

**CITY OF WHITE SALMON
ORDINANCE 2019-**

**AN ORDINANCE ADOPTING WHITE SALMON MUNICIPAL CODE CHAPTER 5.02
SHORT-TERM RENTALS**

WHEREAS, the City is aware of the demand for short-term rentals in the community, particularly for vacation rentals; and

WHEREAS, for the life, health and safety of the potential occupants, property owners and neighbors, the City must regulate the use of these rentals; and

WHEREAS, the City has approved a lodging tax for lodging businesses and requiring short-term rentals to pay an equivalent tax equalizes the tax structure for private and commercial lodging facilities.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITE
SALMON DO ORDAIN AS FOLLOWS:**

SECTION 1. White Salmon Municipal Code Chapter 5.02 Short-Term Rentals, is hereby adopted as follows:

Chapter 5.02, Short-Term Rentals

5.02.005 - Findings, intent and purpose.

- A. In the adoption of these regulations, the city that the rental of dwelling units and lodging units for less than thirty days is an important contributor to the comprehensive plan's tourism goal. The city also finds that these short-term rentals are part of an emerging market that has the potential to be incompatible with surrounding residential uses.
- B. The regulations below are intended to ensure special regulation of short-term rentals that will:
 - 1. Benefit the local economy;
 - 2. Reduce administrative burdens and barriers to entry;
 - 3. Ensure market fairness and taxation;
 - 4. Protect guests; and
 - 5. Avoid unchecked neighborhood disruptions.

- C. This chapter provides an administrative framework for registering the annual operation of a short-term rental. A short-term rental permit is a limited permission to use property for short-term rental purposes. A permit may be modified or revoked if the standards of this chapter are not met.

5.02.010 - Definitions.

As used in this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. "Contact Person." The owner or, if designated on the application for a permit, the management representative authorized to act for the owner.
- B. "Dwelling Unit." One or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing four or more of the following:
 - 1. Refrigeration;
 - 2. Cooking facility (including cooking stove, hot plate, range hood, microwave, or similar appliance) or wiring or venting to support same;
 - 3. Dishwashing machine;
 - 4. Sink intended for meal preparation (not including a wet bar);
 - 5. Garbage disposal;
 - 6. Toilet;
 - 7. Shower or bathtub.
- C. "Local Area." All areas in the Washington counties of Clark, Klickitat and Skamania and the Oregon counties of Hood River, Wasco and Multnomah.
- D. "Lodging Unit." Bedrooms or sleeping facilities not meeting the criteria of a Dwelling Unit set forth in paragraph B, above.
- E. "Owner. The natural person or legal entity that owns and holds legal and/or equitable title to the property.
- F. "Remuneration. Compensation, money, rent or other bargained for consideration given in return for use, rent, or occupancy of a short-term rental.
- G. "Short-Term Rental." A dwelling unit or lodging unit for which an owner receives or seeks remuneration for use or occupancy for a period of less than thirty consecutive days per rental period.
- H. "Short-Term Rental Permit or Permit." The regulatory permit required by WSMC 5.02.15 and described in this chapter.

5.02.015 – Short-term rental permit required.

No owner or manager of property within the White Salmon city limits may advertise, offer, operate, rent, receive remuneration for, or otherwise make available or allow any other person to make available for occupancy a short-term rental without a short-term rental permit. Advertise or offer includes through any media, whether written, electronic, web-based, digital, mobile or otherwise.

5.02.020 - Application and fee.

- A. Application Required. An application for a short-term rental permit shall be completed and submitted to the city on a form provided by the city. The application shall be signed by the owner or contact person and contain the following information:
1. Owner Information. Owner's name, permanent residence address, telephone number, owner's mailing address, and the short-term rental address and telephone number.
 2. Contact Person Information. If the owner does not permanently reside in the local area or is not always available when the property is being rented, the owner shall provide the name, telephone number and email of a contact person from the local area to represent the owner regarding the use of the property and/or complaints related to the short-term rental as set forth in WSMC 5.02.040(C).
 3. Tax Information. A statement of intent to collect and remit all taxes associated with the short-term rental.
 4. Inspection Access. A statement allowing the city reasonable access to the property for the purpose of reviewing the proposal for the health and safety requirements set forth in WSMC 5.02.040(D).
 5. Right to Publish Contact Information. A statement allowing the city to make owner and contact person phone numbers publicly available at City Hall.
 6. Neighborhood Notice. A statement of intent to notify neighbors as required by WSMC 5.02.040(A).
 7. Good Neighbor Guidelines. A statement of intent to provide the city-provided Good Neighbor Guidelines to guests of the short-term rental.
 8. Parking Diagram. A statement of intent to provide guests of the short-term rental with a diagram of parking spaces that are available to or intended for use by the short-term rental.
 9. Liability Insurance. A statement of intent to provide liability insurance coverage as required by WSMC 5.02.040(G).

10. Such other information as the city administrator or designee deems reasonably necessary to administer this chapter.
- B. Application Fee. Applications under this section shall be accompanied by a nonrefundable fee payable to the city in an amount established and periodically adjusted by city council resolution.
- C. Discretionary Fees. At the discretion of the city administrator or designee, the application fee may include the actual costs for labor, overhead, and expenses for outside consultant reviews and/or special inspections.

5.02.025 - Term of annual permit.

A short-term rental permit shall be issued for a period not to exceed one year, with its effective date running from the date the permit is issued to December 31st and may be renewed annually by the owner or contact person provided all applicable standards of this chapter are met.

5.02.030 - Permitting and renewal procedures.

A short-term rental permit shall be obtained and/or renewed as required in this section. This permit is in addition to the City business license required under WSMC Ch. 5.04. The ability to operate a short-term rental in the city of White Salmon shall be discontinued in the event the owner fails to obtain or renew a permit to operate as provided in this chapter.

- A. Application and Renewal Process. A person engaging in operation of a short-term rental who has not yet obtained a permit, or who is required to renew an existing operating permit, shall do so as follows:
 1. Time for Application.
 - a. New Permits. For new short-term rental permits, it is the responsibility of the owner or contact person to apply for and receive a permit prior to operation of a short-term rental.
 - b. Existing Short-term rentals. A completed permit renewal application and renewal fee is due for all existing short-term rentals annually by December 31st.
 2. Notice. Prior to the December 31st annual due date, the city shall send notice of the need for a permit or expiration of a permit to the owner of any property for which an application is due as follows:
 - a. For the first permit required for any short-term rental in the city, it is the owner's obligation and responsibility to apply for a permit.
 - b. For permit renewal, notice will be sent to the mailing and email addresses of the owner and contact person as provided to the city on the application.

- B. Permit Expiration. For renewals, upon expiration of a thirty-day late period commencing at the end of each calendar year, the ability to operate shall be conclusively presumed to be discontinued and the city will commence revocation of the permit pursuant to the procedures in WSMC 5.02.045.

5.02.035 - Criteria for approval and renewal of a permit.

- A. New Permit. Upon receipt of a complete application for a new short-term rental permit and payment of all required fees and after completing all required operational requirements of section 5.02.040, below, the city administrator or designee or designee will issue a short-term rental permit.
- B. Permit Renewal. Upon receipt of a complete application for renewal of a short-term rental permit and payment of all required fees, the city will review the application and available information to determine compliance with the operational requirements of WSMC 5.02.040. If not met, the city administrator or designee or designee will not renew the permit and the property shall not be used as a short-term rental. Alternatively, the city administrator may issue the permit subject to reasonable special operational standards.
- C. Owner's Role. The owner has the burden of proof to demonstrate compliance with each operational requirement and special standard placed on the short-term rental permit. Staff may verify evidence submitted and the applicant shall cooperate fully in any investigation.
- D. Appeals. A decision on a permit application or renewal may be appealed as provided in WSMC 5.02.055.

5.02.040 - Operational requirements.

- A. Notice to Neighbors. The owner or contact person shall provide a mailing or otherwise distribute by hand both prior to the initial permit and annually, a flier to all property owners of record and/or occupants of properties adjacent to and abutting the property permitted as a short-term rental. The notice shall include the permit number and the telephone number of the owner and contact person. The purpose of this notice is so that neighboring property owners and residents can contact a responsible person to report and request resolution of problems associated with the operation of the short-term rental. If the permanent contact information changes during the permit period, the new information must be mailed or distributed again.
- B. Public Availability. In addition, the city will make a registry publicly accessible within which any person can obtain the owner and contact person's name and telephone number. If the permanent contact information changes during the permit period, the new information must be provided to the city.
- C. Response to Complaints. The owner or contact person shall respond to neighborhood questions, concerns, or complaints in a reasonably timely manner depending on the circumstances.

1. **Owner Responsibility.** Reasonable initial inquiries or complaints related to the expectations set in the Good Neighbor Guidelines may first be made to the owner or contact person. However, it is not intended that the owner or contact person act as a peace officer or code enforcement officer of the city or put themselves in an at-risk situation. In such cases, the owner or contact person should contact the city to discuss resolution of the complaint.
 2. **Complaint Log.** The owner or contact person should maintain a record of complaints and the actions taken in response to the complaint, if relevant, in a manner reasonable to document the interaction. If kept, this record can then be made available for city inspection upon request.
 3. **City Authority.** If there is a failure to respond or a clearly inadequate response by the owner or contact person, a complaint may be submitted to the city on a form provided by the city, and the city will respond or investigate as needed. The city will first seek voluntary compliance or resolution, but if the city finds substantial evidence supports further action given the complaint(s), the city will follow the warning and revocation procedures set forth in WSMC 5.02.045.
 4. **Records.** On request and in compliance with the public records law, the city shall provide the owner and/or contact person with the information in the complaint.
 5. **Grounds for Warning.** Repeated failure of the owner or representative to timely and reasonably respond to a complaint(s) relayed by neighbors or city staff is considered grounds for a warning and potential revocation under WSMC 5.02.045. Repeated noise complaints regarding tenants may be grounds for a warning to the owner, if, in the reasonable judgment of the city administrator, the circumstances indicate the owner should be held responsible. Initiating a nuisance enforcement action under WSMC Ch. 8.70 may be grounds for a warning in the appropriate circumstances.
 6. **Administrative Rules.** The city administrator may establish administrative rules to interpret, clarify, carry out, and enforce the provisions of this chapter. A copy of such administrative rules shall be on file and made available at City Hall.
- D. **Health and Safety.** Every short-term rental permit shall be subject to inspection by the building official or designee at the city's discretion, but no less than once every five years. The purpose of the inspection is to determine conformance with the Short-Term Rental Fire Safety Checklist (fire extinguishers, smoke alarms, carbon monoxide detectors, etc.). It is the owner's responsibility to assure that deficiencies identified in the checklist are addressed and that the short-term rental is and remains in substantial compliance with all applicable fire, building, and safety codes and other relevant laws, whether identified on the short-term rental fire safety checklist or not.

- E. Taxation. The owner shall fully comply with all applicable city and state tax reporting and payment requirements, especially lodging taxes due to the city under WSMC 3.50 and retail sales and use taxes due under WSMC 3.04.
- F. Mandatory Postings. Important information related to the permitting and use of the short-term rental shall be displayed in a prominent location within the interior of the dwelling, either adjacent to the front door or in a highly visible rental binder. The information shall include:
 - 1. The short-term rental permit;
 - 2. Any special standards placed on the short-term rental permit;
 - 3. The property address;
 - 4. The name of the owner and contact person and a telephone number where the owner and contact person may be contacted;
 - 5. The parking diagram of the parking spaces available for use by the short-term rental. The parking diagram may include on-street parking areas, but on-street parking is not for the exclusive use of any home or short-term rental;
 - 6. The city-provided Good Neighbor Guidelines. Additionally, the city encourages all owners to incorporate the Good Neighbor Guidelines into the rental contract.
- G. Liability Insurance. The owner shall maintain liability insurance which expressly covers the property's use as a short-term rental.

5.02.045 - Revocation procedure.

- A. In addition to the penalties described in WSMC 5.02.050, the following provisions apply to violations of this chapter:
 - 1. Failure to renew a permit as set forth in WSMC 5.02.030 is grounds for immediate revocation of the short-term rental permit.
 - 2. Failure to timely pay lodging or sales taxes required by WSMC 5.02.040(E) or to otherwise meet the operational requirements of WSMC 5.02.040 is grounds for immediate revocation of the permit.
 - 3. The discovery of material misstatements or providing of false information in the application or renewal process is grounds for immediate revocation of the permit.
 - 4. Such other violations of this chapter of sufficient severity in the reasonable judgement of the city administrator, so as to provide reasonable grounds for immediate revocation of the permit.

5. Other violations of this chapter, including but not limited to city-initiated investigation/sustaining of complaints, shall be processed as follows:
 - a. For the first and second violations within a twelve-month period, the sanction shall be a warning notice.
 - b. If the same offense continues to occur or a third similar offense occurs at any time during a twelve-month period, the city may either issue a third warning, update the permit to include reasonable special operational standards, or revoke the permit.
- B. Notice of Decision/Appeal/Stay. If the short-term rental permit is updated or revoked as provided in this section, the city administrator or designee shall send written notice to the owner stating the basis for the decision. The notice shall include information about the right to appeal the decision and the procedure for filing an appeal. The owner may appeal the city administrator's decision under the procedures set forth in WSMC 5.02.055. Upon receipt of an appeal, the city administrator or designee shall stay the update or revocation decision until the appeal has been finally determined by the city council.

5.02.050 - Violations—Penalties.

- A. In addition to the revocation procedures of WSMC 5.02.045, any person or owner who uses, or allows the use of, property in violation of this chapter is guilty of a class 1 civil infraction under RCW 7.80.120(1)(a) and is subject to fine or \$250 per violation. Each day a dwelling is used in violation of this chapter shall be considered a separate violation. Furthermore, the use is subject to abatement as a nuisance under WSMC Ch. 8.07.
- B. The following conduct also constitutes a violation of this chapter subject to punishment as Class I Civil Infraction:
 1. Renting or representing a dwelling unit or lodging unit as available for occupancy or rent as a short-term rental where the owner does not hold a valid permit issued under this chapter, or making a short-term rental available for use, occupancy or rent without first obtaining a valid operating permit;
 2. Advertising or renting a short-term rental in a manner that does not comply with the standards of this chapter; and
 3. Failure to comply with the operational requirements of WSMC 5.02.040.

5.02.055 - Violations—Penalties.

- A. Appellant—Standing. Only the owner or contact person shall have standing to appeal a decision by the city to deny, revoke or attach special operational standards to a short-term rental permit.

- B. Authority to Decide Appeal. The city council shall be responsible for determining an appeal of a decision brought under WSMC 5.02.055(A).
- C. Time for Filing. An appellant is required to file a written notice of appeal including the basis for the appeal within fourteen calendar days of the permit determination being appealed. This requirement is jurisdictional and late filings shall not be allowed.
- D. Fee for Appeal. The city council may establish by resolution a fee for filing an appeal, and payment of the required fee shall be jurisdictional.
- E. Hearing. After receiving written notice of appeal, the city administrator or designee shall schedule a hearing on the appeal before the city council. At the hearing, the appellant shall have the opportunity to present evidence and arguments as may be relevant. The council may direct staff to draft findings of fact and interpretations of code or law to be considered at a later Council meeting.
- F. Standard of review and decision. The council shall determine whether the city's decision was based on a preponderance of the evidence. A decision of the council shall be based on the evidence received, in writing and signed by the mayor, and issued no later than thirty calendar days after the close of the hearing.
- G. Finality. The council's decision shall be final on the date of mailing the decision to the appellant. The council's decision is the final decision of the city and is appealable only under the Land Use Petition Act (LUPA), RCW Ch. 36.70C.

5.02.060 - Discontinuance of short-term rental occupancy.

- A. After Revocation. After a short-term rental permit has been revoked, the dwelling unit may not be used or occupied as a short-term rental unless a new permit is issued, and the owner of the property to which the permit applied and whose permit has been revoked shall not be eligible to reapply for a short-term rental permit for short-term rental on the same property for a period of 12 months from the date of revocation.
- B. After Expiration. If a short-term rental permit expires, the dwelling unit may not be used or occupied as a short-term rental. The owner of the property to which the permit applied and whose permit has expired shall be required to apply for and obtain a short-term rental permit before the property may be lawfully used or occupied as a short-term rental.

5.02.065 - Remedies not exclusive.

The remedies provided in this chapter are in addition to, and not in lieu of, all other legal remedies, criminal and civil, which may be pursued by the city to address any violation of this code.

SECTION 2 – SEVERABILITY: If any section, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence or phrase of this Chapter.

SECTION 3 – EFFECTIVE DATE. This ordinance shall take effect January 1, 2020 following the date of its publication by summary.

PASSED by the City Council of the City of White Salmon at a regular meeting this ____ day of ____, 2019.

David Poucher, Mayor

ATTEST:

Jan Brending, Clerk/Treasurer

APPROVED AS TO FORM:

Kenneth B. Woodrich, City Attorney