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ORDINANCE NO. 2016-26

**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 HEALTH AND SAFETY  
OCCUPANCY CRITERIA 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;

**WHEREAS**, during deliberations, Council elected to separate health and safety regulations on VRD Occupancy from other changes proposed in Ordinance 2016-14; and

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

1  
2 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

3  
4 **SECTION 1.** Lincoln City Municipal Code, Title 5 (*Business Taxes, Licenses and Regulations*)  
5 Chapter 5.14 (*Vacation Rental Dwelling License*), Section 5.14.060 (*Criteria for approval of a*  
6 *license and license renewal*), Paragraph B.4. (*Health and Safety*), Subparagraph a. (*Occupancy*), is  
7 hereby amended to read as follows:  
8

9 ~~a. **Occupancy.** The occupancy of the VRD shall be limited based on~~  
10 ~~the 1997 Uniform Housing Code, but in no event shall occupancy~~  
11 ~~exceed the Oregon Residential Specialty Code Lodging House~~  
12 ~~limitations applicable to the residential structure, or other~~  
13 ~~predecessor residential code (e.g. UBC lodging house limitations).~~  
14 ~~Occupancy may exceed lodging house limitations only in vacation~~  
15 ~~rental dwellings constructed pursuant to (or retrofitted for~~  
16 ~~compliance with) the current (i.e. code in effect at the time of the~~  
17 ~~VRD application or renewal) Oregon Structural Specialty Code.~~  
18 ~~Occupancy in excess of lodging house limitations shall only be~~  
19 ~~permitted in commercial zoning districts or such other districts as~~  
20 ~~Council may authorize by ordinance. The license shall state clearly~~  
21 ~~the numeric Occupancy Limit for the dwelling, including~~  
22 ~~specifically the number of bedrooms.~~

23  
24 a. **Maximum Overnight Occupancy.** The maximum overnight  
25 occupancy of a vacation rental dwelling shall be as follows:

26  
27 1. In no event shall the occupancy of a vacation rental dwelling  
28 (VRD) exceed the limits of the 1997 Uniform Housing Code;  
29 and,

30  
31 2. In no event shall a VRD exceed "Lodging House" limitations of  
32 the Oregon Residential Specialty Code. These limitations  
33 include:

34 a. In no event shall use and occupancy of more than  
35 five guest rooms be permitted in a VRD. For purposes of this  
36 Code, a guest room is a bedroom or any other space within the  
37 dwelling designed and intended to be used for sleeping; and

38 b. In no event shall overnight occupancy of a VRD  
39 structure exceed 16 persons; and,  
40

1 **3. Occupancy shall not exceed the limitations identified herein**  
2 **except in a vacation rental dwelling constructed pursuant to (or**  
3 **retrofitted for compliance with) the current Oregon Structural**  
4 **Specialty Code and only in commercial zoning districts or such**  
5 **other districts as Council may authorize by ordinance. For the**  
6 **purposes of this provision, commercial zoning districts are the**  
7 **General Commercial (GC) zone, the Recreation Commercial (RC)**  
8 **zone, the Taft Village Core (TVC) zone, the Nelscott Business**  
9 **District (NBD) zone, the Nelscott Beachside Mixed Use (NBMU)**  
10 **zone, the Oceanlake Plan District (OPD) zone, and the Vacation**  
11 **Rental (VR) zone; and**

12  
13 **4. In no event shall the occupancy exceed three times the number**  
14 **of bedrooms in the VRD, plus one additional occupant, not to**  
15 **exceed a total of sixteen occupants, except as allowed in**  
16 **paragraph 3 above; and**

17  
18 **5. The license shall state clearly the numeric occupancy limit for**  
19 **the dwelling, including specifically the number of bedrooms.**

20  
21 **SECTION 2. Severability.**

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

26  
27 **SECTION 3. Savings.**

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

34  
35 **SECTION 4. Ordinance Effective Date.**

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37 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect on January 1, 2018.

1 **SECTION 5. Codification.**

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

7  
8 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
9 9.2 of the City of Lincoln City Charter on the 12<sup>th</sup> day of December, 2016 (First Reading), and on  
10 the 19<sup>th</sup> day of December, 2016 (Second Reading).

11  
12 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 19<sup>th</sup> day of  
13 December, 2016.

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18 \_\_\_\_\_  
19 SUSAN WAHLKE, COUNCIL PRESIDENT

20 ATTEST:

21   
22 \_\_\_\_\_  
23 CATHY STEERE, CITY RECORDER

24 APPROVED AS TO FORM:

25   
26 \_\_\_\_\_  
27 RICHARD APPICELLO, CITY ATTORNEY