

**ORDINANCE NO. 1542**  
**CITY OF LEAVENWORTH, WASHINGTON**

**AN ORDINANCE OF THE CITY OF LEAVENWORTH, WASHINGTON**  
**ADOPTING AMENDMENTS TO THE LEAVENWORTH MUNICIPAL**  
**CODE TO SECTION 18.52.120 CONDITIONAL USE PERMIT – BED**  
**AND BREAKFAST.**

WHEREAS, the Leavenworth City Council desires to amend the Leavenworth Municipal Code to clarify and update the Bed and Breakfast (short-term / vacation / overnight rentals in residential neighborhoods) regulations, criteria, and standards within LMC Chapter 18.52 (specifically Section 18.52.120) as a part of the Planning Commission 2016 Amendment Docket; and

WHEREAS, in accordance with the Leavenworth Municipal Code (LMC), early in January of each year, the City Council and Planning Commission sponsor a joint public workshop during which a list of city-initiated proposals are formalized, based primarily on the items docketed throughout the previous year. In January 2016, the Leavenworth City Council accepted the 2015 Planning Commission Docket and tasked the Planning Commission to proceed with the amendment process. The Docket included identified potential comprehensive plan amendments, substantive zoning / development code updates, and other LMC amendments; and

WHEREAS, within the Planning Commission 2016 Amendment Docket, the Planning Commission has been asked to review and study “1. LMC - Residential uses review and update. A. Review and study Overnight / Vacation Rentals in the residential neighborhoods. Vacation / overnight rentals are not allowed in residential districts except by CUP. The "black market / underground" conversions exist, and the Council desires to address this topic.”; and

WHEREAS, the Planning Commission reviewed the amendment on February 3, 2016, March 2, 2016, April 6, 2016, May 4, 2016, July 6, 2016, August 3, 2016, September 7, 2016, October 5, 2016, and October 19, 2016; and

WHEREAS, on October 28, 2016, the City of Leavenworth submitted the draft amendment to State agencies for review pursuant the requirements of RCW 36.70A.106; and

WHEREAS, the agency review began on October 28, 2016 and ended on December 28, 2016; and

WHEREAS, on November 2, 2016, a “Notice of Public Hearing” for the hearing on the amendment was published in the Leavenworth Echo and posted in three locations in City Hall; and

WHEREAS, pursuant to RCW 43.21C and WAC 197-11, the City issued a “Determination of Non-significance” (DNS) on October 21, 2016; and

WHEREAS, a staff report was prepared and given to the Planning Commission on October 20, 2016; and

WHEREAS, on November 2, 2016, the Planning Commission held a public hearing to receive public testimony on the amendment and voted unanimously to recommend adoption of the amendment to the City Council; and

WHEREAS, on January 10, 2017 the City Council conducted a Study Session to consider the recommendations from the Planning Commission; and

WHEREAS, on January 24, 2017, the City Council held an open public meeting to consider the recommendations from the Planning Commission and this Ordinance.

WHEREAS, this amendment is necessary to clarify and strengthen the current code language for ease of understanding and for ease of enforcement; and

WHEREAS, according to the Leavenworth Municipal Code purpose statement for residential districts Section 18.20.010, this is a restricted residential district of low density in which the principal use of land is for single-family dwellings, together with recreational, religious, and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life where children are members of most families, and *to prohibit all activities of a commercial nature* and those which would tend to be inharmonious with or injurious to the preservation of a residential environment. The “commercial nature” in this instance is residences functioning similar to hotels or other lodging establishments; and

WHEREAS, the amendment is consistent with the City of Leavenworth Comprehensive Plan. Specifically:

Housing Element Goal 1: Encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities, and housing types, and encourage preservation of existing housing stock.

Encourage a more efficient use of existing housing inventories in order to assist in providing affordable housing is necessary.

The low and moderate-income segments of the population need additional help in acquiring affordable housing. Reducing such stock is contrary to the housing goals.

The intent of the GMA is to encourage population growth in urban areas, reduce urban sprawl and thereby lessen the burden on counties to provide urban type infrastructure and services to large population centers.

Policy 9: Evaluate existing land use designations and regulations which may be presenting barriers to the development of an adequate supply of affordable housing for all economic segments of the population.

Policy 10: Reassess and amend as necessary the locations, densities and ratio of distribution of the residential land use designations to more proactively promote the

development of affordable housing within the City and the UGA.

Land Use Element – General - Goal 8: Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air and open space; protect and improve environmental quality; and manage potential impacts on public facilities and services. Through these regulations address features including, but not limited to: impervious surface area and lot coverage; building height, bulk, placement and separation; development intensity; access and connections; and landscaping/ open space.

Zoning ordinances are a valid exercise of the police power of the City, and provide for the public health, safety, morals, or general welfare of a community.

Residential - Goal 2: Provide for a variety of residential opportunities that meet the needs of a full range of lifestyles and income levels. Designate allowed residential densities and housing types to provide for a housing stock that includes a range of choices to meet all economic segments and household types, including those with special needs related to age, health or disability.

Goal 3: Allow some compatible nonresidential uses in Residential zones, such as appropriately scaled schools, religious facilities, home occupations, parks, open spaces, senior centers and day care centers. Maintain standards in the Leavenworth Municipal Code for locating and designing these uses in a manner that respects the character and scale of the neighborhood.

Many residents treasure their neighborhoods. Each neighborhood has characteristics that are unique and make it special. There are also qualities that are valued, including safety, quiet enjoyment, friendliness, and attractiveness.

Goal 6: Promote attractive, friendly, safe, quiet and diverse residential neighborhoods throughout the city, including low- and moderate-density single-family to high-density residential neighborhoods.

The supply of long-term community based residential housing would be reduced without the amendment and/or allowance of short-term rentals in residential zones. Such is contrary and inconsistent with the Comprehensive Plan; and

WHEREAS, the amendment is consistent in addressing state mandates to review and update the Comprehensive Plan (RCW 36.70A.130) and development regulations. The update of the criteria and standards are a part of the development regulation review process per the RCW. This update has been developed in accordance and compliance with RCW 36.70A.130 (WAC 365-196-610 and RCW 36.70A.130) which states "On or before June 30, 2017, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties" shall update their respective Comprehensive Plans *and development regulations*; and

WHEREAS, the amendment does not alter population, employment, land use, housing,

transportation, capital facilities, economic conditions, etc., contained in the comprehensive plan; and

WHEREAS, the amendment strikes a necessary balance between the benefits and burdens associated with short-term rentals in residential zones; and

WHEREAS, the record shows that short-term rentals in residential zones can increase the cost of housing. Other communities have experienced a contraction in the availability of homes for long-term rental due to the greater profit available from short-term rental. With fewer available long-term rentals, the cost of long-term rentals increases. In addition, the profitability of short-term rentals increases the demand for potential rental properties, increasing the cost of buying a home; and

WHEREAS, the supply of long-term community based residential housing would be reduced without the amendment and/or allowance of short-term rentals in residential zones. Unrestricted short-term rentals in residential zones is contrary and inconsistent with the Comprehensive Plan; and

WHEREAS, the record shows that short-term rentals in residential zones can have a negative effect on residents and neighborhoods. Many residents testified about noise and parking problems from short-term rentals. Residents also testified about loss of community when neighbors are a stream of transient guests rather than a member of the community. Among specific concerns raised was the safety of children when the neighbors are transient guests who no one knows; and

WHEREAS, the high cost of housing in the City is well documented. The record shows that short-term rentals have the potential to exacerbate that problem, but they can also provide a means for some property owners to afford to buy or rent a home in the City. Renting out a room as a short-term rental can provide additional, needed income to pay a mortgage or rent; and

WHEREAS, the amendment is consistent with Planning goals of RCW 36.70A.020: (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock; and

WHEREAS, the amendment has been developed in accordance with the Growth Management Act (see above) and do not conflict with the City's Comprehensive Plan. The amendment process followed for this adoption process is compliant with specific Leavenworth Municipal Code and State regulatory requirements for notification and circulation; and

WHEREAS, there has been tremendous growth in the number and usage of online platforms (such as Airbnb, HomeAway, VRBO, etc.) that make it easy to offer and easy to find homes or rooms for short-term rental; and

WHEREAS, the City has allowed short-term rentals in residential zones with a conditional use permit. These conditionally permitted uses were classified as "bed and breakfast" uses and required the property owner to live on the property and to be present when short-term

rental guests were present; and

WHEREAS, the City received comments to relax the restrictions on short-term rentals in residential zones. The City Council and Planning Commission considered testimony of numerous individuals and groups and reviewed and considered a large amount of written material, including individual opinions, economic studies and reports, news articles, professional journal articles, and other documents; and

WHEREAS, the record shows that short-term rentals can provide greater income to property owners than long-term rentals. Because short-term rentals are subject to lodging taxes, and long-term rentals are not, short-term rentals can also provide revenue for the City; and

WHEREAS, although one study determined that HomeAway properties had no impact on the sales price of homes in Seattle. It is not clear if the same factors that apply to Seattle apply in the City of Leavenworth. There are significant differences in overall size of the residential areas and in the distribution of housing stock within the different areas; and

WHEREAS, the record shows that the transient lodging and short-term rentals are typically defined as stays of 30 days or less. The International Building Code mandates additional safety features in buildings used for stays of 30 days or less. For health and safety reasons, it is appropriate that the City follow the 30-day timeframe adopted in the International Building Code; and

WHEREAS, the existing code language related to bed and breakfast uses may be subject to confusion and may be inconsistent. Amendments are necessary to clarify and strengthen the current code language for ease of understanding and for ease of enforcement; and

WHEREAS, short-term rentals can provide significant private benefits in the form of rental profits and, in some cases, financial assistance with buying or renting a home. However, these private benefits come with public costs borne by the entire community in the form of increased housing costs, noise and parking conflicts, and the loss of community that results when residences are occupied by a series of transients rather than by long-term neighbors. Requiring the property owner, or their representative, to be present on the property when short-term rental guests are visiting will mitigate some of the public costs; and

WHEREAS, the Council recognizes that this national trend and growth in short-term rentals will likely continue. There may be industry innovation and the development of new regulatory strategies to minimize community impacts. Therefore, it is imperative that the City monitors the evolution of short-term rental issues, including successes and failures in other jurisdictions; and

WHEREAS, the amendment will not modify the supply of land. The proposed amendment does not modify the urban growth boundary in any way. As such, no adverse effect to land supply is expected; and

WHEREAS, the amendment does not negatively impact public facilities, utilities and infrastructure, including transportation systems, and any adopted levels of service; and

WHEREAS, the amendment does not adversely affect lands designated resource lands of long term commercial significance or critical areas.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LEAVENWORTH, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The amendment to clarify and update the Bed and Breakfast (short-term / vacation / overnight rentals in residential neighborhoods) regulations, criteria, and standards within LMC Chapter 18.52 is hereby amended to read as set out in Attachment A.

Section 2. This ordinance shall be in effect five (5) days after its passage and publication in accordance with law.

Passed by the City Council of the City of Leavenworth, Washington and approved by the Mayor at an open public meeting on the 24th day of January, 2017.

CITY OF LEAVENWORTH

By: \_\_\_\_\_  
Cheryl K. Farivar, Mayor

Attest:

\_\_\_\_\_  
Chantell Steiner  
City Clerk/Finance Director

Approved as to form:

\_\_\_\_\_  
Thom H. Graafstra, City Attorney

Attachment A

**Chapter 18.52**  
**CONDITIONAL USES**

Sections:

- 18.52.010 Application – Requirements.
- 18.52.030 Hearing – Recess – Decision – Final action notice.
- 18.52.040 Application – Postponement or withdrawal.
- 18.52.050 Approval or denial – Authority.
- 18.52.060 Additional requirements and conditions.
- 18.52.070 Use change – Conformance required.
- 18.52.080 Bond – Authority to require.
- 18.52.090 Approval – Term – Permanent.
- 18.52.100 Notice of violation – Hearing.
- 18.52.110 Conditional use permit – Mini-day care or day care center.
- 18.52.120 Conditional use permit – Bed and breakfast.
- 18.52.125 Reserved.
- 18.52.130 Conditional use permit – Two-family dwelling units (duplexes).
- 18.52.135 Conditional use permit – Underground parking facility in the multifamily zone district to provide parking for a commercial zone district.
- 18.52.140 Conditional use permit – Coffee roasting.
- 18.52.150 Conditional use permit – Pet care centers.

*Previous Sections Remain Unchanged*

- 18.52.120 Conditional use permit – Bed and breakfast.

In granting a conditional use permit for a bed and breakfast in addition to the criteria in 18.52.050 and .060 where applicable, the hearing examiner shall impose the following minimum conditions to allow a Bed and Breakfast as a conditional use:

- A. The bed and breakfast facility shall be the principal residence of the property owner. A property owner must live on-site throughout the visitor's stay.
- B. Detached units with rooms are allowed. Accessory dwelling units may be allowed to be a part of the bed and breakfast.
- C. A bed and breakfast may only be offered in a space intended for human habitation. For example, a property owner may not rent a space in an accessory structure that is a storage shed or garage.
- D. The maximum number of occupants permitted to stay overnight shall be two people for each bedroom, excluding children under the age of six.
- E. Bed and breakfast facilities shall meet all applicable health, fire safety, and building codes. New, converted, or annexed bed and breakfast facilities shall be inspected by the City of Leavenworth prior to operations. Thereafter with renewal of annual permits, inspections shall be conducted by the property owner via the “Annual Building, Fire & Life Safety Occupancy Permit Application” provided by the City with the annual permit renewal process. All bed and breakfasts shall receive an annual permit from January 1st

to December 31st, under limited administrative review, documenting conformance with City code and agreement to conform to all permits, licenses and permits. The International Fire, Residential, and Building Codes shall be applied at the time of permit for use.

- F. Bed and breakfasts shall be residential in appearance.
- G. Bed and breakfast facilities in or adjacent to residential districts shall not infringe upon the right of neighboring residents to reasonable peaceful occupancy of their homes. Bed and breakfasts shall obtain a City business license and separate annual permits provided by the City. In any advertisement of the bed and breakfast, the property owner must include the Business License number issued by the City
- H. A written management plan shall be submitted for approval as a part of the conditional use permit process. It shall include, at a minimum, the proposed management structure, providing guests with information related to emergency exit routes, twenty-four hours a day seven days a week contact information, required guest rules and regulations, including for litter control, quiet hours, parking and proposed methods to enforce occupancy limitations and other requirements. In addition to providing the plan to the City of Leavenworth, contact information shall be provided to the adjacent properties, District 3 fire chief, and Chelan County Sheriff. A legible sign shall be placed adjacent to the front door (outside), clearly visible to the general public listing the maximum number of occupants permitted to stay overnight, the maximum number of vehicles allowed to be parked on site, and the name and contact information of the contact person. Quiet hours shall, at a minimum, be from 10:00 p.m. to 7:00 a.m., or as otherwise provided by City or State regulations, whichever is more stringent. The management plan may be modified with amendment to the conditional use permit.
- I. One non-illuminated sign, not to exceed four square feet, on the exterior of the Bed and breakfast shall be permitted subject to the review process appropriate to the zoning district.
- J. The property owner must clearly advertise the bed and breakfast as property owner occupied. This applies even in cases in which the bed and breakfast takes place in an accessory dwelling unit.
- K. Driveways accessing a bed and breakfast which are more than 100 feet in length shall have an improved width of at least 12 feet with appropriately spaced cutouts to facilitate the passage of two vehicles traveling in opposite directions
- L. One off-street patron / visitor parking space, not located within a required yard area, shall be provided for each room rented. All parking must be accommodated on site.
- M. The Hearing Examiner may impose other conditions, such as additional parking, improved access, landscaping, or screening, if found necessary to protect the best interests of the surrounding properties of the neighborhood due to the nature of the site or the facility.
- N. An affidavit certifying that the property owner will comply with all of the provisions of the bed and breakfast regulations, Conditional Use Permit, Business License Conditions for operating a bed and breakfast, and all relevant laws shall be required.



O. Violation of the conditions of approval, as determined by the City, shall result in revocation of the bed and breakfast and a potential monetary penalty of \$2,000 enforced in accordance with Chapter 21.13 LMC. Re-establishment shall be allowed administratively with compliance and remittance of the monetary penalty, and any other fees necessary for permit issuance.

P. Within the annual permits provided by the City, the property owner shall report to the City, the following minimum information:

- a. The address of the bed and breakfast; and the contact name(s) of the property owner.
- b. The total number of nights that the bed and breakfast was occupied for transient accommodation or lodging.
- c. The property owner shall both have legal responsibility for the collection of all applicable taxes and remittance of the collected tax.
- d. The property owner must provide its clients or potential clients the following disclosure:

“On January 24, 2017, the Leavenworth City Council adopted the new Bed and Breakfast Ordinance reiterating its existing prohibition on the rental of entire dwellings as vacation rentals. The new Bed and Breakfast Ordinance also legalized the short-term rental of a portion of a person’s home when the property owner lives on-site throughout the visitor’s stay and when the property owner obtains appropriate permits, including a business license. The property owner is also required to collect and remit necessary taxes.”

Q. The City of Leavenworth hereby adopts a fire and life safety self-inspection program for bed and breakfast facilities operating within the city limits of Leavenworth. After the initial inspections with permitting, the property owner from that time forward, shall conduct a self-inspection of their property annually and submit a self-inspection form to the city no later than 30 days after receipt from the city. The inspection is to be conducted by the property owner, or their designee.

R. A standard letter from the city will be mailed to the property owner requiring the self-inspection. A partial list of fire and building inspection review elements will be included with the inspection form. The City supplied self-inspection form shall be completed and signed by the property owner and returned to the city. A copy of the Certificate of Occupancy or Change of Use permit application must accompany the self-inspection form together with the applicable application fee as established by resolution of the city of Leavenworth.

S. In the event a property owner fails to timely file the self-inspection form with the city of Leavenworth, the city may order an on-site inspection by the city building and/or fire official or designee and the property owner shall be billed the applicable fee for said on-site inspection. Random inspections may be conducted by the City at the City’s discretion. Within a three (3) year cycle, all properties shall be inspected by the City. The inspection fee shall be established by resolution of the city council.

T. Any person, partnership, association, firm or corporation who violates or fails to comply with this chapter is guilty of a civil infraction and is subject to the civil penalties and remedies and corrective actions as set forth in LMC Chapter 21.13.

*Subsequent Sections Remain Unchanged*