



1 After further deliberation Council requested staff prepare an ordinance for  
2 adoption.

- 3  
4 F. All persons were given an opportunity to provide written and/or oral testimony  
5 on the proposed ordinance amendments.  
6

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

8  
9 **SECTION 1.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.16 (*Single-family*  
10 *Residential (R-1) Zone*), Section 17.16.020, (Permitted uses) is hereby amended to read as  
11 follows:  
12

13 **The following uses are permitted:**

14  
15 ~~A. Single-family dwellings;~~

16  
17 ~~B. Attached single-family dwelling, if attached to no more than one other single-family~~  
18 ~~dwelling;~~

19  
20 ~~C. Two-family and duplex dwellings when developed on a minimum 8,000-square-foot~~  
21 ~~lot;~~

22  
23 ~~D. Cottage housing developments, subject to the provisions of LCMC 17.80.120;~~

24  
25 ~~E. Community gardens and market gardens not larger than 12,500 square feet, in~~  
26 ~~accordance with the standards of LCMC 17.80.080;~~

27  
28 ~~F. Public parks, playgrounds and other similar publicly-owned recreation areas;~~

29  
30 ~~G. Bed and breakfast accommodations, subject to the standards set forth in LCMC~~  
31 ~~17.80.060;~~

32  
33 ~~H. Manufactured homes when developed in accordance with the standards set forth in~~  
34 ~~LCMC 17.52.250;~~

35  
36 ~~I. A mobile home used during construction of a permitted use for which a building permit~~  
37 ~~has been issued, but not exceeding six months;~~

38  
39 ~~J. Residential homes;~~

40  
41 ~~K. Essential emergency communications and warning facilities.~~  
42

1     **A. Residential**

2  
3         **1. Single-family dwellings;**

4  
5         **2. Attached single-family dwelling, if attached to no more than one other single-**  
6         **family dwelling;**

7  
8         **3. Two-family and duplex dwellings when developed on a minimum 8,000-square-**  
9         **foot lot;**

10  
11         **4. Cottage housing developments, subject to the provisions of LCMC 17.80.120;**

12  
13         **5. Manufactured homes when developed in accordance with the standards set forth**  
14         **in LCMC 17.52.250;**

15  
16         **6. A mobile home used during construction of a permitted use for which a building**  
17         **permit has been issued, but not exceeding six months;**

18  
19         **7. Residential homes.**

20  
21     **B. Commercial**

22         **1. Bed and breakfast accommodations, subject to the standards set forth in LCMC**  
23         **17.80.060;**

24  
25         **2. Vacation rental dwellings in the R-1-5 zone, subject to LCMC 17.80.050 and to**  
26         **the license requirements of Chapter 5.14 LCMC.**

27     **C. Other**

28  
29         **1. Essential emergency communications and warning facilities;**

30  
31         **2. Community gardens and market gardens not larger than 12,500 square feet, in**  
32         **accordance with the standards of LCMC 17.80.080;**

33  
34         **3. Public parks, playgrounds and other similar publicly owned recreation areas.**

35  
36     **SECTION 2.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.16 (*Single-family*  
37     *Residential (R-1) Zone*), Section 17.16.030, (*Accessory uses*), is hereby amended to redesignate  
38     paragraph E. as paragraph F and to add a new paragraph E to read as follows:

1 **E. Vacation rental dwelling, provided it is not rented for more than 30 nights in any**  
2 **calendar year, and subject to LCMC 17.80.050 and to the license requirements of**  
3 **Chapter 5.14 LCMC.**  
4

5 **SECTION 3.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.20 (*Multiple-family*  
6 *Residential (R-M) Zone*), Section 17.20.030, (*Accessory uses*), is hereby amended to redesignate  
7 paragraph F. as paragraph G and to add a new paragraph F to read as follows:  
8

9 **F. Vacation rental dwelling, provided it is not rented for more than 30 nights in any**  
10 **calendar year, and subject to LCMC 17.80.050 and to the license requirements of Chapter**  
11 **5.14 LCMC.**  
12

13 **SECTION 4.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.34 (*Nelscott Plan (NP)*  
14 *District*), Section 17.34.050, (*Permitted uses*), **Table 17.34.050.A – Land Uses Allowed in**  
15 **Nelscott**, is hereby amended to delete the following row under the heading of **Residential**  
16 **Categories:**

<b><u>Primary use of a single-family dwelling as a vacation rental dwelling, subject to LCMC 17.80.050</u></b>	<b><u>P</u></b>	<b><u>N</u></b>	<b><u>P</u></b>
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17  
18 **SECTION 5.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.34 (*Nelscott Plan (NP)*  
19 *District*), Section 17.34.050, (*Permitted uses*), **Table 17.34.050.A – Land Uses Allowed in**  
20 **Nelscott**, is hereby amended to add under the heading of **Commercial Categories**, a new row  
21 to read as follows:

<b><u>Vacation Rental Dwelling, subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC.</u></b>	<b><u>P</u></b>	<b><u>N</u></b>	<b><u>P</u></b>
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22  
23 **SECTION 6.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.40 (*Recreation-Residential*  
24 *(R-R) Zone*), Section 17.40.030, (*Accessory uses*), is hereby amended to redesignate paragraph C.  
25 as paragraph D. and to add a new paragraph C. to read as follows:  
26

27 **C. Vacation rental dwelling, provided it is not rented for more than 30 nights in any**  
28 **calendar year, and subject to LCMC 17.80.050 and to the license requirements of**  
29 **Chapter 5.14 LCMC.**

1 **SECTION 7.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.45 (*Taft Village Core*  
 2 (*TVC Zone*), Section 17.45.040, (Land use activities), the table of TVC Land Use Activity, is hereby  
 3 amended to add under the heading of **C. Boarding and Lodging Facilities**, a new row to read  
 4 as follows:

<u>6. Vacation Rental Dwelling, subject to LCMC 17.80.060 and to the license requirements of Chapter 5.14 LCMC.</u>	<u>P</u>
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5  
 6 **SECTION 8.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.50 (*Oceanlake Plan*  
 7 *District (OP) Zone*), Section 17.50.050, (Permitted uses), **Table 17.50.050 – Land Uses Allowed**  
 8 **in Oceanlake**, is hereby amended to add under the heading of **Commercial Categories**, a new  
 9 row to read as follows:

<u>Vacation Rental Dwelling, subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC.</u>	<u>P</u>	<u>P</u>	<u>P</u>
--	----------	----------	----------

10  
 11 **SECTION 9.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (*Provisions Applying to*  
 12 *Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), subparagraph  
 13 17.80.050. B. 2 is hereby amended to read as follows:

14  
 15 2. Accessory or Permitted Use. ~~A VRD is allowed as an accessory use in a residential~~  
 16 ~~zone and a permitted use in a commercial zone, provided the VRD meets the~~  
 17 ~~applicable standards of this chapter and obtains a license under Chapter 5.14~~  
 18 ~~LCMC.~~

19  
 20 a. Except as otherwise provided in this title, a VRD is allowed as an accessory use in  
 21 the R-1-5, R-1-7.5, R-1-10, R-M, and R-R zones, and as a permitted use in the R-1-  
 22 5, NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, VR, RC, and GC zones, provided the  
 23 VRD meets the applicable standards of this chapter and obtains a license under  
 24 Chapter 5.14 LCMC.

25  
 26 b. Incidental and subordinate accessory vacation rental dwelling use is not a  
 27 commercial use. Commercial vacation rental dwelling use is use of a dwelling for  
 28 vacation rental dwelling purposes for more than 30 nights per calendar year.  
 29 Commercial vacation rental dwelling use does not include vacation rental dwelling  
 30 use that has been authorized by conditional use permit, that is a lawful  
 31 nonconforming use, or that has obtained a vested right land use approval.

1 c. The total number of vacation rental dwellings operating without limits on the  
2 number of nights for which they may be rented in the R-1-5 zone shall not exceed  
3 10% of the total number of lots in that zone.  
4

5 **SECTION 10.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (*Provisions Applying*  
6 *to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), paragraph 17.80.050.  
7 B. is hereby amended to add a new subparagraph 17.80.050. B.9. to read as follows:  
8

9 9. Subject to the limitations and provisions of this section and of LCMC Chapter  
10 5.14, a vacation rental dwelling located in the R-1-7.5, R-1-10, R-M, R-R, or NCR  
11 zone that, prior to December 1, 2016 had received a vacation rental dwelling land  
12 use approval and a vacation rental dwelling license approval for the 2016 license  
13 year, and that has such approvals remaining valid as of the effective date of this  
14 ordinance], may continue to operate without compliance with the 30-night  
15 accessory use limitation of this ordinance, and continue as nonconforming  
16 approvals pursuant to the land use terms and conditions of their existing land use  
17 approvals. Except for existing conditional use approvals, this authorization  
18 terminates upon the sale or transfer of the property as defined in LCMC  
19 17.80.050.B.1.  
20

21 **SECTION 11.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (*Provisions Applying*  
22 *to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), paragraph 17.80.050.  
23 C., subparagraph 17.80.050.C.2. is hereby amended to read as follows:  
24

25 2. Administrative Review and Decision.  
26

27 a. Notice of Receipt of Application. After receipt of a vacation rental dwelling land  
28 use approval application, the department shall provide written notice of the  
29 application to:  
30

31 i. Owners of property within 250 feet of the property for which the  
32 application is submitted. The list of property owners shall be compiled from  
33 the most recent property tax assessment roll. Where 50 percent or more of  
34 the number of properties in the area subject to notice are owned by the  
35 same person, as defined in this section, the notice area shall be expanded  
36 until the number of properties owned by the same person constitutes 20  
37 percent or less of the properties in the notice area.

38 ii. Any neighborhood association recognized by the city whose boundaries  
39 include the site.  
40

b. The written notice of the application shall include the following information:

- 1 i. The date, time, and place where comments are due, if a person wishes to  
2 have the comments considered during the review process. The due date  
3 shall be 14 days after the date of the notice.
- 4 ii. A statement that the criteria governing the land use approval decision are  
5 the requirements of subsection B of this section.
- 6 iii. The street address or another easily understood geographical reference to  
7 the property.
- 8 iv. A statement that the land use application and any other file materials are  
9 available for review at the department and that copies can be obtained at  
10 cost.
- 11 v. The name and phone number of a department contact person.  
12 This paragraph shall remain in effect until December 31, 2018 unless prior to  
13 that date the City Council takes action to allow this paragraph to continue in  
14 effect.

15

16 **ac.** The planning and community development director shall review an application for  
17 VRD in any zone under the applicable standards of subsection (B) of this section and  
18 shall issue an administrative decision on the application.

19

20 **bd.** Notice of administrative decision shall be provided as required in LCMC 17.76.020  
21 and mailed at applicant's expense to all owners of property of record as indicated on  
22 the most recently available tax assessment roll, located within 250 feet of the exterior  
23 boundary of the property for which the application is made. Where 50 percent or  
24 more of the number of properties in the area subject to notice are owned by the  
25 same person, as defined in this section, the notice area shall be expanded until the  
26 number of properties owned by the same person constitutes 20 percent or less of  
27 the properties in the notice area. The notice shall contain the information required by  
28 LCMC 17.76.020 (A) and allow any person opportunity to appeal the decision within  
29 20 days of mailing of the notice. The mailed notice shall state that if tenants or  
30 lessees are in possession of the property, the city requests the owner to provide a  
31 copy of the notice to each tenant or lessee.

1 ee The authorization for VRD use shall remain valid provided the use is conducted  
2 lawfully, under a valid revocable vacation rental dwelling license issued under  
3 Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC, Transient Room Tax.  
4

5 **SECTION 12.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 7.12 (*Zoning Districts*  
6 *Established*), Section 17.12.010 is amended to read as follows:  
7

8 **A.** For the purpose of this title, the following zones are hereby established in the city.

9	Zone Description	Abbreviated Description
10	Residential, Single-family	R-1
11	Vacation Rental	VR
12	Residential, Multifamily	R-M
13	Professional Campus	PC
14	Recreation Commercial	RC
15	General Commercial	GC
16	Nelscott Plan District	NP
17	Planned Industrial	PI
18	Recreation-Residential	R-R
19	Park	P
20	Open Space	OS
21	Marine-Waterway	M-W
22	Taft Village Core	TVC
23	Natural Resource Overlay	NR
24	Oceanlake Plan District	OP

25 **B. The adoption of Ordinance No. 2016-20 recognized the changing nature of the**  
26 **vacation rental dwelling market from second homes to business investments, the**  
27 **changes to the city's housing mix, and the city's desire to limit the influx of vacation**  
28 **rental dwellings in some areas of the city. Therefore, as of the effective date of this**  
29 **ordinance, no additional properties may be zoned into the Vacation Rental (VR) zone.**  
30 **Areas zoned Vacation Rental (VR) prior to the effective date of this ordinance may**  
31 **retain that zoning designation.**  
32



1 **SECTION 13.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (*Provisions Applying*  
2 *to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), subparagraph  
3 17.80.050.B.3 is hereby amended to read as follows:  
4

5 3. Parking. In any residential or commercial zone, one off-street parking space will be  
6 provided for each bedroom in the dwelling unit, and no less than two spaces will be  
7 provided for each dwelling unit. If the proposed VRD use cannot provide the required  
8 parking and also meet the other standards of subsection (B) of this section, including  
9 required landscaping, the vacation rental occupancy of the dwelling shall be reduced to  
10 conform to the available amount of off-street parking and made a condition of licensing  
11 under Chapter 5.14 LCMC.  
12

13 a. The planning and community development director has the discretion to require  
14 such changes as are necessary to conform the dwelling to available approved  
15 parking and shall inspect the dwelling as necessary to confirm the occupancy has  
16 been so conformed prior to approving the use in any allowed zone. An example is  
17 changing a bedroom to another use.  
18

19 b. No more vehicles shall be parked on the property than there are designated off-  
20 street parking spaces.  
21

22 ~~c. Outside the garage or carport, no triple stack of vehicles is allowed on the~~  
23 ~~property. "Triple stacking" means parking in such a way as to require a~~  
24 ~~vehicle to cross all or part of two other parking spaces.~~  
25

26 d.c. No variance from the parking standards is allowed.  
27

28 **SECTION 14.** Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.80 (*Provisions Applying*  
29 *to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), subparagraph  
30 17.80.050.B.5 is hereby amended to read as follows:  
31

32 5. Landscaping.

33 a. Residential Zones **and the VR Zone.** The owner must landscape all yards in accordance  
34 with the standards of LCMC 17.52.100. A minimum of 50 percent of the front yard

1 (the area between the side lot lines, the front lot line, and the front of the  
2 dwelling) must be landscaped. For oceanfront properties constrained by a need to  
3 be set back from the bluff edge due to geological hazards, landscaping may be  
4 reduced in order to accommodate required parking Landscaping must meet the  
5 following standards:

- 6 i.—Area. A minimum of 40 percent of the lot must be landscaped.
- 7 ii.—Front Yard. A minimum of 50 percent of the front yard (the area between the  
8 side lot lines, the front lot line, and the front of the dwelling) must be  
9 landscaped.
- 10 iii.—Hardscape Features. A maximum of 50 percent of the required landscape area  
11 may consist of hardscape features such as patios and decks, but not swimming  
12 pools, sport courts, driveways, or parking areas.
- 13 iv.—Nonliving Plant Ground Covers. Bark dust, chips, aggregate, or other nonliving  
14 plant ground covers may be used on an area covering no more than 25 percent  
15 of the area to be landscaped.
- 16 v.—Plants. The use of native and drought-tolerant plant species is encouraged.  
17 Plants shall be species that are known to thrive in the Northern Oregon coastal  
18 environment, and either listed in the Lincoln City Tree Planting Guide and List  
19 of Recommended Species, or recommended by a licensed nurseryman as being  
20 suitable for the local climate, as approved by the planning and community  
21 development director. The use of noxious or invasive plant species is  
22 prohibited.
- 23 vi.—Shrub Size. Shrubs shall be planted from three-gallon containers or larger.
- 24 vii.—Ground Cover Size. Ground cover plants shall be sized and spaced so that  
25 they grow together to cover a minimum of 50 percent of the landscaped area  
26 within three years of planting.
- 27 viii.—Maintenance and Irrigation. Adequate irrigation shall be temporarily  
28 provided for all plants until they are established and permanently provided for  
29 all plants that are not drought-tolerant. The owner must maintain all plantings  
30 in good condition and must replace with like plants any plants that are  
31 removed or die for any reason.

- 32 b. Commercial Zones. The owner shall install and maintain the landscaping  
33 as approved shown in the approved site plan for the commercial use or mixed-use

1 application. If the approval does not include a site plan then the landscaping, at a  
2 minimum, must meet the landscaping standards of LCMC 17.52.100. , or at a  
3 minimum meet the landscaping standards of subsection (B)(5)(a) of this section if  
4 site plan approval is not required.

5  
6 **SECTION 15. The City Manager is hereby directed to initiate appropriate land use**  
7 **proceedings to amend the land use approval documents of all vacation rental dwellings in**  
8 **the R-1-5 zone that were approved prior to the effective date of this ordinance, other**  
9 **than those approved through the conditional use permit process, to remove any limits on**  
10 **the number of nights for which they may be rented.**

11  
12 **SECTION 16. The Lincoln City Comprehensive Plan, (as amended) is hereby amended to**  
13 **add the following new sentence to the end of the (Goals) (Development Categories)**  
14 **numbered paragraph 16, VR Zoning District description added by ordinance 2014-21:**

15  
16 **DISCONTINUANCE OF USE. With the adoption of Ordinance 2016-20 the R-1-5**  
17 **zone commercial allocation will substitute for the VR District in recognition of the**  
18 **changes in vacation rental ownership and use. After the effective date of**  
19 **Ordinance 2016-20, the VR zone will not be available for use; the VR zone will**  
20 **remain in full force and effect for existing VR zoned properties.**

21  
22 **SECTION 17. The Lincoln City Comprehensive Plan is hereby amended to add The 2006**  
23 **Comprehensive Economic Opportunities and Buildable Land Needs Assessment prepared**  
24 **by Johnson-Gardner and the Beckendorf Associates Corp. for the City of Lincoln City are a**  
25 **support document for the Lincoln City Comprehensive Plan.**

26  
27 **SECTION 18. Findings Adopted.**

28 The findings contained in the Whereas Clauses of this ordinance, together with the Findings set  
29 forth in Exhibit A, as well as the competent substantial evidence in the whole record of this  
30 legislative proceeding are incorporated into this section by reference as if fully set forth herein,  
31 and are adopted in support of this legislative action. In addition, the City Council takes official  
32 notice of Ordinance No. 2014-21 and the findings incorporated therein to support this  
33 Ordinance.

34  
35 **SECTION 19. Severability.**

1 The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity  
2 of one section, subsection, paragraph, or clause shall not affect the validity of the remaining  
3 sections, subsections, paragraphs and clauses.

4  
5 **SECTION 20. Savings.**

6  
7 Notwithstanding the amendment to this Title, the existing Title remains valid and in full force  
8 and effect for purposes of all criminal, civil or administrative code enforcement cases or land use  
9 actions or applications filed or commenced during the time said ordinances were operative.  
10 Nothing in this Ordinance affects the validity of prosecutions commenced and continued under  
11 the laws in effect at the time the matters were originally filed.

12  
13 **SECTION 21. Ordinance Effective Date.**

14  
15 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its  
16 adoption.

17  
18 **SECTION 22. Codification.**

19  
20 Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and  
21 the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word,  
22 and the sections of this Ordinance may be renumbered, or re-lettered, provided that any  
23 Whereas clauses and boilerplate provisions (i.e. Sections 18-22) need not be codified and the  
24 City Recorder is authorized to correct any cross-references and any typographical errors.

25  
26 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
27 9.2 of the City of Lincoln City Charter on the 12<sup>th</sup> day of December, 2016 (First Reading), and on  
28 the 19<sup>th</sup> day of December, 2016 (Second Reading).

29  
30 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 19<sup>th</sup> day of  
31 December, 2016.

32  
33  
34   
35 \_\_\_\_\_  
36 DON WILLIAMS, MAYOR  
37  
38

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11

ATTEST:

  
\_\_\_\_\_  
CATHY STEERE, CITY RECORDER

APPROVED AS TO FORM:

  
RICHARD APPICELLO, CITY ATTORNEY

BEFORE THE CITY COUNCIL FOR THE  
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON

[DECEMBER 19, 2016]

In the matter of the adoption of Ordinance 2016-20 )  
concerning revisions to the Comprehensive Plan and )  
Zoning Code specific to vacation rental dwelling use, )  
including: amending the R-1-5 Residential Zone to )  
change VRD use from an accessory (limited) use to a )  
permitted (unlimited) use; Adding a cap on such )  
unlimited VRD use in the R-1-5 residential zone at 194 )  
VRDS (10% of the lots in the R-1-5 zone) (170 existing ) **FINDINGS OF FACT**  
VRDS and 13 in process); Defining accessory use of ) **CONCLUSIONS OF**  
VRDs in residential zones (for future applications) as ) **LAW AND ORDER**  
no more than thirty (30) nights per year; specifying that )  
existing VRDs (outside R-1-5) are nonconforming and )  
not subject to the 30 night limitation; amending the )  
comprehensive plan to add the 2006 Buildable Lands )  
Inventory as a support document; amending the Plan )  
and zoning code to prohibit use of the VR zone created )  
in 2014; Revising landscape and notice requirements )  
Files: ZOA 2016 -05 [Council-Initiated] )

Based upon the evidence in the whole record, the City Council for the City of Lincoln City makes the following findings of fact and conclusions of law:

**I. FINDING REQUIREMENT FOR LEGISLATIVE ACTIONS**

Lincoln City Municipal Code, Title 17 (Zoning) Section 17.88.050, Paragraph D. provides:

In order for the city council to adopt an ordinance for an amendment to this title, comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies and land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a

more specific direction is provided by the goals than the comprehensive plan.

Findings concerning conformance of the proposed ordinances with comprehensive plan goals, policies and with applicable provisions of state law are for Council to adopt following the close of the record. Participants do not have the right to review or rebut findings. *Arlington Heights Homeowners v. City of Portland*, 41 Or LUBA 560, 565 (2001) *Sorte v. City of Newport*, 26 Or LUBA 236, 244-45 (1993); *Adler v. City of Portland*, 24 Or LUBA 1, 12 (1992). Council finds and determines that the record contains an adequate factual base for the proposed ordinance provisions.

## II. SUMMARY OF FINAL ORDINANCE

Ordinance 2016-20 concerns revisions to the Comprehensive Plan and Zoning Code specific to vacation rental dwelling use. The changes proposed include amending the R-1-5 Residential Zone to break down uses by type, including adding certain permitted uses, including vacation rental dwellings. In effect, in the residential R-1-5 District, VRD use is changed from an accessory (limited) use to a permitted (unlimited) use. Another Section of 2016-20 adds a cap on such unlimited VRD use in the R-1-5 residential zone at 194 VRDs. This number represents 10% of the total number of residential lots in the R-1-5 zone. Currently there are 170 existing accessory vacation rental dwellings in the R-1-5 zone and an additional thirteen accessory VRDs in the approval process in this zone. The amendment will change the existing 170 VRDs from accessory to permitted, allow approval of the thirteen VRDs in process as unlimited and allow for eleven more applications (assuming no R-1-5 VRDs are abandoned in the license renewal process).

The proposed amendments also quantify (further define) the existing accessory use limitation of VRDs in residential zones. Presently accessory VRDs are limited by definition to "incidental and subordinate use , incidental and subordinate to the primary use of the dwelling, that is, the VRD owner's own use of their vacation home. All future VRD accessory use applications will have a nondiscretionary standard fixing the number of rental nights at thirty (30) nights, rather than the discretionary "incidental and subordinate" definition in the current code. (enforceable via land use enforcement mechanisms). The proposed amendments provide that existing VRDs (outside the R-1-5 where the use is now permitted to a cap) are nonconforming and therefore not subject to the 30 night limitation. Such existing VRDs are still subject to the law in effect at the time they were approved (the discretionary incidental and subordinate standard). The amendment was modified to add an amendment to the comprehensive plan to add the 2006 Buildable lands Inventory as a support document to the comprehensive plan. In addition the Plan and Code are amended to prohibit use of the Vacation Rental Zone added to the Plan and

Code in 2014 as an option for residential owners seeking to increase nightly rentals by rezoning to a low intensity mixed use zone. VRD landscape requirements are lessened and notice requirements are revised.

### III. NATURE OF PROCEEDING

The findings herein concern the adoption of a land use ordinance which evolved through the public workshop and public hearing process before the Planning Commission and City Council. The ordinance began as primarily legislative text revisions to the Plan and Zoning Code; no map changes were proposed to show changes in uses permitted.

Before drafting the amendments, the City Manager and Planning Director held numerous community meetings to solicit public opinion on vacation rental regulations in the City. Meetings were held on March 16, March 22, March 23, March 29 and March 30, 2016.

The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of proposed VRD land use ordinance amendments on June 14, 2016; notice of the proposed amendments were included in an ORS 227.186(4) [Measure 56] notice to all affected property owners mailed on June 17, 2016. Notice was also published in the *News Guard* on June 22, 2016.

The Planning Commission held public hearings and meetings to deliberate on the proposed amendments on July 19, 2016, August 2, 2016 and August 19, 2016. After concluding the hearing, the Commission voted, with some dissent, to forward the amendments to the City Council with a recommendation to adopt the proposed amendment(s).

The City Council held public hearings and meetings to deliberate on the proposed amendment(s) on August 22, August 29, September 23, and September 26, 2016. Council reopened the record to provide for entry of the 2006 Buildable Lands Inventory into the record and to permit comments on such inventory. After the close of the record Council directed an Ordinance be prepared for adoption.

The City Council finds and determines that the amendment process is in conformance with the Zoning Ordinance and Comprehensive Plan procedural requirements, including, but not limited to, required initiation, processing, noticing and finding requirements of Chapter 17.88. Specifically, Council initiated all the proposed ordinances pursuant to LCMC 17.88.020.B. Unlike private applicants, Council is not required to submit an application for an amendment to the plan or code. (See 17.88.040). The Planning Commission timely reported recommendations to the City Council on the proposed



ordinance. The City Council postponed action on the proposed ordinance and reopened the record to add competent substantial evidence concerning housing needs. Formal map amendments are not included in the current proposed ordinances.

The amendments as they are currently proposed incorporate public sentiment adduced at the Planning Commission and City Council public hearings. The ordinance proposed for adoption does not substantially differ from the noticed ordinance and range of options possible. Neither ORS 197.610 nor Measure 56 prohibit changes to proposed ordinances through the public hearing process. See *Broderson v. City of Ashland*, LUBA Nos. 2010-038, 2010-056 and 2010-058 (August 12, 2010) (question is whether notices generally describe proposed action, not differences in ordinances). The requirement of LCMC 17.88.050, that the amendments be supported by findings and an adequate factual base in the record is met. Other Comprehensive Plan polices concerning amendments to the Code and Plan are addressed under the respective Comprehensive Plan policies below.

#### IV. ACCESSORY USE

This section addresses the City Council's determination that "accessory use" of a dwelling as a VRD is limited to no more than 30 nights per year.

In 2013 the Planning & Community Development Director issued an interpretation of Lincoln City Municipal Code provisions relating to the accessory use status of VRDs. LCMC 17.80.050 says that a VRD is allowed in a residential zone as an accessory use. "Accessory use" in turn is defined in LCMC 17.08.010 as "incidental and subordinate to the main use of property." After some analysis the director reached several conclusions but did not establish the maximum number of rental nights that would amount to accessory use of a dwelling as a VRD:

- Use as a VRD for fewer than 14 days a year clearly is incidental and subordinate;
- Use as a VRD for more than 14 days a year can still be incidental and subordinate;
- Availability for use as a VRD for more than 180 days a year would not be incidental and subordinate;
- Use as a VRD for more than 73 days a year could be considered to be more than incidental and subordinate;
- Use as a VRD for more than 45 days a year could be considered to be more than incidental and subordinate.
- Use as a VRD for 30 days a year or less could be considered to be incidental and subordinate.

The following year the City Council adopted its own interpretation, but again did not set a specific number. Instead the City Council concluded that the number of nights a dwelling in a residential zone may be rented as a VRD and remain an accessory is "small in number, quantity, or extent" and specifically is not "just less than half" of the number of nights in a year. Rather than set a specific number, the City Council elected to create a process where owners of residential lands can agree to a 30 night limit on VRD rentals and skip the land use decisional process. The City Council implemented this decision in Ordinance No. 2014-21, which addressed a multiplicity of VRD matters, but the Ordinance was referred to the voters and the voters rejected the Ordinance.

In the absence of the guidance of a firm number in an ordinance or interpretation, the Planning & Community Development Director has been limiting accessory use VRD approvals to no more than 90 nights per year. The City Council now finds that 90 nights per year is not "small in number, quantity, or extent" and that the director was incorrect in using that number. Instead, the City Council finds that 30 nights per year is "small in number, quantity, or extent" and adopts that number as the maximum number of nights for which a dwelling in a residential zone may be used in a year and remain an accessory use.

## **V. FINDINGS OF CONSISTENCY WITH COMPREHENSIVE PLAN AND ZONING CODE**

This Section reviews compliance with applicable Comprehensive Plan Policies. Comprehensive Plan Elements include the following:

- Land Use**
- Citizen Involvement**
- Public Services and Utilities**
- Urbanization**
- Natural Hazard**
- Housing**
- Economy**
- Aesthetics**
- Transportation**
- Energy**
- Overall Environmental**
- Shoreland, Beaches, Dunes, Estuary & Ocean Resources**
- Development Categories**

The proposed amendments principally concern Land Use Planning, Housing, and Economy policies as well as the Citizen Involvement Program.

Further, and importantly, the Council elected not to repeal the existing accessory use limitation in LCMC 17.80.050 and LCMC 17.08 (definition of accessory use); these existing provisions are already acknowledged land development regulations and have already been determined to be fully consistent with the comprehensive plan and zoning code. The Council does not need to defend the existing acknowledged law. The Council also incorporates herein by this reference the findings and evidence contained in the staff and counsel reports and Council Communications in the record of these proceedings.

### **Comprehensive Plan Goals**

#### **1) Land Use Planning**

*"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."*

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The City of Lincoln City's Comprehensive Plan and implementing land development regulations (including Zoning Title 17) have been acknowledged by the Land Conservation and Development Commission as complying with the Statewide Planning Goals. Review of these amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

### **Plan Review and Amendment**

The Land Use Planning Element of the Comprehensive Plan includes language and processes concerning reviewing, updating and amending various components of the comprehensive plan as well as zoning ordinance text and map amendments. As regards plan text and zoning text amendments, the Plan includes the following:

- (g) Proposed amendments should be considered based upon a finding that one or more of the following standards are met:
  - (1) Updated data manifests significantly different trends than indicated by previous data;
  - (2) New data reflects a new or previously disclosed public need; and

- (3) New community attitudes representing a significant departure from previous attitudes is found to exist by the planning commission or city council; and
- (4) Changes in statutory or case law occur which affects the applicability or appropriateness of applicable portions of the plan text; and
- (5) A demonstrable error or inconsistency is found to exist;

The language of these policies is that they "should" be used for such amendments. This non-mandatory language aside, the Council finds and determines that the City has met the non-mandatory procedures outlined in the Plan for review of amendments to the plan and code. The need for the amendments was manifest. Information before the Council showed that the proliferation of VRDs was creating problems, which needed to be addressed. At the same time, the Council was aware that in recent years changes had occurred in the way many people choose to go on vacations, with an increase in the number who prefer to take their vacations in family groups or other affinity groups. Their preferred lodging is a dwelling-type building where there are multiple bedrooms and a central gathering area and cooking and eating areas where all may gather. The Council initiated the amendments, the Planning Commission and Council conducted public hearings (as more specifically detailed in the Nature of Proceedings and citizen involvement sections of these findings) and Council adopted findings supporting the decision. The Land Use Planning Goal is satisfied.

**(2) Citizen Involvement Goal**

*"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."*

The Comprehensive Plan's Citizen Involvement Program goal is "Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the several proposed alternative ordinances, plan text and map changes included mailed, published, and internet posted notice to the public and property owners, and review of proposals by the Planning Commission and the City Council, consistent with the Plan, Goal and Resolution.

The findings set forth under the Nature of Proceedings and Land Use Planning above including the notice and hearing process for the range of proposed ordinances are incorporated herein by this reference. The Council finds and determines that the Comprehensive Plan and Goal 1 policies concerning citizen involvement are fully met by the proposals.

Among the policies under the City's Citizen Involvement Program goal is one that says "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings."

The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, and published in The News Guard weekly newspaper and on the City's website. The City holds public hearings in the evening in order to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live and rebroadcast on cable television and are streamed live over the internet. Video of meetings and packet materials is also available on the City's website for review, free of charge. This constitutes a more than reasonable effort to encourage citizens to attend public meetings.

Additionally the City Manager convened two series of workshop meetings in various locations in the city in order to promote citizen involvement. The first series of meetings was used to gather information on citizen concerns and desires regarding VRDs. The second series was used to provide citizens with information on proposals coming from staff that resulted from the first set of meetings and from other hearings and processes and that were going to be placed before the Planning Commission and City Council for consideration in the public hearing process.

The Plan further provides that "Lincoln City shall encourage a variety of citizen programs such as neighborhood associations and other committees to serve in the interests of the community." During the hearings, the Council heard from several neighborhood associations, including newly officially- recognized associations.

## Measure 56

One principal of citizen involvement is reflected in Measure 56, adopted in 1996. Measure 56 is implemented in ORS 227.186 and requires individual notices be sent to property owners when an ordinance proposes to rezone property, including amendments which limit or prohibit land uses previously allowed in the affected zone. Notice was sent to all impacted property owners in the applicable zones.

Also related to citizen involvement, Measure 56 contained a limit on how land use matters could be addressed by local governments. Applicable to cities, ORS 227.186(2) provides:

- (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

In the past some individuals, principally realtors and managers and owners, have asserted that there is no limit on operations of vacation rentals in residential zones. They have claimed that the accessory use limitation on vacation rental operations in residential zones is no longer in effect. However, the record reflects no repeal of this ordinance provision (contained in LCMC 17.80.050.B.2 (VRD Criteria) and LCMC 17.08.010 (Definitions)). The present amendments do not repeal the existing accessory use limitation. The existing City code makes VRD use in residential zones an accessory use, and other than a strictly limited exception this continues to be the case. The amendments have two effects on the existing accessory use restriction. First, they add certainty by defining accessory use as no more than 30 nights' rental per year. Second, the amendments create a limited exception for some VRDs in the R-1-5 zone, allowing up to 194 full-time VRDs in that zone.

The Citizen Involvement Goal is satisfied.

**(3) Public Services and Utilities Goal**

*"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which complement the area and serve as a framework for urban and rural development."*

Public services and utilities generally are already in place in the R-1-5 zone. Moreover, in the R-1-5 zone where vacation rental use will be expressly authorized as a permitted use (subject to the cap on the number of full-time VRDs), one of the existing restrictions on development is that all city services must be available. LCMC 17.16.050. This code section contains an exception to the requirement of availability of all city services, but by its terms it does not apply to VRDs. The exception refers to LCMC 17.52.120, which says in relevant part,

A. In the single-family residential (R-1) zone, and the multiple-family residential (R-M) zone, when city services are not available or when only partial services are available, the minimum parcel size shall be five acres; except however, any existing lots of record less than five acres in area which do not front on a public sewer line but which will be connected to a public water line may be developed with a single-family dwelling utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.

The amendments make clear that VRDs are different from single-family dwellings by calling the two uses out separately. Thus the exception allowing

VRDs to be developed on lots in the R-1 zone without sewer service does not apply to VRDs.

Because any development of VRDs will be subject to the already-existing requirement to provide adequate public facilities, the proposed ordinances will not adversely affect the availability or arrangement of public services and utilities. The goal is satisfied or does not apply to the proposed amendments.

**(4) Urbanization Goal**

*"To promote an orderly and efficient transition of land uses from rural to urban."*

The VRD amendments do not affect the development densities of properties in Lincoln City. Since the amendments will not affect development (the development to which they relate will occur only in the R-1-5 zone and in various commercial and mixed-use that already are urbanized and, in the cases of the commercial and mixed-use zones already is authorized by the zoning ordinance) they will not affect the transition of land uses from rural to urban. This goal is satisfied or does not apply to the proposed amendments.

**(5) Natural Hazard Goal**

*"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."*

The VRD amendments, by themselves, do not authorize any development. Any development of VRDs is subject to the city's existing and acknowledged ordinance standards relating to development in the Natural Hazard Areas, and the VRD amendments do not authorize any development inconsistent with these natural hazard standards. This goal is satisfied or does not apply to the proposed amendments.

**(6) Housing Goal**

*"To provide for the housing needs of all citizens."*

The Comprehensive Plan's Housing Element establishes policies to be implemented in the zoning code, with most relating to housing types, quality, and affordability. One policy requires the City to "work to stabilize and protect existing residential areas from deterioration and incompatible development." The plan does not specify what types of development might be considered "incompatible."

The Council finds and determines that a vacation home or summer home is housing under the Municipal Code and Plan. The seasonal resident seeking

shelter recognized in the Comprehensive Plan is the owner of such vacation or summer home. Such homes are located in residential zones and are compatible with existing residential areas.

The allowance of full-time VRDs in the R-1-5 zone is a change from past law. Some consider a full-time VRD to be different from a summer home used by its owner, and incompatible with residential areas. The City Council finds and determines that in relatively heavy concentrations full-time VRDs are in fact incompatible with residential areas. The City Council finds and determines further that with strict locational and numerical limitations low concentrations of full-time VRDs can be compatible with residential areas.

In the past, nearly every VRD related ordinance stated that VRD use in residential zones was merely accessory. For example, findings for Ordinance 2009-02 provide:

(10) Goal 10: "Housing" The VRD amendments do not by themselves affect residential development. By themselves the VRD amendments do not affect the availability of housing because they relate only to housing that already is allowed and to a use that is merely accessory to the primary use of the structures they are in as second homes. Therefore, the VRD amendments are consistent with Goal 10. (emphasis added)

Despite what the ordinances have said, the actual practice in Lincoln City has been significantly different. In recent years, owners of many VRDs in residential zones made them available as nightly rentals on a full-time basis despite the accessory use limitation in the Municipal Code. At the same time the number of VRDs in residential zones rose at an increasing rate during the real estate boom of the early 2000s, with the increases stopping only as a result of the recession of 2007-2009. This disregard of the accessory use limitation that made many (if not most) VRDs in residential zones *de facto* commercial uses, coupled with the uncontrolled growth in the number of VRDs, lead to growing impacts of VRDs on residential areas.

As noted above, the Comprehensive Plan contains the following policy:

4. The City shall work to stabilize and protect existing residential areas from deterioration and incompatible development.

The amendments function to comply with this policy, in three ways. First, they bring to a halt the uncontrolled growth of full-time VRDs in residential neighborhoods. Rather than allowing continued unfettered growth, the amendments cap the number of full-time VRDs in the R-1-5 zone at 10 percent of the total number of lots in the zone. At this time there are 1940 lots in the R-1-5 zone, so there can be no more than 194 full-time VRDs in the zone. Testimony showed there are approximately 171 VRDs in the R-1-5 zone. Each of



these would be allowed to be rented for an unlimited number of nights in each year. Thus the future growth in the number of full-time VRDs in the R-1-5 zone is limited to no more than 23 new full-time VRDs. Then there could be no new ones until one of the existing full-time VRDs is transferred or ceases to be used as a VRD.

Second, the amendments completely ban new full-time VRDs in all residential zones other than the R-1-5. Thus there can be no new full-time VRDs in the R-1-7.5 zone, R-1-10 zone, R-R zone, R-M zone, and NCR zone. The evidence showed that there are only 11 VRDs in the R-1-7.5 zone, 19 in the R-M zone, one in the R-R zone, and 5 in the NCR zone. These will go away over time as the properties are transferred to new owners who will not be able to rent them as VRDs for more than 30 nights per year.

Third, they place a strict limit on the number of nights that an accessory-use VRD may be rented for. The new limit is 30 nights per year. In contrast, the current practice has been to allow them up to 90 nights per year, and before that some VRDs in residential zones were expressly "limited" to up to 300 nights per year. The new 30-night limit reduces the impacts of accessory use VRDs by at least two thirds over the current and past practices.

The amendments do not function to make full-time VRD use a residential use. The City Council finds and determines that full-time VRD use is a commercial use. As described above, with strict limits on the number (i.e. no more than 10% of the lots in the R-1-5 zone) and location of full-time VRDs in residential zones (i.e. only in the R-1-5 zone; not in the R-1-7.5, R-1-10, R-R, R-M, or NCR zones) full-time VRD use can be compatible with existing residential areas.

The 2006 Comprehensive Economic Opportunities and Buildable Land Needs Assessment prepared by Johnson-Gardner and the Beckendorf Associates Corp. used two different methodologies to determine the amount of buildable land needed to accommodate future growth. With respect to low density residential development (i.e. single-family and duplex housing) the assessment showed that Lincoln City had a surplus of buildable land of 99.3 or 402.9 acres, depending on the methodology used. In either case, the City had a substantial surplus.

The City Council takes official notice of the fact that the City's zoning regulations have been changed to allow accessory dwelling units in the R-1 zone and elsewhere where single-family dwellings are allowed, and to allow "cottage clusters" as well. These provisions allow dwellings at a density higher than was allowed at the time of the 2006 buildable land needs assessment. Similarly, the Council takes official notice that the City has amended its planned unit development regulations to allow certain density bonuses, which likewise functions to allow density higher than would have been allowed in 2006. The City Council finds that these ordinance changes promoted more

efficient use of available land and reduced the need for new lands to accommodate future growth.

The City Council finds that to the extent the proposed amendments' allowance of up to 194 full-time VRDs in the R-1-5 zone might be considered to remove land from that needed for residential use and growth, the surplus of buildable lands is sufficient to still leave the City with sufficient buildable land for low density residential development, particularly when the recent ordinance changes allowing increased density in the R-1 zone are considered.

As for the amendments' limitation of accessory use VRDs to no more than 30 nights rental per year, the City Council finds and determines that it merely is adding definition to the existing accessory use limitation in the Municipal Code. In other words, while every property owner in residential zones has had the right to have an accessory use VRD, no one has said exactly what the extent of that right is. With these amendments, the City Council is clarifying what "accessory use" means in the context of accessory use VRD operation. The definition of accessory use as no more than 30 nights retains the existing accessory use limitation for the vast majority of property owners in residential zones and adds certainty to it. The City has, for more than five years, limited such VRD use in residential zones to incidental and subordinate accessory use of a second or vacation home. The amendments do not take away that restriction and the restriction is immune from attack under Measure 49.

#### (7) Economy Goal

*"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."*

The Economy Element concludes:

Tourism will continue to function as the basic industry in Lincoln City. An anticipated increase in the retirement population will serve to contribute to the economic base of the community. New employment opportunities are projected to occur in service related industries. Tourism and service jobs are labor intensive and relatively "clean industries", however some of the positions are seasonal, and the wages are minimal and are subject to sudden changes in economic conditions.

To achieve a more stable economy, the city should strive to improve tourism, as well as attempt to diversify the economic base.

The Economy Element identifies Tourism and the Retirement Community as continuing sources of service related employment opportunities for citizens of Lincoln City. Both are estimated to increase. To a certain extent, past practices

resulting in unconstrained growth in the number of VRDs, ineffective limitations on the number of nights for which VRDs may be rented, and the lack of restrictions on where they are permitted to locate have caused acknowledged nuisance-like impacts on established residential areas occupied by retirees; some retirees have indicated they have moved from areas of the city due to these compatibility conflicts. Accordingly, a balance between these two competing sectors of the economy is required. The amendments will help to correct the existing imbalance and to achieve the needed balance. As described above with respect to the Housing Element of the Comprehensive Plan, the amendments will end the unrestricted growth in the number of full-time VRDs and place a maximum concentration of 10 percent of the number of lots in the R-1-5 zone. They will prohibit new full-time VRDs in all residential zones other than R-1-5. And they strictly limit the number of nights to 30 that an accessory use VRD may be rented in a year (The more complete descriptions of these effects set out under the Housing goal is incorporated here by reference). These will reduce the nuisance-like impacts of VRDs, especially east of Highway 101, and will make neighborhoods more attractive for seniors who dislike living near VRDs.

There was testimony about the changes in the way people vacation that have occurred over the past 10 to 15 years. Compared to previous times, more people than before now opt for single-family dwelling-type group quarters, where entire families and groups of friends can share meals and other activities, rather than for traditional hotels and motels. Thus there is a demand for VRD-type vacation properties that exceeds the former level of demand. In order to meet this demand, which according to testimony will go elsewhere if an adequate supply of VRDs is not available in Lincoln City, there is a need to permit full-time VRDs in key areas of the City. Since the main draw to Lincoln City for tourists is the beach, these key areas tend to be west of Highway 101 in areas close to the ocean. While there are substantial areas of beachfront lands zoned for commercial uses (R-C, OPD-OF, and NBMU), much of the rest of these areas is zoned R-1-5. The R-1-5 zone comes at the intersection of single-family-type dwellings and proximity to the ocean.

A great deal of testimony was given about the economic benefits of vacation rentals, both full-time and accessory use VRDs. There also was a report prepared by the Planning & Community Development Director on the economic impacts of VRDs entered into the record. The Council finds that full-time and accessory use VRDs have economic value to the City and the community benefits from economic activity by tourists, including those who use VRDs. The Council further finds that the amendments support the economy by providing certainty for those jobs supporting the existing VRDs by making the VRDs' full-time operation legal and not subject to curtailment to comply with the existing accessory use limitation.

**(8) Aesthetic Goal**

*"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."*

The VRD amendments in the proposed ordinance do not address the aesthetic quality of development permitted under the existing zoning ordinance. Existing municipal code standards result in VRDs being subject to the same standards as single-family dwellings in terms of building height, required yards, landscaping, and lot coverage. Since the existing zoning ordinance has been found to be consistent with the comprehensive plan, including this goal, this goal is satisfied or not applicable.

**(9) Transportation Goal**

*"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."*

The VRD amendments contain locational criteria requiring the full complement of public facilities and services in order for VRDs to be developed. Evidence in the record showed that the Institute of Traffic Engineers Trip Generation (7<sup>th</sup> ed., 2003) provides no useful information on vehicular trip generation by VRDs because the "recreational homes" used in that publication were located in resorts. Evidence in the record to the effect that VRDs generate more traffic than traditional single-family dwellings was anecdotal and unsupported by statistical data. Moreover, the City Council specifically finds that the cap on the number of full-time VRDs in the R-1-5 zone will limit the effects of any excess trips coming from or going to VRDs. This coupled with the 30-night limitation on accessory use VRDs in the remainder of the R-1-5 zone and all of the R-1-7.5, R-1-10, R-M, NCR, and R-R zones will offset any increase as a result of correcting the Planning and Community Development Director's interpretation allowing accessory use VRDs to be rented for up to 90 nights per year. Therefore, this goal is satisfied or not applicable.

**(10) Energy Goal**

*"To conserve energy."*

*"Policy 8. The City shall locate high-density development within walking distance of services and shopping areas."*

The amendments do not authorize any high density development anywhere in the city. There are areas of the city in which high density development already is authorized, but the amendments do not affect where or how such

development may occur. However, the amendments do authorize full-time VRDs in the R-1-5 zone, subject to a numerical cap, and this authorization derives in part from how the market has located VRDs up until this time. The effect of market forces has placed the majority of VRDs in close proximity to recreational opportunities and attractions such as the beach, the casino, and to a lesser extent the lake and bay. The amendments will reinforce what the market has decided and as such will direct tourists to these areas. This, together with authorizing full-time VRD usage in the R-1-5 zone (above the existing limited residential accessory use authorization), will help to realize energy savings. This savings is based on the notion that the length of vehicle trips to daily goods, services and attractions would be reduced, and even eliminated by walking, if tourists were located closer to those destinations and services. The other amendments proposed have no adverse effects on the energy goal and simply facilitate compliance with other plan policies and objectives. Therefore, the goal is satisfied.

#### **(11) Overall Environmental Goal**

*"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."*

*Policy: Lincoln City shall develop programs to resolve conflicts between the preservation of sensitive wildlife habitats and conflicting uses.*

The City compiled an inventory of natural resources, including wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas. Resources deemed to be significant were evaluated to determine whether, and to what extent, to allow conflicting uses. The City adopted a protection program, the Natural Resources Overlay, which balances protection and land use. Non-significant resources are not protected by the City.

The VRD amendments will not, of themselves, have any adverse effects on the natural environment. The proposed amendments will facilitate compliance with other goals and policies concerning incompatible development in residential zones. The proposed amendments will not adversely impact the natural environments of the City and do not authorize any additional development in any zone. This goal is satisfied.

#### **(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal**

*"To conserve, protect, and enhance the coastal resources of the city."*

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake,

and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of residential zoning (particularly most of the R-1-5 zone, in which a limited number of full-time VRDs are permitted by the amendments), and also include areas that have been designated as significant aesthetic resources. The proposed VRD amendments do not by themselves authorize any changes in development in the coastal shorelands area since they relate only to development in areas in which development already is allowed under the zoning ordinance, and subject to the same standards that currently allowed development is subject to. The amendments do not alter any of the existing and acknowledged protective measures for the above-referenced resources. Therefore the VRD amendments are consistent with this goal.

### **(13) Development Categories**

The amendments prohibit adding new lands to the existing VR zone. The VR Zone was added to the Comprehensive Plan in 2014 as a new development category to recognize the reality that vacation rental operations in residential zones had grown beyond the authorized incidental and subordinate allowance for such use and into full blown commercial operations, thought to be incompatible with residential neighborhoods. The category was intended to provide a new location to concentrate such uses and thereby reduce or eliminate conflicts with such residential neighborhoods. At that time there were no limits on the number or location of VRDs that could be approved in residential zones.

The amendments address these concerns and make the VR zone unnecessary. The cap on the number of full-time VRDs puts an absolute limit of 194 (10% of the 1940 lots in the zone) on the number of such VRDs in the R-1-5 zone. In other residential zones (i.e. the R-1-7.5 and R-R zones), which cover a much larger area than the R-1-5 zone, full-time VRDs are banned.

Additionally the amendments effectively vacate the Planning and Community Development Director's interpretation that incidental and subordinate VRD accessory use may occur up to 90 nights per year. The City Council finds that in order to be incidental and subordinate, VRD accessory use may not exceed 30 nights per year. Finally, over time the "lodging house" limitation on occupancy of a VRD by more than 16 persons also works to reduce the number of persons in individual VRDs and thereby reduces the opportunities for conflicts with residential uses in residential zones.

The proposed amendments greatly reduce concerns regarding incompatibility between VRDs and single-family dwellings in residential zones. The proposed amendments are internally consistent with this section of the plan.

## VI. STATEWIDE PLANNING GOALS.

- (1) Goal 1: "Citizen Involvement" The proposed ordinances and other documents were made available at no cost on the City's website and were also available for public review and purchase at the counter. Assistance was available to explain the proposals and technical information. Hearing notices were published in local papers in accordance with notice requirements. Mailed notices were sent to impacted property owners pursuant to Measure 56. The findings concerning the Comprehensive Plan Citizen Involvement Program as well as the findings under Nature of Proceedings and Land Use Planning are incorporated herein by this reference. Therefore, the amendments are consistent with Goal 1.
- (2) Goal 2: "Land Use Planning" This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearings and reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of these VRD amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal. The Amendments are integrated and consistent with the planning process and policy framework; specifically the amendments further compliance with existing policies to stabilize and protect existing residential neighborhoods from incompatible uses. The amendments acknowledge the Economy Goal by providing for lessening the nuisance-type impacts of VRDs on the senior segment of the economy. The findings concerning the Comprehensive Plan Land Use Element are incorporated herein by this reference. Therefore, the amendments are consistent with Goal 2.
- (3) Goal 3: "Agricultural Lands" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.
- (4) Goal 4: "Forest Lands" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The area is zoned for

urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.

- (5) Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The areas affected by the VRD amendments are located within the City's Urban Growth Boundary. The VRD amendments do not include any areas currently zoned Open Space or Park. They do not include the city's one property listed on the National Register of Historic Places, the Dorchester House. The areas subject to the VRD amendments also include some sites adjacent to areas designated as significant aesthetic resources. However, because the amendments do not directly authorize any development inconsistent with the aesthetic nature of the sites, there is no impact on such resources. . The findings concerning the Overall Environmental Element as well as the Shoreland, Beaches, Dunes, Estuary & Ocean Resources Elements are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 5.
- (6) Goal 6: "Air, Water and Land Resources Quality" Because the proposed amendments relate to uses already allowed under the existing zoning ordinance, the VRD amendments will not serve to increase the waste and process discharges already being generated within the affected areas. Such discharges include solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Overall Environmental Element are incorporated herein by this reference. Therefore the VRD amendments are consistent with Goal 6.
- (7) Goal 7: "Areas Subject to Natural Disasters and Hazards" The areas affected by the VRD amendments include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the VRD amendments do not authorize (or exempt) any development inconsistent with these natural hazard standards. The findings concerning the Natural Hazard Element are incorporated herein by this reference. Therefore the VRD amendments are consistent with Goal 7.
- (8) Goal 8: "Recreational Needs" The areas affected by the VRD amendments do not include any areas zoned for open space or park use, nor do they of themselves authorize any development inconsistent with the recreational needs of the community, region, or state. Therefore, the VRD amendments are consistent with Goal 8.
- (9) Goal 9: "Economic Development" The VRD amendments do not affect the availability of land suitable for industrial and commercial development. The economy overall will benefit in that the tourism sector insofar as it



depends on VRDs will be protected and conflicts with the senior sector of the economy will be reduced, thereby strengthening that sector. The findings concerning the Economy Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 9.

- (10) Goal 10: "Housing" The VRD amendments help to stabilize residential areas of the City by limiting the growth of full-time VRDs in residential zones to no more than 10 percent of the number of lots in the R-1-5 zone, by prohibiting them in most residential zones, and by limiting accessory use VRDs to no more than 30 nights rental per year. The findings concerning the Housing Element and Land Use Planning Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 10.
- (11) Goal 11: "Public Facilities and Services" Existing City water and sewer infrastructure and treatment facilities will not be affected by the VRD amendments, nor will their ability to serve surrounding properties be affected, because the VRD amendments do not authorize any uses not already allowed by the zoning ordinance. The findings concerning the Public Services and Utilities Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 11.
- (12) Goal 12: "Transportation" The VRD amendments are consistent with the City's *Comprehensive Plan* and *Transportation Master Plan* because they do not adversely affect any transportation facility since they relate only to uses of types already allowed. The findings concerning the Transportation Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 12.
- (13) Goal 13: "Energy Conservation" The VRD amendments do not change any land use patterns and development already allowed and therefore will not have any effect on Energy Conservation. . The findings concerning the Energy Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 13.
- (14) Goal 14: "Urbanization" The proposed VRD amendments do not increase or decrease densities allowed, and accordingly do not tend to promote the expansion of the Urban Grown Boundary. The findings concerning the Comprehensive Plan Land Use Element, Housing Element and Urbanization Element are incorporated herein by this reference. Therefore, the amendments are consistent with Goal 14.
- (15) Goal 15: "Willamette River Greenway" The affected areas are not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.

- (16) Goal 16: "Estuarine Resources" The affected areas of the VRD amendments include some areas adjacent to a designated estuarine resource. However, the VRD amendments, by themselves, do not authorize any development, inconsistent with the protection of the estuarine resources, and development near estuarine resources already is and will continue to be subject to acknowledged controls on such development. The findings concerning the Comprehensive Plan Land Use Element are incorporated herein by this reference. Therefore, the amendments are consistent with Goal 16.
- (17) Goal 17: "Coastal Shorelands" The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of residential zoning, and also include areas that have been designated as significant aesthetic resources. The proposed VRD amendments do not themselves authorize any changes in development in the coastal shorelands area. The findings concerning the shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference. Therefore, Goal 17 is met or not applicable.
- (18) Goal 18: "Beaches & Dunes" The affected areas of the VRD amendments are not located within a beach or active dune area. The findings concerning the shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference. Therefore, Goal 18 is met or not applicable.
- (19) Goal 19: "Ocean Resources" Because the affected areas of the VRD amendments are solely on the dry land areas of the city, and because the VRD amendments will not by themselves authorize any development, the VRD amendments will not affect the nearshore ocean and continental shelf. The findings concerning the shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference. Therefore, the VRD amendments are consistent with Goal 19.