

ORDINANCE NO. 18-10

AN ORDINANCE AMENDING THE ASTORIA CITY CODE BY THE ADDITION OF SECTIONS 8.750 THROUGH 8.800 CONCERNING HOME STAY LODGING LICENSE AND ENFORCEMENT.

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria City Code Sections 8.750 through 8.800 pertaining to Home Stay Lodging Licenses is added to read as follows:

**“HOME STAY LODGING LICENSE**

8.750. Purpose.

The City’s purpose in regulating home stay lodgings is to allow for economic use of underutilized bedrooms in dwellings, and provide financial assistance to preserve both the housing stock and historic properties within the City and to ensure that Home Stay Lodging facilities are appropriately located; are compatible with surrounding allowed uses; are conducive to the public peace, health, safety, and welfare of the City; and do not reduce the number of potential long-term housing units; and support tourism.

8.755. Definitions.

Unless otherwise defined below, definitions in Section 1.400 of the Astoria Development Code apply. For the purposes of Section 8.750 to 8.800, the following definitions also apply:

HOME STAY LODGING: A transient lodging facility with no more than two (2) bedrooms available for transient rental, and which is owner occupied. This includes any accommodation meeting these requirements including facilities known as Airbnb, VRBO, or other such transient lodging identification. Such facilities may or may not provide a morning meal. Rooms used by transient guests shall not include a kitchen.

KITCHEN: Room for preparation of food and includes a cooking stove or ability to heat food other than with a microwave oven.

OWNER: For purposes of this chapter the term owner only includes individuals, holding fee simple title to property, the beneficiaries of a revocable living trust, or a purchaser under a recorded instrument of sale. This does not include corporations, limited liability companies or similar organizations, an authorized agent of the owner, or those holding easements, leaseholds, or purchasers of less than fee interest

OWNER OCCUPIED: Occupancy of a residence by an individual owner.

PRIMARY RESIDENCE: Dwelling maintained as the permanent residence of the owner for not less than six months of the year.

TRANSIENT: For purposes of regulating Home Stay Lodgings a transient includes any person entitled to occupy a residence for less than 30 consecutive calendar days. The day a transient guest checks out shall not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

#### 8.760. License Required.

- (1) It is unlawful for any person to operate a Home Stay Lodging except as provided in and authorized by this chapter and without having first obtained a license from the City. Licenses required by this chapter shall be in addition to all other licenses and permits required by City ordinance, or State law.
- (2) Licenses are valid for a period not to exceed two years, from the date the license is issued or renewed to December 31 of the second calendar year of the license.
- (3) Licenses granted by this chapter are non-transferable.
- (4) A License shall in no way be a substitute nor eliminate the need to conform with all other Federal, State, and municipal laws, rules, and regulations.
- (5) A person may reapply for a Home Stay Lodging License which has been denied after a period of six (6) months from effective date of the denial.
- (6) A person may apply for a Home Stay Lodging License after a license or the right to apply for a license has been revoked after a period of one (1) year from effective date of the revocation.

#### 8.765. License Requirements.

- (1) Application.

An owner shall apply for a Home Stay Lodging License on the form provided by the City, along with the appropriate filing fee, and shall provide the following information:

- (a) The names, addresses, and telephone numbers for all owners.
- (b) At least two documents to show proof of owner occupancy such as voter registration, Clatsop County Tax Assessor records, ID/driver's license, and income tax information.
- (c) Proof of registration with the City Transient Room Tax Administrator pursuant to Code Section 8.045.6 along with proof that all applicable Transient Room Taxes have been paid.

- (d) Acknowledgement from the Community Development Department that use of the property as a Home Stay Lodging is allowed by the Astoria Development Code.
- (e) Proof of an Occupational Tax (business license) application with the City of Astoria.
- (f) The applicant shall provide listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
- (g) A scaled site plan drawing including dimensions & location of the dwelling and on-site parking.
- (h) A scaled floor plan showing the location of the rooms to be used including location and size of egress windows in the transient lodging rooms.
- (i) An inspection report prepared within the last 30 days by the City Building Official or an Oregon Certified Home Inspector as defined by ORS 701.005(4) certifying compliance with the following standards:
  - (i) One functioning smoke detector in each sleeping room, with a minimum of two functioning smoke detectors in the dwelling and one functioning fire extinguisher at each exit.
  - (ii) Working carbon monoxide detector present on each floor with CO producing device or in garage.
  - (iii) Exterior doors shall be operations. All passageways to exterior doors shall be clear and unobstructed.
  - (iv) Electrical systems shall be serviceable with no visible defects or unsafe conditions.
  - (v) All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and properly installed.
  - (vi) Each sleeping room shall have an exterior exit that opens directly to the outside, or an emergency escape or rescue window.
  - (vii) The number of sleeping rooms with the residence.
  - (viii) The number of parking spaces on the property that meet the standards of Article 7 of the Astoria Development Code.

(2) Public Notice.

Prior to the issuance of a new Home Stay Lodging License, the City shall provide mailed notice as follows:

- (a) Not less than 15 days prior to the issuance of a license, notice shall be sent to all property owners within 100 feet, excluding rights-of-way, of the outside boundary of the Home Stay Lodging facility. Addresses for a mailed notice required by this Code shall be obtained from the County Assessor's real property tax records. Failure of a property owner to receive notice shall not invalidate a license.
- (b) Notice may also be provided to others who may be affected or otherwise interested in the license application.
- (c) Notice is not required for license renewals.

(3) License Renewal Procedures.

- (a) Except as provided below the holder of a Home Stay Lodging license is entitled to renewal upon submission of a proper renewal application and fee. The City shall review every request to renew a Home Stay Lodging License in accordance with the following:
  - (i) Applications for license renewal shall be submitted on a form provided by the City with the appropriate filing fee.
  - (ii) License renewal requests may be submitted up to sixty (60) days prior to expiration of the previous license. A renewal may be approved prior to expiration of the previous license.
  - (iii) The applicant shall provide an inspection report described in Section 8.765(1)(i) prepared within 30 days of the renewal application.
  - (iv) The City shall make an appropriate investigation of the applicant's compliance with the requirements of this chapter prior to approving a renewal application.
- (b) The City may deny a request for renewal upon finding one or more of the following:
  - (i) An owner's failure to comply with any of the requirements of Section 8.775 or the Astoria Development Code.
  - (ii) Providing false information to the City in the original license application or in the application for license renewal.
  - (iii) Violation of any State law or City ordinance by the applicant or violation of any State law or City ordinance by a transient guest at the Home Stay Lodging facility.

- (iv) Failure to provide a report certifying compliance with the standards described in Section 8.765(1)(i).

(4) Notice of Decision.

Notice of the City's decision to issue or deny a license or a license renewal shall be provided to the applicant and all parties who provided written comments on the request. The notice of the decision shall include:

- (a) A brief description of the decision reached and, if the request is denied, the reasons justifying denial of the license application.
- (b) A statement that the decision may be appealed to the City Council by filing an appeal within 10 calendar days of the date that the final decision was mailed; and a description of the requirements for an appeal.
- (c) Appeal of a City's decision to issue or deny a license shall be to the Astoria City Council pursuant to Section 1.070.

8.770. Applicability.

- (1) The provisions of this ordinance shall apply to existing and new facilities within the City of Astoria. An existing facility that obtained City approval prior to January 1, 2019 but is not in compliance with the standards of this ordinance may remain operational as an approved, non-conforming Home Stay Lodging facility if compliance with the following standards is met:
  - (a) The facility shall comply with the fire/life/safety requirements described in Section 8.765(1)(i).
  - (b) The facility shall remain owner-occupied.
  - (c) The facility shall maintain the required approved off-street parking spaces.
  - (d) The owner shall obtain an Occupational Tax (business license) from the City of Astoria and shall pay the Transient Room Tax.
  - (e) The owner shall obtain a Home Stay Lodging license within six months of adoption of this ordinance.
- (2) The right to operate an approved non-conforming Home Stay Lodging facility is subject to revocation and the owner subject to civil fines pursuant to Section 8.800 upon a failure to comply with the provisions of this Section.

8.775. Standards.

- (1) The facility shall be the owner's primary residence and occupied by the owner at the same time as the guest occupancy. In the case of multiple dwelling units in one building such as a duplex or triplex, etc., the owner shall live in the same unit as the guests.
- (2) The owner shall provide accurate listing details for any proposed Transient Lodging Facility Intermediary such as Airbnb, VRBO, realtor, etc. The ID number of the Home Stay Lodging used by the Transient Lodging Facility Intermediary shall be included.
- (3) Rooms used by transient guests may not include a kitchen.
- (4) The Home Stay Lodging facility and all sleeping rooms shall remain in substantial compliance with Oregon State requirements for the following: Health, Safety, Building, and Fire Codes, Traveler's Accommodation Statutes, and with the Uniform Housing Code.
- (5) The owner shall maintain compliance with the fire/life/safety requirements of Section 8.765(1)(i).
- (6) The owner shall comply with all City regulations affecting the operation of the facility including but not limited to the following:
  - (a) All signs shall conform to the sign requirements for the zone as specified in the Astoria Development Code Article 8.
  - (b) The owner of a Home Stay Lodging facility shall maintain an Occupational Tax (business license) from the City of Astoria, and all other City or State licenses or permits related to the operation of the facility.
  - (c) The owner shall maintain registration with the Finance Department and pay the Transient Room Tax as required in City Code Section 8.045.
- (7) Unless a Variance is obtained, parking shall be provided in accordance with Development Code Article 7. In addition to the requirements of Article 7, the following shall apply:
  - (a) The owner shall notify every guest / renter in writing of the required off-street parking and other parking spaces available to serve the transient rental guest.
  - (b) Parking shall not, under any circumstances, hinder the path of any emergency vehicle.
  - (c) Renters may be cited and fined under existing State and/or City law in the event they park illegally.

- (8) The owner shall include the City Home Stay Lodging license number on all advertising and with all Transient Lodging Facility Intermediaries.
- (9) The owner shall post a notice within the guest entry of the Home Stay Lodging facility or within each guest bedroom advising guests of the location of guest parking spaces, and Astoria City Municipal Code Section 5.025 that prohibits unnecessary noise. Content of the notice shall be reviewed and approved by the City.
- (10) The owner may not, or allow anyone else to, advertise, offer or represent for use, occupancy or rent, a Home Stay Lodging facility without a valid Home Stay Lodging License, advertise for full house rental, or advertise for inclusion of kitchen facilities.

8.800. Enforcement.

- (1) In addition to the penalties provided below, the City may sue in any court of competent jurisdiction and obtain any other relief provided by law.
- (2) Each of the following activities are declared as public nuisances and punishable by a fine of \$1,000.00, each violation constitutes a separate offense and each day that the violation is committed or permitted to continue constitutes a separate offense:
  - (i) Operating a Home Stay Lodging facility without having first obtained a license from the City.
  - (ii) Providing false information in the application for license or license renewal.
  - (iii) Violation of any provision of Section 8.775.
- (3) In addition to the fine specified above, the court hearing this matter shall revoke the license, right to apply for a license, or right to operate a non-conforming Home Stay Lodging of any person found to have violated any provision of Section 8.800(2) above.
- (4) If it prevails in any action to enforce the provisions of this Section the City shall be entitled to an award of reasonable attorney fees at trial and upon appeal.
- (5) Appeal of an enforcement action filed by the City in municipal court shall be to the Astoria City Council pursuant to Section 1.070.”

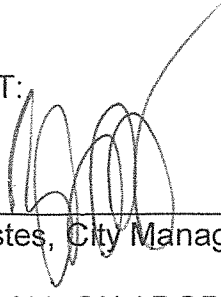
Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS 3 DAY OF December, 2018.

APPROVED BY THE MAYOR THIS 3 DAY OF December, 2018.

Arlene Lammear  
Mayor

ATTEST:



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Brett Estes, City Manager

ROLL CALL ON ADOPTION:

YEA

NAY

ABSENT

Commissioner

Nemlowill

Brownson

Price

Jones

Mayor LaMear

X  
X  
X  
X  
X  
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