

CITY OF PHOENIX, OREGON

ORDINANCE NO. 999

**AN ORDINANCE OF THE CITY OF PHOENIX
ADOPTING AMENDMENTS TO CHAPTERS 1.3 and 2.2
OF THE LAND DEVELOPMENT CODE (Ord. No. 851)
FOR SHORT TERM RENTALS**

WHEREAS, Oregon law requires that state, regional and local governments adopt and periodically update coordinated Comprehensive Plans and implementing ordinances; and

WHEREAS, the City of Phoenix implements its Comprehensive Plan through Ordinance No. 851, the Phoenix Land Development Code (LDC), which was adopted in 2005; and

WHEREAS, periodic Development Code updates are warranted in response to identified issues where the existing language no longer serves the City's interests; and

WHEREAS, the proposed amendments to the City's Land Development Code (LDC) contained in Exhibit 1 are intended to address an inconsistency with code requirements and historic application and enforcement of regulations regarding short-term rentals; and

WHEREAS, City staff worked with residents and the Planning Commission to refine ideas for possible code amendments in the City's residential zones; and

WHEREAS, the City desires to preserve the character and livability of its residential neighborhoods; and

WHEREAS, the entire Bear Creek Valley is experiencing a shortage of affordable housing for its current and prospective residents; and

WHEREAS, the City understands that using a portion of a residential structure as a short-term rental can provide a source of income for local residents, easing the financial burden of housing costs; and

WHEREAS, the City recognizes that unregulated short-term rentals may negatively impact its available affordable housing stock by removing long-term rentals from the rental pool and displacing local residents; and

WHEREAS, the City has an interest in regulating short-term rentals to ensure that they are operated appropriately and meet existing health, life and safety regulations; and

WHEREAS the City has an interest in providing adequate lodging options for tourists and transient visitors, and ensuring that transient room taxes are collected and remitted on a fair and equitable basis; and

WHEREAS, the City has determined that the establishment of rules and regulations to permit short-term residential rentals is a reasonable means to ensure the safety and convenience of visitors and preserve the general welfare of long-term residents of residential zones; and

WHEREAS, on November 13, 2018, the Planning Commission conducted a duly noticed public hearing on the proposed amendments, affording all citizens an opportunity to be heard on the subject; and

WHEREAS, following receipt of staff testimony at the November 13, 2018 public hearing, the Planning Commission deliberated and forwarded a unanimous recommendation of approval to the City Council; and

WHEREAS, the City Council has fully reviewed the record and deems all notices and comments to the record as compliant with state law and the City of Phoenix Land Development Code, and that no further action is necessary before the Planning Commission; and

WHEREAS, the City Council has considered the Planning Commission's recommendation, the staff reports in this matter, and testimony and evidence of interested parties, and has evaluated the proposed amendments against Statewide Goals, state, county, and regional requirements, the Comprehensive Plan, and other applicable standards;

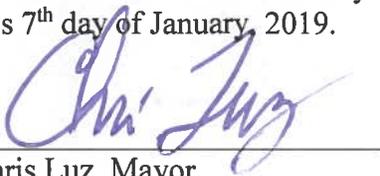
NOW, THEREFORE, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts as findings and conclusions of the foregoing recitals.

Section 2. Order. The City Council hereby adopts the amendments to the City of Phoenix Land Development Code attached as Exhibit A incorporated as set forth fully herein.

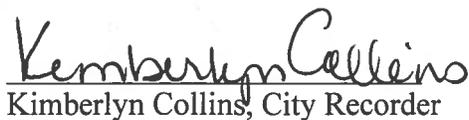
Section 3. Staff Directive. To reflect adoption of the ordinance, Staff is directed to make conforming changes to the City of Phoenix Land Development Code necessary to incorporate the amendments adopted herein.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 7th day of January, 2019.



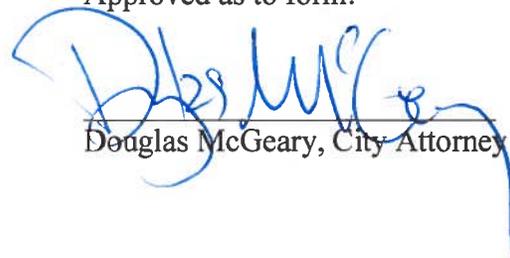
Chris Luz, Mayor

ATTEST:



Kimberlyn Collins, City Recorder

Approved as to form:



Douglas McGeary, City Attorney

Ordinance No. 999 Exhibit A

Chapter 1.3 – Definitions

Short Term Rental/Lodging: An owner-occupied home within a residential district or an inn within a commercial district that provides accommodations that may include breakfast on a daily or weekly basis. Includes all services that provide overnight stays for compensation, including but not limited to AirBnB, VRBO, HomeAway and similar booking services.

Chapter 2 – Land Use Districts

Table 2.2.2 excerpt, amended

Table 2.2.2. Development Standards in Residential Zones				
Residential Density	R-1	R-2	R-3	Notes
Minimum units per acre	5.5	8	12	Density is calculated on a project scale and is "net" (calculated after ROW dedication)
Maximum units per acre	8	30	None	Density calculations may be rounded on sites larger than one acre
Minimum area per unit	1000	750	500	Primary dwelling unit, measured in conditioned square feet.
Non-Residential	R-1	R-2	R-3	
Churches, Clubs, Lodges, similar uses		CUP		See RLUPA
Government offices and facilities		CUP		See 2.2.9 G (in enclosed building)
Libraries, Museums, Community Centers		CUP		See 2.2.9 G (and similar uses)
Private Utilities		CUP		Located within an enclosed building
Public Parks and Recreational Facilities		CUP		See 2.2.9 G
Schools (public and private)		CUP		See 2.2.9 G
Uses similar to those listed above		CUP		See Interpretation standards
Bed and Breakfast, Vacation Rental		CUP	P	See 2.2.9 J Requires Type I HO/Short Term Lodging Permit
Wireless Communication Facilities		CUP		See 3.10.1

Short Term
Rentals

Section 2.2.9 – Special Standards for Certain Uses

Short Term Lodging

1. A Type I Home Occupation / Short Term Rental/Lodging Permit shall be required.
2. The dwelling unit to be used as a short-term rental must be owner-occupied. For the purposes of this Section, owner-occupied means the Operator (owner or lessee of the property) must reside in the dwelling for at least 270 days of the calendar year. Owners or lessees may not enter into a short-term rental agreement for periods when they do not occupy the property unless an adult 18-years or older is present on the premises during the rental period, and that adult is responsible for ensuring compliance with the provisions of this Chapter.
3. If the property is leased, a copy of a lease agreement valid for at least six months from the date of application, plus an original, signed letter from the property owner indicating the tenant (Operator) has permission to use the property as a short-term rental.

4. One guest room is permitted for every 400 square feet of gross floor living area, plus one unit for the Operator. Total number of guest rooms shall not exceed 5. Common areas of the dwelling may be included, but no dwelling unit may be rented in its entirety. For calculation purposes, the outside dimension of each eligible structure may be used. Living area includes any structure on the lot lawfully used for residential purposes. Living area does not include: garages, garage conversion where the conversion has resulted in noncompliance with off-street parking requirements, utility shops, basements, storage sheds and other similar nonresidential structures.
5. Length of stay may not exceed 15 days in any 30-day period.
6. One off-street parking space for each guest room shall be required, in addition to the off-street parking required for the primary use.
 - a. Single-family dwellings are the only eligible structures for short term rental/lodging. Apartment dwellings and non-residential structures, such as institutional buildings, warehouses, recreational vehicles, and churches are not eligible.
7. Access. The street serving the property shall have adequate capacity and turnaround area to serve the additional traffic.
8. Whole-house short-term rentals of any kind are prohibited; accessory dwelling units (ADUs) may be used exclusively as short-term rental/lodging facilities.
9. An accurate and up-to-date guest register recording the name, address and dates of stay for each short-term lodging guest must be maintained and available for review by the City.
10. Operator may be required to provide evidence of compliance with the Building Code, Fire Code and standards of the state and local health departments as amended, including installation of smoke and carbon monoxide detectors.
11. Operator shall prominently post rental rules and regulations in the interior of the dwelling unit where they can be seen by guests. Rules shall include reference to short-term rental regulations, excessive noise, and disturbance of neighbors.
12. Operator agrees to allow city staff to inspect the dwelling unit prior to approval of the short-term rental application, and at any time after approval upon 24-hours-notice to the applicant.
13. Property shall have address number clearly marked and visible from the street at all hours.
14. Operator shall obtain and maintain an annual City of Phoenix Business License.
15. Operator shall collect Transient Room Tax and remit to City as required by PMC Chapter 3.16.
16. Enforcement. The granting of a permit and/or business license to operate a short-term rental shall be subject to payment of applicable fees, and to review by the Planning & Building Department. If City staff determines that a short-term rental is operating in violation of the conditions of approval of this Article, the license holder shall be subject to all applicable fines under the Phoenix Municipal Code.