

CITY OF
GEARHART

Staff Report

For City Council Meeting - 7/3/2024

Subject - New Business - Discussion - STR Transferability Interpretation / Clarification

Synopsis: City staff needs the Council to provide direction in interpreting short-term rental ordinance #901 where permit transferability is concerned. All situations of inheritance have slightly varied where an LLC or trust is concerned. Some permits have transferred to immediate family before the passing of the original owner. There are some STR properties in Gearhart that are jointly owned by a trust and sole individual; some properties have three sole owners. The question for Council is:

If one of the original owners (STR applicants) remains an owner, is it ok for the additional owner(s) to sell off their share to an unrelated party?

The ordinance is vague, and therefore it would appear to be allowed based on interpretation. Staff seeks Council guidance on how interpretation affects intention.

Recommendation: N/A

Legal Analysis: City Attorney Peter Watts will provide guidance.

Financial Analysis: N/A

Respectfully Submitted,

A handwritten signature in black ink, appearing to be the name 'Chad', written in a cursive style.

Chad

First reading by CC on 08/03/16 with edits

ORDINANCE NO. 901

AN ORDINANCE REGULATING VACATION RENTAL DWELLINGS AND AMENDING THE CITY OF GEARHART ZONE ORDINANCE

WHEREAS, the City Council finds there is a need to limit the level of tourist development in order to maintain the predominantly residential character of Gearhart; and

WHEREAS, based on extensive public meetings and public hearings by the Planning Commission and City Council, the City Council finds there is a need to develop Zone Code provisions and procedures for managing vacation rentals; and

WHEREAS, the vacation rental provisions are in compliance with the Gearhart Comprehensive Plan as described in the City Staff Report dated May 17, 2016;

NOW, THEREFORE the City of Gearhart ordains the Gearhart Zone Ordinance shall be modified as follows:

1. Add to Section 1.050 Definitions:

Vacation Rental Dwelling. Any structure, or any portion of any structure, which is occupied or offered or designed for transient occupancy for less than 30 days for dwelling, lodging or sleeping purposes; and includes houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy, provided such occupancy is for less than a 30-day period.

2. Add a new Article 7 to the Zone Code as follows:

Article 7 Vacation Rental Standards and Procedures

Section 7.010 Purpose

The purpose of these provisions is to control, manage and limit vacation rentals primarily in single-family dwellings. Because of their location in residential zones, their specific characteristics and potential impacts, vacation rentals in dwellings in Gearhart require special consideration so they properly operate with respect to the Comprehensive Plan and the objectives of the underlying zone districts.

Section 7.020 Special Standards Governing Vacation Rentals

1. Neighborhood Exemptions. The Palisades, the Highlands and the East Pine Street neighborhoods are exempt from these provisions because they are not located in the Gearhart city limits. ~~The Breakaway Lodge and the Lodge at Little Beach are also exempt because they are not dwellings and they have historic multiple unit and multi-use characteristics.~~

2. R-A, R-1, R-2 and RCPD Zones.
Vacation rental dwellings are similar to a commercial business use and therefore are not a permitted use in the R-A, R-1, R-2 and RCPD zones.

3. R-3 Zone. A vacation rental in a multi-family dwelling that is zoned R-3 where the multi-family dwelling has 24-hour on-site management is exempt from these provisions. Multi-family dwellings (including condominiums) without 24-hour on-site management and single family dwellings shall obtain a permit from the city in accordance with these provisions. In either case, vacation rentals are permitted and the number of permits in the R-3 zone is unlimited.

4. Limited Permit Offering to obtain a Vacation Rental Permit
Upon the effective date established by City Council Ordinance there will be a one-time 60-day period in which a property owner may file an application for a vacation rental permit from the City of Gearhart. At the time of application the applicant shall provide proof that city lodging taxes were paid on the subject property prior to the end of the 60-day application period. When the one-time 60-day application period expires there shall be no new permit opportunities. The permit application must be deemed complete within 180 days of submittal.

During the permit offering a duplex or multi family structure in a R-2 zone is allowed one (1) vacation rental dwelling permit per ~~tax lot~~ dwelling unit.



Ownership Transfer of a Permit: A vacation rental permit is transferable only by inheritance. A natural person (owner or his/her representative) shall provide the name change to the city for verification and permit renewal. It is the intent that the sale of homes with a rental permit will result in gradual attrition of the total number of dwellings with a vacation rental permit in the city. See Section 8 below.

Section 7.030 Vacation Rental Permit Standards and Procedures

1. Maximum Occupancy Calculation

- a. Occupancy of the rental will be calculated using the three criteria below. Final occupancy will be set by the most limiting criterion. In accordance with the

provisions of Article 8 Variances, an applicant may file an application for a Variance to the Maximum Occupancy Calculation standards.

- 1) Bedrooms/Occupancy - The maximum occupancy for a vacation rental dwelling shall be two persons over the age of 2 years old per bedroom. Occupancy includes occupants sleeping on the property.
- 2) Off-Street Parking - One outside parking space per bedroom is required. A standard parking space shall be a minimum of 9' x 18', except that a 9' x 15' space is permitted for existing structures where the structure is only 15' from the property line. For uses requiring four or more spaces, up to fifty percent of the spaces may be compact in size. A compact space shall be a minimum of 8' x 16', or 15' in depth where the structure is only 15' from the property line. Residential parking spaces are not required to be marked.
- 3) Septic System Capacity - Septic systems must be inspected and the inspection must be reviewed and approved by the Clatsop County Public Health Department. Cesspools are prohibited for use with transient rentals.

b. Notice of Occupancy

- 1) The maximum occupancy, the approved parking diagram, the approved designated representative and city good neighbor policies will be listed on the operating permit, which must be in the rental agreement/contract and posted in a prominent location inside the dwelling within four (4) feet of the entry door.
- 2) For occupancy verification the owner shall provide a guest registry with instructions to the renter, or some other method of occupancy verification for the City to inspect.

2. 24-Hour Representative and Neighbor Notice

- a. 24-hour Representative: The vacation rental owner and designated representative's name, physical address, email address and phone number must be provided to the City upon permit application and renewal. The information shall be kept current at all times. The owner or representative shall be available by phone (24 hours a day, seven days a week) to ensure a

response to complaints regarding emergencies and the condition, operation, or conduct of the occupants. A 24-hour representative must be able to physically respond to the vacation rental site within 30 minutes, and if requested they must respond. If there is a change in the designated representative the property owner must submit to the City the name of the new representative.

- b. Neighbor Notice: The City shall provide an annual mailing, email or otherwise distribute by hand a flier to neighbors within a 200 foot radius of the vacation rental property address. The notice shall contain the owner and representative contact information, a parking plan, and the city website address where the information is also posted. The neighbors and the city shall be informed whenever there is a change in contact information.

3. Residential Appearance

The property occupied by a vacation rental must maintain a residential appearance whereby at least 50% of each surrounding yard on the parcel shall be landscaped with trees, shrubs, flowers or grass so that parking will not dominate any yard. Signage: is limited to one 12" x 12" unlit sign in accordance with Article 6 Section 6.040 Signs.

4. Off Street Parking Requirements

- a. The approved off-street parking spaces must remain available for renters. A parking diagram of the approved parking spaces must be provided to renters and be available in a prominent location within the dwelling. Parking stalls shall meet the minimum standards of Section 7.0301. a. 2) above, and are not required to be paved.
- b. No more vehicles shall be parked on the property than there are designated off-street parking spaces. Off-street parking means within private property boundaries.

5. Garbage Service

- a. Weekly solid waste collection shall be provided by the owner during all months that the dwelling is available for vacation rental occupancy. Side yard pickup shall be required.

b. A wind latch must be installed by the garbage provider on all outdoor garbage and recycling receptacles.

6. Fire/Safety/Health Inspection

a. Initial Inspection: At the time of initial application the vacation rental shall be inspected by the Building Official or designee. The purpose of this inspection is to assure conformance of the dwelling unit with the State of Oregon Residential Specialty Code, the Uniform Housing Code and the Uniform Fire Code regulations related to potential safety issues and to establish maximum occupancy, including but not limited to an approved means of egress from every bedroom. The applicant is responsible for obtaining DEQ sanitary ~~sewer~~ septic approval from the Clatsop County Environmental Health Department and providing said documentation to the City.

An initial inspection fee of \$125.00 will be charged. Applicants must correct any identified deficiencies within 180- days before a vacation rental permit is issued. A follow-up inspection is included in the initial fee. Any further inspections will cost \$50.00 each.

b. Re-inspections: Commencing January 2019, a randomly selected re-inspection of 20% of the dwellings that have vacation rental permits will be conducted so that over a five-year period all dwellings that have a vacation rental permit will have been re-inspected.

A re-inspection fee of \$50.00 will be charged. At re-inspection applicants must obtain a current sanitary sewer approval from the Clatsop County Environmental Health Department, and correct any identified deficiencies before a vacation rental permit is renewed. Failure to complete the necessary alterations within 30 days of the Building Inspector's notification of required alterations may result in the revocation of the permit.

7. Tsunami Preparedness

Vacation rentals must post the Gearhart Tsunami Evacuation Map in the dwelling. It is also recommended that the dwelling have the following items accessible in their homes with directions in the rental agreement: a "go bag", supplies, and a NOAA weather radio.

8. Permit Limitations



a. Vacation rental permits are transferable only by inheritance to a natural person as directed in a will or trust. The permit is not transferable upon the sale of the property.

b. If the subject dwelling is on property that has a Homeowners Association (HOA) at the time of permitting, the owner of the dwelling shall provide the City with an affidavit of proof that the HOA allows for vacation rental of their dwelling. If not allowed, then the application will be denied.

9. Vacation Rental Permit Issuance and Annual Renewal

The owner shall be issued a permit for a vacation rental dwelling by the City upon completion of all required forms, approval of the dwelling unit by the Building Official or designee, and payment of the initial and annual permit fee of \$600 (nonrefundable), with a \$100 fee reduction if standard tsunami go-bags are provided in the dwelling.

City vacation rental taxes must be paid quarterly on an annual basis for the permit to remain valid, as verified by a City Vacation Rental Tax registration form. Upon notice by the City, if an owner has not paid vacation rental taxes to the city annually (July 1 – June 30), and no proof of payment is provided the vacation rental permit will not be renewed.

10. Violations

The vacation rental permit holder shall be compliant with these standards at all times. Failure to comply will result in revocation of the permit in accordance with Gearhart Zoning Code Article 14 Remedies.

(End of amendments)

Other Pending Action: City Council to develop “Good Neighbor” Policies

The City will develop and adopt by resolution as citywide policy “Good Neighbor Policies and Guidelines”. These shall be included in the rental agreement for a vacation rental. Policies may include:

- General respect for neighbors
- City Noise ordinance parameters
- Garbage disposal service and parking regulations

- Pets
- Tenant/Guest Responsibilities
- City of Gearhart Recycling program
- Tsunami Preparedness information

Passed by the Common Council of the City of Gearhart this 7th day of Sept. 2016.

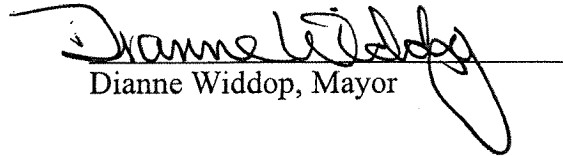
YEAS: 5

NAYS: 0

ABSENT: 0

ABSTAIN: 0

Signed and approved by the Mayor of the City of Gearhart this 7th day of Sept. 2016.


Dianne Widdop, Mayor

ATTEST:



Chad Sweet, City Administrator
ZO.Amend.doc