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**ORDINANCE NO. 2016-14**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5, (BUSINESS TAXES, LICENSES AND REGULATIONS), CHAPTER 5.14 (VACATION RENTAL DWELLING LICENSE), ADDING AND CLARIFYING CRITERIA AND STANDARDS TO THE VRD LICENSE PROVISIONS OF THE CODE**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

**WHEREAS**, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provide:

**2.1 Powers of the City**

The City has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

**2.2 Construction of Charter**

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and;

**WHEREAS**, pursuant to the City's Charter authority, the Council regulates vacation rental dwelling operations through an annual revocable licensing program designed to protect the health and safety of vacationers; and

**WHEREAS**, following hearings before the Council on proposed VRD license ordinance amendments, Council entered into deliberations and selected portions of the proposed ordinance for adoption; and

**WHEREAS**, all persons were provided an opportunity to present written or oral testimony on the proposed ordinance(s).

**THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

1 **SECTION 1.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
2 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.050 (*Standards for Issuance of*  
3 *License*), paragraph A., is hereby amended to read as follows:  
4

- 5 A. The license shall be issued in the name of the property owner and is not transferable.  
6 The license shall terminate and be deemed void when the license holder sells or transfers  
7 the property approved as a vacation rental dwelling. **Except for exempted transfers**  
8 **related to right of survivorship, (LCMC 5.14.020.A.), the death of a license holder**  
9 **terminates the VRD license. If upon the death of the license holder the ownership**  
10 **of the property transfers by operation of law to an executor or heir, then the**  
11 **license, subject to the license renewal process, shall provisionally continue in effect**  
12 **for a period of one year or until the heir or executor transfers the property to**  
13 **another person, whichever occurs first.**  
14

15 **SECTION 2.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
16 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.020 (*Definitions*), Paragraph A. (*Sale*  
17 *or Transfer*), is hereby amended to read as follows:  
18

19 **5.14.020 Definitions.**

20 A. "Sale or transfer" means any change of ownership during the lifetime of the license  
21 holder, whether or not there is consideration, or after the death of the license holder,  
22 except a change in ownership where title is held **not as tenants in common but with**  
23 **the right of in survivorship (e.g. survivorship estates recognized in ORS 93.180,** such  
24 as with a spouse or domestic partner, or transfers on the owner's death to a trust which  
25 benefits only a spouse or domestic partner for the lifetime of the spouse or domestic  
26 partner). A license holder may transfer ownership of the real property to a trustee, a  
27 limited liability company, a corporation, a partnership, a limited partnership, a limited  
28 liability partnership, or other similar entity and not be subject to license revocation so  
29 long as the transferor lives and remains the only owner of the entity. Upon the  
30 transferor's death or the sale or transfer of his or her interest in the entity to another  
31 person, the license held by the transferor shall terminate.  
32

33 **SECTION 3.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
34 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.060 (*Criteria for approval of a*  
35 *license and license renewal*), Paragraph B.4. (*Health and Safety*), is hereby amended to add a new  
36 subparagraph d. to read as follows:  
37

38 **d. Vector control.**

- 39 **1. Vector control measures shall be employed to prevent vector infestations in**  
40 **vacation rental dwellings.**  
41  
42 **2. Insect and rodent control measures to safeguard public health and to prevent**  
43 **nuisance to the public shall be applied. Developed areas, buildings, and**  
44 **structures shall be maintained free of accumulation of debris.**

1  
2 **SECTION 4.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
3 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.060 (*Criteria for approval of a*  
4 *license and license renewal*), Paragraph B.4. (*Health and Safety*), is hereby amended to add a new  
5 subparagraph e. to read as follows:  
6

7 **e. Spas and swimming pools. Any spa or swimming pool located at or operated in**  
8 **connection with a vacation rental dwelling must comply with the following**  
9 **requirements:**

10  
11 **1. "Spa" means any pool designed primarily to direct water or air-enriched water**  
12 **under pressure onto the bather's body with the intent of producing a relaxing**  
13 **or therapeutic effect. "Swimming pool" means an artificial structure and its**  
14 **appurtenances, which contains water more than two feet deep which is**  
15 **expressly designated or which is used with the knowledge and consent of the**  
16 **owner or operator for swimming or recreational bathing.**

17  
18 **2. Water quality shall be maintained within the following limits:**

<b><u>Parameter</u></b>	<b><u>Minimum</u></b>	<b><u>Ideal</u></b>	<b><u>Maximum</u></b>
<b><u>Free chlorine</u></b>	<b><u>1.5 ppm</u></b>	<b><u>3.0 ppm</u></b>	<b><u>5.0 ppm</u></b>
<b><u>Combined chlorine</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0.5 ppm</u></b>
<b><u>Bromine</u></b>	<b><u>3.0 ppm</u></b>	<b><u>3.0-5.0 ppm</u></b>	<b><u>8.0 ppm</u></b>
<b><u>Total copper</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>1.0 ppm</u></b>
<b><u>Total silver</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>0.05 ppm</u></b>
<b><u>pH</u></b>	<b><u>7.2</u></b>	<b><u>7.4-7.6</u></b>	<b><u>7.6</u></b>
<b><u>Total alkalinity as CaCO<sub>3</sub></u></b>	<b><u>80 ppm</u></b>	<b><u>90-110 ppm</u></b>	<b><u>180 ppm</u></b>
<b><u>Cyanuric acid</u></b>	<b><u>0</u></b>	<b><u>0</u></b>	<b><u>150</u></b>
<b><u>Calcium hardness</u></b>	<b><u>150</u></b>	<b><u>200</u></b>	<b><u>400+</u></b>
<b><u>Water temperature</u></b>		<b><u>102</u></b>	<b><u>104</u></b>

19  
20 **3. Water quality shall be tested and the results logged on an appropriate form,**  
21 **not more than 24 hours before each change of occupants at the vacation rental**  
22 **dwelling. The water quality test results log must be made available for**  
23 **inspection by city staff upon request.**

24  
25 **4. Spa water shall be oxidized or superchlorinated as needed when combined**  
26 **chlorine exceeds spa water quality parameters as defined in this subparagraph.**  
27

1 **SECTION 5.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
2 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.060 (*Criteria for approval of a*  
3 *license and license renewal*), Paragraph B.4. (*Health and Safety*), Subparagraph c. (*Mandatory*  
4 *Postings*), numbered paragraph viii., is hereby amended to read as follows:  
5

6 viii. Required Lincoln City quiet hours pursuant to the noise ordinance (Chapter 9.10  
7 LCMC) between ~~7:00~~ 9 p.m. and 7 a.m.; and  
8

9 **SECTION 6.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
10 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.100 (*Complaints*), is hereby  
11 amended to read as follows:  
12

13 **5.14.100 Complaints.**  
14

15 A. The city manager or the manager's designee is authorized to implement an  
16 administrative procedure to document and respond to complaints about occupancy and  
17 use of a vacation rental dwelling.  
18

19 B. In response to a complaint concerning the occupancy or use of a vacation rental  
20 dwelling, city staff including but not limited to the Lincoln City police department shall  
21 make at least three attempts to contact the owner and local representative using the  
22 information provided in the application for the vacation rental dwelling license. If neither  
23 the owner nor the local representative is available, the person receiving the complaint  
24 shall document the nature of the complaint and the efforts to reach the owner and local  
25 representative including the results of those efforts, and forward a copy of the report to  
26 the city manager or the city manager's designee. On request and in compliance with the  
27 public records law, the city shall provide the owner and local representative with the  
28 information in the complaint.  
29

30 C. **Timely resolution of complaints.** The owner **and the local representative jointly**  
31 **shall be responsible for ensuring that complaints are resolved responding to all**  
32 **problems or complaints** in a timely manner. **For the purposes of this section,**  
33 **"timely" means within one hour of receiving the complaint, whether from the city**  
34 **or from any other complainant. Except for noise complaints, complaints received**  
35 **after 9 p.m. and before 7 a.m. are considered timely if they are resolved by 8 a.m.**  
36 **The owner's and local representative's joint responsibility for resolving complaints**  
37 **does not mean both must respond to and resolve each complaint.**  
38

1 Within 20 days of receiving an oral or written complaint relayed by city staff, the owner  
2 **will must** provide the city an explanation in writing of the action taken (including no  
3 action) in response to the complaint. The explanation shall be mailed to the city, who  
4 may notify the complainant of the response.  
5

6 D. Failure of the owner or local representative to timely and reasonably respond to a  
7 complaint relayed by city staff on at least two separate occasions within the license year  
8 shall constitute a violation of this chapter and a Class ~~B~~ C civil infraction enforced against  
9 the owner and local representative under Chapter 1.16 LCMC. In addition to authority to  
10 impose fines and penalties as provided by law, the municipal court shall notify the city  
11 manager or his designee of any judgment of conviction for violation under this  
12 subsection within 10 working days of entry of judgment. Upon receiving such notice of  
13 conviction from the municipal court, the city manager or the city manager's designee  
14 shall initiate proceedings to revoke the vacation rental dwelling license for the property  
15 naming the property owner. The revocation shall be conducted under the notice and  
16 hearing procedures provided in LCMC 5.14.090 for appeals of license decisions.  
17

#### 18 **SECTION 7. Severability.**

19  
20 The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity  
21 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining  
22 sections, subsections, paragraphs and clauses.  
23

#### 24 **SECTION 8. Savings.**

25  
26 Notwithstanding the amendment to this Title, the existing Title remains valid and in full force  
27 and effect for purposes of all criminal, civil or administrative code enforcement cases or land use  
28 actions or applications filed or commenced during the time said ordinances were operative.  
29 Nothing in this Ordinance affects the validity of prosecutions commenced and continued under  
30 the laws in effect at the time the matters were originally filed.  
31

#### 32 **SECTION 9. Ordinance Effective Date.**

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34 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its  
35 adoption.  
36

#### 37 **SECTION 10. Codification.**

1 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and  
2 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,  
3 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any  
4 Whereas clauses and boilerplate provisions (i.e. Sections 7-10) need not be codified and the City  
5 Recorder is authorized to correct any cross-references and any typographical errors.

6  
7 The foregoing Ordinance was distinctly read by title only in accordance with Chapter IX, Section  
8 9.2 of the City of Lincoln City Charter on the 14th day of November, 2016 (First Reading) and on  
9 the 28th day of November, 2016 (Second Reading).

10  
11 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of  
12 November, 2016.

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16 \_\_\_\_\_  
DON WILLIAMS, MAYOR

17 ATTEST:

18  
19   
20 \_\_\_\_\_  
CATHY STEERE, CITY RECORDER

21  
22 APPROVED AS TO FORM:

23  
24   
25 \_\_\_\_\_  
RICHARD APPICELLO, CITY ATTORNEY