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STAFF REPORT

DATE: March 13, 2018
TO: Mayor and City Councilors
FROM: Chuck Darnell, Associate Planner
SUBJECT: **Ordinance No. 5047 - G 1-18:** Zoning Text Amendment to amend multiple chapters of the McMinnville City Code related to Vacation Home Rentals/Short Term Rentals

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This action is the consideration of Ordinance No. 5047, an ordinance amending Chapter 17.06 (Definitions), Chapter 17.12 (R-1 Single-Family Residential Zone), Chapter 17.15 (R-2 Single-Family Residential Zone), Chapter 17.18 (R-3 Two-Family Residential Zone), Chapter 17.21 (R-4 Multiple-Family Residential Zone), Chapter 17.24 (O-R Office/Residential Zone), Chapter 17.30 (C-2 Travel Commercial Zone), Chapter 17.60 (Off-Street Parking and Loading), and Chapter 17.72 (Applications and Review Process) of the McMinnville City Code.

The proposed zoning text amendments are related to the reclassification of vacation home rentals (VHRs) as short term rentals. The amendments will introduce spacing standards for short term rentals located in residential zones and will update the standards that apply to short term rentals in residential zones for better clarification on the required design and operation of these types of uses. The amendments will also address the classification of short term rentals in the commercial zones to better define these types of uses as short term rentals instead of the current classification as boarding houses or lodging houses.

Background:

The American with Disabilities Act (ADA) is a comprehensive civil rights law for persons with disabilities in both employment and the provision of goods and services. The ADA states that its purpose is to provide a "clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." Congress emphasized that the ADA seeks to dispel stereotypes and assumptions about disabilities and to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for people with disabilities.

The development of a Transition Plan is a requirement of the federal regulations implementing the Rehabilitation Act of 1973, which requires that all organizations receiving federal funds make their programs available without discrimination toward people with disabilities. The Act, which has become known as the "civil rights act" of persons with disabilities, states that:

Attachments:

Ordinance No. 5048 including

Exhibit A: Notice of Non Discrimination Under the Americans with Disabilities Act

Exhibit B: Grievance Procedure Under the Americans with Disabilities Act

No otherwise qualified handicapped individual in the United States shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (Section 504)

Subsequent to the enactment of the Rehabilitation Act, Congress passed the Americans with Disabilities Act on July 26, 1990. Title II of the ADA covers programs, activities, and services of public entities. The Department of Justice's Title II regulation adopts the general prohibitions of discrimination established under Section 504 and incorporates specific prohibitions of discrimination for the ADA. Specifically, the City may not, either directly or through contractual arrangements, do any of the following¹:

- Deny persons with disabilities the opportunity to participate as members of advisory boards and commissions.
- Deny persons with disabilities the opportunity to participate in services, programs, or activities that are not separate or different from those offered others, even if the City offers permissibly separate or different activities.
- In determining the location of facilities, make selections that have the effect of excluding or discriminating against persons with disabilities.

Provide public notice about ADA requirements. A public agency must provide notice to the public about its ADA obligations and about accessible facilities and services in the town. The notice must inform the public about the ADA's nondiscrimination requirements. It may also describe

Provide public notice about ADA requirements

A small town must provide notice to the public about its ADA obligations and about accessible facilities and services in the town. The notice must inform the public about the ADA's nondiscrimination requirements. It may also describe how the public or employees may contact specific town officials about problems with accessibility and the need for effective communication. The information must be accessible to the public, including people who have disabilities that affect communication, such as blindness, low vision, deafness, and hearing loss. Although no specific method is required to reach the public, notice can be provided in more than one format and by using more than one type of media, such as the town's website, print, radio, or television.

Other obligations for larger towns with 50 or more employees

Although the ADA only requires State and local governments with 50 or more employees to take the following measures, towns with less than fifty employees may want to consider following the same or similar steps because the process may make it easier to comply with the ADA.

a. Designate an individual to coordinate ADA compliance

Responsibilities for the ADA coordinator may include conducting the self-evaluation and developing the transition plan (see below), handling requests for auxiliary aids and services, providing information about accessible programs and services, and serving as a local resource to the town or township. The ADA coordinator may also have responsibility for working with the mayor or town council to ensure that new facilities or alterations to town facilities meet ADA requirements. In some communities, this individual also receives complaints from the public and works to resolve them.

b. Develop a transition plan

If a town with 50 or more employees decides to make physical changes to achieve program access it

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must develop a written plan that identifies the modifications that will be made. The plan should include timelines for completing these modifications. Interested parties, including people with disabilities and organizations representing people with disabilities, must at a minimum have an opportunity to participate in the development of the plan by submitting comments. A copy of the plan and a copy of the self-evaluation must be available for public inspection for three years after completion.

Develop a grievance procedure
Towns with fifty or more employees must have an ADA grievance procedure. A grievance procedure provides people who feel they have been discriminated against because of their disability, or others who feel they have been discriminated against because they have a friend or family member with a disability, with a formal process to make their complaint known to the town. This procedure encourages prompt and equitable resolution of the problem at the local level without having to force individuals to file a Federal complaint or a lawsuit.

ADA COORDINATOR

If a public entity has 50 or more employees, it is required to designate at least one responsible employee to coordinate ADA compliance. Although the law does not refer to this person as an “ADA Coordinator,” this term is commonly used. A public entity may have more than one ADA Coordinator. Most states and many counties and municipalities have an overall ADA Coordinator and also have ADA Coordinators at the agency and department level. Some public entities have an employee who oversees employment issues and another to coordinate the non-employment obligations.

The ADA Coordinator is the key player in ensuring ADA compliance. The coordinator must have the authority, knowledge, and motivation to implement the regulations effectively.

One of the greatest benefits of having an ADA Coordinator is that the public can identify an employee to contact with their ADA questions or complaints. Having an ADA Coordinator benefits other employees by providing a specific person with knowledge and information about the ADA. And, of course, the person coordinates compliance efforts and is instrumental in ensuring that compliance plans move forward.

Coordinator's Role

- Plan and coordinate compliance efforts.
- Develop and distribute notice about ADA compliance.
- Respond to general inquiries from the public.
- Coordinate requests for auxiliary aids and services and reasonable modifications of policies, practices and procedures.
- Train staff, boards and commissions on ADA requirements.
- Interact and consult with staff, boards and commission on the ADA.
- Develop a grievance procedure.

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- Investigate complaints.
- Conduct a self-evaluation.
- Develop a transition plan.

PUBLIC NOTICE

All public entities must provide information to the public, program participants, program beneficiaries, applicants and employees about the ADA and how it applies to the public entity. Here are some methods that public entities have used over the last 20 plus years.

GRIEVANCE PROCEDURE

Public entities with 50 or more employees must have a grievance procedure.

A grievance procedure provides people who believe they have been discriminated against because of their disability, or others who believe they have been discriminated against because they have a friend or family member with a disability, with a formal process to make their complaint known. This procedure encourages prompt and equitable resolution of the problem at the local or state level without forcing people to file a federal complaint or a lawsuit.

The Title II regulations do not specify the procedures for the grievance procedure. The public entity may use a grievance procedure that is already in place; there is no need to reinvent the wheel or duplicate existing procedures. If the organization does not already have a grievance procedure, one must be established.

Grievance procedures should include the following:

- A description of the procedures for submitting a grievance.
- The steps that will be taken by the public entity.
- Reasonable, specific time frames for review and resolution of the grievance.
- A two-step review process that allows for appeal.
- Record-keeping for complaints submitted.
- Documentation of steps taken towards resolution.

Discussion:

Fiscal Impact:

None.

Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5048.
2. **REQUEST MORE INFORMATION.**

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3. **DO NOT ADOPT** Ordinance No. 5048.

Recommendation/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5048.

“I MOVE TO ADOPT ORDINANCE NO. 5048”

CD:sjs

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