

**ORDINANCE NO. 2018-11-024**

**AN ORDINANCE OF THE CITY OF BELLINGHAM ESTABLISHING REGULATIONS FOR SHORT-TERM RENTALS BY CREATING A NEW BELLINGHAM MUNICIPAL CODE SECTION 20.10.037 AND AMENDING VARIOUS OTHER SECTIONS OF THE BELLINGHAM MUNICIPAL CODE.**

**WHEREAS**, for many years short-term rentals (a lodging use, other than a hotel or motel, in which a dwelling unit or portion thereof is provided to guests by a short-term rental operator for a fee for fewer than 30 consecutive nights) have been a popular lodging choice for travelers; and

**WHEREAS**, with the advent of websites that facilitate the marketing and booking for short-term rentals, this market has rapidly expanded across the globe; and

**WHEREAS**, the proposed amendments seek to balance the economic opportunity created by short-term rentals with the need to maintain the City's housing supply by including short-term rental permit caps in Residential General Use Type areas; and

**WHEREAS**, the proposed amendments seek to protect the rights and safety of owners, guests and neighbors by including requirements related to issues such as parking, noise and safety; and

**WHEREAS**, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act, and a non-project Determination of Non-Significance was issued on February 15, 2018; and

**WHEREAS**, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed amendments was sent to the Department of Commerce on February 15, 2018; and

**WHEREAS**, the Planning Commission held work sessions on August 17, 2017; September 21, 2017; January 4, 2018; and January 18, 2018, all of which included opportunities for public testimony; and

**WHEREAS**, after mailed and published notice as required by BMC 21.10.150, the Planning Commission held a public hearing on the proposed amendments on March 1, 2018; and

**WHEREAS**, the Planning Commission held a follow-up work session on March 22, 2018; and

**WHEREAS**, the Planning Commission determined that the proposed amendments comply with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan; and

**WHEREAS**, the Planning Commission considered the staff report and public comments received and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments by a 5-2 vote; and

**WHEREAS**, after mailed and published notice as required by BMC 21.10.150, the City Council held a public hearing on the proposed amendments on June 18, 2018; and

**WHEREAS**, the Bellingham City Council held follow-up work sessions on July 9, August 20, September 10, and October 8, 2018; and

**WHEREAS**, the City Council has considered the recommendation of the Planning Commission, the staff report, other meeting materials, and all public comments and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

**WHEREAS**, the City Council finds that the proposed amendments are consistent with the Growth Management Act, the Bellingham Municipal Code, and the 2016 Bellingham Comprehensive Plan.

**NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1.** BMC 20.00.045, Cordata Neighborhood Table of Zoning Regulations, Appendix A is amended as follows:

Uses in Cordata must be consistent with the uses specified and allowed in the planned unit development approval. Additionally, in no case may the uses exceed those listed below, except that certain areas as identified in the PUD conditions may be developed with industrial uses as provided by the Cordata master plan approved under PUD 1-84.

1. through 33. [NO CHANGE]

34. ~~Bed and breakfast business in a residence.~~ Short-term rentals, per BMC 20.10.037.

[NO CHANGES BEYOND THIS POINT]

**Section 2.** BMC 20.00.110, Meridian Neighborhood Table of Zoning Regulations, Attachment 5 to Meridian Zoning Code – Areas 3 and 5, is amended as follows:

**PLANNED COMMERCIAL.**

(1) For all land designated commercial, the following standards shall apply:

(2) Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within a commercial general use type designation; provided that any of such uses shall not be permitted where prohibited within the applicable neighborhood plans. Certain uses may also be excluded from a particular planned area by the commission if such use(s) are found to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.

**Range of Uses**

(1) through (19) [NO CHANGE]

(20) ~~Bed and breakfast facilities (subject to the standards found in BMC 20.34.040(F)).~~ Short-term rentals, per BMC 20.10.037.



[NO CHANGES BEYOND THIS POINT]

**Section 3.** BMC 20.00.210, York Neighborhood Table of Zoning Regulations, Attachment A: Area 9 Special Regulations, is amended as follows:

\*1. Allowed mixed uses are limited to the following:

a. through e. [NO CHANGE]

f. ~~Bed and breakfast.~~ Short-term rentals, per BMC 20.10.037.

[NO CHANGES BEYOND THIS POINT]

**Section 4.** The following definitions in BMC 20.08.020, Specific definitions, are repealed, added, or amended as follows:

~~"Bed and breakfast facilities" means a single family residence with not more than two rooms let as transient housing. For the purpose of this section, a transient shall be defined as a person who stays for a period not to exceed two weeks. Accommodations may include limited food service for guests.~~

"Boarding and rooming house" means a structure used for the purpose of providing lodging or lodging and meals, for persons other than those under the "family" definition. This term includes dormitories, cooperative housing and similar establishments but does not include hotels, motels, medical care facilities or ~~bed and breakfast facilities~~ short-term rentals.

"Hotel" means a building, ~~other than a motel,~~ or group of buildings containing rooms and where providing transient lodging, with or without meals for the public and especially for temporary guests, but which does not have cooking facilities in individual rooms is provided. Hotel rooms may include individual cooking facilities. This term includes motel, hostel, inn, motor inn, resort and similar names, but does not include short-term rental.

"Motel" means a building or group of buildings containing rooms where transient lodging, with or without meals for the public and especially for temporary guests, is provided ~~for compensation.~~ Motel rooms may include individual cooking facilities. This term includes hotel, hostel, inn, motor inn, resort and similar names, but does not include short-term rentals. ~~Cooking facilities may be installed, provided no more than 10 percent of the motel units contain complete cooking facilities, and cooking facilities in the remaining units are limited to a "countertop range" with no oven. Motels shall be designed to accommodate the automobile tourist or transient; daily maid service shall be provided, and parking facilities must be provided convenient to each guest room.~~

"Primary residence" means a person's usual place of return for housing as documented by motor vehicle registration, driver's license, voter registration, or other such evidence as determined by the director. A person may have only one primary residence.

"Principal" means a principal or governing member of any business entity, including but not limited to: LLC member/manager, president, vice president, secretary, treasurer, CEO, director, stockholder, partner, general partner, or limited partner.



"Resident" means the individual(s) who resides in the dwelling unit. The resident can be the property owner or a tenant.

"Short-term rental" means a lodging use, other than a hotel or motel, in which a dwelling unit or portion thereof is provided to guests by a short-term rental operator for a fee for fewer than 30 consecutive nights. A dwelling unit or portion thereof that is used by the same individual or individuals for 30 or more consecutive nights is not a short-term rental.

"Short-term rental operator" or "operator" means any person who is the owner of a dwelling unit established under BMC Title 20, or portion thereof, who offers or provides that dwelling unit, or portion thereof, for short-term rental use or a person who is the tenant of a dwelling unit, or portion thereof, who offered or provided a short-term rental as set forth in BMC 20.10.037.

"Short-term rental platform" or "platform" means an entity that provides a means through which an operator may offer a dwelling unit, or portion thereof, for short-term rental use, and from which the entity financially benefits. Merely publishing a short-term rental advertisement for accommodations does not make the publisher a short-term rental platform.

[ALL OTHER DEFINITIONS IN THIS SECTION REMAIN UNCHANGED]

**Section 5.** BMC Chapter 20.10, Land Development, is amended to create BMC 20.10.037, Short-term rentals, as shown in **Exhibit A**.

**Section 6.** BMC 20.16.020, Conditional uses, is amended as follows:

**B.1. ~~Bed and Breakfast Facilities.~~ Short-term Rentals.**

- a. ~~Definition. A single-family residence with not more than two rooms let as transient housing. For the purpose of this section, a transient shall be defined as a person who stays for a period not to exceed two weeks. A lodging use, other than a hotel or motel, in which a dwelling unit or portion thereof is provided to guests by a short-term rental operator for a fee for fewer than 30 consecutive nights. A dwelling unit or portion thereof that is used by the same individual or individuals for 30 or more consecutive nights is not a short-term rental.~~
- b. ~~Conditional in residential single and residential multi (duplex and multi) designations, per the requirements outlined in 20.10.037, Short-term Rentals.~~
- c. **Special Requirements.**
  - i. ~~The proposed use must be serviced by adequate essential public facilities, such as streets, police and fire protection, refuse disposal, water and sewer. Septic systems and private water systems may be authorized if approved by Whatcom County health department. However, septic systems shall not be permitted in the Lake Whatcom watershed.~~
  - ii. ~~There shall be no change in the outside appearance of the building or premises, or visible evidence of the conduct of the bed and breakfast~~

~~establishment, other than one flat, unlighted sign, not exceeding two square feet in area, mounted flush against the building.~~

~~iii. The applicant shall comply with local fire codes and guidelines promulgated by the Bellingham fire marshal and is encouraged to follow health guidelines developed by the Bellingham/Whatcom County district department of health for bed and breakfast establishments.~~

~~iv. A telephone shall be available for occupant use, e Emergency numbers and the address shall be clearly posted.~~

~~v. The proposal shall not cause detrimental effects to the surrounding neighborhood.~~

~~vi. No additional parking needs to be provided unless specifically found to be necessary by the hearing examiner in its review process.~~

i. See BMC 20.10.037 for requirements for all short-term rentals.

## 2. Boarding and Rooming House.

a. Definition. A structure used for the purpose of providing lodging or lodging and meals, for persons other than those permitted under the "family" definition. This term includes dormitories, cooperative housing and similar establishments but does not include hotels, motels, medical care facilities, or ~~bed and breakfast facilities~~ short-term rentals.

[NO CHANGES BEYOND THIS POINT]

**Section 7.** BMC 20.30.030, permitted uses for Residential Single Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:

1. through 10. [NO CHANGE]

11. Short-term rentals, per BMC 20.10.037.

B. Conditional Uses. The following uses may be allowed if approval can be obtained based upon standards and requirements for conditional uses as specified in Chapter 20.16 BMC.

1. through 13. [NO CHANGE]

~~14. Bed and breakfast facilities (subject to the standards found in BMC 20.34.040(F)(3)).~~ Short-term rentals, per BMC 20.10.037.

15. through 18. [NO CHANGE]



**Section 8.** BMC 20.32.030, permitted uses for Residential Multi Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within areas designated RM except as enumerated below corresponding to the applicable use qualifier:

Use Qualifier	Permitted Use
Duplex	1. through 11. [NO CHANGE]  12. <u>Short-term rentals, BMC 20.10.037.</u>
Multiple	[NO CHANGE]
Planned	[NO CHANGE]

B. Conditional Uses. The following uses may be allowed if approval can be obtained, based upon standards and requirements for conditional uses as specified in Chapter 20.16 BMC:

1. through 13. [NO CHANGE]
14. ~~Bed and breakfast facilities (subject to the standards found in BMC 20.34.040(F)(3))~~  
Short-term rentals, per BMC 20.10.037.
15. through 22. [NO CHANGE]

**Section 9.** BMC 20.33, Commercial Development, is amended as follows:

Table 20.33.030

P = Permitted C = Conditional N = Not Permitted	Planned Commercial	Neighborhood Commercial	Auto	Waterfront (1)
Residential				
Commercial lodging, including hotels, motels, hostels, and <del>bed and breakfast</del> <u>short-term rentals, per BMC 20.10.37</u> (There is no express limit on the number of bedrooms let as transient housing for bed and breakfast facilities)	P	P	P	P
[NO ADDITIONAL CHANGES TO THIS TABLE]				

**Section 10.** BMC 20.35.065.A, permitted uses for Old town overlay district, is amended as follows:

A. The following uses are permitted:

1. through 23. [NO CHANGE]

24. ~~Uses similar to the above.~~ Short-term rentals, per BMC 20.10.037.

25. Uses similar to the above.

B. [NO CHANGE]

**Section 11.** BMC 20.37.120, permitted uses for Samish Way urban village, is amended as follows:

**Table 20.37.120 – Permitted Uses**

P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed					
Land Use Classification	Area				
	Commercial Core	Commercial Approach	Commercial Transition 1 and 2	Residential Transition 1	Residential Transition 2
1. through 7. [NO CHANGE]					
8. <del>Bed and breakfast</del> <u>Short-term rentals, per BMC 20.10.037</u>	P	P	P	<u>P C</u>	<u>P C</u>
[NO CHANGES TO THIS TABLE BEYOND THIS POINT]					

**Section 12.** BMC 20.37.220, permitted uses for Fountain district urban village, is amended as follows:

**Table 20.37.220 – Permitted Uses**

P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed				
Land Use Classification	Area			
	Commercial Core	Commercial Transition	Residential Transition 1	Residential Transition 2
1. through 8. [NO CHANGE]				
9. <del>Bed and breakfast</del> Short-term rentals, per BMC 20.10.037	P	P	<u>P</u> C	<u>P</u> C
[NO CHANGES TO THIS TABLE BEYOND THIS POINT]				

**Section 13.** BMC 20.37.320, permitted uses for Fairhaven urban village, is amended as follows:

Table 20.37.320 – Permitted Uses									
P = Permitted (#) = See Notes C = Conditional Use N = Not allowed									
LAND USE CLASSIFICATION	AREA								
	CC(2)	RT-1 and RT-2	RT-3	RT-4	I-1(1)	I-2(1)	I-3(1)	P-1 and P-3	P-2
A. Residential									
1. through 2. [NO CHANGE]									



**Table 20.37.320 – Permitted Uses**

P = Permitted      (#) = See Notes      C = Conditional Use      N = Not allowed

LAND USE CLASSIFICATION	AREA								
	CC(2)	RT-1	RT-3	RT-4	I-1(1)	I-2(1)	I-3(1)	P-1	P-2
		and RT-2						and P-3	
3. <del>Bed and Breakfast</del> Short-term Rentals, per BMC 20.10.037	P	P	<u>P</u> C	P	N	N	N	N	N
[NO CHANGES TO THE TABLE BEYOND THIS POINT]									

**Section 14.** BMC 20.37.420, uses in Waterfront district urban village, is amended as follows:

**Table 20.37.420-A Permitted Uses**

P = Permitted (#) = See Notes C = Conditional N = Not allowed

LAND USE CLASSIFICATION	Area		
	Industrial	Commercial	Institutional
	Mixed-Use	Mixed-Use	Mixed-Use
<b>A. RESIDENTIAL USES</b>			
1. <del>Bed and breakfast</del> Short-term rentals, per BMC 20.10.037	N	<u>N</u> P	N
[NO CHANGES TO THE TABLE BEYOND THIS POINT]			

**Section 15.** BMC 20.37.520, uses in Downtown district urban village, is amended as follows:

**Table 20.37.520 – Permitted Uses**

<p><b>P = Permitted C = Conditional Use N = Not allowed (#) = See Notes</b></p> <p><b>When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere.</b></p>				
LAND USE CLASSIFICATION	AREA			
	CC (1) CT (1)	RT-1	RT-2	IT
A. Residential				
1. through 2. [NO CHANGE]				
3. <del>Bed and Breakfast (There is no express limit on the number of bedrooms let as transient housing) Short-term rentals, per BMC 20.10.037</del>	P	P	P(2), C	N
[NO CHANGES TO THE TABLE BEYOND THIS POINT]				

**Section 16.** BMC 20.38.050, standards for Planned Development, is amended as follows:

A. [NO CHANGE]

B. Planned Residential.

1. For all land designated residential, the following standards shall apply.

2. Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within a residential general use type designation; provided, that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned residential area if such use(s) are found by the planning director to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.



a. through d. [NO CHANGE]

e. ~~Bed and breakfast facilities (subject to the standards found in BMC 20.34.040(F)(3)).~~ Short-term rentals, per BMC 20.10.037.

f. through o. [NO CHANGE]

3. through 15. [NO CHANGE]

C. - D. [NO CHANGE]

**Section 17.** BMC 21.10.040, Types of land use decisions, is amended as follows:

A. Land use decisions are classified into seven review process types based on who makes the decision, the amount of discretion exercised by the decision maker and the amount and type of public input sought.

B. Type I. A Type I review process is an administrative review and decision by the director. It is exempt from notice requirements. If a Type I decision is not categorically exempt from SEPA and the SEPA review has not been completed with a prior permit, the Type II process shall be used. Appeals of Type I decisions are decided by the hearing examiner unless the rules for a specific permit or decision specify that no administrative appeal is available. The following are Type I decisions when the application does not require a SEPA threshold decision:

1. through 20. [NO CHANGE]

21. Wireless communication facility that does not require either a planned development approval or conditional use permit; ~~and~~

22. Certificates of alteration under BMC 17.90.060(C)(2)(a);

~~23. All other decisions that specify use of the Type I process.~~ Short-term rentals, per BMC 20.10.037; and

24. All other decisions that specify use of the Type I process.

C. Type II. A Type II review process is an administrative review and decision by the director. Public notice is required. Appeals of Type II decisions are decided by the hearing examiner. The following are Type II decisions:

1. through 12. [NO CHANGE]

13. Infill housing projects under Chapter 20.28 BMC; ~~and~~

~~14. Type I decisions that require a SEPA threshold decision and all other decisions specifying a Type II process.~~ Short-term rentals, per BMC 20.10.037; and

15. Type I decisions that require a SEPA threshold decision and all other decisions specifying a Type II process.

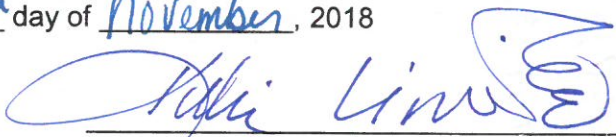
D. through J. [NO CHANGE]

**Section 18.** The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as **Exhibit B** and incorporated by reference.

**PASSED** by the Council this 5<sup>th</sup> day of November, 2018

  
Dan Hammill, Council President

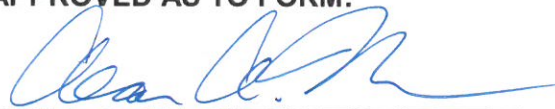
**APPROVED** by me this 14<sup>th</sup> day of November, 2018

  
Kelli Linville, Mayor

**ATTEST:**

  
Andy Asbjornsen, Interim Finance Director

**APPROVED AS TO FORM:**

  
Office of the City Attorney

**Published:** November 9, 2018



**20.10.037 Short-term rentals.**

A. Purpose. This section provides standards for the establishment of short-term rentals. The regulations are intended to balance the economic opportunity created by short-term rentals with the need to maintain the City's housing supply and protect the rights and safety of owners, guests and neighbors.

B. Applicability.

1. The regulations and standards in this section apply to short-term rentals Citywide, unless otherwise noted.
2. Subsections D.1.a – c, D.2, D.5, and D.9.a - b in this section do not apply to short-term rentals in Commercial and Urban Village General Use Type areas.
3. Short-term rentals are permitted in Residential, Commercial and Urban Village General Use Type areas per this ordinance.
4. Short-term rentals are not permitted in Industrial, Institutional or Public General Use Type areas, including these designations within Urban Village General Use Type areas.
5. Short-term rentals are permitted in legally-established accessory dwelling units in accordance with this ordinance as follows:
  - a. Short-term rentals are permitted in legally-established attached accessory dwelling units Citywide.
  - b. Short-term rentals are permitted in legally-established detached accessory dwelling units in Commercial, Residential Multi and Urban Village General Use Type areas.
  - c. Short-term rentals are not permitted in detached accessory dwelling units in Residential Single General Use Type areas. If the Citywide housing vacancy rate reaches four percent or higher, the City Council shall review whether short-term rentals should be allowed in detached accessory dwelling units in Residential Single General Use Type areas.
  - d. On sites where a short-term rental is permitted in a legally-established accessory dwelling unit, a short-term rental permit may be obtained for either the primary dwelling unit or accessory dwelling unit, but not both.
  - e. All other Bellingham Municipal Code sections related to accessory dwelling units apply to short-term rentals, including owner occupancy requirements.
6. Short-term rentals are not permitted on properties in the Lake Whatcom Watershed that drain to Basin One of Lake Whatcom as identified on BMC map 16.80.040, or shoreline areas regulated per BMC Title 22, Shoreline Master Program.
7. Short-term rentals are not permitted in any dwelling unit or building that has received approval under the City's multi-family tax exemption program (BMC 17.82). This standard does not apply after the exemption period has ended.

8. Short-term rentals are not permitted in housing units subsidized through City programs.

9. Specific terms in this section are defined in BMC Chapter 20.08, Definitions.

10. Short-term rentals do not include hotels or motels. See BMC Chapter 20.08, Definitions, for definitions of "hotel" and "motel."

C. Process. Upon the effective date of this ordinance, all short-term rental operators will be required to obtain a short-term rental permit. Short-term rental permit applications will be processed per the table below as a Type I or Type II permit in accordance with BMC 21.10, Procedures and Administration.

1. The following table applies to all dwelling units:

Short-term Rental Type:	Review Process Type for Residential General Use Types:	Review Process Type for Commercial and Urban Village General Use Types:
- <b>Primary Residence.</b> No more than 2 bedrooms in a dwelling unit, including an accessory dwelling unit (when permitted), may be rented to overnight guests. The subject dwelling unit must serve as the primary residence of the applicant (the owner or long-term tenant) for no less than 270 days per year. The whole dwelling unit may be rented for no more than 95 days per year. (1)	Type I	Type I
- <b>Primary Residence.</b> No more than 5 bedrooms in a dwelling unit, including an accessory dwelling unit (when permitted), may be rented to overnight guests. The subject dwelling unit must serve as the primary residence of the applicant (the owner or long-term tenant) for no less than 270 days per year. The whole dwelling unit may be rented for no more than 95 days per year. (1)	Type II	Type I
- <b>Non-primary Residence.</b> No more than 5 bedrooms in a dwelling unit, including an accessory dwelling unit (when permitted), may be rented to overnight guests. The subject dwelling unit is not the primary residence of the applicant. There is no limit on the number of days per year the dwelling unit may be rented.	Not allowed (2)	Type I

Notes for the process type table:

(1) In Commercial and Urban Village General Use Type areas, the requirements for the minimum number of days per year the dwelling unit must serve as the primary residence of the applicant and the maximum number of days per year the dwelling unit may be rented do not apply.



(2) If the Citywide housing vacancy reaches four percent or higher, the City Council shall review whether short-term rentals should be allowed in non-primary residences in Residential General Use Type areas.

#### D. Standards.

1. Number of Short-term Rental Permits per Operator. It is the intent of these regulations to limit the ownership and operation of short-term rentals located in Residential General Use Type areas to no more than one per individual, family living together, domestic partnership, those living as a family unit and/or acting as a principal in any business entity that has ownership of a residential unit. Assigning ownership and/or application for short-term rental use to separate individuals that are living together as a family, in a domestic partnership, or living as a family unit as a means of exceeding this limitation is not permitted.

a. An operator may be a principal, spouse or registered domestic partner of a principal in no more than one short-term rental permit issued pursuant to this section.

b. A maximum of one Type I or Type II short-term rental permit is permitted per operator.

c. A long-term tenant who has signed at least a 270-day lease may serve as a short-term rental operator. The property owner must serve as a co-applicant on the tenant's application. A tenant's short-term rental permit counts toward the permit cap of one short-term rental permit for both the tenant and property owner.

2. Number of Short-term Rentals in Condominiums. No more than 1 unit or 25 percent of the total units, whichever is greater, in a condominium building may include a short-term rental. If a condominium association approves, more than 25 percent of the dwelling units in the building may include short-term rentals if approved through a Type III-A conditional use permit process.

3. Proof of Primary Residency. An affidavit must be submitted to the Planning and Community Development Department on or before January 1 of every even-numbered year attesting to primary residency when the short-term rental is identified as such in the original application.

4. Number of Guests. No more than two guests, excluding children five years old and under, per bedroom are permitted per guest stay.

5. Parking. At least one off-street parking space must be provided for guests on site during guest stay. The Planning Director may determine, through a simple parking analysis provided by the applicant, that on-street parking or nearby parking may be substituted for off-street parking.

6. Appearance and Behavior.

a. The short-term rental must be operated in a way that will prevent unreasonable disturbances to nearby residents.

b. There must be no change in the outside appearance of the building or premises that indicates the site is hosting a commercial use, other than one flat, unlighted sign not exceeding two square feet in area and mounted flush against the building.

7. Local Contact Person.

- a. The name, address and telephone number(s) of a local contact person who is responsible for the short-term rental and lives within an hour's drive of Bellingham must be submitted with the short-term rental application. This person can be the operator or a designee of the operator.
- b. Any changes to the name, address or telephone number(s) of the local contact person must be submitted to the Planning and Community Development Department within one month of the change(s).
- c. The local contact person shall be available 24 hours a day to ensure that the short-term rental is maintained and operated per the requirements of this ordinance.

8. Notifications.

- a. For Type I short-term rental permits:
  - i. A courtesy notice with information regarding the short-term rental (e.g. description of the rental and number of bedrooms to be rented) and the local contact person's information must be mailed or delivered to residents and property owners of property abutting and across the street from the short-term rental.
  - ii. If the Type I short-term rental is located in a multi-family building, the notification letter must be mailed or delivered to all recognized organizations whose boundaries include the short-term rental, the property manager if there is one, and all residents and owners of dwelling units abutting, across the hall from, above, and below the short-term rental.
  - iii. A copy of the notification letter and a list of the names and addresses of all the residents and property owners that received the notification must be submitted with the short-term rental application.
- b. For Type II and Type III-A short-term rental permits, notice must be provided per the noticing procedures in BMC Chapter 21.10, Procedures and Administration.
- c. The Planning Director shall prepare a set of "good neighbor guidelines" that must be included in the rental agreement and posted in the short-term rental unit, which includes at least the following:
  - i. A copy of the short-term rental permit;
  - ii. Contact information for the operator or designated local contact person;
  - iii. The location of the designated parking space(s), if required;
  - iv. The location of fire extinguisher(s), fire exits and escape routes;
  - v. The location of trash, compost and recycling containers; and
  - vi. Noise considerations and other rules of conduct.

d. The City-issued short-term rental permit number must be clearly displayed on the platform(s) advertising or offering the short-term rental.

9. Events.

a. Type I or Type II short-term rentals must not include weddings, banquets, parties, charitable fund raising, or other gatherings for direct or indirect compensation. The intent of short-term rentals is to provide transient accommodations and allow for limited accessory uses. These limited accessory uses must be consistent with typical residential uses that are allowed.

b. Small, informal non-commercial gatherings of family and friends of short-term rental guests are permitted, provided the gathering is not a disturbance to the surrounding neighborhood.

10. Food. If a short-term rental operator provides breakfast, light snacks, or both to guests, the facility and operator must meet applicable health and safety regulations including, but not limited to, regulations of the Whatcom County Health Department and the Washington State Department of Health.

11. Safety. The Planning and Community Development Department must verify, through a City inspection, that each dwelling unit to be rented to overnight guests meets the following requirements:

a. Each bedroom must comply with building code requirements for a sleeping room that were in place when the bedroom was legally established;

b. Each bedroom must have a smoke alarm that is interconnected with a smoke detector in an adjacent hallway that is in the dwelling unit; and

c. Each bedroom must be located on the floor of a dwelling unit that is equipped with a functioning carbon monoxide alarm. If the dwelling unit does not have fuel burning equipment or an attached garage, a carbon monoxide alarm is not required.

12. Age Requirement. The person booking the short-term rental shall be over the age of 25 years old.

13. Licenses and Taxes.

a. Short-term rental operators shall meet all local, state and federal requirements regarding licenses and taxes.

b. Proof of a valid business license is required with the short-term rental permit application.

14. Insurance. Short-term rental operators shall maintain liability insurance appropriate to cover the short-term rental use in the aggregate of not less than \$1,000,000 or conduct each short-term rental transaction through a platform that provides equal or greater insurance coverage.



15. **Renewal.** Short-term rental permits must be renewed on or before January 1 of every even-numbered year.

16. **Non-transferability.** Short-term rental permits are not transferrable to another operator or location.

17. **Permit Revocation.**

a. If an operator fails to comply with the regulations of this section and conditions of approval, the Planning Director shall work with the applicant to achieve voluntary compliance. If voluntary compliance cannot be achieved, the Planning Director may revoke a short-term rental permit for failure to comply with the regulations of this section. Any such decision may be appealed to the Hearing Examiner in accordance with BMC 21.10.250.

b. A legally-established, previously-approved bed and breakfast use is abandoned if the use ceases for at least one year. An operator seeking to reestablish the bed and breakfast use shall obtain a short-term rental permit to operate a bed and breakfast facility.

c. A new short-term rental permit will not be issued to the operator of a revoked bed and breakfast facility or short-term rental until two years from the time of revocation have passed.

18. **Nonconforming Status.** No use that constitutes or purports to be a short-term rental, which was engaged in that activity prior to the adoption of this section, will be deemed to have been a legally-established use under the provisions of the Bellingham Municipal Code and that use will not be entitled to claim legal nonconforming status.

19. **Alterations and Expansions.** If construction, including expansion of building area or alterations that increase the intensity of the facility, accompanies the short-term rental use, the project will be reviewed for conformance with all applicable building and construction codes.

20. **Relationship to Other Sections of the Code.** The provisions of this section apply in addition to the provisions of any other code provision or ordinance. Where there is a conflict, the more restrictive provision applies.

21. **Effective Date.** The provisions of this section and other sections of the Bellingham Municipal Code related to short-term rentals will not take effect until six months after the date of adoption.

22. **Evaluation of Ordinance.** This section will be reviewed two years from the effective date of the ordinance to assess the impact of short-term rentals on the City's neighborhoods and housing market.

**EXHIBIT B**

**PLANNING COMMISSION'S FINDINGS OF FACT, CONCLUSIONS AND  
RECOMMENDATIONS**

# **BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS**

## **SHORT-TERM RENTAL REGULATIONS**

**MARCH 22, 2018**

### **SUMMARY**

Following the public hearing and deliberation on the Bellingham Municipal Code (BMC) amendments for short-term rental (STR) regulations, the Bellingham Planning Commission has determined that the changes are consistent with and will implement the goals and policies of the Bellingham Comprehensive Plan and should be recommended for approval. The Commission further finds that the proposed amendments seek to achieve the following STR program goals:

1. Balance the economic opportunity created by short-term rentals with the need to maintain the City's housing supply and
2. Protect the rights and safety of owners, guests and neighbors.

## **I. FINDINGS OF FACT**

### **1. Proposal Description:**

The subject proposal includes the City's first regulations pertaining to short-term rentals (STRs) offered through websites such as Airbnb and VRBO. An STR is a lodging use, other than a hotel or motel, in which a dwelling unit or portion thereof is provided to guests by a short-term rental operator for a fee for fewer than 30 consecutive nights. On February 9, Host Compliance, a company that monitors short-term rental listings for communities, identified 214 unique rental listings in Bellingham. The median nightly rate for all listings, the majority of which were whole houses, was \$95. To date, the City hasn't established "vacation rental" or "short-term rental" as a defined term in the BMC. Without regulation, this practice could continue to rapidly expand, impacting the City's long-term housing stock and quality of life. On the other hand, STR bans have been found to be ineffective and can deprive the community of possible benefits, including expansion of the tourism economy.

The Planning Commission's recommendation includes a tiered approach of three permit types for STRs in Residential General Use Type areas and requires a conditional use permit for STRs that are rented for more than 90 days per year. An operator may be a principal, spouse or registered domestic partner of a principal in no more than two total STR permits - one in a primary residence and one in a non-primary residence; however, only one of those can be a Type III-A STR. Standards, including those related to noise and safety, apply to all STRs. The permit structure for STRs in residential areas is summarized as follows:

- Type I permit:
  - Primary residence
  - Maximum of 2 bedrooms
  - Maximum of 90 rental days/year



- Type II permit:
  - Dwelling unit (primary residence or non-primary residence)
  - Maximum of 5 bedrooms
  - Maximum of 90 rental days/year
- Type III-A permit:
  - Dwelling unit (primary residence or non-primary residence),
  - Maximum of 5 bedrooms
  - No limit on rental days/year
  - No more than 125 Type III-A STR permits will be issued in Single-family Residential Single General Use Type areas

Regarding Commercial and Urban Village General Use Type areas, a Type I permit would be required for each of the three STR types. Several standards, including those related to operator permit maximums, Type III-A permit maximums, multi-family building maximums, and parking would not apply to STRs in these zones. As hotels, motels, and bed and breakfast facilities are currently permitted with limited standards in most commercial and urban village areas, requiring a Type I STR permit with a basic set of standards is in line with current requirements.

## **2. Background Information:**

The Planning Commission met in five work sessions and one public hearing to develop the draft short-term rental ordinance. Public comment was taken at each of these meetings. Meeting materials can be found at <https://meetings.cob.org/onbaseagendaonline>.

The work sessions and public hearing included the following topics:

August 17, 2017: Planning Commission work session regarding the local status of STRs, example regulations from other communities and preliminary regulatory options.

September 21, 2017: Planning Commission work session regarding Planning Commission questions from August 17 and draft regulatory approach.

January 4, 2018: Planning Commission work session regarding options for the new STR code section.

January 18, 2018: Planning Commission work session continuing the discussion from the January 4 work session to develop a recommended approach for the draft ordinance.

March 1, 2018: Public hearing on the draft ordinance for the new STR regulations.

March 22, 2018: Planning Commission work session to finalize a recommendation on the draft ordinance.

### **3. Public Comments:**

Notice of the Planning Commission public hearing was mailed to neighborhood association representatives and other parties with an interest in this topic. Notice was also published in the Bellingham Herald at least 30 days prior to the hearing.

Staff held focus group meetings with the Chamber of Commerce and representatives of the hotel and motel industry. Staff also met with City advisory groups, including the Mayor's Neighborhood Advisory Group, Lake Whatcom Watershed Advisory Board, Lake Whatcom Policy Group, and Tourism Commission.

Several public comments were submitted prior to the public hearing. All public comments are posted on the [STR webpage](#) and were distributed to the Planning Commission. Concerns included the impacts of STRs on housing stock and neighborhood character, guest behavior (e.g. noise and parking), health and safety, and collection of fees and taxes. Supportive comments included bringing additional tourists to Bellingham who dine, shop and recreate locally; the additional income provided by STRs for homeowners and renters that helps them to afford to live in Bellingham; and the unique lodging options STRs provide for visitors, including parents of Western Washington University students and family and friends of local residents.

### **4. State Environmental Policy Act (SEPA) Determination:**

A non-project SEPA Determination of Non-Significance (DNS) was issued on February 15, 2018. Notice was mailed to the appropriate agencies and published in the Bellingham Herald and on the City's website. No public comment was submitted on the DNS prior to publication of the meeting packet.

### **5. Consistency with the Bellingham Comprehensive Plan:**

The Bellingham Comprehensive Plan identifies the guiding principles and goals for decisions regarding changes to the City's land use and development code. The proposed amendments are consistent with and implement the goals and policies of the comprehensive plan, particularly those related to balancing the protection of neighborhoods with economic opportunities. Relevant goals and policies include the following:

**GOAL LU-1** Support sense of place in neighborhoods.

**Policy LU-4** Protect the unique character and qualities of existing neighborhoods, while identifying opportunities for improved livability, safety, and housing affordability and diversity.

**Policy H-13** Consider the impacts on Citywide housing capacity, affordability and diversity when making land use policy decisions and code amendments.

**Policy ED-16** Support startup efforts to make it easier for businesses to get started in Bellingham.

**Policy ED-19** Support the retention and growth of Bellingham's small businesses.

## II. CONCLUSIONS

Based on the staff report and information presented at the public hearing, the Planning Commission concludes:

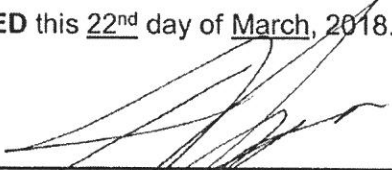
1. The proposed amendments define the term "short-term rentals" in the BMC and permit this use in certain circumstances if requirements and standards are met.
2. The proposed amendments seek to balance the economic opportunity created by short-term rentals with the need to maintain the City's housing supply and protect the rights and safety of owners, guests and neighbors.
3. The proposed amendments comply with and will implement the goals and policies of the Bellingham Comprehensive Plan.

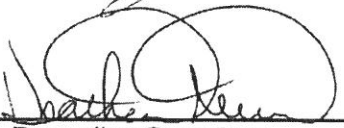
## III. RECOMMENDATIONS

After careful consideration of all public comments, the staff report, other meeting materials, and the Findings and Conclusions, the Planning Commission recommends, with a 5-2 vote, the following:

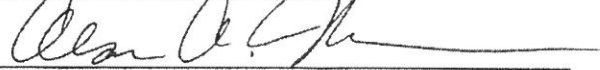
1. The City Council approve the proposed amendments to the BMC as shown in the draft ordinance; and
2. The ordinance should be reviewed for effectiveness two years from the date of adoption.

**ADOPTED** this 22<sup>nd</sup> day of March, 2018.

  
\_\_\_\_\_  
Planning Commission Chairperson

**ATTEST:**   
\_\_\_\_\_  
Recording Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
City Attorney