

**ADDENDUM 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: February 23rd, 2023

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
First Evidentiary Hearing on January 26th, 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 met last month for their first evidentiary hearing regarding a change to Chapter 16.12 of the Bandon Municipal Code regulating Vacation Rental Dwellings as Conditional Uses. At the meeting, the Commission heard much public comment about the proposed language and considered the definition of the saturation rate more closely.

Staff recommended continuing the hearing to allow for additional work on the saturation rate calculation and allow for additional information to be entered into the record regarding the County Building Department's treatment of vacation rentals. Staff has proposed a change to the code from last time, which has been highlighted in red. This includes the clarification that each unit within a multi-family VRD shall be considered a separate unit and that the saturation rate should revert back to the

original 30%. Staff also recommends removing (or rewording) the condition that: *Approved Vacation Rentals shall be required to apply for a change of use or occupancy with the Building Department to Commercial Residential*. Staff has included, as an example, the form that new VRD owners/managers are required to fill out before they can register to pay transient occupancy tax. Instead of requiring the change of use or occupancy as a condition of approval, this could simply be listed as an item to be completed prior to operation. This allows the terminology or process at the County to change without us having to amend the code. Ultimately, it's the City's understanding that the property owner will be required by Building Code to perform the change of use or occupancy whether or not the requirement is listed in our code.

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 **30%**. The saturation rate is calculated using the following ratio:

Numerator: Subject property + permitted VRD units (**each unit within a multi-family VRD is counted individually**)

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 Title 17. 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 forward a positive recommendation to the City Council with the proposed changes in mind. The Commission may wish to discuss the saturation rate in further detail, and/or determine whether or not to remove the requirement for a change of use or occupancy and defer to the rules of the County Building Department.