



# AGENDA

Lincoln City Planning Commission  
Tuesday, September 19, 2023, 6:00 PM  
Council Chambers,  
801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367

- 1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**
- 2. CONSENT AGENDA**
  - 2.1. Planning Commission - Regular Meeting - Sep 5, 2023 6:00 PM
- 3. PUBLIC HEARINGS/DELIBERATIONS**
  - 3.1. ZOA 2023-05 TSP Drive Projects
  - 3.2. ZOA 2023-06 VRD to STR
- 4. DIRECTOR'S REPORT**
- 5. COMMENTS BY PLANNING COMMISSIONERS/CCI**
- 6. ADJOURN**

*Individuals wishing to attend via Zoom must email [planning@lincolncity.org](mailto:planning@lincolncity.org) no later than noon on the meeting day. The email must include the person's name and the screen name the person intends to use for the meeting. Instructions will be emailed to the person requesting Zoom attendance. Persons attending via Zoom will need to leave the microphone muted and camera off.*

*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 or [kmattias@lincolncity.org](mailto: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.*

*The Lincoln City Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.*

*Agendas and Agenda packet items for this meeting are available at [www.lincolncity.org](http://www.lincolncity.org) under "Government" then select "Public Meeting Agendas, Packets & Videos". This meeting is being streamed live at <https://www.lincolncity.org/government/media-streaming> and will be available there for viewing after this meeting concludes. This meeting will be televised live on Channel 4.*

*Individuals wishing to provide verbal testimony for a public hearing agenda item need to please sign the sign-in sheet for that item. Sign-in sheets are located on the table near the entrance door to the Council Chambers. Individuals who signed in on the sheet will be called to testify during the public testimony portion of the public hearing. When making your oral testimony, please speak clearly and directly into the microphone.*

**LINCOLN CITY PLANNING COMMISSION  
MINUTES  
September 5, 2023**

**1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**

| <b>Attendee Name</b> | <b>Title</b> | <b>Status</b> | <b>Arrived</b> |
|----------------------|--------------|---------------|----------------|
| Brian Bunnett        | Commissioner | Present       |                |
| Clay Glasgow         | Commissioner | Present       |                |
| Mellissa Sumner      | Commissioner | Absent        |                |
| Marci Baker          | Commissioner | Present       |                |
| Robert Vincent       | Chair        | Present       |                |
| Kim Blackerby        | Commissioner | Present       |                |

**2. CONSENT AGENDA**

|                  |   |
|------------------|---|
| <b>MOTION:</b>   | Approve consent agenda (minutes for August 15, 2023 meeting and August 15, 2023 work session) |
| <b>MOVER:</b>    | Blackerby   |
| <b>SECONDER:</b> | Baker   |
| <b>AYES:</b>     | Bunnett, Glasgow, Baker, Vincent, Blackerby   |
| <b>ABSENT:</b>   | Sumner  |
| <b>RESULT:</b>   | <b>PASSED</b>   |

**3. PUBLIC HEARINGS/DELIBERATIONS**

**3.1. ZOA 2023-04 Mobile Food Unit and Sign Clarification**

Chair Vincent opened the public hearing for ZOA 2023-04 at 6:02 PM. Director Skinner presented the verbal staff report, describing the components of the draft zoning ordinance amendment. No members of the public were present to testify.

Commissioner Baker asked for clarification about the different interpretations that staff had made regarding the existing sign code. Director Skinner stated that the existing code used the term minimum when describing a sign size maximum, even though the intent had been to provide a maximum allowable sign. Commissioner Baker stated that she did not interpret the current code that way, and that it was her opinion that the proposed amendment represents a substantive change. She also felt that the code did not adequately account for how signage area would be allocated to tenants. Director Skinner added that the property frontage was based on the site, not on the building or the tenant space. Commissioner Baker added that the original discussion that led to adoption of the current sign code intended to address tenant allowances. Director Skinner said that signage allocation was a private property issue between a landlord and the tenants. Commissioner Baker understood, but she did feel that the code amendment represented a substantive change relating to tenant spaces.

Commissioner Glasgow clarified that Commissioner Baker did not disagree with the text amendment, but that she was emphasizing that the proposed change was substantive and not just a clarification.

Commissioner Bunnett asked about the proposed changes to the mobile food unit code, and whether the fire marshal would also consider the proximity of a mobile cooking unit to trees or other fire-prone components other than structures. Director Skinner stated that the fire marshal would continue to assess any fire hazards in the review and approval process.

Regarding the electronic display center amendment, Commissioner Bunnett asked if the Planning Commission should consider reducing the maximum brightness level. Commissioner Bunnett added that if the specifications proposed were the recommended level perhaps the Planning Commission could consider something slightly less in order to reduce light pollution, while considering business interests. Commissioners Blackerby and Glasgow asked for a definition of nits. Director Skinner stated that a nit is equal to one candela/square meter, and for reference that the average consumer LCD display is 350 nits. She also clarified that this was specifically limited to electronic display centers, not to illuminated signs. Existing electronic display centers include Lincoln City Outlet Mall, Taft High School, and the Lincoln City Cultural Center.

Commissioner Baker suggested that additional research may be needed to understand the range of acceptable brightness levels and to get a better perspective.

Commissioners Blackerby and Baker asked about where electronic display centers are permitted. Director Skinner noted that electronic display centers are allowed outright in zones other than the residential zones.

Commissioner Glasgow restated the question about whether or not the proposed amendments represented a substantive code change.

Director Skinner responded by stating that the current code has conflicting language. On the one hand it states that each tenant is allowed a minimum of 25 square feet of signage, regardless of the amount of frontage. On the other hand the code also states that in no case shall the total square footage of attached sign area exceed 100 square feet. The proposed language provides staff with the direction of how to address this conflict.

Based on this explanation, Commissioner Glasgow stated that he supported the language as proposed.

Responding to a question from Commissioner Bunnett, Director Skinner stated that a tenant did not need to have frontage in order to have a sign.

Commissioner Baker presented a hypothetical case in which a building houses an antique shop with multiple vendor spaces and a salon with multiple chairs rented to individual contractors. She suggested that the building owner could exploit this aspect of the amended code to create an enormous billboard-like sign.

Director Skinner stated that she would withdraw the signage and electronic display center portion of the application.

Commissioner Bunnett asked if the Planning Commission could revisit the subject sometime in the future. Director Skinner agreed that it could.

Commissioner Baker made a motion to close the public hearing, seconded by Chair Vincent.

Chair Vincent asked if there was any further discussion regarding the mobile food unit portion of the zoning ordinance amendment.

Commissioner Baker asked whether the proposed dimensions for outdoor cooking unit was based on county specifications. Commissioner Baker suggested that portable pizza ovens might not fit the size. Director Skinner stated that the data came from a prospective food unit applicant, and that the county does not have size limitations.

Commissioner Glasgow provided an overview of the application and then moved to approve ZOA 2023-04 as amended to only include the mobile food unit portion. The motion was seconded by Commissioner Baker and approved unanimously by the commissioners.

|                  |  |
|------------------|--|
| <b>MOTION:</b>   | <b>Recommend approval of ZOA 2023-04, only for 17.80.170, in recognition of the applicant's withdrawal of portions of the amendment pertaining to Chapter 17.72.</b> |
| <b>MOVER:</b>    | <b>Glasgow</b>   |
| <b>SECONDER:</b> | <b>Baker</b>   |
| <b>AYES:</b>     | Bunnett, Glasgow, Baker, Vincent, Blackerby  |
| <b>ABSENT:</b>   | Sumner   |
| <b>RESULT:</b>   | <b>Passed</b>  |

#### 4. DIRECTOR'S REPORT

Director Skinner did not have any new information to report.

#### 5. COMMENTS BY PLANNING COMMISSIONERS/CCI MEMBERS

Commissioner Bunnett expressed his concern regarding the vacant Planning Commission position. Director Skinner stated that there was a current applicant who would be considered by the City Council at the City Council meeting scheduled for September 11, 2023. She added that Commissioner Sumner now has three unexcused absences so that per the code her position would be considered vacant.

Commissioner Baker asked Director Skinner if the City Council had taken any action regarding Resolution 94-12 describing the Citizen Involvement Committee. Director Skinner stated that the Council had not passed any motions regarding on this item. Commissioner Baker stated that the resolution had never been rescinded so it is still in effect.

Director Skinner closed by saying that she was hopeful that the Planning Commission could get through the final reviews of the Comprehensive Plan components ideally in time for the City Council to hold a work session on October 2, 2023. The next Planning Commission work session is scheduled for September 21, 2023. Commissioner Bunnett added that he would not attend that work session.

#### 6. ADJOURN

Respectfully submitted,

\_\_\_\_\_  
Anne Marie Skinner  
Planning Director

\_\_\_\_\_  
Robert Vincent  
Chair

# Planning Commission Communication

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## ZOA 2023-05 TSP Drive Projects

Meeting Date: September 19, 2023      Primary Staff Contact: AnneMarie Skinner  
 Department: Planning Commission      E-Mail: ASkinner@lincolncity.org  
 Secondary Dept:      Secondary Contacts: Alison Robertson  
 Approval:      Estimated Time:

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### Question:

Should the Planning Commission hold the public hearing for the zoning ordinance amendment?

### Staff Recommendation:

Staff recommends the Planning Commission hold the public hearing, close the public hearing and the record, and make a recommendation to City Council.

### Authority:

17.76.060.G. Public Hearing Procedure. The planning commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in LCMC [17.76.160](#). In addition to the public hearing held by the planning commission, the city council shall also conduct a public hearing on Type IV applications.

17.76.060.H. Recommendation Authority.

1. Following receipt of testimony and deliberation at the public hearing held before the planning commission, the planning commission shall provide a recommendation to the City council for all Type IV applications. The planning commission shall recommend that the city council approve or deny the proposed amendments, with or without changes. The planning commission's recommendation shall be issued as a final recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the planning commission's final recommendation, the city council shall hold a public hearing on the Type IV application.

### Background:

The economic development and urban renewal director and public works director/city engineer have requested removal of Driving Project 23. The economic development and urban renewal director provided the following reasons for the request:

1. Sufficient vehicular connectivity exists. There is an existing connection between SW 51<sup>st</sup> and SW 50<sup>th</sup> Streets at SW Ebb Avenue.
2. This connection will add little value to creating a connected grid because roads cannot extend further south due to Siletz Bay or north beyond SW 50<sup>th</sup> Street due to environmental constraints and existing neighborhood development.
3. SW 51<sup>st</sup> Street is a dead end to the west and the south where D23 is described. Public improvements include an existing turnaround that allows drivers to loop around and connect north via SW Ebb Avenue.
4. Need for leveraged redevelopment – the west end of SW 51<sup>st</sup> Street is the terminus of Taft’s “feature street” which was conceptualized in the (1999) Taft Community Revitalization Plan as a commercially-active and beach-oriented pedestrian area. The Lincoln City Urban Renewal Agency has invested \$5,000,000 in public right-of-way improvements since 2001, and reduced redevelopment potential resulting from this project (D23) could compromise the commercial viability of the Taft business core along the feature street.
5. Recently identified archaeological materials in the location where the connection is proposed limits buildable area, with the result being insufficient room for a feasible development.
6. Maintaining full redevelopment potential of the property will leverage the past capital investments in the immediate area by the Lincoln City Urban Renewal Agency, Lincoln City, and Oregon Department of Transportation – totaling approximately \$10,000,000.
7. As property owner, the Lincoln City Urban Renewal Agency will work with the selected developer to provide pedestrian access through the site as part of the redevelopment project.

The public works director/city engineer requests removal of the following driving projects because they are either (or both) not feasible or not needed and removal will allow funds and focus to be allotted to the other driving projects that are needed and feasible:

- D7 NE Surf extension
- D18 SW 30<sup>th</sup> extension
- D22 SW Fleet extension
- D25 SW Keel connection

A city-wide mailing notifying property owners of the scheduled public hearings for this ordinance amendment was made on August 29, 2023. The News Guard published notice of the public hearings on September 5, 2023 and September 12, 2023. A request for comments was issued to agencies and department heads on August 11, 2023. No

comments were received other than the response by the economic development urban renewal director outlining the reasons for the removal of project D23.

**Potential Motions:**

First - Move to close the public hearing and the record.

Then - Move to recommend that City Council approve the zoning ordinance amendment as written OR move to recommend that City Council approve the zoning ordinance amendment as written, but with the following changes (and then list the changes).

# Planning Commission Communication

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## ZOA 2023-06 VRD to STR

Meeting Date: September 19, 2023      Primary Staff Contact: AnneMarie Skinner  
 Department: Planning Commission      E-Mail: ASkinner@lincolncity.org  
 Secondary Dept:      Secondary Contacts:  
 Approval:      Estimated Time:

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### Question:

Should the Planning Commission hold the public hearing for the zoning ordinance amendment?

### Staff Recommendation:

Staff recommends the Planning Commission hold the public hearing, close the public hearing and the record, and make a recommendation to City Council.

### Authority:

17.76.060.G. Public Hearing Procedure. The planning commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in LCMC [17.76.160](#). In addition to the public hearing held by the planning commission, the city council shall also conduct a public hearing on Type IV applications.

17.76.060.H. Recommendation Authority.

1. Following receipt of testimony and deliberation at the public hearing held before the planning commission, the planning commission shall provide a recommendation to the City council for all Type IV applications. The planning commission shall recommend that the city council approve or deny the proposed amendments, with or without changes. The planning commission's recommendation shall be issued as a final recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the planning commission's final recommendation, the city council shall hold a public hearing on the Type IV application.

### Background:

This zoning ordinance amendment proposal is the result of a motion made by City Council on April 24, 2023 directing staff to amend the code to reflect the changes discussed in the work session held on April 12, 2023.

Basic Information:

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)

Limited use as an accessory VRD (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)

Unlimited use (the dwelling may be rented as a vacation rental for 365 nights per year) is 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.

- Cap in the R1-5 zone is 10% of the lots, which equates to 194 unlimited use VRDs in the R1-5 zone.
- Cap in the R1RE zone is 10% of the lots, which equates to 91 unlimited use VRDs in the R1RE zone

Proposed Modifications:

1. Change "vacation rental dwelling" to "short-term rental unit" and add to the definition the maximum length of a rental period as 30 days or less. These changes provide clarity in the rental period and reduce confusion in people about the term. The general population knows short-term rentals (what our code calls vacation rental dwellings) as short-term rentals 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 confusion.

2. 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 being located in 17.77.
3. Eliminate accessory use short-term rentals for better code enforcement and reduction in the number of short-term rentals in residential zones.
4. Reflect the 10% cap as the actual number of 194 and 91 in the R1-5 and R1RE zones, respectively. Note that this is not a change in the number or percentage currently allowed.
5. Add reference to Chapter 17.56 for the off-street parking space sizing and surfacing requirements. The code does not state that now, but it is inferred. It is a better code if it's actually stated rather than inferred.
6. Provide additional details on the solid waste receptacle requirement.

Comments from agencies and department heads were requested. No comments were received.

A city-wide mailing notifying property owners of the scheduled public hearings for this ordinance amendment was made on August 29, 2023. The News Guard published notice of the public hearings on September 5, 2023 and September 12, 2023.

**Potential Motions:**

First - Move to close the public hearing and the record.

Then - Move to recommend that City Council approve the zoning ordinance amendment as written OR move to recommend that City Council approve the zoning ordinance amendment as written, but with the following changes (and then list the changes).

**Attachments:**

ZOA 2023-06 VRD Revisions (PDF)

## 17.08.010 Definitions

**Short-term rental means a dwelling unit that is used, rented, or occupied on a daily or weekly basis for rental periods of 30 days or less, or is available for use, rent, or occupancy on a daily or weekly basis for rental periods of 30 days or less, or is advertised, or listed by an agent, as available for use, rent, or occupancy on a daily or weekly basis for rental periods of 30 days or less.**

~~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.~~

### **Chapter 17.77 APPLICATIONS**

#### **17.77.125 Short-term rental.**

A. Procedure. Short-term rental land-use applications are subject to the Type II procedure as described in LCMC 17.76.030.

B. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.030 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110. Minimum requirements are as follows:

1. The owners of the property shall apply for short-term rental land use approval on a on the application form provided by the department. All property owners shall sign the application. The application shall not be processed without the signatures of all property owners. The application shall not be processed without payment of the application fee.

2. Names, mailing addresses, email 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.

3. The property owners shall certify through their signature that the persons identified as the property owners on the application do not own other property in the city that is used as a short-term rental or is approved for short-term rental use, if the application is for a short-term rental in a residential (R1-5, R1-7.5, R1-10, R1RE, RR, RM, NCR) zone.

C. Approval Criteria. To approve a short-term rental land use application, the review authority shall review the submitted materials to ensure that all portions of LCMC 17.80.050.B are satisfied.

D. Conditions of Approval. The review authority may impose conditions on approval of a short-term rental land use application to ensure compliance with the approval criteria.

E. Appeal of a Decision. Refer to LCMC 17.76.180.

G. Expiration of a Decision.

1. The authorization for short-term rental land use approval or short-term rental nonconforming use shall remain valid provided the use is conducted lawfully, under a valid short-term rental operating license issued under Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC.

2. If property owners fail to receive a short-term operating license under Chapter 5.14 LCMC within one year of having received short-term rental land use authorization, or having received a short-term rental license under Chapter 5.14 LCMC, fails to renew it as outlined in

Chapter 5.14 LCMC, the city will consider the short-term rental land use authorization abandoned and the director shall declare the authorization void.

3. For a legal nonconforming use in the R1RE zone, discontinuance, abandonment, sale, or transfer, as specified in LCMC 17.80.050(B)(2)(d) triggers termination of the nonconforming use.

4. The director will mail a written notice of the decision to declare the short-term rental land use authorization null and void or declare the short-term rental nonconforming use terminated to the property owners. The property owners may appeal the director's decision as provided in LCMC 17.76.180.

H. Extension of a Decision. There are no extensions allowed to the one-year timeframe detailed in LCMC 17.77.125.G.

**17.80.050 Short-term rentals. ~~Vacation rental dwelling use criteria.~~**

**A. Purpose.**

1. Purpose. The use of dwelling units as short-term rentals is ~~Vacation rental dwellings are~~ allowed in recognition of the fact that property owners may desire to allow others to use their dwelling unit as a short-term rental a vacation home on occasions when the owners themselves are not using it, and that many individuals visiting Lincoln City desire the use of a private dwelling unit as their accommodation rather than a hotel, motel, resort, or similar. ~~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 dwelling units as short-term rentals ~~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 dwelling unit as a short-term rental ~~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. Short-term Rental Requirements. ~~Vacation Rental Dwelling Standards.~~** Except where noted, the following standards requirements apply to all short-term rentals ~~vacation rental dwellings~~ in the city:

1. Ownership. The land-use approval of the dwelling unit as a short-term rental ~~approved use of the vacation rental dwelling~~ in any zone is in the names of the property owners and the land-use approval, as well as the short-term rental operating license required in Chapter 5.14 LCMC, including any license, is not transferable. When any of the owners sells or transfers the property approved, occupied or rented as a short-term rental, ~~vacation rental dwelling,~~ the short-term rental land-use approval shall cease. ~~approved use shall cease.~~

- a. For purposes of this chapter, "sale or transfer" means any change of ownership during the lifetime of any of the owners, whether or not there is consideration, or after the death of any of the owners, 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 short-term rental land-use approval of the vacation rental dwelling use so long as the transferor lives and remains the only owner of the entity to which ownership was transferred. Upon the transferor's death or upon the sale or transfer of their his or her interest in the entity to another person, the short-term rental land-use approval shall terminate, 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 the 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 short-term rental land-use approval and/or a short-term rental operating license. ~~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 short-term rental land-use approval and/or a short-term rental operating license. ~~a vacation rental dwelling permit.~~

## 2. Zoning for Short-term Rentals, Accessory or Permitted Use.

a. Subject to compliance with LCMC 17.80.050 and Chapter 5.14 LCMC, dwelling units may be used as short-term rentals in the following zones: R1-5, R1RE, RC, GC, VR, OPOF, OPIM, OPMSH, NBD, NBMU, and TVC. Except as otherwise provided in this title, a VRD is allowed as an accessory use in the R1-5, R1-7.5, R1-10, R1RE, RM, and RR zones, and as a permitted use in the R1-5, R1RE, 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.

i. The total number of short-term rentals in the R1-5 zone shall not exceed 194.

~~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 R1-5 zone shall not exceed 10 percent of the total number of lots in that zone.~~

~~d. b.~~ In the R1RE zone, all existing licensed unlimited short-term rentals ~~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 short-term rental VRD operations, including but not limited to failure to maintain a short-term rental operating license VRD license pursuant to Chapter 5.14 LCMC for a period of six months or more, shall constitute termination of the nonconforming unlimited short-term rental VRD use. The director is prohibited from granting extensions to the six-month discontinuance time period. When the total number of nonconforming unlimited short-term rentals VRDs in the R1RE zone is reduced to 91, 10 percent of the total number of lots in that zone, a cap of 10 percent 91 shall be triggered on such unlimited short-term rentals VRDs and all existing nonconforming unlimited short-term rentals at or under the cap of 91 VRDs under the cap will be rendered permitted uses. In the R1RE zone, a VRD sale or transfer, as defined in subsection (B)(1) of this section, of a short-term rental property shall will terminate the nonconforming unlimited VRD short-term rental land-use approval and use, provided the sale or transfer occurs at least seven years after the effective date of the ordinance codified in this section (said effective date being November 22, 2017, as stated above).

3. Off-street Parking. ~~In any residential or commercial zone, One one~~ off-street parking space on the site shall will be provided for each bedroom in ~~the a~~ dwelling unit used as a short-term rental, and no less than

two off-street parking spaces ~~shall will~~ be provided for each dwelling unit used as a short-term rental. All off-street parking spaces shall meet the sizing and surfacing requirements of Chapter 17.56 LCMC. If the ~~site does not or cannot meet proposed VRD use cannot provide~~ the required off-street parking requirements and also meet all the other standards and requirements of ~~subsection (B) of~~ this section, ~~including required landscaping,~~ the overnight occupancy of the dwelling unit when in use as a short-term rental vacation rental occupancy of the dwelling shall be reduced to conform to the available number of off-street parking spaces on the site that meet the sizing and surfacing requirements of Chapter 17.56 LCMC 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 unit to available approved off-street parking on the site and shall inspect the dwelling unit 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 that meet the sizing and surfacing requirements of Chapter 17.56 LCMC.

c. No variance from the off-street parking requirements standards is allowed.

4. Solid Waste. The property owners must provide securable receptacles of sufficient size and number to contain all for the deposit of solid waste generated by the short-term rental use vacation rental dwelling use and subscribe to a solid waste collection service for service sufficient to ensure adequate and timely collection of solid waste during all times the site is in use as a short-term rental, for the vacation rental dwelling during all months the dwelling is used for vacation rental. No dumpsters are allowed.

5. Landscaping. Landscaping shall installed and maintained in compliance with the landscaping requirements listed in LCMC 17.55.040 through 17.55.070.

~~a. Residential Zones (R1-5, R1-7.5, R1-10, R1RE, RM, RR) 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. Signage shall be in compliance with the sign requirements listed in LCMC 17.72.060(B). ~~In any of the zones, any sign on the property shall be in compliance with the sign requirements for the R1 zone, as established in LCMC 17.72.060(B).~~

7. TRT. The property owners shall comply with Chapter 3.04 LCMC, ~~Transient Room Tax~~.

8. ~~VRD Short-term Rental Operating License~~. Prior to making a dwelling unit available for use as a short-term rental, VRD available for use, including advertising by any means or otherwise offering the dwelling unit for short-term rental use, VRD for use, the property owners shall obtain a valid short-term rental operating license, pursuant to Chapter 5.14 LCMC. ~~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 R1-7.5, R1-10, RM, RR, 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 (R1-5, R1-7.5, R1-10, R1RE, RM, RR) 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 R1RE 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.~~

### E. C. Prior Existing Use.

1. Application of Chapter 17.60 LCMC, Conditional Uses. Any **dwelling unit approved as a** vacation rental dwelling (**now known as a short-term rental**) **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 **unit**

is lawfully conducted under a valid short-term rental operating license as required by this section and Chapter 5.14 LCMC. ~~vacation rental dwelling license or renewal license as required by this section.~~ The property owners ~~owner~~ of the dwelling unit have ~~has~~ the burden of establishing a prior approved conditional use when applying for or renewing a short-term rental operating license. ~~vacation rental dwelling license or license renewal.~~

2. A short-term rental ~~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 property owners obtain, maintain, and renew the short-term rental operating license as required by this section and Chapter 5.14 LCMC. ~~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 property owners sell, transfer, or convey the property ~~license holder sells, transfers or conveys the property~~ to which the approved use and short-term rental operating license apply. The property owners have ~~owner of the dwelling has~~ the burden of establishing a prior approved use when applying for or renewing a short-term rental operating license. ~~vacation rental dwelling license or license renewal.~~

3. A short-term rental accessory use that is not a conditional use and was approved by the city after November 21, 2007, and prior to November 30, 2023, shall be allowed to continue provided the property owners obtain, maintain, and renew the short-term rental operating license as required by this section and Chapter 5.14 LCMC. Provided the occupancy is otherwise lawfully conducted, the use may continue until such time as the property owners sell, transfer, or convey the property to which the approved use and short-term rental operating license apply. The property owners have the burden of establishing a prior approved use when applying for or renewing a short-term rental operating license.

~~3. 4.~~ Except as specifically provided in this subsection, any use conducted under subsection (C) ~~(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.

#### D. Violations. ~~Violation—Penalties—Sanction.~~

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

a. Proof the dwelling unit is advertised, listed with an agent, or publicly described in any manner by the property owners or property owners' agent as a short-term rental creates a rebuttable presumption that a short-term rental exists and is available for occupancy, use, or rent. ~~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 dwelling unit ~~vacation rental dwelling~~ is or was made available for occupancy, use, or rent, ~~or occupancy,~~ including but not limited to any 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 dwelling unit ~~vacation rental dwelling~~ was available for occupancy, use, or rent as a short-term rental on the date of the alleged violation, whether or not the dwelling unit was actually occupied, used, or rented as a short-term rental on such date. ~~rented, used or occupied on such date.~~

c. When a dwelling unit is shown to be made available on a particular date as a short-term rental, it is presumed the short-term rental ~~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 short-term rental ~~vacation rental dwelling~~ in violation of any of the requirements of this section ~~standards of subsection (B) of this section~~ is a Class B violation enforceable as provided in Chapter

1.16 LCMC, a nuisance, and grounds for immediate termination and revocation of the short-term rental operating license. ~~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. Any conviction of any violation of any portion of LCMC 17.80.050 shall result in immediate termination and revocation of the short-term rental operating license, effective on the date and at the time of the conviction.