

**STAFF REPORT
OF THE PLANNING DEPARTMENT
FOR THE CITY OF BANDON, OREGON**



FILE NUMBER: 22-120, Vacation Rental Dwelling Ordinance Update

REQUEST: Amend regulations regarding the operation of Vacation Rental Dwellings as found in Bandon Municipal Code 16.12.

LEAD CITY STAFF: Dana Nichols, Planning Manager

PUBLIC HEARING DATE: January 26th, 2023 at 7:00 PM

NOTICING INFORMATION: PAPA Notice Submitted to DLCD on December 15th, 2022
Measure 56 Notice mailed to affected parties on December 9th, 2022
Notice published in The World on January 3rd, 2023

APPLICABLE CRITERIA: BMC (Bandon Municipal Code) Chapter 16.32, Zone Changes and Amendments

Purpose of Staff Report:

Staff reports provide the reviewing body and community members with information regarding current land use requests and the staff’s analysis of the application. The staff report provides preliminary information and recommendations. The reviewing body will consider the staff report as well as public testimony and other materials submitted to the City in writing, when making decisions on the application.

I. Background

The Planning Commission regularly reviews applications for Vacation Rental Dwellings in the City of Bandon and has identified a number of issues that need to be resolved to reduce impacts to neighborhoods. Through multiple work sessions, the Planning Commission has proposed the following changes:

- Update requirement for adequate trash service to a 96-gall container
- Amend code to allow PC to set a maximum of cars allowed in parking areas
- Rewrite “saturation rate” calculation for clarity and consistency. Lower

- Require all operating VRDs to come into compliance with safety regulations (smoke and carbon monoxide detectors, tsunami evacuation materials, list designated local management person with City, post a “rental permit.”
- Better define who and “owner” is
- Clarify fine when a violation occurs
- Work with the County Building Department to require a safety inspection through a Change of Use/Occupancy.

II Proposed Ordinance Language

Add the following definitions to Chapter 17.02:

“Owner” for the purposes of this chapter, means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred their property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit. If the owner is a business entity such as a partnership, corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such person can have an ownership right, title, or interest in no more than one dwelling unit that has a VRD permit.

Chapter 16.12 Conditional Uses

16.12.090(K) Vacation Rental Dwellings. Vacation rental dwellings (VRDs) are a conditional use in the CD-1, CD-2, CD-3 zones and C-3 zones, and are subject to the requirements of this chapter. Conditional use permits are a discretionary decision by the City subject to review by the Planning Commission.

1. All vacation rental dwellings shall comply with the following approval criteria:
 - a. VRDs are only allowed in single-family detached dwellings. Any dwelling proposed as a VRD shall be at least three years old, calculated from the date of issuance of a certificate of occupancy from the City of Bandon;
 - b. Including the subject property, the saturation rate within a 250-foot radius of the subject property must be less than 20%. The saturation rate is calculated using the following ratio:

Numerator: Subject property + permitted VRD units

Denominator: Subject property + eligible properties (single-family detached dwellings)

- c. In the CD-1 zone, dwelling units proposed for VRD status may be located only in the VRD-overlay zone as indicated on the attached map. VRD’s are allowed as a conditional use in all areas of the CD-2, CD- 3, and C-3 zones;

- d. The VRD Conditional Use Permit is valid for a specific owner of a specific dwelling and is not transferable. The permit shall become null and void when the owner sells or transfers the real property. No owner shall be issued a new VRD permit who holds another VRD permit;
- e. The applicant shall provide evidence that the VRD will be maintained at or above the level of surrounding dwellings in the neighborhood, including landscaping, signage and exterior maintenance;
- f. VRD's with shared private beach access shall provide written permission from all persons with an interest in a shared private beach access to be used by the VRD or positive action to notify renters of the location and required use of public beach access points shall be taken;
- g. VRD's using a joint access driveway shall provide evidence that all other owners of property utilizing the private access agree to the proposed vacation rental dwelling using the private access;
- h. Occupancy of any VRD shall not exceed 3 people per bedroom up to a maximum of 10 people. The occupancy determined by the Planning Commission may be less than the maximum allowed.
- i. Applicant shall provide evidence that property can accommodate one off-street parking space for each bedroom in the VRD, with a minimum of two off-street parking spaces. A bedroom is defined as an enclosed sleeping area with a built-in closet. Approved off-street parking areas shall be available to accommodate full occupancy of the VRD without the use of on-street parking. The Planning Commission may limit the allowable parking area and the number of parked cars allowed on-site;
- j. Weekly solid waste collection service shall be provided during all months that the dwelling is available as a rental pursuant to this chapter. The property must provide a 96-gallon receptacle for solid waste. Receptacles must be removed from City right-of-way within 24-hours after pick-up.
- k. Approved Vacation Rentals shall be required to apply for a change of use or occupancy with the Building Department to Commercial Residential.

2. General Regulations

- a. There shall be an owner or designated local management person immediately available to handle complaints and problems on a 24-hour basis. Contact information of the designated local management person shall be updated annually and kept on file in the Planning Department. The owner or management person shall be available by phone and physically able to respond to the VRD within a reasonable time period;
- b. Compliance with all reporting and accounting requirements of the transient occupancy tax ordinance shall be done in accordance with the City of Bandon requirements;
- c. If the VRD activity ceases for a period of one year, or fails to be rented for more than 10 nights within a calendar year, as determined by the transient occupancy tax receipts and rental documentation, the VRD permit becomes null and void;

- d. Carbon Monoxide and smoke detectors shall be provided in all potential and actual sleeping areas, whether or not such detectors are required by the building code.
- e. No more objectionable traffic, on-street parking, noise, smoke, light, dust, litter or odor may be emitted from the VRD than a normal neighborhood dwelling;
- f. Tsunami Preparedness – all VRD’s shall post the Bandon Tsunami Evacuation Route map in a conspicuous location within the dwelling;
- g. A rental permit shall be posted within the dwelling adjacent to the front door. The permit shall state the name, address, and telephone number of the contact person required by this chapter. The permit shall also identify the address of the VRD, the maximum number of occupants permitted to stay overnight, the day(s) established for solid waste collection, and non-emergency Bandon Police number.

3. Compliance

- a. Vacation Rental Dwellings that are out of compliance with the requirements of 16.12.090(K)(2) as of the effective date of the ordinance codified in this section shall, within 120 days after said date, be brought into compliance.
- b. Violation of the requirements specified herein shall constitute grounds for revocation of the permit. Additionally, the city may institute appropriate actions or proceedings to prevent, restrain, correct, abate, or remove and unlawful location of a vacation rental dwelling in violation of this chapter. The owner(s) of a building where a violation has been committed shall be guilty of a violation of this title and shall be subject upon conviction to a fine of \$750, per BMC 1.04. Each day under which the violation continues shall be considered a separate offense.

III. Procedural – Required Burden of Proof

The proposed ordinance will amend an existing chapter, 16.12 Conditional Uses. A legislative amendment is subject to Chapter 16.32.020 of the Bandon Municipal Code, which is as follows:

The Planning Commission (and ultimately the City Council) shall, “review the proposed amendments to the text of the zoning ordinance to determine consistency with the comprehensive plan and that the amendment will not adversely affect the city’s or the developer’s ability to satisfy land use, transportation and utility service needs or capacities. The proposed amendment shall also be reviewed to determine the suitability of the uses proposed in terms of slope, geologic stability, flood hazard, wetlands, and other relevant hazard or resource considerations.”

The Comprehensive Plan encourages and allows tourist-commercial uses throughout the Controlled Development and Commercial zones. In the CD-1 and CD-2 zones, commercial uses are intended to account for approximately 10% of future development, which includes Vacation Rentals.

Staff finds that the proposed amendment is consistent with the City Comprehensive Plan and that the amendment will not adversely affect city development.

IV. Recommendations

Staff recommends the Commission continue the hearing to the February 23rd, 2023 meeting at 7:00 PM. The Council meeting is not scheduled until March, giving the Planning Commission additional time to accept comment, receive information from Coos County Building Department, and deliberate.

Based on earlier discussion at work sessions, Staff continues to refine the calculation for the “saturation rate.” Attached are some examples of the saturation rate calculated using the existing and proposed methodologies.