



City of McCall

COMMUNITY DEVELOPMENT

www.mccall.id.us

216 East Park Street
McCall, Idaho 83638

Phone 208-634-7052

Main 208-634-7142

Fax 208-634-3038

Subject: AD-24-01 – Short Term Rental Occupancy Self-Limitation (Approved by the McCall City Council on August 22, 2024)

From: Brian Parker, City Planner

Date: August 22, 2024

The intention of this Memorandum is to establish a process for self-limiting the number of occupants in a short-term rental.

Determination

McCall Code Section 3.13.09(A) identifies the following purposes for the Short-Term Rental requirements:

1. To ensure that the use of Short-Term Rental Dwellings have no greater impacts than would be created by long-term residential occupancy of the Dwelling;
2. To protect the health, safety and general welfare of occupants of Short-Term Rental Dwellings and the surrounding property owners through an inspection of Short-Term Rental Dwelling structures in compliance with MCC Title 2 and the applicable codes referenced therein; and
3. To protect the rights of property owners adjacent to Short-Term Rental Dwellings to a quiet, safe and neighborly environment free from nuisances that would not exist or would be less intensive but for the use of a Dwelling as a Short-Term Rental.

To meet these purposes, short-term rentals with five (5) or more bedrooms may either apply for and receive a conditional use permit, or provide definitive documentation that occupancy of the short-term rental will not exceed ten (10) persons. A template Affidavit of Maximum Short Term Rental Occupancy is attached.

To limit the number of occupants permitted to be in a short-term rental below the standard established by McCall Code Section 3.13.09(C)(3), the property owner shall agree to limit the maximum occupancy and submit a notarized affidavit stating the maximum number of occupants the property owner will allow to be in the short-term rental. The total number of occupants identified on the affidavit must be the lesser of the number of bedrooms times two, plus an additional two occupants or ten (10) total occupants, and shall match the maximum number of occupants identified on the certificate of liability insurance on file for the property. The affidavit must also state that the self-declared occupancy shall be stated in all marketing, and in all short-term rental agreements for that property.

Background

Prior to the passing of Ordinance 1011 on September 8, 2022, short term rental (STR) owners were able to “self-declare” the number of bedrooms in a unit, so long as it did not exceed the total number of bedrooms in the unit. With the passage of Ordinance 1011, the number of bedrooms was formally determined through the fire, health, and safety inspection process. Upon confirmation of the total number of bedrooms, the final maximum permitted occupancy is set by multiplying the number of bedrooms times two (2), plus an additional two (2) persons. STR owners have inquired on the process for decreasing the number of bedrooms in a dwelling unit in order to avoid applying for a conditional use permit.

Relevant Code Sections

McCall City Code Section 3.2.02: Meaning of Terms or Words:

BEDROOM: A fully enclosed portion of a building designed or intended to be used for sleeping purposes, including a closet, door that can be closed and an Emergency Escape and Rescue Opening, as defined by the International Fire Code.

DWELLING, SHORT TERM RENTAL: A dwelling, including a single-family or a multi-family unit, which is rented for the purpose of overnight lodging for compensation, money, rent or other bargained for consideration for a period of one or more days and not more than thirty (30) consecutive days. Short term rentals are also commonly referred to as tourist or vacation rentals. Short term rentals with occupancy of eleven (11) persons or more shall require a conditional use permit.

McCall City Code Section 3.13.09: Standards for Dwelling, Short Term Rentals:

- (A) Purposes: The purposes of these requirements for a Short-Term Rental Dwelling are:
1. To ensure that the use of Short-Term Rental Dwellings have no greater impacts than would be created by long-term residential occupancy of the Dwelling;
 2. To protect the health, safety and general welfare of occupants of Short-Term Rental Dwellings and the surrounding property owners through an inspection of Short-Term Rental Dwelling structures in compliance with MCC Title 2 and the applicable codes referenced therein; and
 3. To protect the rights of property owners adjacent to Short-Term Rental Dwellings to a quiet, safe and neighborly environment free from nuisances that would not exist or would be less intensive but for the use of a Dwelling as a Short-Term Rental.
- (B) Permit Required: Prior to advertising or operating a Dwelling as a Short-Term Rental, any property owner or property manager who leases, rents or otherwise makes available for compensation a Short-Term Rental Dwelling, such property owner or manager must first obtain a Short-Term Rental Permit pursuant to MCC Title 4.
- (C) Standards: All Dwelling Short-Term Rentals shall comply with the following requirements:
1. Access: Owners shall maintain access to the property and structures that is safe and free from obstructions for pedestrians and vehicles and shall be adequately sized and designed so that

access to other properties is not impacted nor are unsafe conditions on public streets created contrary to the standards adopted by the McCall Fire District and the City Council.

2. Parking: All parking for the unit is contained on the site, not more than one (1) parking space per bedroom is provided, all trailers and vehicles shall be parked on an improved surfaced area and shall not allow parking on the public right-of way.
 3. Occupancy: Short-Term Rentals shall contain no more than two (2) persons per bedroom, plus two additional persons, as identified in the Short-Term Rental Permit application and as defined by McCall City Code Section 3.2.02. Total maximum occupancy of the Short-Term Rental shall not exceed ten (10) persons without the issuance of a conditional use permit pursuant to MCC 3.13.03.
 4. Noise: Loud music, outdoor activities or any other source of noise that can be heard beyond the perimeter of the Short-Term Rental premises shall not be generated between the hours of 10:00 p.m. and 8:00 a.m. the following day.
 5. Health and Safety Inspection: Protection of the health and safety of occupants of a Short-Term Rental Dwelling and surrounding property owners shall be ensured through an inspection and approval of the Short-Term Rental Dwelling by the Fire Code Official for the McCall Fire Protection District prior to the issuance of a business license pursuant to MCC Title 4, Chapter 2. Such inspection shall be subject to a fire, health and safety checklist developed by the Fire Code Official and approved from time-to-time by resolution of the City Council.
 6. Posted Notice: A written notice shall be posted in a conspicuous location within the unit that describes restrictions on use of the unit. Such notice shall include, but is not limited to the structure's maximum occupancy, parking requirements, solid waste and fireplace ash disposal, quiet hours, noise restrictions, and restrictions on outdoor activity. A written notice shall also be posted detailing the emergency exiting plan approved by the Fire Code Official, Short-Term Rental business permit number, and the name and phone number of Local Contact Person and property owner.
 7. Events: No Events shall be located at a Short-Term Rental without first obtaining a conditional use permit.
 8. Accessory Dwelling Unit: If the Short-Term Rental is located on a parcel that contains an accessory dwelling unit and a primary residence, then one of the dwellings must be owner occupied or a local housing, non-Short-Term Rental, dwelling unit.
 9. Exterior Changes: No exterior changes shall be made to the structures or site conditions at a Short-Term Rental that would eliminate its appearance or use as a Dwelling Unit for long term residency.
- (D) Application Process: An application for a Short-Term Rental business license shall be submitted to the City in compliance with the procedures set forth in Title 4.
- (E) Compliance:
1. All Owners wishing to operate a Short-Term Rental must be in immediate compliance with the provisions of this Section as well as the provisions of Title 4 applicable to Short-Term Rentals as follows:
 - a. All Owners of Short-Term Rentals may continue to operate under existing business licenses through December 31, 2022.

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- b. Owners of existing Short-Term Rentals wishing to operate in 2023 or at any time thereafter must submit an application for a Short-Term Rental Permit to the City according to the provisions of Title 4.
 - c. Any Owner shall submit an application for a Short-Term Rental Permit after October 1, 2022 and must be in general compliance with all the Short-Term Rental regulations in this chapter and Title 4 by January 1, 2024. All permits will expire on December 31 of each year and must be renewed annually.
- (F) Enforcement of the requirements set forth in this section shall follow the enforcement provisions of MCC Title 4.

McCall City Code Section 4.13.03: Permit Required:

Permits Required And Issuance Of Permits:

- A. Prior to advertising and offering for rent a dwelling as a Short-Term Rental within the City of McCall, all Owners of such property shall file with the City Clerk an application for and be granted a Short-Term Rental Permit.
 - 1. All Short-Term Rentals in the City of McCall shall comply with MCC section 3.13.09 prior to the issuance of a Short-Term Rental Permit.
 - 2. A Short-Term Rental Permit is valid only for one residential Dwelling Unit identified in the permit application. An owner of such Dwelling Unit shall file a separate application and obtain a separate permit for each Dwelling Unit to be used as a Short-Term Rental.
 - 3. A permit for a Short-Term Rental shall be issued and renewed on an annual basis. Upon a change of ownership of the property, the Short-Term Rental permit is canceled and if a new owner intends to rent the Dwelling Unit on a short-term basis, a new permit is required.
- B. Every application for said permit shall be made upon a form prescribed by the City Clerk.
- C. The application for a Short-Term Rental Permit shall include:
 - 1. The owner's legal name, contact telephone number, mailing addresses, email address, and proof of ownership;
 - 2. Name under which the applicant transacts or intends to transact business;
 - 3. The Valley County Assessor information including the property address, accessor parcel information, and number of bedrooms;
 - 4. Local Contact Person's name, contact telephone number, both physical and mailing addresses, and email address;
 - 5. Total bedrooms and occupancy;
 - 6. A dimensioned floor plan of the Short-Term Rental unit indicating the name and use of each room; and location of all egress doors;
 - 7. A site plan of the property including the location and number of parking spaces and parking access;
 - 8. The signatures of the Owner and Local Contact Person, if different, agreeing and acknowledging that they are jointly responsible for compliance by the occupant and any guests with MCC 3.13.09, and all other applicable laws, rules, and regulations pertaining to the use and occupancy of the Short-Term Rental;

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9. The date of the mailing to property owners and list of property owners who were mailed the following information: the address for the Short-Term Rental, the maximum occupancy and number of vehicles allowed to be parked, and the name and contact information including telephone number for the Local Contact Person. Such notice of Short-Term Rental information shall be sent to all property owners within three hundred feet (300') of the location of the Short-Term Rental.
 10. Proof of established Solid Waste, Refuse and Rubbish removal services as described in Title 5, Chapter 8 of the McCall City Code;
 11. Signed acknowledgment of the requirements and standards as set forth in 3.13.09;
 12. If any information required in the Application for a Short-Term Rental Permit changes, the Owner or Local Contact Person shall promptly advise the City in writing delivered to the City Clerk.
- D. A fee commensurate with the cost of the application processing, established by resolution of the City Council. Any fee changes shall not affect any permits already in process but shall be applied prospectively for future applications and renewals of existing permits issued after adoption of such fee by the City Council.
 - E. Upon receipt of a complete application and payment of all applicable fees (Short-Term Rental Permit and Fire Inspection fees), the City Clerk shall forward the permit application to the (a) the City Community and Economic Development Department for review of compliance with the standards for Short-Term Rentals, and (b) the McCall Fire District for the schedule of the fire, health and safety inspection. No permit shall be granted unless the Short-Term Rental unit meets these requirements and has been approved by the McCall Fire District.
 - F. Upon approval by the Community and Economic Development Department and McCall Fire, and proof of compliance, the City Clerk shall issue to each applicant a permit for each Short-Term Rental unit. A Short-Term Rental Permit shall not be assignable and shall be valid only for the Owner in whose name it is issued and for the transaction of business at the rental unit designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a permit may be subject to additional requirements as set forth in this chapter.
 - G. On the face of the permit shall be affixed a Short-Term Rental number which shall be used by the applicant as an identifying number on all filing, payment, and correspondence with regard to the non-property tax imposed under this title.
 - H. A Short-Term Rental permit expires on December 31st of each year; However, if the residential dwelling identified in the application is sold or title is otherwise transferred, the permit shall automatically expire upon the transfer of title and the new owner must apply for a new permit. The application fee will not be prorated.
 - I. A Short-Term Rental permit application may be denied if the applicant, or owner are not the same, or has had a prior Short-Term Rental permit for the same rental unit revoked within the past twelve (12) calendar months.
 - J. Within fourteen (14) days of a change of local contact person, or any other material change in facts pertaining to the information contained in the Short-Term Rental Permit, the new proposed local contact person shall submit an update to the Short-Term Rental permit, on a form provided by the

City Clerk, which must be obtained prior to continuing to rent the subject unit as a Short-Term Rental. An administrative fee adopted by resolution of the City Council will apply.

- K. If a Conditional Use Permit is, or has been granted for a Short-Term Rental, such Conditional Use Permit shall not authorize use of property as a Short-Term Rental without also obtaining a Short-Term Rental Permit as provided herein. The provisions of any issued Conditional Use Permit shall be controlling and shall supersede any provision herein that is in conflict with the provisions of a duly issued Conditional Use Permit.