



450 E. Main Street
John Day, OR 97845
www.cityofjohnday.com
Tel: (541) 575-0028
Fax: (541) 575-3668

STAFF REPORT AMD-20-02

Date Submitted: May 11, 2020
Agenda Date Requested: May 12, 2020
To: John Day Planning Commission
From: Daisy Goebel, City of John Day
Associate Planner
Subject: An ordinance to adopt minor Development Code amendments related to short-term vacation rentals and bed and breakfast businesses.
Location: Citywide

Type of Action Requested

Resolution Ordinance
 Formal Action Report Only

1. BACKGROUND

The City of John Day Development Code (the Code) currently contains requirements and standards for operating short-term vacation rentals and Bed and Breakfast inns within the city. The standards and definitions for these Short Term Rental (STR) establishments are out of date and unnecessarily prohibitive. The city is proposing a Development Code amendment to clarify these definitions and ease restrictions on STRs for property owners.

2. APPLICABLE CRITERIA

This request is a legislative amendment to amend the John Day Development Code. The approval criteria in section 5-4.1.050.G apply.

3. PLANNING COMMISSION CONSIDERATIONS

The Planning Commission's review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under section 5-4.7.020. The Planning Commission should recommend the City Council approve the request if it conforms to the approval criteria.

4. STAFF RECOMMENDATION

Staff recommends that the Planning Commission make a recommendation to the City Council to **adopt Ordinance 20-181-02, as presented** and findings in this report.

5. PUBLIC NOTIFICATION

The City of John Day mailed public notice to all affected property owners on April 14th, 2020 and notice was posted in the Blue Mountain Eagle on April 22nd and 29th as required by the Development Code.

Public comments received: None.

6. ADOPTION PROCEDURE AND FINDINGS

The following section shown in italics and boldface provides the decision making criteria as required by John Day Development Code Section 5-4.1.050.G.

Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

- 1. Approval of the request is consistent with the Statewide Planning Goals;***
- 2. Approval of the request is consistent with the Comprehensive Plan; and***
- 3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.***

Finding: Statewide Planning Goals and the City of John Day Comprehensive Plan mirror one another. Therefore, compliance with one document means compliance with the other. The third criterion concerning adequate public facilities and services does not apply in this request because the amendment does not change zoning or development in a way that would substantially affect or conflict with current public services.

This request is consistent with the John Day Comprehensive Plan and Statewide

Planning Goals. The John Day Comprehensive Plan mirrors the Statewide Planning Goals. The Statewide Planning Goals that are directly impacted by this request are Goal 8, recreation and Goal 10, Housing.

Goal 8 of the statewide planning goals is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities. This goal defines overnight lodgings including individually owned units and emphasizes the need for overnight accommodation in order to meet the needs of visitors and facilitate a healthy recreation economy. John Day has placed an especially strong emphasis on the recreation economy. The receipt of the Environmental Protection Agency's Recreation Economy for Rural Communities (RERC) grant will further promote outdoor recreation. In order for this endeavor to be successful, recreators must have a variety of options for high-quality overnight accommodations.

The need for increased lodging opportunities in John Day is evident. Despite the fact that none of the local hotels have a rating exceeding 2.5 stars, the current cost of a hotel room in the city averages \$114 per night before taxes and fees. This cost will as much as double at some locations during busy seasons and these hotels will often sell out throughout the summer.

In addition to providing additional options for guests that seek an alternative to our available hotel rooms, short-term vacation rentals also draw in visitors that the City doesn't currently attract in large numbers. A 2019 study¹ shows that millennials place a higher importance on travel than other generations and 62% of US millennials have stayed in short-term vacation rentals. Another study² reveals that 81% of Gen Z travelers have stayed in short-term vacation rentals which shows that this industry will continue to grow with time.

The need for accommodations must be balanced against the need for housing in John Day. Goal 10 of the statewide planning goals is to provide for the housing needs of citizens of the state. The official state population forecast for John Day predicts a modest decline in population over the next ten years, but the city contracted with Eco Northwest in October 2019 to model several more optimistic alternative growth scenarios. The Eco Northwest study indicated that while John Day has a slightly smaller share of cost-burdened households than the state as a whole, housing affordability is still a significant issue facing our community. The City is therefore pursuing several funding opportunities to open up additional housing, including the Economic Development Administration's FY19 Disaster Supplemental and the Department of Transportation's 2020 BUILD grant to construct new roads to service additional housing.

This proposal attempts to balance the needs of recreational lodging with the need for long-term housing while avoiding placing unnecessary limitations on how property owners are permitted to use their houses. This is accomplished by removing requirements for STR owners to apply for Conditional Use Permits and instead requiring owners to apply for a business license so the city can monitor and further regulate STRs,

¹ https://research.skift.com/wp-content/uploads/2019/08/MillennialGenZ_Final.8.12.pdf

² <https://ipropertymanagement.com/research/vacation-rental-industry-statistics>

as needed.

The average per-night reservation cost for online STR bookings is \$80 and according to testimony from local STR owners, these units are only occupied about 40-50% of the year primarily only on weekends. With the added costs of cleaning between guests, coordinating reservations, and paying transient room taxes local STR hosts say they don't make more money on a standard year through this process than they likely would renting to a long-term resident. Many short-term rental owners choose to do so in order to finance a second property which they may use to host family or personal guests. Other short-term rental owners only rent out a room or a portion of the home they reside in full-time. Additionally, many of these property owners host transient or seasonal workers whenever possible.

The goal of this ordinance is to create a broader array of lodging opportunities within the city, draw in a unique demographic of recreational visitors, simplify the Code, and reduce barriers for property owners.

7. PLANNING COMMISSION MOTION

After hearing the staff presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

“I move to recommend City Council approve AMD-20-02 based on the findings contained in the staff report [with conditions, if any].”

The staff report may be amended during the course of the hearing.

RECOMMENDED TO THE CITY COUNCIL by the John Day Planning Commission this 12th day of May, 2020.

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____
Vacancies: _____

ORDERED:

Ken Boethin, Chair

ATTEST:

Nicholas Green, City Manager

CITY OF JOHN DAY
ORDINANCE 20-181-02

AN ORDINANCE AMENDING THE JOHN DAY DEVELOPMENT CODE
TO ADOPT MINOR AMENDMENTS RELATED TO SHORT-TERM
VACATION RENTALS AND BED AND BREAKFAST BUSINESSES

Executive Summary

The City of John Day Development Code (the Code) contains specific restrictions on the use of residences as Short-Term Vacation Rentals (STRs) as well as Bed and Breakfast Inns.

At the request of residents, council is willing to consider amendments to the code to remove certain restrictions on operating STRs and redefine these businesses to reflect their customary use. The proposed amendments are described herein.

- Comments are provided in **boldface** to prompt the reader
- Strikeout language (~~example~~) is shown where language is proposed for removal
- Double underlined language shows a proposed addition

Amendment 1

Article 5-6.1.030 Definitions is amended as follows:

Bed and Breakfast Inn. ~~Any establishment located in a structure designed for a single family residence and structures appurtenant thereto, regardless of whether the owner or operator of the establishment resides in any of the structures, that: (a) Has more than two rooms for rent on a daily basis to the public; and (b) Offers a breakfast meal as part of the cost of the room.~~ See Short-Term Vacation Rental.

~~**Vacation Home Rental.** A commercial use of a single family or duplex dwelling unit where the unit is rented for periods of time of 28 or fewer consecutive days.~~

Short-Term Vacation Rental. The rental of any dwelling or portion thereof for the purpose of providing lodging for periods of time of 28 or fewer consecutive days.

Amendment 2

5-1.3.110 Household Living is amended for clarification as follows:

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Where units are rented, tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period ~~are not considered residential. They are~~

~~considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories)~~ are regulated as Short Term Vacation Rentals under article 5-2.2.100 (I). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy (SRO) housing, that do not have totally self-contained dwelling units (i.e., with kitchen and wash room facilities) are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, temporary **medical hardship** dwellings are included in the Household Living category.

B. Accessory Uses. Accessory uses commonly found are private yards and gardens, private recreational activities, raising of pets, hobbies, home occupations (subject to Code requirements), and parking of the occupants' vehicles, but not including residential occupancy of any vehicle. Home occupations, accessory dwelling units, and ~~bed and breakfast facilities~~ Short-Term Vacation Rentals are accessory uses that are subject to additional regulations. Accessory structures may include the following subject to applicable building codes: garages, carports, home offices (subject to Home Occupation requirements), workshops, sheds, wells and well pump houses (subject to applicable State requirements), household rainwater harvesting facilities, household renewable energy facilities (e.g., mini-wind turbines, solar photovoltaic cells, geothermal wells), fences, garden walls, wheelchair ramps, decks, patios, pool houses, HVAC, solid waste and recycling storage and sorting enclosures, satellite dishes, and other structures commonly associated with residential uses and subject to applicable code requirements.

Amendment 3

5-1.3.250 Retail Sales And Commercial Services is amended for clarification as follows:

- C. Examples.** Examples include uses from the ~~four~~ six subgroups listed below:
5. Overnight Accommodations: Hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days. ~~Some types of overnight accommodation are classified/permitted separately as Bed and Breakfast Inns or Short-Term Vacation Rentals.~~ Short-Term Vacation Rentals are classified/permitted separately.

Amendment 4

5-2.2.020 Residential Districts - Allowed Land Uses is amended as follows:

	Residential Limited (RL)	Residential General (RG)	Residential Commercial (RC)
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Bed and Breakfast Inn, per Sec. 5-2.2.100C	CU+S	CU+S	S
Short-Term Vacation Rental, per Section 5-2.2.100 (I)	CU+ S	CU+ S	S

Amendment 5

5-2.2.100 Residential Districts - Special Use Standards is amended as follows:

~~**C. Bed and Breakfast Inns.** Bed and Breakfast Inns are permitted in the Residential Districts, and shall comply with all of the following standards. (See also, Vacation Rentals, which are different than Bed and Breakfast Inns, under Section 5-2.2.100.I.)~~

- ~~1. **Accessory Use.** The use must be accessory to a household already occupying the structure as a residence.~~
- ~~2. **Maximum Size.** In the RL and RG zones, four (4) bedrooms for guests, and a maximum of eight (8) guests are permitted per night; in the RC zone, twelve (12) bedrooms are allowed for guests, with a maximum of twenty-four (24) guests per night. No separate structures are permitted, except for customary residential accessory structures as defined in section J. above.~~
- ~~3. **Length of Stay.** Maximum length of stay is 28 days per guest; anything longer is classified as a hotel or commercial lodging.~~
- ~~4. **Employees.** Up to two (2) non-resident employees. There is no limit on residential employees.~~
- ~~5. **Food Service.** Food service may be provided only to overnight guests of the business, except where zoning allows restaurant uses (e.g., RC District).~~
- ~~6. **Owner Occupied.** Bed and breakfast inns shall be owner-occupied.~~
- ~~7. **Signs.** Signs shall not exceed a total of four (4) square feet of surface area on each side of one or two faces.~~
- ~~8. **Business License.** The Bed and Breakfast Inn owner shall maintain a current City of John Day business license.~~

I. Short-Term Vacation Rentals. Short-term vacation rentals shall conform to all of the following criteria:

1. Vacation rentals allowed under this subsection are those with 28 or fewer days continuous occupancy by the same tenant;
2. A Business License is required to operate one or more short-term vacation rentals [as regulated by the John Day Code of Ordinances Title 3 Chapter 1.](#) The license application shall identify all short-term rental properties under the same ownership or management, and shall provide the City with information regarding the name, address and telephone number of a contact person who

can be on the vacation home rental site within four (4) hours to respond to problems.

- ~~3. A Conditional Use Permit is required to operate one or more short-term vacation rentals in any RL or RG district;~~
- ~~4. The vacation rental unit shall provide two (2) off-street parking spaces, as is required for a single family dwelling;~~
- ~~5. In the RL and RG districts, all required parking shall be provided on the same lot as the vacation home rental unit;~~
- ~~6. All vacation home rentals shall have a maximum occupancy of one person per 200 square feet or not more than 16 people, whichever is more restrictive; and~~
7. Maximum occupancy of the rental shall be based on the International Building Code standards. The property owner shall be responsible for ensuring that the dwelling unit is in conformance with its maximum occupancy.
8. All short-term vacation rentals must comply with all city codes and ordinances, including but not limited to Title 8, Chapter 2- Nuisances and Chapter 4- Noise.
9. All transient lodging taxes must be collected by the property owner and remitted to the applicable governing body.
10. The scale, building materials, and colors of the building shall be consistent with the neighborhood.

Amendment 6

5-2.3.020 Commercial Districts - Allowed Land Uses is amended as follows:

Bed and Breakfast Inn	P	P
<u>Short-Term Vacation Rental, per Section 5-2.2.100 (I)</u>	<u>S</u>	<u>S</u>

Amendment 7

5-2.4.020 Industrial Districts - Allowed Land Uses is amended as follows:

Bed and Breakfast Inn	N	N	N
<u>Short-Term Vacation Rental</u>	<u>N</u>	<u>N</u>	<u>N</u>

Amendment 8

5-3.3.030 Automobile Parking Standards is amended as follows:

Bed and Breakfast Inn	2 spaces per use; additional parking may be required by the City through the Conditional Use Permit review (Chapter 5-4.4)
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Amendment 9

Article 5-1.3.250 Retail Sales and Commercial Services: paragraph C, subsection 5 is amended as follows:

Overnight Accommodations: Hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days. Note: ~~Some types of overnight accommodation are classified/permitted separately as Bed and Breakfast Inns or Short-Term Vacation Rentals.~~ Short-Term Vacation Rentals are classified/permitted separately.

REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.