



Staff Report

Meeting Date: July 16, 2018
To: Mayor and Council
From: Brigid Reynolds, Director of Community Planning
RE: Moratorium on Short-Term Rentals

Purpose

To consider adopting Ordinance No. 1046 to enact a six-month moratorium on accepting application for bed and breakfast rooms (residential) and bed and breakfast inns in the RS and RM zone districts while the Planning Advisory Board (PAB) and Council reviews and updates the code to reflect the current nature of short term rentals.

Background/Discussion

The PAB began discussing short term rentals (STR)¹ at its May meeting. This discussion has occurred in part due to the proposed code amendments related to housing and also because there are growing numbers of this use taking place in the City. The Comprehensive Plan contains the following policy H - 4.9 states "(R)evue the impacts that vacation rentals (Air B&B, VRBO, etc) may be having on long term rentals and housing affordability and if necessary, develop a strategy in response."

The City held an information session in November 2016 to discuss short term rentals and approximately 25 persons attended. The Planning Department did not move forward on amendments at that time as we were finalizing the Comprehensive Plan and the next steps involved code amendments to reduce barriers to developing alternative housing typologies in the City. This process is now underway. As a result, the PAB has begun reviewing the Code as it relates to tourist accommodation and short term rentals.

The relevant sections of the Municipal Code can be found in Attachment No. 1. These codes were originally adopted in 1989 with amendments in 2001. Since then on-line resources for short term rentals and the numbers of units being rented as short term rentals have grown.

In the last two and a half years the Planning Department has received four applications for short term rentals. Two of these applications are currently in process. In that time frame the Planning Department has received numerous inquiries about operating a short term rental and these inquirers are provided with the Code excerpts and process for this use.

¹ Short term rentals refer to rentals that are for less than 30 days. They may also be known as vacation rentals, tourist accommodation, transient accommodation, Air BnB, VRBO, and similar.

Discussion

Currently in Langley the different types of short term rentals (STR) that are operating are as follows:

- Commercial inns/hotels/motels
- Room(s) within a residence
 - Typically, owner occupied
- Accessory dwelling units, either attached or detached.
 - These units may be rented on an occasional or ongoing basis
 - Typically, owner occupied or caretaker on site
- Single family residences
 - Owner occupied and the residence is rented as a STR on an occasional basis
 - Not owner occupied and the residence is rented as a STR on an ongoing basis.

As shown on the tables on Appendix No. 2 these types of accommodations have been on the increase. Many of these operators have not applied for approval pursuant to the LMC and are operating without a business license. As well many of these rentals are taking place on properties where there is no resident manager.

The City is processing two completed applications: one for a bed and breakfast room (residential) in a RS7200 zoned property and one for a bed and breakfast inn on a RM zoned property. These applications would be unaffected by the passage of this Ordinance.

PAB's discussion has identified issues (both positive and negative) regarding short term rentals:

Con

- Commercialization of residential neighborhoods and related impacts, for ex, noise, parking.
- Possible loss of long term rental units.
- Non-compliance with life/safety standards.
- The City may not be receiving taxes (lodging and/or sales)
- City requirements may not be met: approval; utility connections and fees; building permit; signs; parking.
- Businesses operating without a business license.

Pros

- Fills the gap for limited tourist accommodation options in South Whidbey.
- Provides some tax revenue to the City.
- Increased tourist spending in the City.
- Provides revenue for property owners and investors.
- Provides employment opportunities

Since Tuesday's PAB meeting the Planning Department has received inquiries from two different people interested in making applications to regularize existing short term rentals. One is an individual home owner and the second is a vacation rental management company. No complete applications have been received from either of these individuals as of this date.

Processing and permitting applications for STR while the PAB continues to work on possible code amendments could result in the use being vested in both their location and at an intensity of use that may be inconsistent with proposed Code amendments. A six month moratorium will

provide the PAB and Council time to work on the proposed amendments in a comprehensive and thoughtful manner. Public consultation will form part of the process and the public is also welcome to attend the PAB meetings.

The Town of Coupeville adopted a similar ordinance on June 16, 2018 for many of the same reasons identified in this report.

The proposed moratorium is not intended to apply to bed and breakfast rooms (commercial), hotel and motel on properties within the Central Business or Neighborhood Business Zone districts. Short term rentals are generally less impactful in commercial zone districts than in residential zone districts.

Enforcement

As Council is aware staff deals with enforcement on a complaint basis and that will continue. During the moratorium staff will continue its practice and will not seek out operators that are not in compliance. However, should the City receive complaints staff will investigate them. Together with the proposed code amendments the PAB and staff will identify an enforcement strategy moving forward.

Conclusion

Staff believe that a temporary moratorium will provide PAB and Council an opportunity to consider code amendments regarding short term rentals. Part of this review will consider how this use should be accommodated from social, land use and economic development perspectives. Once the moratorium is established the PAB will continue its review of the code, This will include a consultation process with residents, business owners and other stakeholders as well as establishing an enforcement strategy.

Recommendation

To establish a six-month moratorium on accepting permit applications for bed and breakfast rooms (residential) and bed and breakfast inns in the Residential (RS5000, RS7200, RS15000) and Residential Mixed zone districts by adopting Ordinance No.1046 (Attachment No. 3).

**Attachment No. 1
Excerpt from the Municipal Code**

PERMITTED USES – Table 18.09

	Hotel/Motel	B&B Inn	B&B Rooms (Commercial)	B&B Rooms (Residential)		
				Room(s) in house	Attached ADU	Detached ADU
ZONING						
Permitted use	CB & NB	CB & NB	CB & NB	All RS and RM zones.		
Conditional use		RM & all RS				
Number of bedrooms/ units		Max 6 rooms	Rooms must be located above the first or street level or behind the street front	Max 2 rooms		
Management Type		FT on site manager required		Principal dwelling must be owner occupied		
Approval Process	Site plan review	Hearing Examiner	Administrative Approval	Administrative Approval		

DEFINITIONS – Ch. 18.01.040

“Bed and breakfast inn” means a building or group of buildings on a lot which is designed or used for rental for transient lodging, where:

1. Not more than six rooms are available for such rental;
2. Breakfast is the only meal served to persons renting such rooms, and no meals are served to members of the general public; and
3. In the residential zone no other business, service or commercial activity is conducted or provided on the premises, except as expressly permitted by this title; and
4. No room is rented to more than an occupancy level not to exceed the number of persons accommodated by the beds present, based on their intended maximum usage.

“Bed and breakfast room (commercial)” means a room used for rental for transient lodging, situated in a building which is used primarily as a commercial establishment, where:

1. The persons renting such room are only served breakfast, and no meals are served to members of the general public; and

2. The room(s) are located above the first or street level or behind the street front side of the building.

“Bed and breakfast room (residential)” means a room used for rental for transient lodging situated in a building which is used primarily as the dwelling for a nontransient family, or, in the case where there is an approved accessory dwelling unit on the same property, the principal dwelling is owner-occupied, and where:

1. The persons renting such room are only served breakfast, and no meals are served to members of the general public;
2. No other business, service or commercial activity is conducted or provided on the premises, except as expressly permitted by this title; and
3. If the principal dwelling ceases to be owner-occupied, the bed and breakfast use shall be terminated.

“Hotel” means any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation, where no provisions are made for cooking in any individual room or suite.

“Motel” means a building containing units which are used as individual sleeping units having their own private toilet facilities and sometimes their own kitchen facilities, designed primarily for the accommodation of transient automobile travelers. Accommodations for trailers are not included.

Tourist accommodations – commercial” means a dwelling unit serving as a single rental for periods not exceeding 29 consecutive days and containing sleeping and cooking facilities.

REGULATIONS

18.22.070 Bed and breakfast rooms.

The following provisions apply to bed and breakfast rooms:

- A. Not more than two rooms on the premises are utilized for bed and breakfast rooms;
- B. Parking spaces for all guest vehicles shall be provided on the premises except in the central business zone pursuant to Section [18.22.130\(M\)](#);
- C. Only one business sign, having an area not more than four square feet, shall be located on the premises (except in the commercial zones);
- D. No bed and breakfast room shall be rented to more than two persons;

E. The construction of the building in which the bed and breakfast room is situated and the operation of the bed and breakfast room shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly constituted public authority, including, without limitation, local and state health and fire regulations, local business license, and building code requirements;

F. No other business, service or commercial activity is conducted or provided on the premises, except in one of the business-commercial zones;

G. Bed and breakfast room(s) are subject to administrative review by the city planning official. Notice shall be given to the owners of the property adjacent to the property that is the subject of the application. The notification shall be given in a manner designed to give the property owners notice of the application and sufficient time to comment on the application. The city planning official's review shall include but not be limited to:

1. A determination that city regulations applicable to bed and breakfast rooms have been satisfied;
2. A determination that the bed and breakfast proposal contained in the application is compatible with the permitted uses in the residential zone.

The city planning official may attach such conditions to his/her recommendation that are reasonably required to ensure that the use of the rooms as bed and breakfast rooms will not be significantly detrimental to the public health, safety and welfare, will not diminish the value of nearby property, or will not disturb persons in the use of their property. (Ord. 1004 § 4 (Exh. E), 2014; Ord. 583, 1990; Ord. 527, 1989)

18.22.080 Bed and breakfast inns.

The following conditions apply to bed and breakfast inns:

A. A full-time manager shall be domiciled on the premises (except in the business-commercial zones);

B. Parking spaces for all guest vehicles shall be provided on the premises, except in the central business zone pursuant to Section [18.22.130\(E\)\(12\)](#);

C. Only one business sign, having an area not more than eight square feet, shall be located on the premises;

D. The bed and breakfast inn shall be compatible with the character of the surrounding residential area (if applicable);

E. The construction and operation of the bed and breakfast inn shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly constituted public authority including, without limitation, local and state health and fire regulations, local business license and building code requirements; and

F. No other business, service or commercial activity is conducted or provided on the premises (not applicable in business-commercial zones). Accessory dwelling units are excluded from being located on the same property with a bed and breakfast inn. (Ord. 798, 2001; Ord. 527, 1989)

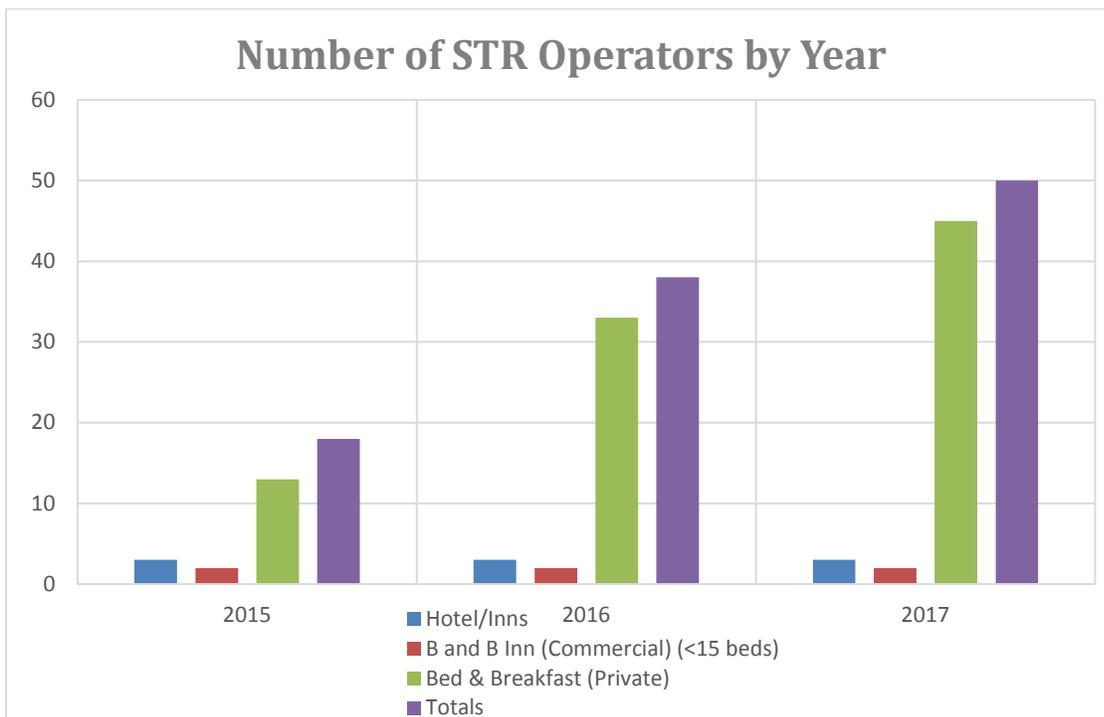
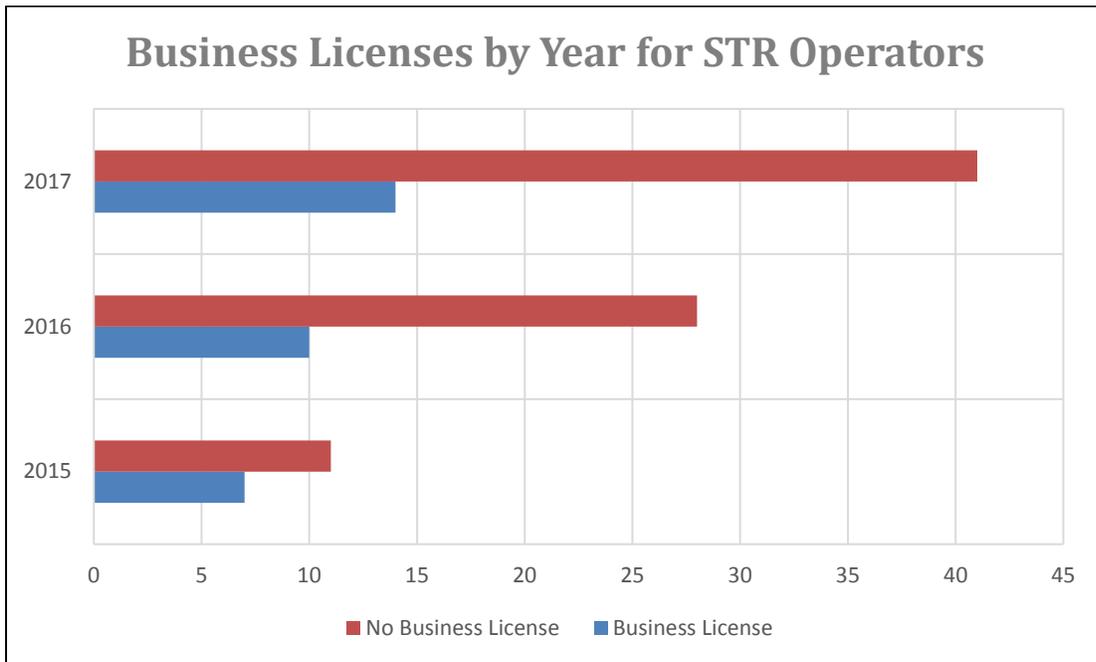
18.22.085 Tourist accommodations – Commercial.

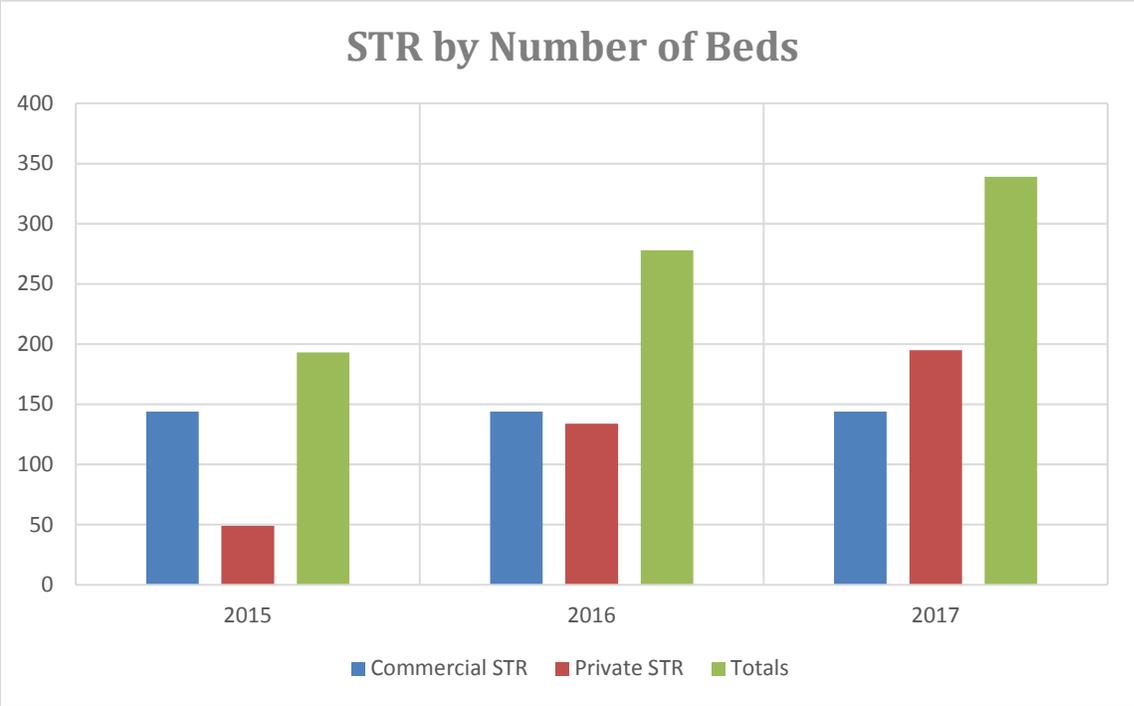
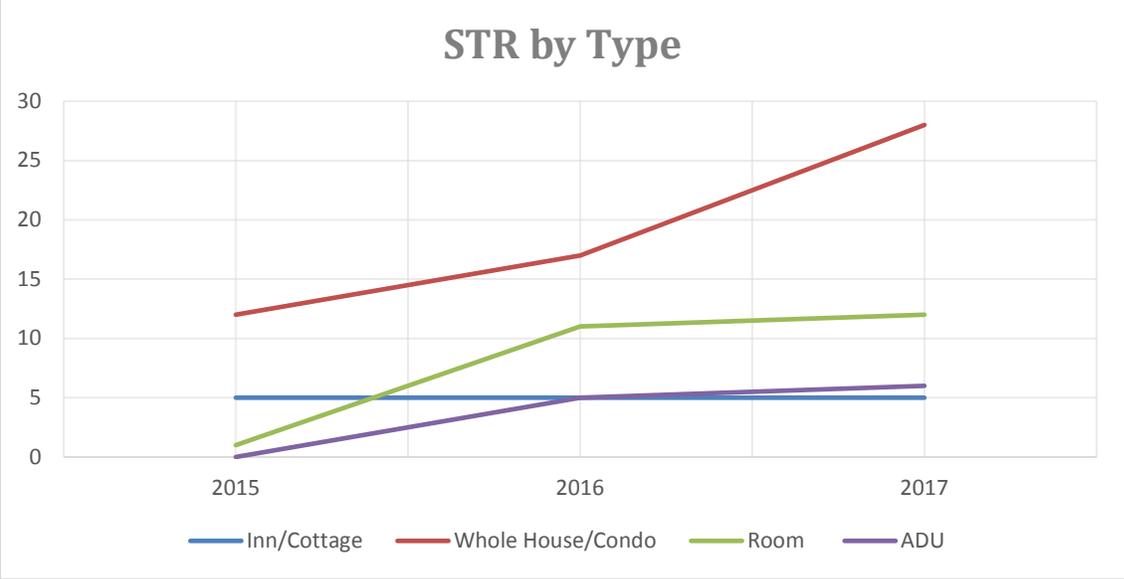
The following conditions apply to such accommodations:

- A. Compliance with city business license regulations.
- B. Limited to a single sign of not more than eight square feet and on premises.
- C. Parking. Same requirement as for multiple residential as set forth in Section [18.22.130\(D\)\(2\)](#).
- D. Signed certification that the residence shall be maintained in a habitable condition and be subject to inspection by the city building official.
- E. Cannot be both a B&B and single-family tourist accommodation.
- F. Subject to administrative review. (Ord. 733, 1997)

Attachment No. 3 Three Year Summary of (known) Short Term Rentals

With the except of the business license data the information below has been gathered by scanning the internet. As a result, the data may not be 100% accurate.





**Attachment No. 3
Ordinance No. 1046**

CITY OF LANGLEY
Langley, Washington

ORDINANCE NO. 1046

AN ORDINANCE OF THE CITY OF LANGLEY, WASHINGTON, ADOPTING A SIX MONTH MORATORIUM ON THE ACCEPTANCE AND APPROVAL OF APPLICATIONS FOR THE ESTABLISHMENT OF BED AND BREAKFAST ROOM (RESIDENTIAL) AND BED AND BREAKFAST INN IN ALL RS5000, RS7200, RS15000 AND RESIDENTIAL MIXED ZONES AND THE LICENSING AND PERMITTING THEREOF; DECLARING AN EMERGENCY; PROVIDING THAT THE MORATORIUM WILL TAKE EFFECT IMMEDIATELY UPON PASSAGE; PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX MONTHS OF THE DATE OF ADOPTION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City of Langley Municipal Code (LMC) contains regulations for the establishment of short term rentals or transient accommodations, including Hotels, Motels, Bed and Breakfast Rooms, and Bed and Breakfast Inns; and

WHEREAS, the LMC provisions for bed and breakfast rooms (residential) and bed and breakfast inns and other short term rental accommodations were originally adopted in 1989 by Ordinance 527 with minor revisions in 1990, 1997 and 2001; and

WHEREAS, in recent years the ease of renting rooms and homes for short term rentals has increased due to the growth and popularity of internet-based services for short-term rentals including but not limited to Airbnb and VRBO, which may negatively affect adjacent properties, the stock of affordable housing within the City, and the City overall in ways not previously contemplated; and

WHEREAS, the Comprehensive Plan adopted on March 5, 2018 includes Policy H-4.9 that states “Review the impacts that vacation rentals (Air B&B, VRBO, etc) may be having on long term rentals and housing affordability and if necessary, develop a strategy in response”; and

WHEREAS, a review of short term rentals available in the City indicates a growing number of property owners rent their residential properties for short term rentals that meet the codified definitions of Bed and Breakfast rooms (residential) and/or Bed and Breakfast Inns but without applying for and receiving the required approval from the City; and

WHEREAS, the City has received complaints regarding unpermitted short term rentals in the City and complaints regarding the number of short term rentals that have not been approved or permitted in the City; and

WHEREAS, the City Council recognizes the current LMC provisions regarding short terms rentals including Bed and Breakfast rooms (residential) and Bed and Breakfast Inns do not address the current reality of operation and patronage of short term rentals and may no longer be adequate to address issues related to parking, noise, property maintenance, and other issues associated with short-term rentals and therefore may not be in the community's interest; and

WHEREAS, the Planning Advisory Board (PAB) has begun its review the LMC as it relates to short term rentals, including but not limited to LMC Ch. 18.22.070 & .080, for RS5000, RS7200, RS15000 and Residential Mixed zones, which will be subject to public review and comment; and

WHEREAS, the City is organized under chapter 35 RCW and authorized to adopt ordinances for the public health and welfare of its citizens and, pursuant to RCW 36.70A.390, is authorized to adopt a zoning moratorium;

WHEREAS, City Council sees problems with land use growth in the City under existing regulations, is debating this growth in both general and specific ways, and finds that unless the City acts immediately, there may be adverse impacts on the City and its citizens; and

WHEREAS, the City needs additional time to consider possible amendments to the City's planning documents and development regulations to address these problems; and

WHEREAS, to promote the public health, safety and welfare the City Council deems it appropriate to impose a moratorium on vacation permits applications for a period of six months; and

WHEREAS, a moratorium will provide time for the review and legislative process to occur without allowing currently unpermitted short term rentals to become vested under current regulations; and

WHEREAS, a public hearing will be held on August 20, 2018, before the Langley City Council, after which time the City may adopt additional findings relevant to this moratorium;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Finding of Facts and Moratorium. Pursuant to the provisions of RCW 35.63.200 and RCW 36.70A.390 and the recitals as set forth above, which are hereby adopted by this reference as the City Council's findings in support of the moratorium imposed by this ordinance, a zoning moratorium is hereby enacted in the City of Langley prohibiting the acceptance of applications, licensing, permitting, or establishment of any Bed and Breakfast room (residential) and Bed and Breakfast Inn, as defined in Langley Code section 18. 22.070 & .080 in RS5000, RS7200, RS15000 and Residential Mixed zones as set forth in the Langley Municipal Code.

Section 2. Code Amendments. The City Council hereby directs the PAB to continue its work on reviewing short term rentals and propose possible amendments to the LMC prior to the sunset of this moratorium.

Section 3. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, a copy of this interim ordinance shall be transmitted to the Washington State Department of Commerce.

Section 4. End Date of Moratorium Unless Extended. This moratorium shall remain in effect for six months until December 16, 2018, unless earlier terminated by the City Council. The City Council may extend the moratorium consistent with the terms of chapter 36.70A RCW.

Section 5. Public Hearing. Pursuant to RCW 36.70A.390, a public hearing shall be held on the moratorium on August 20, 2018 at approximately 5:45 p.m., (within 60 days of adoption of this ordinance) at the Langley City Hall, Langley, Washington.

Section 6. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council. In addition to the issues identified in the recitals above establishing such an emergency, without an immediate moratorium by the City of Langley prohibiting the licensing, permitting, or establishment of any Bed and Breakfast room (residential) and Bed and Breakfast Inn, as defined in Langley Municipal Code section 18.22.070 & .080, in RS5000, RS7200, RS15000 and Residential Mixed zones as set forth in the Langley Municipal Code, development applications could become vested, leading to development that could be incompatible with the codes eventually adopted by the City. Therefore, in order to prevent attempts to vest to rights for an indefinite period of time, the moratorium must be imposed as an emergency measure to protect the public health, safety and welfare, and to prohibit the licensing, permitting, or establishment of any Bed and Breakfast Room (residential) and Bed and Breakfast Inn, as defined in the Langley Municipal Code section 18.22.070 & .080, in RS5000, RS7200, RS15000 and Residential Mixed zones. This Ordinance does not affect any existing vested rights, nor will it prohibit all development in the City as this Ordinance only applies to Bed and Breakfast Room (residential) and Bed and Breakfast Inn as defined in the Langley Municipal Code section 18.22.070 & .080.

Section 7. No Unpermitted Uses. No use that constitutes or purports to be a Bed and Breakfast room (residential) and Bed and Breakfast Inn, as defined in Langley Code sections 18.22.070 & .080, that engages or engaged in that activity without a valid authorization or permit as required by Chapter 18.22 LMC shall be deemed to have been a legally established use under the provisions of the Langley Municipal Code and that use shall not be entitled to claim legal nonconforming status nor shall such use be entitled to continue. The moratorium imposed in Section 1 shall not apply to any Bed and Breakfast room (residential) and Bed and Breakfast Inn, legally established and permitted prior to the effective date of this Ordinance.

Section 8. Severability. Each and every provision of this Ordinance shall be deemed severable. If any provision of this Ordinance should be deemed to be unconstitutional or otherwise

contrary to law by a court of competent jurisdiction, then it shall not affect the validity of the remaining sections so long as the intent of the Ordinance can be fulfilled without the illegal section.

Section 9. Effective Date. The City Council hereby finds and declares that there is a potential that persons seeking to operate vacation rentals in the City could have negative secondary effects if not first addressed by adequate and appropriate regulations, and that, therefore, an emergency exists which necessitates that this ordinance become effective immediately in order to preserve the public health, safety and welfare. This Ordinance shall take effect and be in full force and effect immediately upon passage. The City Clerk is directed to publish a summary of this ordinance at the earliest possible publication date.

ADOPTED by City Council and **APPROVED** by the Mayor this 16 day of July 2018.

CITY OF LANGLEY

By _____
Tim Callison, Mayor

ATTEST:

APPROVED AS TO FORM:

By _____
Debbie Mahler, Clerk-Treasurer

By _____
Mike Kenyon, City Attorney

Date of Publication: _____