicant shall certify solid waste collection service is provided to the property.

e. The application shall demonstrate parking and landscaping standards of this section are met.

f. Providing false information in the application shall be a violation and grounds to deny the application, void the approval, enjoin the use, and revoke a vacation rental dwelling license issued for the dwelling under Chapter 5.14 LCMC.

2. Type II Procedure.

a. The application shall be processed as a Type II procedure, pursuant to LCMC 17.76.040.

b. The authorization for VRD land use approval or VRD nonconforming use shall remain valid provided the use is conducted lawfully, under a valid revocable vacation rental dwelling license issued under Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC, Transient Room Tax. If a property owner who has received a VRD land use authorization fails to apply for and receive a VRD license under Chapter 5.14 LCMC within one year of having received the VRD land use authorization, or having received a VRD license under Chapter 5.14 LCMC, fails to renew it within the license grace period, the city will consider the VRD authorization abandoned and the director will declare the authorization void. For a legal nonconforming use in the R-1-RE zone, discontinuance, abandonment, sale or transfer, as specified in subsection (B)(2)(d) of this section, triggers termination of the nonconforming use. The director will mail a written notice of the decision to declare the VRD land use authorization null and void or declare the VRD nonconforming use terminated to the property owner. The property owner may appeal the director's decision as provided in LCMC 17.76.180.

3. Appeal. The decision of the planning and community development director on an application for vacation rental dwelling land use may be appealed as provided in LCMC 17.76.180. Appeal of the director's decision

shall be in the form of an evidentiary hearing before the planning commission. The planning commission decision shall be final and is not subject to further appeal.

4. Fees. The city is authorized to adopt fees in an amount established by resolution to recover the actual costs of processing and reviewing an application for vacation rental dwelling land use including fees for appeals of such decisions.

D. Violation – Penalties – Sanction.

1. Offering or making available a vacation rental dwelling for occupancy, use, or rent, with or without an exchange of value or other consideration, without first obtaining city approval of the use under this section, is a violation and enforceable as a Class B violation.

a. Proof the dwelling is advertised, listed with an agent, or publicly described in any manner by the owner or owner's agent as a vacation rental dwelling creates a rebuttable presumption that a vacation rental dwelling exists and is available for use, rent, or occupancy.

b. Oral or written statements indicating a vacation rental dwelling is or was made available for use, rent, or occupancy, including but not limited to an advertisement, offer, agreement, or correspondence in any medium, made on or about the date of an alleged violation, are admissible in court for the purpose of establishing a presumption that the vacation rental dwelling was available for occupancy on the date of the alleged violation, whether or not the dwelling was actually rented, used or occupied on such date.

c. When a vacation rental dwelling is shown to be made available on a particular date, it is presumed the VRD continues to be made available unless the defendant proves otherwise.

2. Operating a vacation rental dwelling in violation of any of the standards of subsection (B) of this section is a Class B violation enforceable as provided in Chapter 1.16 LCMC, grounds to suspend or revoke a license under Chapter 5.14 LCMC, and a nuisance.

3. A person convicted of violating this section is subject to a fine as a penalty as established in Chapter 1.16 LCMC. Each day of violation is a separate violation.

E. Prior Existing Use.

1. Application of Chapter 17.60 LCMC, Conditional Uses. Any vacation rental dwelling accessory approved by the city under the conditional use standards of Chapter 17.60 LCMC as in effect prior to November 21, 2007, and lawfully conducted may continue as a nonconforming use after such date, provided the occupancy of the vacation rental dwelling is lawfully conducted under a valid vacation rental dwelling license or renewal license as required by this section. The owner of the dwelling has the burden of establishing a prior approved conditional use when applying for a vacation rental dwelling license or license renewal.

2. A vacation rental dwelling accessory use that is not a conditional use and was approved by the city prior to November 21, 2007, shall be allowed to continue provided the owner obtains an annual vacation rental dwelling license or renewal license as required by this section. Provided the occupancy is otherwise lawfully conducted, the use may continue until such time as the license holder sells, transfers or conveys the property to which the approved use and license apply. The owner of the dwelling has the burden of establishing a prior approved use when applying for a vacation rental dwelling license or license renewal.

3. Except as specifically provided in this subsection, any use conducted under subsection (E) of this section must otherwise conform to all requirements of this section and other applicable code provisions, including but not limited to Chapters 3.04 and 5.14 LCMC. (Ord. 2022-25 § 78; Ord. 2022-15 §§ 60 – 64; Ord. 2019-01 § 1; Ord. 2017-17 §§ 3, 4; Ord. 2017-10 § 1; Ord. 2016-20 §§ 9 – 11, 13, 14; Ord. 2015-10 §§ 5, 6; Ord. 2009-11 § 4; Ord. 2009-02 § 1; Ord. 2008-17 § 1; Ord. 2008-07 § 1; Ord. 2007-11 § 1; Ord. 2002-02 § 2; Ord. 95-15 § 16; Ord. 92-3 § 4; Ord. 84-2 § 10.050)

TRT Revenue	
Total Reported TRT Revenue	\$11,949,247
Hotel TRT Revenue	\$6,930,563
VRD TRT Revenue	\$4,660,206
Residential Zone	\$3,300,979
Other Commercial Zone	\$633,180
VRD Zone	\$726,047
Other	\$358,477

VRDs by Zone		#	%
Residential		391	70.8%
VRD Zone		75	13.6%
Commercial Zone		86	15.6%
Total		552	100.0%

2022 TRT Revenue

Below is gross room rent by business activity code for calendar year 2022, excluding the online travel agencies. If we simply use the reported gross room rent multiplied by 9.5%, we get within 2.3% of the actual TRT revenue received. Caution of this is close, but not exact.

Gross Room Rent	BusinessActivity	Description	Pct of Total
38,682,468.71	1111	VACATION RENTAL DWELLING [VRD]	33.9%
64,424,972.11	7000	MOTEL/HOTEL	56.4%
226,930.99	7010	BED/BREAKFAST ROOMING	0.2%
8,663,585.89	7025	NIGHTLY RENTAL IN MOTEL C- ZONE	7.6%
2,151,269.76	7150	RV PARKS	1.9%
114,149,227.46		Total Gross Room Rent, w/o travel agency	100.0%