
TRANSIENT RENTAL TASK FORCE FINAL REPORT

JANUARY 2012

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BACKGROUND

The City Council created the Transient Rental Task Force in order to find ways to reduce the number of neighborhood conflicts and complaints related to transient rental of single family homes. Task Force members were selected to represent the several viewpoints of those with a particular interest in the topic. The Task Force investigated and discussed the types of issues that lead to conflict, and weighed the value of various approaches to reducing that conflict. The perceived extent of the current conflict and the possibility of escalation of conflict in the future was considered. The Task Force also completed a detailed review of Section 4.08 of the City Code. Recommendations to the City Council were agreed upon and are included in this document.

THE DISCUSSION

To ensure that all members of the Task Force were in agreement on what they were working toward, they first created an unordered category list of the origins of conflict.

CAUSES OF DISCORD

Code has too much latitude in interpretation;

Misinterpretation of rules as stated;

Too many vehicles on a rental property, belonging either to occupants and/or guests of occupants

Too many people per property, either occupants and/or guest of occupants

Repeat offenders;

Difficulty in reaching property management, whether owner or property manager;

Apparent lack of knowledge of rules on the part of renters, owners and/or management;

Difficulties in enforcement of rules by owners and/or management

Need to protect the character of the neighborhood;

Switching management companies without notice to the city, including failure to post changed information on site;
Garbage problems;
Pet related conflict.
Parking restrictions perceived as inflexible, possibly unrealistic, even though not comprehensive;
Complaints received that may be based on unrealistic expectations;
Signage issues;
Accountability;
Unclear reporting procedures.

TYPES OF ACTION TO REDUCE CONFLICT

Next the Task Force considered the types of action to be investigated in order to reduce or eliminate the causes of conflict as listed above. These included review of compliance procedures, review of the existing educational process, review of licensing and complaint processes, and a search for new solutions as related to code, process, and policy.

RESULTS

The Task Force came to an agreement on many of the items under discussion. Additional insight and understanding were gained by all members in terms of the Transient Rental process and also the goals and perspectives of the other members and the groups they represented.

Some issues were not amenable to agreement. Modifying the sleeping area definition as proposed might have increased the permitted number of overnight occupants. On the other end of the spectrum was a proposal to limit the number of overnight guests beyond the restriction provided by the current "two per sleeping area plus two" regulation. A formal vote taken on these two proposals resulted in rejection of both (3 to 2 in each case).

The Task Force agreed early on in their deliberations that any recommended changes focus on an increase in clarity and an equitable balance between the desires of the transient rental owners and agents and those of the residents in any neighborhood that includes transient rental properties.

The Task Force also agreed that while a few conflicts in the transient rental arena were significantly more noticeable than others, the properties were also a very small percentage of the total number of rentals. The Task Force believes its recommendations address that larger group of rentals as well as supporting City efforts to more efficiently deal with future difficulties.

Research into how other municipalities have dealt with transient rentals led to the discovery of an excellent 2011 white paper on Short-Term Rental Housing Restrictions, prepared by Robinson & Cole LLP in its capacity as consultant to the National Association of Realtors. The document is available through an internet search for "Short-Term Rental Housing Restrictions".

RECOMMENDATIONS

The Task Force recommends modifications to the Code in Section 4.08 ([see Code Modifications](#)), and to the current processes for [licensing](#), and [compliance](#). ([see Process Recommendations](#)). The recommended modifications address nearly all the previously listed causes of discord, and fold in the previously reported need for better education for all participants.

The Task Force recommends that the City website include public information on the requirements and limitations for each transient rental. It is important to better inform the public on what the City's requirements are and what constitutes non-compliance. This in itself may contribute significantly to a decrease in conflict.

In addition, the Chair of the Task Force recommends that the Complaint Form and the Transient Rental Application form be modified to reflect changes in code and process as recommended by the Task Force and subsequently approved by the City Council.

Change tracking (redlining) is used in this document to focus attention on the proposed changes in process and code.

[Brackets enclose italicized comments added only to provide insight into the intent behind the recommendations. Bracketed comments are not part of the recommended revisions.]

PROCESS RECOMMENDATIONS

TRANSIENT RENTAL LICENSING PROCESS

To initiate the Transient Rental License process for either a new license or reinstatement of a lapsed license, the Applicant can

- 1) request an application by mail;
- 2) download an application from the City website/document library; or
- 3) pick up an application at City offices.

The applicant can request additional information from City staff in person, by phone, and by email.

When the application is submitted:

- Application must be accompanied by the appropriate fees.
- When an applicant for a transient rental license has not engaged in business during the calendar year until after August 1st, the required fee for the license shall be reduced by one-half. Inspection Fee is *not* discounted.
- Fees may be paid by cash, money order, check, or credit card.
- If access to the proposed rental crosses private property via an easement, right-of-way, or other conveyance, then written evidence of the right to use the access in this manner is required.
- A map of the parking areas for the proposed rental must be included with the application.

City staff review the application for completeness only.

If application is incomplete, City staff contact the applicant to request missing information.

Once application is complete with fees and required supplemental documents, application goes to Code Enforcement Officer.

Code Enforcement Officer schedules an inspection of the property.

- [The Code Enforcement Officer's checklist will be provided to the applicant before the inspection.](#) *[This is part of the increased focus on educating all parties; in this case the applicant knows what the requirements are before the inspection and can take appropriate action to bring the property into compliance prior to inspection.]* [\(See Transient Rental License Inspection Checklist in Appendix\)](#)
- If inspection reveals property is not in compliance with City code and all applicable laws, including O.R.S, O.A.R. and the State Fire Marshal, Code Enforcement Officer notifies the applicant of the deficiencies.
- If proposed rental meets all requirements or applicant states that deficiencies will be remedied, Code Enforcement Officer signs the Application form.

[Basic Visitor Rules placard is another part of the educational process to improve compliance by renters.]

- [Code Enforcement Officer gives a Basic Visitor Rules placard to the applicant. Basic Visitor Rules must be prominently posted on the inside of the principal exit door of each licensed property.](#) [\(See Transient Rental Basic Visitor Rules in Appendix\)](#)
- [Applicant/manager signs off on the Code Enforcement Officer's checklist to acknowledge they understand all listed requirements, and have received a Basic Visitor Rules placard..](#) *[Another example of the education component, plus acknowledgement of responsibility.]*
- Code Enforcement Officer returns the signed Application form and a copy of the completed checklist [signed by the Code Enforcement Officer and the Applicant](#) to the City Recorder.

City Recorder verifies the management contact information on the application.

City Recorder approves and issues license to the applicant, and provides Certificate of Authority for collection of Transient Lodging Tax.

Owner or Manager of licensed rental posts Certificate of Authority in a conspicuous place in the rental.

Owner or Manager of licensed rental posts local contact information on outside of rental structure where it is easily accessible to neighbors without the necessity of interacting with any on-site tenants.

Owner or Manager may then proceed to rent the accommodation.

Owner of transient rental must comply with the requirements of the *Yachats Municipal Code 3.08 Transient Room Tax*.

Approximately 30 days before renewal of license is due, City Recorder notifies all holders of current licenses that renewal fees and updated information are due.

- The required application and license fee are due on January 1st of each year for the calendar year commencing with that date and are delinquent on February 1st.
- [Renewal applicant will receive the Basic Visitor Rules placard to be posted on the inside of the principal exit door of the rental property.](#)
- [Renewal applicant will sign a receipt which acknowledges they received Basic Visitor Rules placard and understand the posting requirement.](#)

When license fee is received along with a completed application showing any changes in information, [a signed receipt for Basic Visitor Rules placard](#), and applicant attests that all standards have been met, City Recorder will renew the license for another calendar year.

When a license has been active for five (5) consecutive years, the Code Enforcement Officer will inspect the rental to ascertain whether or not it is compliant with all requirements.

[Applicant/manager is responsible for ensuring that Basic Visitor Rules remains posted.](#)

[When an owner or agent requests additional Basic Visitor Rules placards to replace lost or damaged ones, the City will provide them.](#)

COMPLAINT PROCESS

The Task Force focused on making the complaint process more explicit; understanding that erroneous expectations can lead to unnecessary conflict. The Task Force recommends that information on the complaint process be made readily available to all, beginning with a simple step-by-step description on the City website. Other effective means of disseminating this information should also be explored.

[The complainant is expected to initiate the process while the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations.](#) *[Early reporting will eliminate many of the 'he said – she said' discussions where no tangible evidence is available on either side.]*

[If complainant attempts to contact property manager/owner as posted on property, and the phone number is invalid, a formal complaint may be filed with the City, even if the issue has been resolved;](#) *[An invalid phone number short circuits the entire process and is, in and of itself, out of compliance with requirements.]*

[If the complainant attempts to contact property manager or owner as posted on property, and leaves a message, then the manager/owner is expected to respond promptly. If two hours have passed since the message was left and the property manager/owner has not responded, a formal complaint may be filed with the City, even if the issue has been resolved;](#) *[Task Force members agreed that a maximum response time of 2 hours was fair for both the complainant and the owner/agent.]*

If the complainant successfully contacts property manager or owner as posted on property, the manager or owner is expected to respond promptly. If two hours have passed since the contact was made and the property manager or owner has not resolved the issue, then the complainant is expected to make a second call to the property manager or owner. If within an additional two hours the issue has not been resolved, a formal complaint may be filed with the City, even if the issue has been resolved outside the time limit. *[Task Force members agreed that after a response within the required time period, it was fair for both the complainant and the owner/agent to allow a maximum of 2 hours for resolution of the issue.]*

When a City official, as designated in Section 1.12.040 (Enforcement authority and issuance of citations) observes that a property is not in compliance, then the City official has three options to be selected on the basis of severity, persistence, and repetition of the non-compliance. The options, listed in order of severity are 1) take the same steps as outlined above for any complainant; 2) file an official complaint; or 3) in the most severe instances, cite the license holder. *[This section gives the City official guidelines and the flexibility to act appropriately in a variety of situations.]*

When the City official chooses option 1 (to follow the process available to any complainant) he will limit his contact to the owner or agent and allow them to interact directly with the renter as needed. *[In these minor cases, limiting the City official's interaction to dealing with the owner/agent should still resolve the issue, while giving the owner/agent the opportunity to maintain the delicate balance between resolving the issue and ensuring that the renter retains a good memory of their stay in Yachats.]*

When a formal complaint is filed

If it is first complaint against the property

City Recorder starts a file and adds complaint to file;

City Recorder notifies homeowner by letter, including what the complainant reported.

Owner or Agent will be required to meet with an assigned City official to discuss means by which further complaints may be avoided. If both the owner and agent fail to meet this requirement within a reasonable amount of time the City Recorder will prepare a report for City Council action.

[Mandated discussion allows the Code Enforcement Officer or other City official an opportunity to further educate and advise the owner/agent, and also allows the owner/agent to present issues that contribute to being out of compliance. In addition, it creates a method of sanction against an owner/agent who procrastinates or otherwise tries to dodge this step.]

If it is second complaint against the property

City Recorder adds complaint to file;

City Recorder notifies homeowner by letter, including what the complainant reported;

Owner or Agent will be required to meet with an assigned City official to discuss means by which further complaints may be avoided. If both the owner and the agent fail to meet this requirement within a reasonable amount of time the City Recorder will schedule a hearing and/or prepare a report for City Council action.

If it is third complaint against the property

City Recorder adds complaint to file;

City Recorder may schedule a hearing or prepare a report for City Council action.

City Council may schedule a hearing.

Either City Recorder or City Council may, without a hearing, revoke the license immediately. ~~May result in the immediate loss of the transient rental license.~~

When a license is revoked immediately, the licensee has 30 days to request a hearing. *[This allows the City to act immediately when circumstances demand, and also allows the licensee to dispute the revocation in a timely manner.]*

When there is a hearing, the City Council will adopt its findings. This may include filing a lien, revoking the license, or placing limitations on the license.

CODE RECOMMENDATIONS

Chapter 4.08 - Transient Rental Licenses

Sections:

4.08.010 Purpose.

- 4.08.020 Definitions.
- 4.08.030 Standards.
- 4.08.040 Inspection, license and annual fee.
- 4.08.050 Complaints.
- 4.08.060 Violations--Penalties.

Section 4.08.010 Purpose.

The transient rental license is in recognition of the desire of many owners to rent their property on a short term basis and to provide for the orderly use and regulation of such rentals to preserve the health, safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. *[This sentence was removed from Section 4.08.030 and added here where it more properly fits.]*

These standards and procedures are in the addition of city ordinances and federal and state laws and regulations. (Ord. 148 § 1, 1992)(Ord. 291a, Amended, 11/09/2010)

Section 4.08.020 Definitions.

"Contact person" means the owner or a person with the authority to take action or make decisions concerning the management of the property.

"Dwelling unit" means any building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation.

"Incident" means an offensive activity or breach of the standards.

"Overnight" means anytime between the hours of 10:00 p.m. and 7:00 a.m. on the following day.

"Rental Occupant" means a person over the age of four years who occupies a rented dwelling unit.

"Sleeping Area" means a bedroom or loft within a dwelling unit which meets the requirements of the building code as adopted by the State of Oregon.

"Surfaced" means a gravel, paved, tile, brick or concrete surface suitable for parking a vehicle.

"Transient rental" means a single-family dwelling, duplex or triplex which is rented or available for rent for a period of less than thirty (30) days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a transient rental dwelling, however, each individual unit is to be considered separately for licensing and regulation purposes. A home which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a transient rental. (Ord. 148 § 2, 1992)(Ord. 291a, Amended, 11/09/2010; Ord. 226, Amended, 01/15/2002)

Section 4.08.030 Standards.

A transient rental license shall be issued to the dwelling owner providing the following standards ~~can be~~ met:

- A. Rental facility should comply with all applicable laws. Basic Visitor Rules as provided by the City must be prominently displayed on the inside of the primary exit door.

[Expanded requirements for local contact person to account for mobile phones using other exchanges beyond 547 and 563. It was agreed that "in a timely manner" was more appropriate than "immediately" because of the 2 hr. limitation used in the revised procedure for complaints.]

- B. A contact person or agent within the local 547 or 563 calling area or one who resides or maintains an office within the zip code boundaries for Yachats and Waldport must be identified on the application and available by phone at all reasonable times (eight a.m. to eleven p.m.) and ~~immediately~~ respond in a timely manner if there is a problem during the dwelling's use as a transient rental. The name and phone number of the contact person shall be posted inconspicuously on the transient rental building, but where a neighbor can easily read it.

[Changed 'off street' to 'on property' to make the parking constraint clearer and more specific.]

- C. One ~~off-street~~on property parking space shall be provided for each bedroom in the dwelling, but in no event shall fewer than two spaces be provided. This provision shall be waived for any existing transient rental as of the effective date of Ordinance No. 226 - adopted 1/15/2002.) If access to the rental property crosses private property via an easement, right-of-way, or other conveyance all parking must be contained on the rental property. Required parking will be unimpeded, surfaced, useable and available to renters. The parking shall be mapped and posted in the home, and a copy given to the City.

[Removed sentence "Vehicular traffic generated by the use of the dwelling as a transient rental shall not exceed what is reasonably expected within a residential neighborhood." because it is vague and too easily used to argue without result over something that cannot be quantified. It was agreed that the limitation of overnight and daytime vehicles would accomplish any feasible limitation on traffic.]

D. ~~Vehicular traffic generated by the use of the dwelling as a transient rental shall not exceed what is reasonably expected within a residential neighborhood.~~ The maximum number of overnight vehicles allowed on the property shall not exceed the number of surfaced parking areas on the property or six vehicles, whichever is less. Daytime parking is limited to surfaced parking on the property. If access to the rental property crosses private property via an easement, right-of-way, or conveyance, ingress and egress must be accomplished without encroachment on other properties adjoining the privately maintained access road or driveway. In such situations applicants will provide evidence of their right to use the privately maintained access road or driveway consistent with transient rental before a transient rental license is granted.

E. There shall not be any noise, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a transient rental.

[The first sentence of section F was moved to the 'purpose' section where it more properly fits. The Task Force agreed that with the more specific limitations on RVs, campers and the like, it would be prudent to forestall arguments over boats as well.]

F. ~~The use shall not adversely affect the residential character of the neighborhood.~~ The maximum allowable number of overnight occupants shall be two persons per sleeping area plus two additional persons. The rental agent shall match the number of persons and vehicles to the particular property being rented. Recreational Vehicles, campers, tents and similar structures shall not be allowed on transient rental properties. Parking a boat trailer of moderate size, with or without a boat, is permitted as a substitute for one vehicle.

G. Weekly solid waste collection service shall be provided. A sufficient number of suitable bear proof garbage receptacles shall be provided. Except on collection day, these garbage receptacles shall not be readily visible from the street. Renters shall be advised not to place trash outside in plastic bags.

H. Each transient rental shall provide and maintain a container for the disposal of cooking grease into a solid waste receptacle to prevent the grease from entering the sewer system.

[The Task Force recommends avoiding the rigidity of a leash only restriction, while endorsing the flexibility of allowing other methods of control, as long as they are demonstrably effective. Language specific to the person having control, custody or possession should reduce the "it's not my dog" excuse for non-compliance.]

I. All pets must be under control at all times. Methods of control include a leash or demonstrated effective voice command. The person having the control, custody or possession of a dog shall clean up after the dog by using a dog waste bag or other suitable method.

J. Transient rental licenses are non-transferable.

K. The licensee must comply with the requirements of the transient room tax ordinance as a condition for issuance or renewal of a transient rental license. (Ord. 191, 1997; Ord. 148 § 3, 1992)(Ord. 291, Amended, 10/15/2010; Ord. 237, Amended, 08/15/2003; Ord. 226, Amended, 01/15/2002)

Section 4.08.040 Inspection, license and annual fee.

The city recorder shall prepare an application form for a transient rental license. Prior to issuance of a transient rental license, the city will inspect the subject property to determine occupancy capacity, parking and access compliance. Upon receipt of the completed application, the annual license fee, inspection and attestation that the licensing standards have been met, the city recorder shall issue a license to the applicant (not the dwelling) for a period of one year. The license may be renewed annually if all standards are met. If a license is renewed annually until at least five ~~consecutive~~ consecutive years have elapsed the city will re-inspect ~~every five years~~ before issuing a license for the next year. The city retains the right to re-inspect the property at any time. An inspection fee will be assessed for the initial inspection, for additional inspections undertaken due to complaints, and for each five year inspection completed by the city. A transient rental licensee shall not be required to pay a business occupation license fee in addition to the annual license fee. The annual license and inspection fees shall be set by resolution of the city council.

Complaints received by the city may trigger a re-inspection.

All licenses shall be obtained prior to any rental of the property. The required application and license fee are due on January 1st of each year for the fiscal year commencing with that date and are delinquent on February 1st. The delinquency fee will be set by resolution. (Ord. 199 § 1, 1997; Ord. 148 § 4, 1992)(Ord. 291, Amended, 10/15/2010; Ord. 284, Amended, 09/22/2009)

Section 4.08.050 Complaints.

The complainant must show or attest that they have made a timely attempt to resolve the issue with the person officially responsible for management of the property ~~contacted the contact person regarding the complaint.~~ The complainant is

expected to initiate the process while the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations.

- A. ~~If-When~~ a complaint is filed with the city, the owner and Agent, if any, will be notified in writing. Either the licensee or Agent will be required to meet with a City official to discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time the City Recorder will prepare a report for City Council action.
- B. Upon a second complaint, the owner and Agent, if any, will again be notified. Either licensee or Agent will again be required to meet with a City official to further discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time the City Recorder will prepare a report for City Council action.
- C. Upon a third complaint within a 90 day period,
 - a. The City Recorder may schedule a hearing or prepare a report for City Council action;
 - b. The City Council may schedule a hearing;
 - c. Either the City Recorder or City Council may, without a hearing, revoke the license immediately. ~~may result in the immediate loss of the transient rental license.~~
 - d. In the event that a license is revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the council shall be filed with the city recorder within fifteen (15) days. [This is the same appeal period as Section 4.04.110 for Business Licenses.]

The city recorder shall ~~provide a complaint form in triplicate with the city,~~ notify the licensee and the contact person/agent ~~receiving a copy~~ when a complaint is received at City Hall.

The city recorder shall prepare a report to Council based on complaints received. A hearing may be scheduled. Standards of judging complaints shall include, but are not limited to, the following:

1. Non-compliance with transient rental license standards as stated in Section 4.08.030.

~~1. Generation of excessive traffic;~~

2. Monopoly of on-street parking;

3. Other offensive activities not in harmony with the residential neighborhood such as trespass, excessive noise or pets running loose;

~~4. Non-compliance with transient rental license standards.~~

The city council, upon hearing the evidence, may: (1) approve the license as it exists; (2) revoke the license; (3) impose appropriate restrictions on the operation of the license. (Ord. 148 § 5, 1992)(Ord. 226, Amended, 01/15/2002)

Section 4.08.060 Violations--Penalties.

It is unlawful for any person so required to fail or refuse to apply for a license, or operate without a license as required herein. Any person who violates any provisions of this chapter commits a Class B civil infraction and shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended, revised or repealed. (Ord. 185 § 4, 1996: Ord. 148 § 6, 1992)

APPENDIX

TRANSIENT RENTAL LICENSE INSPECTION CHECKLIST

The Task Force recommends that the inspection checklist be modified to match approved code and process changes, that items be grouped by the source of the requirement or recommendation, and that the applicant sign the checklist, thus recognizing knowledge of and responsibility for meeting the requirements.

City of Yachats - Transient Rental Inspection

Yes **No**

The following items are mandated by State, County or city Ordinances:

10 Year warranty Smoke Detectors present. Current ORS regulations, motel standards , Hard-wired for new homes , battery operated in older homes.

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Carbon Monoxide detectors present. Required if a woodstove or fireplace is present. If door opens into a garage detectors are required.

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Emergency contact person phone number and 911 posted inside house.

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Bedrooms have egress windows.

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Railings, lofts and decks meet building code.

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Electric panels are visible or signage is present to indicate presence of panels.

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| ~~State number~~ Number of bedrooms in transient rental:

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Number of occupants allowed:

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Complies with city code

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| Number of on property ~~off-street~~ parking spaces:

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| Maximum number of on property overnight parking space allowed:

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| On property ~~Off-street~~ parking is unimpeded, surfaced, usable and available to renters.

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A parking map is prominently posted in the transient rental home.

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| Garbage receptacles are present and bear proof.

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| Garbage receptacles are not readily visible from the street except on trash pick-up day.

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Containers for the disposal of cooking grease are present.

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Local contact person's phone number posted on the outside of the house and visible from the street.

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| Basic Visitor Rules are posted on the major exit door.

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The following items are recommended by Fire Chief:

Evacuation map and information posted inside house.

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Beach Front Homes - Signage regarding ocean mammals, Leptospirosis disease shall be posted.

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Propane tanks are secured and not under opening windows. Tanks are located according to code.

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Fire extinguisher present. Not required but recommended. Visible or signage present. If fire extinguisher is for multiple use, date of last inspection.

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| Date: _____.

| **Code Enforcement Officer Signature:**

Homeowner or Agent Signature:

TRANSIENT RENTAL BASIC VISITOR RULES PLACARD

The Task Force recommends that the City provide the following Basic Visitor Rules placard for each licensed property. The purpose of the placard is to educate renters. The Task Force believes that keeping the information simple, concise, and posted prominently will increase the probability that it will be read.

[The possibility of eviction would be determined and carried out by the owner or agent; this is NOT an eviction by the City. Adding "by Order of the City of Yachats" was deemed useful to enhance the importance of the rules.]

Basic Visitor Rules

Pets must be controlled at all times by a leash and/or effective voice command.

Person having the custody or possession of a dog shall clean up after the dog.

Maximum number of occupants for this rental unit is _____.

Maximum number of overnight vehicles for this rental unit is _____.

Maximum number of daytime vehicles for this rental unit is _____.

No excessive noise between the hours of 10:00 PM and 7:00 AM.

All garbage or trash must be placed in the garbage container before departure.

Violation of these basic rules can result in eviction.

by Order of the City of Yachats