



Bureau of Planning and Sustainability

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MEMO

DATE: March 21, 2014

TO: Interested Parties

FROM: Morgan Tracy, 503-823-6879, morgan.tracy@portlandoregon.gov

SUBJECT: Regulatory Improvement Code Amendment Package 6 (RICAP 6)
Short-term Rental Proposal
Summary of Feedback from the Discussion Draft

On January 6, 2014 the Bureau of Planning and Sustainability published the *Regulatory Improvement Code Amendment Package 6 (RICAP 6) Discussion Draft*. Included in the *Draft* were amendments to the Bed and Breakfast (B&B) Facilities chapter of the Zoning Code.

The original proposal was to allow residents to rent one- or two-bedrooms in their primary residence through a faster and less-expensive permitting process. Staff received significant public feedback on the original proposal. **The purpose of this memorandum is to provide a summary of the feedback received on the original short-term rental proposal - the *Discussion Draft* - and provide staff's responses to that feedback.**

The new proposal - called the *Proposed Draft* - is being published on March 21, 2014 and will be presented to the Planning and Sustainability at a hearing on April 22, 2014. Both drafts are available on the project website: www.portlandoregon.gov/bps/ricap.

General Comments on Short-Term Rental Proposal

Many comments that staff received provided general support or opposition to the concept of creating a more streamlined process to allow one-and two-bedroom short-term rentals. While these comments don't necessarily address specific aspects of the proposal, included below is a summary of the points that were raised.

General Support

- Provides an efficient use of underutilized rooms in existing homes. The efficient use of underutilized resources is a main philosophy of the shared economy.
- Allows flexibility in the use of people's homes similar to home occupations.
- Provides opportunities for staying in homes in times of job and income insecurity.
- Promotes an alternative form of lodging for visitors around the world to see different parts of Portland and experience a residential setting more intimately.
- Brings tourism dollars to nearby neighborhood businesses.
- Reduces the barriers of entry for the legal establishment of short-term rentals.



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General Opposition

- Detracts from neighborhood livability, including increased noise, parking & traffic congestion, reduced privacy and security, a reduction in neighborhood stability, and the effectiveness of neighborhood watch programs.
- Increases activity in areas expected by residents to be residential enclaves.
- Reduces the property values of surrounding neighbors, while economically benefitting a single individual or family.
- Allowing short-term rentals without requiring a conditional use review results in a significant regulatory change that should not be handled as a minor policy issue through the limited outreach of a RICAP.

Comments Specific to Discussion Draft Proposal

In addition to the general comments above, staff received feedback about the details of the proposal and zoning code language. In several instances these comments resulted in some changes to the staff proposal. A summary of these is provided below.

Permitting Requirements

- Permits should require that the owner/operator be on site while guests are there.
BPS Response: The proposal allows short-term rentals to only be established in the operator's primary residence. However, it does not require that the operator be on site at all hours while the guests are there.
- Permits should include steps to ensure transparency between owners, operators (if different) and their neighbors. This should include requiring the property owner's signature for any permit.
BPS Response: The vast majority of Bureau of Development Services permit applications don't require an owner's signature; only that the applicant state that they informed the owner. This will be used for the short-term rental application as well.
- Several comments questioned the cost and duration of the permit.
BPS Response: The cost of the permit has not been finalized and will be based on the cost to implement by BDS. As a comparison, home occupation permits currently cost \$147. The proposal is to require short-term rentals to renew every two years, similar to home occupation permits.
- The permit should require proof of adequate insurance to cover the activity. Most homeowners insurance doesn't cover commercial activity.
BPS Response: This issue runs outside the scope of zoning code/permit oversight. The zoning code does not regulate insurance requirements for businesses. Ensuring a facility is adequately insured is the responsibility of the operator.
- The permit and/or the code should include provisions that state that operators must comply with all other regulations/requirements such as the Lodging Tax, Business License, OLCC License, Health inspection, noise regulations etc.
BPS Response: It is expected, and the responsibility of the operator, to conform to all applicable codes. The zoning code does not specify this requirement for every use (i.e. we



don't ask restaurants for proof of OLCC, business license etc.) However, the proposal will include a broad statement noting that other county and state requirements may apply.

Life Safety / Occupancy Concerns

- There is no assurance that short-term rentals provide adequate safety measures to host visitors. Issues can include egress and fire escape routes, smoke/carbon detectors, legal construction, etc.
BPS Response: Life/Safety requirements are addressed by the State Building Code. This code allows the renting of up to five rooms on a nightly basis in a house or duplex without any additional requirements, above what is required for a building permit. The City cannot apply more stringent life/safety requirements than the Building Code. However, the proposal clarifies that the bedrooms rented to nightly guests are legal.

Code Compliance Issues

- Current compliance doesn't seem to be effective. There are concerns regarding compliance under the new permitting system. There should be an option to revoke a permit.
BPS Response: As with all zoning code compliance, enforcement is administered on a complaint basis. BDS will continue to respond to complaints of unlawful short-term rentals. In addition, BPS staff is proposing an amendment to allow BDS to revoke a short-term permit for failure to comply with the standards, similar to the rules for home occupations.

Neighborhood notification

- The neighborhood notice requirement (like many similar notice requirements in the city) doesn't give the neighbors, or neighborhood association, any standing to approve or deny the request. The City should consider requiring neighborhood approval or a good neighbor agreement. An example is the Village Building Convergence agreement with PBOT.
BPS Response: The proposed short-term rental notice requirement is modeled after the home occupation permit, which is the most similar type of permit. This notice differs from the Village Building Convergence (VBC) agreement in that the VBC agreement is a request to use a shared public resource (the street) versus the use of the applicant's private property. The extent of neighborhood notification for projects in general is a larger issue that was raised in comments on the Comprehensive Plan Update.

Private Social Gatherings

- The reason to limit private gatherings isn't clear and the regulation limits the normal enjoyment of a home, solely because it is used for short-term rentals. There were several requests to remove this restriction.
BPS Response: Limits on larger private social gatherings (in some form) have been in the code since 1991, and was originally a way to balance impacts between a B&B and the residential neighborhood. Other home occupations are not subject to this requirement. BPS is revising their proposal to remove the restriction. Commercial gatherings (weddings, events, etc.) will continue to require a Type III conditional use approval and can only be requested with larger (3 to 5 bedroom) short-term rentals.



Vacation Rentals (whole house)

- The proposed code regulations do not address the vacation home industry and/or house swaps. These involve the use of entire homes and impact legitimate bed and breakfasts. Processes should be created for these options.

BPS Response: House swaps tend to be temporary trades of someone's home without monetary compensation. As long as the house is still a primary residence for the occupants, it is still considered a household living use. Whole house vacation rentals for less than 30 days is currently not allowed. There is no change proposed to this provision.

Alternative Lodging Structures

- How does the city regulate alternative structures for short-term rentals? The comments range from some supporting allowing short-term rentals in tiny houses on wheels, RVs, yurts, etc., to other objections for allowing short-term rentals to take place in detached accessory dwelling units (ADU).

BPS Response: The proposal allows for short-term rentals in houses, attached houses, manufactured homes, duplexes, and Accessory Dwelling Units (ADUs). This allowance captures the majority of the units being rented and there is alignment with the State Building Code that provides clarity on how to permit short-term rentals in these units. Alternative structures such as yurts and RVs/homes on wheels are designed for temporary occupancy, so don't lend themselves to being permitted through this program.

Allowing Short-Term Rentals in Apartments/Condominiums

- There isn't enough clarity in how to regulate short-term rentals in multi-dwelling structures. Is there a limit to how many people could do this? The noticing requirement in these cases isn't clear.

BPS Response: BPS staff have discussed this issue with building officials as to how the building code regulates multi-dwelling buildings, whether in a residential zone or commercial zone. Unlike single-dwelling and duplex structures, short-term rentals require a change in occupancy from apartment (R2) to hotel (R1) occupancy if they take place in multi-dwelling buildings. This creates a large barrier to entry to legally allow these operations. In addition, most apartment and condominium lease agreements do not allow for subletting of units. As a result, the staff proposal has been revised to apply only to houses, attached houses, manufactured homes, duplexes, and Accessory Dwelling Units (ADUs).

Title of Zoning Regulations for Bed and Breakfast Facilities

- The use of the term "Bed and Breakfast Facilities" is not an accurate portrayal of the use.

BPS Response: Staff recognizes that this alternative lodging industry has grown beyond the traditional bed and breakfast facility and is renaming the regulatory chapter "Accessory Short-Term Rentals." This encapsulates the more traditional bed and breakfast short term lodging as well as the less formal short term home sharing and other short term rental arrangements.

