

**CITY OF BINGEN, WASHINGTON**

**ORDINANCE NO. 2023-12-745**

**AN ORDINANCE ADDING BINGEN MUNICIPAL CODE CHAPTER 5.16  
VACATION RENTALS**

**WHEREAS**, the Bingen City Council has reviewed Bingen Municipal Code Title 5 Business Taxes, Licenses and Regulations and finds that there are no existing policies regarding Vacation Rentals; and,

**WHEREAS**, preservation of the housing stock and character of the City of Bingen requires regulating Vacation Rentals;

**NOW, THEREFORE**, the City Council of the City of Bingen do ordain as follows:

Chapter 5.16 of the Bingen Municipal Code (BMC) shall read as follows:

**BINGEN MUNICIPAL CODE**

**Chapter 5.16**

**VACATION RENTALS**

**Sections:**

5.16.010	Purpose.
5.16.020	Definitions.
5.16.030	Vacation rental license required.
5.16.040	Vacation rental license limit.
5.16.045	First right of refusal.
5.16.050	Application and fee.
5.16.060	Term of annual license.
5.16.070	Licensing and renewal procedures.
5.16.080	Criteria for approval and renewal of a license.
5.16.090	Operational requirements.
5.16.100	Revocation procedure.
5.16.110	Violation—penalties.
5.16.120	Violations—appeals.
5.16.130	Discontinuance of vacation rental occupancy.
5.16.140	Remedies not exclusive.

**5.16.010 Purpose.**

- A. In the adoption of these regulations, the city finds that the rental of dwelling units for less than thirty days is an important contributor to the city’s tourism. The city also finds that these vacation rentals are part of an emerging market that has the potential to be incompatible with surrounding residential units. The city also finds that there are diminishing housing units available for long-

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term residents and the city wishes to establish limits with the objective of preserving housing units for local owners/renters.

- B. The regulations below are intended to ensure special regulation of vacation rentals that will:
  - a. Benefit the local economy;
  - b. Reduce administrative burdens and barriers to entry;
  - c. Ensure market fairness and taxation;
  - d. Protect guests; and
  - e. Avoid unchecked neighborhood disruptions.
- C. This chapter provides an administrative framework for licensing the annual operation of a vacation rental. A vacation rental license is a limited permission to use property for vacation rental purposes. A license may be modified or revoked if the standards of this chapter are not met.

#### **5.16.020 Definitions.**

- A. "Business Licensing Service" or "BLS" means the office within the Washington State Department of Revenue providing business licensing services to the city.
- B. "Contact Person" means the owner of the property or, if designated on the application for a license, the management representative authorized to act for the owner.
- C. "Dwelling Unit" means one or more rooms occupied, designed or intended for occupancy as separate living quarters.
- D. "Licensee" means one or more natural persons, a partnership, corporation or trust seeking a short-term license.
- E. "Local Area" means all areas in the Washington counties of Klickitat and Skamania and the Oregon counties of Hood River, Sherman and Wasco.
- F. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for use, rent, or occupancy of a vacation rental.
- G. "Total Housing Stock" means the total number of dwelling units with Bingen city limits.
- H. "Vacation Rental" encompasses any of the following terms and their subsidiaries:
  - 1. "Hosted homeshare" means the short-term rental of a portion of a dwelling or an attached or detached separate accessory dwelling unit (ADU) on the property of the licensee's primary address, where the licensee is present during rental periods.
  - 2. "Short-term rental" means a lodging use that is not a hotel, motel, nor bed and breakfast in which a dwelling unit, or portion thereof, that is offered or provided to a guest(s) by the property owner or operator for a fee for fewer than 30 consecutive nights.
  - 3. "Vacation home rental" means the short-term rental of an entire primary dwelling unit in allowed residential zones. This does not include accessory dwelling units (ADUs) which are permitted under the "hosted homeshare" definition.
- I. "Vacation Rental License" or "License" means the regulatory license required by BMC 5.16.030.

#### **5.16.030 Vacation rental license required.**

No owner of property within the Bingen city limits may advertise, offer, operate, rent, receive remuneration for, or otherwise make available or allow any other person to make available for occupancy or use a vacation rental without a vacation rental license obtained through the BLS.

"Advertise or offer" includes communication through any media, whether written, electronic, web-based, digital, mobile or otherwise. Each separate dwelling unit in the city offered as a vacation rental must be licensed separately.

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#### **5.16.040 Vacation rental license limit.**

The number of vacation rentals within the Bingen city limits is limited to 32 dwelling units or 10% of the total housing stock, whichever is lower.

Within the limit of 32 licenses. The City shall issue a maximum of one (1) vacation rental license for each qualified licensee. For purposes of this subsection, a "licensee" is one or more natural persons, a partnership, corporation or trust seeking a short-term license. To qualify as a separate, qualified "licensee" under this subsection, there can be no overlap of partners, trustees, trust beneficiaries, corporate officers or shareholders with any other licensee.

#### **5.16.045 First right of refusal.**

Local owners with existing vacation rentals and Washington State Department of Revenue business licenses with City of Bingen endorsements under the business registration category of "rental" or "short-term rental" prior to adoption of this code will have first right of refusal to become licensed as vacation rentals under this code.

#### **5.16.050 Application and fee.**

- A. Application Required. An application for a vacation rental license shall be completed and submitted to the city through the business licensing service (BLS). The application is subject to the respective application requirements found in BMC 5.16.090. The applicant must also provide supplemental information directly to the city in addition to the application submitted to BLS containing the following information:
1. Licensee Information. Owner's name, permanent residence address, telephone number, owner's mailing address, and the vacation rental home address and telephone number, if the home has a landline.
  2. Contact Person Information. If the owner 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 (able to respond within 60 minutes) to represent the owner regarding the use of the property and/or complaints related to the vacation rental as set forth in BMC 5.16.090(C).
  3. Tax Information. A statement of intent to collect and remit all lodging taxes associated with the vacation rental home.
  4. Right to Publish Contact Information. A statement allowing the city to make contact person phone numbers publicly available at City Hall.
  5. Neighborhood Notice. A statement of intent to notify neighbors as required by BMC 5.16.090(A).
  6. Good Neighbor Guidelines. A statement of intent to provide the city-provided Good Neighbor Guidelines to guests of the vacation rental home.
  7. Parking Diagram. A statement of intent to provide guests of the vacation rental home with a diagram of off-street parking spaces that are available to or intended for use by the vacation rental home.
  8. Liability Insurance. A statement of intent to provide liability insurance coverage as required by BMC 5.16.090(G).
  9. The supplemental application information must be confirmed by signature of the owner or contact person.

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- B. Application Fee. Applications under this section, submitted to BLS, shall be accompanied by a nonrefundable city fee in an amount established and periodically adjusted by the city council.
- C. Permit Application Window. Beginning in 2025, applications for the next year will be available in January of the current year and will be due no later than March 1 of the current year. Owners will be notified of the status of their license no later than March 31.
- D. Discretionary Fees. If outside consultant review and/or special inspections are required, the application fee may include the actual costs for labor, overhead, and expenses.

**5.16.060 Term of annual license.**

A vacation rental license is valid for a period of ten years from issuance. The vacation rental license fee is due annually by July 31 regardless of when the Vacation Home Rental permit was issued. Vacation rental license fees are nonrefundable and will not be prorated at any time for any purpose, including but not limited to revocation. The vacation rental license will not be renewed past the expiration date.

A vacation rental license permit will be required to continue operations into a eleventh year and beyond. Should the number of applications for a vacation rental exceed the available number of licenses, the city will hold a lottery to decide which applications are approved.

**5.16.070 Licensing and renewal procedures.**

A vacation rental license shall be obtained and/or renewed as required in this section. The ability to operate a vacation rental in the city of Bingen shall be discontinued for failure to obtain or renew a license to operate as provided in this chapter.

- A. Application and Renewal Process. A person engaging in operation of a vacation rental who has not yet obtained a license, or who is required to renew an existing operating license, shall do so as follows:
  - 1. Time for Application.
    - a. New Licenses. For new vacation rental licenses, it is the responsibility of the owner or contact person to apply for and receive a license prior to operation of a vacation rental.
    - b. Existing Vacation Rentals. A completed license renewal application and renewal fee is due for all existing short-term rentals by the current license expiration date, according to BMC 5.04.030.
  - 2. Notice. Approximately six weeks prior to the license expiration, BLS will send notice of the need to renew the license to the person and at the mailing address provided in the application submitted to BLS.
- B. License Expiration. Upon expiration of the 30-day late renewal period, the ability to operate shall be conclusively presumed to be discontinued and the city will commence revocation of the license pursuant to the procedures in BMC 5.16.100.

**5.16.080 Criteria for approval and renewal of a license.**

- A. New License. Upon receipt of a complete application via the business licensing service (BLS), and the supplemental information required for submission to the city under BMC 5.16.050 for a new vacation rental license and payment of all required fees, the city administrator or designee will authorize issuance of a vacation rental license through BLS.
- B. License Renewal. Upon receipt of a complete application for renewal of a vacation rental license and payment of all required fees through the business licensing service, the city will

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review the application and available information to determine compliance with the operational requirements of BMC 5.16.090. The city administrator may authorize issuance of the license subject to reasonable special operational standards or conditions. If not met, the city administrator or designee will not renew the license and the property shall not be used as a vacation rental.

- C. Owner's Role. The owner has the burden of proof to demonstrate compliance with each operational requirement and special standard placed on the vacation rental license.
- D. Appeals. A decision on a license application or renewal may be appealed as provided in BMC 5.16.120.

#### **5.16.090 Operational requirements.**

- A. Notice to Neighbors. The owner or contact person shall provide an annual mailing or otherwise distribute by hand, a flier to all property owners of record and/or occupants of properties adjacent to and abutting the property licensed as a vacation rental. The notice shall include the license number and the telephone number of the owner or 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 vacation rental. If the permanent contact information changes during the license 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 or contact person's name and telephone number. If the permanent contact information changes during the license period, the new information must be provided to the business licensing service and 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. Emergent complaints should be handled within 60 minutes of notification.
  - 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 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. City Authority. If there is a failure to respond or a clearly inadequate response by the owner or contact person, the city will 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 BMC 5.16.100.
  - 3. 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.
  - 4. Grounds for Warning. Repeated failure of the owner or representative to timely and reasonably respond to a complaint(s) relayed by city staff is considered grounds for a warning and potential revocation under BMC 5.16.100. 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 BMC 8.20.020 or BMC 8.20.040 may be grounds for a warning in the appropriate circumstances.

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5. 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 vacation rental license shall be subject to a self-inspection to determine conformance with the Vacation 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 vacation rental home is and remains in compliance with all applicable fire, building, and safety codes and other relevant laws, whether identified on the vacation 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 Chapter 3.07 BMC and retail sales and use taxes due under Chapter 3.08 BMC.
- F. Mandatory Postings. Important information related to the licensing and use of the vacation 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 vacation rental license;
  2. Any special standards placed on the vacation rental license;
  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 vacation rental. The parking diagram may include on-street parking areas, but on-street parking is public right of way and not for the exclusive use of any home or vacation rental;
  6. The city-provided Good Neighbor Guidelines. Additionally, the city encourages all owners to incorporate the Good Neighbor Guidelines into the rental contract.
  7. Bingen Municipal Code 8.16.020 Fireworks Prohibited.
  8. Bingen Municipal Code 6.04.090 Running at Large/Leash Law
- G. Liability Insurance. The owner shall maintain liability insurance which expressly covers the dwelling unit's use as a vacation rental.

#### **5.16.100 Revocation procedure.**

- A. In addition to the penalties described in BMC 5.16110, the following provisions apply to violations of this chapter:
  1. Failure to renew a license as set forth in BMC 5.16.070 is grounds for immediate revocation of the vacation rental license.
  2. Failure to meet the operational requirements of BMC 5.16.090(E) is grounds for immediate revocation of the license.
  3. The discovery of material misstatements or providing of false information in the application or renewal process is grounds for immediate revocation of the license.
  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 license.
  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 12-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,

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update the license to include reasonable special operational standards, or revoke the license.

- B. Notice of Decision/Appeal/Stay. If the vacation rental license is updated or revoked as provided in this section, the city administrator 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 BMC 5.16.120. Upon receipt of an appeal, the city administrator shall stay the update or revocation decision until the appeal has been finally determined by the city council.

#### **5.16.110 Violations—Penalties.**

- A. In addition to the revocation procedures of BMC 5.16.100, any person or owner who uses, or allows the use of, property in violation of this chapter is subject to the enforcement authority of BMC 8.20.020 - Nuisances, and/or BMC 13.24.140 - Public Nuisances. Each day a dwelling is used in violation of this chapter shall be considered a separate violation with a fine of up to \$250 per violation.
- B. The following conduct also constitutes a violation of this chapter and is a Class I Civil Infraction:
- Representing a dwelling as available for occupancy or rent as a vacation rental where the owner does not hold a valid license issued under this chapter, or making a vacation rental available for use, occupancy or rent without first obtaining a valid operating license;
  - Advertising or renting a short-term rental in a manner that does not comply with the standards of this chapter; and
  - Failure to comply with the operational requirements of BMC 5.16.090.

#### **5.16.120 Violations—Appeals.**

- A. Appellant—Standing. The owner or contact person may appeal a decision by the city to deny, revoke or amend special operational standards to a vacation rental license.
- B. Authority to Decide Appeal. The city council shall be responsible for determining an appeal of a decision brought under BMC 5.16.120(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 license 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.
- E. Hearing. After receiving written notice of appeal, the city administrator 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 the city attorney 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 by writ of review to Superior Court.

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**5.16.130 Discontinuance of vacation rental occupancy.**

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

**5.16.140 Remedies not exclusive.**

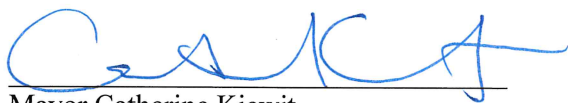
The remedies provided in this chapter are in addition to, and not in lieu of, all other legal remedies, criminal and civil, which may be pursued by the city to address any violation of this code.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BINGEN**, and effective five

(5) days after the first date of posting or publication.

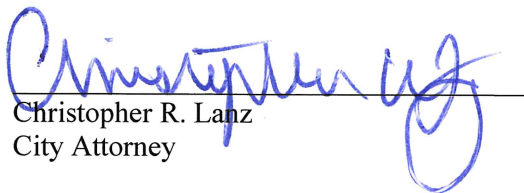
**DATED** this 7<sup>th</sup> day of November, 2023.

ATTEST:

  
\_\_\_\_\_  
Mayor Catherine Kiewit

  
\_\_\_\_\_  
Krista Loney, City Administrator

Approved as to form only:

  
\_\_\_\_\_  
Christopher R. Lanz  
City Attorney