

Regulatory Improvement Workplan

Accessory Short-term Rental Code and Commentary Excerpt

**Regulatory
Improvement
Code Amendment
Package 6**

(RICAP 6)

Proposed Draft

March 2014



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

City of Portland, Oregon
Charlie Hales, Mayor • Susan Anderson, Director



Items #12, 13, 14: Short Term Rentals

CHAPTER 33.207

ACCESSORY SHORT-TERM RENTALS

Recently, there has been a dramatic increase in the number of residences being rented informally on a short-term basis through internet sites such as Airbnb and Home Away. In Portland, for example, Airbnb lists over 1,550 today, up from 107 in January 2011. The most common listings are from hosts who live on their property and offer a bedroom for rent on a nightly basis in their residence. This is a new way of providing visitor lodging accommodations and many cities are determining how to regulate these short-term rentals.

In Portland, rentals of less than 30 days are considered short-term and renting up to five bedrooms is allowed through the Bed and Breakfast Facility chapter of the Zoning Code. The process requires a Type II Conditional Use Review approval, which is a discretionary decision, costs \$4130, takes approximately eight to ten weeks to process, includes a public notice, and provides the ability to appeal staff's decision to Portland's Hearings Officer.

This proposal offers smaller scale short-term rentals a less expensive and faster process, while ensuring that adjacent neighbors are notified of the activity. The key features of this proposal are:

- Move the regulations in Chapter 33.212, Bed and Breakfast (B&B) Facilities to a new chapter: Chapter 33.207, Accessory Short-Term Rentals.
- Define Accessory Short-Term Rentals as one where "an individual or family resides in a dwelling unit and rents bedrooms to overnight guests."
- Allow Accessory Short-Term Rentals in houses, attached houses, duplexes, manufactured homes, and Accessory Dwelling Units (ADUs) in any zone.
- Distinguish Type A Accessory Short-Term Rentals (one- and two-bedroom rentals) from Type B Accessory Short-Term Rentals (three to five bedrooms).
- Provide a new by-right (non-discretionary) process and set of standards for Type A Accessory Short-Term Rentals, while retaining the existing Bed and Breakfast (B&B) Facilities process (Type II Conditional Use) and regulations for the Type B Accessory Short-Term Rentals.

33.207.010 Purpose

Revisions to the purpose statement reflect that the regulations of this chapter have been expanded to address, in addition to traditional bed and breakfast facilities, the increased number of smaller accessory short-term rentals where overnight guests are hosted in individual residences. Therefore, references to "large" and "older" houses have been deleted.

"Proprietor"—one who owns the business—has been replaced with "operator," which means the business owner, property owner, or day-to-day manager. This change is made throughout this chapter.

Commentary continues on next commentary page

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strikethrough~~

CHAPTER 33.212207
BED AND BREAKFAST FACILITIES ACCESSORY SHORT-TERM RENTALS

Sections:

- 33.212207.010 Purpose
- 33.212207.020 Description
- 33.212207.030 Where These Regulations Apply
- 33.212207.040 Type A Accessory Short-Term Rentals
- 33.212.040~~207.050~~ ~~Use-Related Regulations~~ Type B Accessory Short-Term Rentals
- 33.212.050 ~~Site-Related Regulations~~
- 33.212207.060 Conditional Use Review
- 33.212207.070 Monitoring
- 33.212207.080 Pre-Established Bed and Breakfast Facilities

33.212207.010 Purpose

This chapter provides standards for the establishment of ~~bed and breakfast facilities~~ accessory short-term rentals. The regulations are intended to allow for a more efficient use of ~~large, older houses, certain types of residential structures in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience, and the bed and breakfast experience.~~ These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses without detracting from neighborhood character. In some situations, the proprietor operator can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

33.212207.020 Description

An accessory short-term rental is one where an individual or family resides in a house, attached house, duplex, or manufactured home and rents bedrooms to overnight guests. There are two types of accessory short-term rentals.

- A. Type A.** A Type A accessory short-term rental is one where the operator is renting no more than 2 bedrooms to overnight guests. ~~Bed and breakfast facility.~~ A bed and breakfast facility is one where an individual or family resides in a house and rents bedrooms to overnight guests. A bed and breakfast facility may also have visitors and non-resident employees.
- B. Type B.** A Type B accessory short-term rental is one where the operator is renting between 3 and 5 bedrooms to overnight guests.
- ~~B. Retail Sales And Service use.~~** ~~In zones where Retail Sales And Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales And Service category.~~

33.212207.030 Where These Regulations Apply

The regulations of this chapter Sections 33.212.040 through 33.212.080 apply to ~~bed and breakfast facilities~~ accessory short-term rentals in the R-all zones. In the ~~RX and RH~~ zones, where Retail Sales And Services uses a limited amount of commercial uses are allowed, limited by right or by conditional uses, ~~a bed and breakfast facility~~ accessory short-term rentals may be regulated either as a Retail Sales And Service use, or as ~~a bed and breakfast facility~~ an accessory short-term rental under the regulations of this chapter. The decision is up to the applicant.

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33.207.020 Description

Accessory short-term rentals have been divided into two types based on the number of bedrooms that are being rented: Type A (one and two bedrooms) and Type B (3 to 5 bedrooms). The description has also been expanded to encapsulate houses as well as attached homes, manufactured homes, duplexes, and accessory dwelling units.

33.207.030 Where These Regulations Apply

This section provides guidance on what regulations apply to a short-term rental. To address homes located in commercial and employment zones where retail sales uses are allowed, an applicant may choose whether to abide by the regulations of this chapter (a use accessory to household living) or alternatively meet requirements for a retail sales and service primary use.

33.207.040 Type A Accessory Short-Term Rentals

These regulations list the use and development standards that apply to the accessory short-term rentals with up to two bedrooms rented to overnight guests. It should be noted that although the section is shown as all new, many of the standards are taken directly from the existing Bed and Breakfast Facilities chapter. Strike thru and underline begins again at 33.207.050 Type B Accessory Short Term Rentals.

1. Accessory use.

This standard ensures that the short-term rental is accessory to the Household Living use. In the case of a duplex, the operator must live in the unit in which the bedrooms are rented to overnight guests.

2. Accessory dwelling units.

This standard gives the operator the option of living in an accessory dwelling unit (ADU) on site. Currently operators are only allowed to live in the house. ADUs are only allowed on sites containing a house, attached house or manufactured house.

5. Number of residents and guests.

Setting a maximum number of combined residents and guests based on the Zoning Code's definition of household ensures that Type A accessory short-term rentals will not have any more people staying overnight than what is allowed for any household. The household definition is: "one or more persons related by blood, marriage, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit."

7. Serving food and alcohol to guests.

The reference to the OLCC has been removed and replaced with more generic language that refers to other county or state requirements that may apply to accessory short-term rentals. Compliance with these other regulations is the responsibility of the operator, and typically not a zoning code requirement.

8. Commercial meetings.

Commercial meetings are allowed with some Type B accessory short-term rentals. This paragraph clarifies that they are prohibited with Type A accessory short-term rentals.

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33.207.040 Type A Accessory Short-Term Rentals

A. Standards. The following standards apply to Type A accessory short-term rentals. Adjustments are prohibited:

1. Accessory use. A Type A accessory short-term rental must be accessory to a Household Living use on a site. This means that the individual or family who operates the short-term rental must occupy the house, attached house, duplex, or manufactured home on the site as their primary residence, and unless allowed by 040.A.2, the bedrooms rented to guests must be within the dwelling unit in which the operator resides.
2. Accessory dwelling units. The operator of an accessory short-term rental on a site with an accessory dwelling unit may reside in the house, attached house or manufactured home and rent bedrooms in the accessory dwelling unit, or may reside in the accessory dwelling unit and rent bedrooms in the house, attached house or manufactured home.
3. Maximum size. A Type A accessory short-term rental is limited to renting a maximum of 2 bedrooms to overnight guests.
4. Legal bedrooms. The operator of an accessory short-term rental can only rent legal bedrooms.
5. Number of residents and guest. The total number of residents and guests occupying a dwelling unit with a Type A accessory short-term rental may not exceed the number allowed for a household.
6. Employees. Nonresident employees are prohibited. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed.
7. Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements.
8. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are prohibited with a Type A accessory short-term rental. Type A short-term rentals in a historic landmark that receive a special assessment from the State, may be open to the public for 4 hours one day each year. This is not considered a commercial meeting.

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B. Type A accessory short-term rental permit.

This new subsection describes the process for obtaining a 2-year permit for a Type A accessory short-term rental. The subsection is modeled on the Type B Home Occupation permit (33.203.060), because the impacts to the surrounding neighborhood of a 1 or 2 bedroom short-term rental are similar to the impacts allowed with a Type B accessory home occupation, which allows up to eight customers to come to the site a day.

The permit procedure includes a requirement that a notice announcing the operator's intent to establish a Type A short-term rental be mailed or delivered to all recognized organizations whose boundaries include the site of the proposed facility, the property owner if not the applicant, and all owners of property abutting or across the street from the proposed facility. The operator's contact information must also be provided so that surrounding neighbors can contact the operator if there are subsequent concerns once the operator starts renting out bedrooms to overnight guests. Requiring a semi-annual renewal is consistent with the Home occupation permit, and ensures that as new neighbors move in, they will be notified on a regular basis and will have current operator contact information

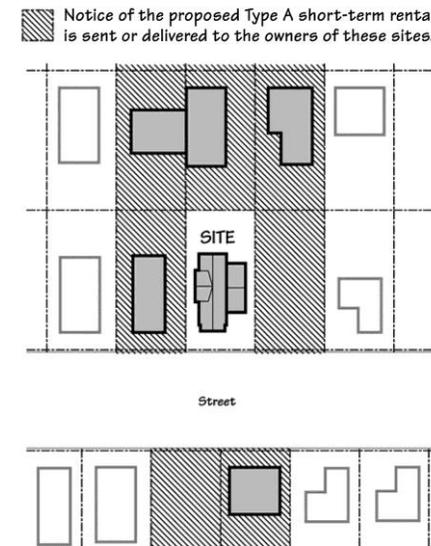
Figure 207-1 indicates what surrounding properties need to be notified as part of the required notice.

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 Language to be **deleted** is shown in ~~strike through~~

B. Type A accessory short-term rental permit. The operator of a Type A accessory short-term rental must obtain a permit from BDS. It is the responsibility of the operator to obtain the permit every two years. The permit requires the operator to agree to abide by the requirements of this section and document that the following notification requirements have been met:

1. Notification. The operator must:
 - a. Prepare a notification letter that:
 - (1) Describes the operation and the number of bedrooms that will be rented to overnight guests;
 - (2) Includes information on how to contact the operator by phone; and
 - (3) Describes how the standards in Subsection .040.A are met.
 - b. Mail or deliver the notification letter to all recognized organizations whose boundaries include the accessory short-term rental, the property owner if not the operator, and all owners of property abutting or across the street from the accessory short-term rental. See Figure 286-1.
2. Required information for permit. In order to apply for a Type A accessory short-term rental permit, the operator must submit to BDS:
 - a. Two copies of the completed application form bearing tax account number(s) and the location of the property, the name, address, and telephone number of the operator, the signature of the operator; and
 - b. A copy of the notification letter and a list, with names and addresses, of all the property owners and recognized organizations that received the notification.

Figure 207-1
Type A Accessory Short-Term Rental Permit Notice Area



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C. Revocation.

The Zoning Code gives the City the authority to impose fees or penalties for non-compliance. This standard extends the power of the Director of the Bureau of Development Services to revoke the permit if operators do not comply with the regulations in this chapter. See amendment to Title 3 (3.30.040.B.5) in Section IV of this report for specific language.

33.207.050 Type B Accessory Short Term Rentals

These regulations apply to accessory short-term rentals with 3 to 5 bedrooms. The content changes to these regulations from the existing regulations for bed and breakfast facilities include:

- The requirement that the house be at least 5 years old has been deleted. This addresses RICAP 6 Item #14.
- An accessory dwelling unit standard has been added to provide the operator the flexibility to live in either the main house, attached house, manufactured house or an accessory dwelling unit (ADU) on site. This amendment addresses RICAP Item #13.
- The requirement limiting private social gatherings has been deleted (see private social gathering commentary next page)

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike~~through

- C.** Revoking a Type A accessory short-term rental permit. A Type A accessory short-term rental permit can be revoked for failure to comply with the regulations of this Chapter, through the procedures identified in Paragraph 3.30.040.B.5 of Title 3, Administration. When a Type A accessory short-term rental permit has been revoked, a new Type A accessory short-term rental permit will not be issued to the operator or other persons residing with the operator for 2 years.

33.212.040 207.050 Use-Related Regulations Type B Accessory Short-Term Rentals

- A. Standards.** The following standards apply to Type B accessory short-term rentals.

1. A Type B accessory short-term rental is allowed in a house, attached house, duplex, manufactured home or accessory dwelling unit if approved through a conditional use review.

~~A.2.~~ Accessory use. A bed and breakfast facility ~~An Type B accessory short-term rental~~ must be accessory to a Household Living use on a site. This means that the individual or family who operate the facility ~~accessory short-term rental~~ must occupy the house, attached house, duplex, manufactured home or accessory dwelling unit as their primary residence, and unless allowed by 050.A.3, the bedrooms rented to guests must be within the dwelling unit in which the operator resides. The house must be at least 5 years old before a bed and breakfast facility is allowed.

3. Accessory dwelling units. The operator of an accessory short term rental on a site with an accessory dwelling unit may reside in the house, attached house or manufactured home and rent bedrooms to overnight guests in the accessory dwelling unit, or may reside in the accessory dwelling unit and rent bedrooms to overnight guests in the house, attached house, or manufactured home.

~~B.4.~~ Maximum size. A Type B accessory short-term rental ~~Bed and breakfast facilities are~~ is limited to renting a maximum of 5 bedrooms for to overnight guests. In the single-dwelling zones, a Type B accessory short-term rental ~~bed and breakfast facility~~ over this size limit is prohibited.

5. Legal bedrooms. The operator of an accessory short-term rental can only rent legal bedrooms.

6. Number of residents and guests. The total number of residents and guests occupying a dwelling unit with a Type B accessory short-term rental may be limited as part of a conditional use approval.

~~C.7.~~ Employees. Bed and breakfast facilities may have a ~~Nonresident employees for such activities such as booking rooms and food preparation, if may be approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, may also be approved~~ is allowed. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.

~~D.8.~~ Services to guests and visitors. Serving alcohol and food to guests and visitors is allowed and may be subject to other county or state requirements. ~~The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.~~

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9. Commercial meetings

a. Commercial meetings.

No substantive changes have been made. Amendments to these regulations are grammatical only.

2. Private social gatherings (deleted)

This restriction has been deleted. Household Living nor other accessory activities in residential zones (e.g. home occupations, food buying clubs, community supported agriculture distribution sites, daycare) have this limitation on private social gatherings.

b. Historic landmarks

No substantive changes have been made. Amendments to these regulations are grammatical only.

c. Meeting log

Language is added that allows city staff to inspect the log of commercial meetings. This will improve code enforcement.

33.212.050 Site related Standards (deleted)

A. Development Standards (deleted)

This standard is part of the general requirements listed at the beginning of the zoning code, so its inclusion here is unnecessary and redundant.

B. Appearance

No content changes. This standard has been renumbered to be included within the development standards above.

C. Signs (deleted).

The sign regulations continue to apply. References to Title 32, Signs, are being removed as it has been more than 12 years since the sign regulations were moved from the Zoning Code, and users are now familiar with where to find these regulations.

D. Accessory dwelling units (delete)

This is unnecessary and redundant, all ADUs must comply with Chapter 33.205.

Language to be **added** is underlined
 Language to be **deleted** is shown in ~~strike through~~

~~E.9. Commercial m~~Meetings and social gatherings.

- ~~1~~a. Commercial meetings. Commercial meetings include luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation. Commercial meetings are regulated as follows:
 - ~~a.~~(1) In single-dwelling zones, commercial meetings are prohibited in a short term rental;
 - ~~b.~~(2) In multi-dwelling zones, the operator may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.
- ~~2.~~ Private social gatherings. The residents of a bed and breakfast facility are allowed to have only 12 private social gatherings, parties, or meetings per year, for more than 8 guests or visitors. The private social gatherings must be are hosted by and for the enjoyment of the residents. Private social gatherings for 8 or fewer guests are allowed without limit as part of a normal Household Living use at the site.
- ~~3~~b. Historical landmarks. A bed and breakfast facility ~~which is~~ located in a historical landmark ~~and which that~~ receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as ~~either a commercial meeting. or a private social gathering.~~
- ~~4~~c. Meeting log. ~~The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event. The log must be available for inspection by City staff upon request.~~

33.212.050 Site-Related Standards

- ~~A.~~ **Development standards.** Short term rentals must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- ~~B.~~10. Appearance. Residential structures may be remodeled to accommodate short term rentals. However, structural alterations may not be made that prevent the structure from being used as a residence in the future. Internal or external changes that will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.
- ~~C.~~ **Signs.** ~~The sign standards are stated in Title 32, Signs and Related Regulations.~~
- ~~D.~~ **Accessory dwelling units.** ~~Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.~~

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33.212.060 Conditional Use Review

No content change. This process applies to Type B short-term rentals. These amendments replace the term "Bed and Breakfast facility" with "Type B accessory short-term rental". A sentence has also been revised to clarify that apart from proposals that include commercial meetings, all Type B rentals are processed through a Type II conditional use procedure.

33.212.070 Monitoring

No content changes. The monitoring requirement applies to all accessory short term rentals for purposes of demonstrating compliance with the requirements of this chapter.

33.212.080 Pre-Established Bed and Breakfast Facilities

The term "Bed and Breakfast Facilities" is retained for those facilities that were approved prior to the change in terminology to "Accessory Short-Term Rentals". This ensures that those facilities may continue under the terms of their prior approvals, and do not need to obtain a new approval through a conditional use or permit.

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33.212207.060 Conditional Use Review

~~Bed and breakfast facilities~~ All Type B accessory short-term rentals require a conditional use review. A ~~facility~~ Type B accessory short-term rental that proposes commercial meetings ~~as provided in 33.212.040.E.1.b~~ is processed through a Type III procedure. All other Type B accessory short-term rental are processed through a Type II procedure. ~~The review for all other facilities is processed through a Type II procedure.~~ The approval criteria for Type B accessory short-term rentals are stated in 33.815.105, Institutional and other uses in R Zones.

33.212207.070 Monitoring

~~All bed and breakfast facilities~~ Type A and Type B accessory short term rentals must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room ~~number of~~ assigned to each guest. The log must be available for inspection by City staff upon request.

33.212207.080 Pre-Established Bed and Breakfast Facilities

- A. Facilities without a revocable permit.** Bed and breakfast facilities that were operating before May 24, 1988 and which did not receive a revocable permit, may continue to operate as an approved conditional use if the operator can show proof that the operation was established through City licensing. The requirements for verification are listed below.
 1. The facility was operating with a City business license or was granted exemption from the business license requirement;
 2. City transient lodging taxes were paid part or all of the tax period preceding May 24, 1988; and
 3. The owner or operator can document that the Portland Bureaus of Planning or Buildings approved the site for a bed and breakfast facility prior to purchase, construction, or remodeling of the facility.

- B. Alterations and Expansions.** The approved conditional use status provided for in Subsection .080.A ~~above~~ applies only to the number of bedrooms, and size of facility that existed on January 1, 1991. Any expansions of building area or alterations, that increase the intensity of the facility, are not allowed unless approved through a conditional use review as provided in Section 33.207212.060.

- C. Facilities with a revocable permit.** Bed and breakfast facilities operating under approved revocable permits are subject to the regulations for revocable permits in 33.700.120, Status of Prior Revocable Permits.



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