

PROPOSED BY: \_\_\_\_\_  
INTRODUCTION DATE: \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING AND TITLE 23 SHORELINE MANAGEMENT PROGRAM, RELATING TO REGULATION OF VACATION RENTAL UNITS**

**WHEREAS**, Use of single family homes as vacation rentals has become increasingly common in Whatcom County in recent years; and

**WHEREAS**, The Whatcom County Code Title 20 Zoning and Title 23 Shoreline Management Program lacks provisions for defining and permitting such uses; and

**WHEREAS**, Whatcom County Planning and Development Services has proposed amendments to the Whatcom County Code related to regulation of vacation rental units; and

**WHEREAS**, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

**WHEREAS**, The County Council hereby adopts the following findings of fact and conclusions:

**FINDINGS OF FACT**

**PLN2014-00020 (Title 20 Zoning Code Amendments)**

1. Whatcom County Planning and Development Services submitted an application for a zoning code amendment to add a definition and standards for vacation rental units.
2. The amendment would add vacation rentals as an accessory use in zones where “bed and breakfast establishments” are currently permitted as an accessory use.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on December 1, 2014.
4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on November 26, 2014.
5. On January 8, 2015, the Whatcom County Planning Commission held a duly noticed public hearing on a proposal to amend the Zoning Code (WCC Title 20) to allow vacation rental units as accessory uses in most zones, and recommended approval.

6. On \_\_\_\_\_, 2018, the Whatcom County Council held a duly noticed public hearing on the proposed amendments.
7. WCCP Policies 2A-13, 2FF-1, 2FF-3, 2FF-4, and 7K-4 support small home-based businesses in the rural areas of the county.
8. WCCP Policies 2FF-3 and 2FF-4 support rural businesses provided they do not adversely impact rural character or surrounding uses.
9. WCCP Policy 2DD-2 supports protecting rural character through development regulations.

**PLN2016-00011 (Title 23 Shoreline Master Program Amendments)**

10. Whatcom County Planning and Development Services submitted an application for a SMP code amendment to define B&Bs and vacation rental units as residential uses.
11. PDS estimates that about a quarter of vacation rental and bed and breakfast uses offered on two of the most popular vacation rental websites is located within the Shoreline Master Program jurisdiction.
12. The amendment would list vacation rental and bed and breakfast uses as residential uses in the Shoreline Master Program, consistent with the proposed zoning code amendments.
13. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2016.
14. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 28, 2016.
15. The Planning Commission held a public hearing on the proposed amendments on June 23, 2016, notice of which was published in the Bellingham Herald on June 10, 2016.
16. The County Council held a duly noticed public hearing on the amendments on October 25, 2016, and passed Resolution 2016-039, directing staff to forward the SMP amendments to the Department of Ecology for its review.
17. Pursuant to WAC 173-26-110 and Resolution No. 2016-039, the staff forwarded the proposed SMP amendments to the Washington State Department of Ecology for review as a limited master program amendment.
18. On April 3, 2018, the Department of Ecology granted conditional approval of the proposed amendments, requesting some minor definitional changes that have been incorporated into the proposal.
19. WCCP Policies 2A-13, 2FF-1, 2FF-4, and 7K-4 support economic sustainability in the rural areas of the County.
20. WCCP Policy 2FF-4 supports rural home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do

not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

**CONCLUSIONS**

1. The zoning amendments defining vacation rental units and regulating their operation is in the public interest.
2. The Shoreline Master Program amendments regarding vacation rental units and bed and breakfasts in the shoreline jurisdiction is in the public interest.
3. The amendments are consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibits A and B.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Barry Buchanan, Chairperson

APPROVED as to form:

( ) Approved ( ) Denied

  
\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Jack Louws, Executive

Date: \_\_\_\_\_

# EXHIBIT A

## Whatcom County Code Title 20 Zoning AMENDMENTS

Note: Proposed changes since the last version went to the P&D Committee are highlighted in yellow.

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### CHAPTER 20.20 URBAN RESIDENTIAL (UR) DISTRICT

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#### 20.20.100 Accessory uses.

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.106 Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

.107 Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.

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### CHAPTER 20.22 URBAN RESIDENTIAL – MEDIUM DENSITY (URM) DISTRICT

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#### 20.22.100 Accessory uses.

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.107 Vacation rental units, per WCC 20.80.960.

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### CHAPTER 20.24 URBAN RESIDENTIAL MIXED (UR-MX) DISTRICT

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#### 20.24.100 Accessory uses.

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.107 Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.32 RESIDENTIAL RURAL (RR) DISTRICT**

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**20.32.100 Accessory uses.**

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**.106** Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

**.107** Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.

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**CHAPTER 20.34 RURAL RESIDENTIAL - ISLAND (RR-I) DISTRICT**

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**20.34.100 Accessory uses.**

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**.107** Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.35 ELIZA ISLAND (EI) DISTRICT**

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**20.35.100 Accessory uses.**

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**.108** Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.36 RURAL (R) DISTRICT**

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**20.36.100 Accessory uses.**

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**.109** Bed and breakfast establishments, except in the Lake Whatcom Watershed Overlay District, where bed and breakfast establishments are a conditional use, per WCC 20.51.070.

**.110** Vacation rental units, per WCC 20.80.960, except in the Lake Whatcom Watershed Overlay District, where vacation rental units are a conditional use, per WCC 20.51.070.

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**CHAPTER 20.37 POINT ROBERTS TRANSITIONAL ZONE (TZ) DISTRICT**

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**20.37.100 Accessory uses.**

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**.108 Vacation rental units, per WCC 20.80.960.**

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**CHAPTER 20.40 AGRICULTURE (AG) DISTRICT**

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**20.40.100 Accessory uses.**

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**.114 Vacation rental units, per WCC 20.80.960.**

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**CHAPTER 20.42 RURAL FORESTRY (RF) DISTRICT**

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**20.42.150 Conditional uses.**

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**.160 Vacation rental units, per WCC 20.80.960.**

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**CHAPTER 20.51 LAKE WHATCOM WATERSHED OVERLAY DISTRICT**

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**20.51.060 Accessory uses.**

All accessory uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter. (Ord. 2013-043 § 1 Exh. A, 2013).

**20.51.070 Conditional uses.**

All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited, made conditional, or further conditioned by this chapter. In addition, the following uses shall only be conditionally permitted:

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**.074 Bed and Breakfast Establishments and Inns.**

**.075 Vacation Rental Units, per WCC 20.80.960, with the following additional criteria in the Lake Whatcom Watershed Overlay District:**

- (1) In vacation rental units adjacent to the Lake Whatcom shoreline, the owner shall post notice to renters information about prevention of aquatic invasive species.
- (2) The owner of a vacation rental unit using an on-site septic system shall provide to the department a current satisfactory Report of System Status upon registration and shall provide updated reports every three years thereafter for conventional gravity systems or annually for all other systems.

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**CHAPTER 20.59 RURAL GENERAL COMMERCIAL (RGC) DISTRICT**

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**20.59.100 Accessory uses.**

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.108 Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.61 SMALL TOWN COMMERCIAL (STC) DISTRICT**

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**20.61.100 Accessory uses.**

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.111 Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.62 GENERAL COMMERCIAL (GC) DISTRICT**

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**20.62.100 Accessory uses.**

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.106 Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.64 RESORT COMMERCIAL (RC) DISTRICT**

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**20.64.100 Accessory uses.**

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.113 Vacation rental units, per WCC 20.80.960.

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**CHAPTER 20.80 SUPPLEMENTARY REQUIREMENTS**

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**20.80.580 Parking space requirements.**

For the purpose of this ordinance, the following parking space requirements shall apply (See also WCC [20.97.140](#)):

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**(7.1) Bed and Breakfast Establishments and Inns: 1 for each rented sleeping unit in addition to the parking spaces required for the single-family dwelling.**

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**20.80.960 Vacation rental units**

Vacation rental units are subject to all of the following standards:

- (1) Vacation rental units in the Lake Whatcom Watershed Overlay Zone are subject to a conditional use permit per WCC 20.51.070 and WCC 20.84. A conditional use permit may set standards that are more restrictive than the standards in this section.
- (2) There shall be no more than one vacation rental unit per lot.
- (3) To operate, each vacation rental unit must be currently registered by the owner in the departmentCounty's Vacation Rental Registry, maintained by Planning and Development Services. Registration must be reapplied for annually, by the date of the owner's first registration. A registration fee may be collected by the department, as specified in the County's Unified Fee Schedule. The department may revoke registration of a vacation rental unit if the owner the department has been cited the owner for two or more code violations within a 12-month period. The department shall issue a registration number for each vacation rental unit and the owner shall include the registration number in all advertising for the unit. The registration shall apply to the owner and not run with the land. Information provided at the time of registration shall include, at a minimum:
  - (a) Name and telephone number of the owner or an authorized agent who is available on a 24-hour basis to resolve problems associated with the unit,
  - (b) A eCopies of the signage required to be posted on the front exterior of the unit giving the 24-hour contact information for the owner or authorized agent, and a description of the specific posting location by subsection (8),
  - (c) A checklist of safety features required by the Building Official and Fire Marshal that the owner certifies are present in the unit,
  - (d) A statement that by signing the registration/permit application the owner or agent authorizes departmentthe County staff to inspect the property, and agrees to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental.  
A copy of the notice posted inside the unit providing guests with 24-hour contact information, safety information and rules of conduct, and
  - (e) A copy of the current State of Washington business license, including the Unified Business Identifier (UBI) number.



- (4) The maximum number of persons permitted to stay in a vacation rental unit shall not exceed two per the number of legally permitted bedrooms being rented, plus two additional persons. The owner shall not advertise occupancy higher than the maximum number permitted by this subsection or by a conditional use permit, whichever is the lesser.
- (5) Other than the contact information required to be posted by subsection (8)c, there shall be no outdoor signage or any other visible feature that would distinguish the unit from surrounding residential units.
- (6) The vacation rental shall be operated in a way that will prevent unreasonable disturbances to nearby residents, per WCC Chapter 9.40.
- (7) Off-street parking shall be provided per WCC 20.80.580(50).
- (8) The owner of the vacation rental unit shall post notices to renters in prominent places, to include:
  - a. The maximum number of guests, as calculated in subsection (4)
  - b. ~~regarding~~ Guest rules of conduct and their responsibility not to trespass on private property or create disturbances.
  - c. The name and telephone number of the owner or authorized agent who is available on a 24-hour basis to resolve problems associated with the unit (to be posted both inside, for the guests, and outside, near the primary entrance).
  - d. A copy of the current State of Washington business license, including the Unified Business Identifier (UBI) number.

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## CHAPTER 20.97 DEFINITIONS

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### 20.97.027 Bed and breakfast establishment.

“Bed and breakfast establishment” means a privately owned dwelling that is the primary residence(s) of the owners and in which, for compensation, one to two rooms are used as sleeping units to house or lodge individuals or families for periods of less than ~~one month~~30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

### 20.97.028 Bed and breakfast inn.

“Bed and breakfast inn” means a privately owned dwelling that is the primary residence(s) of the owners in which, for compensation, three to five rooms are used as sleeping units to house or lodge individuals or families for periods of less than ~~one month~~30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

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**20.97.445.1 Vacation Rental Unit.**

"Vacation Rental Unit" means a single-family dwelling unit, detached accessory dwelling unit, or accessory apartment that, for compensation, is rented as a single unit used to lodge individuals or families for a period of less than 30 days and where the owner is not present in the rented unit during the rental period. Individual sleeping rooms shall not be rented individually.

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**EXHIBIT B**  
**Whatcom County Code Title 23**  
**Shoreline Management Program**  
**AMENDMENTS**

(Note: Changes recommended by the Department of Ecology are highlighted in yellow.)

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**CHAPTER 23.30 SHORELINE JURISDICTION AND AREA DESIGNATIONS**

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**23.30.055 Urban conservancy shoreline area – Conditional uses.**

The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- A. All other residential development.
- B. Low intensity water-oriented commercial limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities subject to the criteria in WCC 23.100.050. Low intensity non-water-oriented commercial limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities, subject to the criteria in WCC 23.100.050(B)(1)(d).

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**23.30.095 Conservancy shoreline area – Conditional uses.**

The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- A. All other residential development.
- B. Low intensity water-oriented commercial limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities. Low intensity non-water-oriented commercial uses limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities may be permitted as a conditional use, subject to the criteria in WCC 23.100.050(B)(1)(d).

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**CHAPTER 23.60 SHORELINE PERMITS AND EXEMPTIONS**

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**23.60.070 Fees.**

- A. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, preapplication conferences and other required reviews and/or approvals shall be paid to the county at the time of application in accordance with the Whatcom County unified fee schedule in effect at that time.
- B. When any given project requires more than one of the following permits or applications, the total amount of shoreline fees shall be reduced by 25 percent:
  - 1. Preliminary plat application.
  - 2. Rezone application.

- 3. Major development permit.
- 4. Planned unit development.
- 5. Binding site plan.
- C. When any project requires a shoreline conditional use permit or shoreline variance in addition to a shoreline substantial development permit, the fees for the conditional use or variance shall be reduced by half.
- D. In the event that actions of an applicant result in the repetition of the review, inspections and other steps in the approval process, those items or steps repeated shall be charged to and paid by the applicant prior to any further processing of the application by the county. The cost shall be in accordance with the adopted fee schedule.
- E. If an application is withdrawn within 30 days of submittal, and no work has commenced at the site of the proposal for which the application was made, a refund of not more than 50 percent of the shoreline fees paid may be granted by the administrator. This amount may be reduced where staff time, public notice and other costs exceed 50 percent of the fees paid.
- ~~F. No fees shall be collected from an agency of Whatcom County government.~~

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**CHAPTER 23.100 SHORELINE USE POLICIES AND REGULATIONS**

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**23.100.050 Commercial use.**

Commercial development in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

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C. Shoreline Area Regulations.

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- 3. Urban Conservancy. Low intensity water-oriented commercial use and development limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

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- 7. Conservancy. Low intensity water-oriented commercial use and development limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-water-oriented commercial limited to resort, ~~bed and breakfast~~, campgrounds and similar facilities may be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section.

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**CHAPTER 23.110 DEFINITIONS**

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**23.110.020 B definitions**

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- 4. "Bed and Breakfast" means a privately owned dwelling that is the primary residence(s) of the owner in which, for compensation, one to five rooms are used as sleeping units to house

or lodge individuals or families for periods of less than 30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

*(Scrivener's note: Subsequent numbers shall be renumbered)*

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**23.110.030 C definitions**

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6. "Commercial development" means those developments whose primary use is for retail, service, or other commercial ~~business~~ activities. Included in this definition are developments such as hotels, motels, ~~bed and breakfast establishments~~, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, commercial rental campgrounds and cabins, whether public or private, and indoor or intensive outdoor commercial recreation facilities. Not included are private camping clubs, marinas, signs, utilities, bed and breakfasts, vacation rental units, and other development.

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**23.110.180 R definitions**

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7. "Residential development" means buildings, earth modifications, subdivision, and use of land primarily for human residence, including, but not limited to: single-family and multifamily dwellings, condominiums, mobile homes and mobile home parks, boarding homes, family daycare homes, adult family homes, retirement and convalescent homes, bed and breakfasts, and vacation rental units, together with accessory uses common to normal residential use. Camping sites or clubs, recreational vehicle parks, motels, and hotels and other transient housing are not included in this definition.

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**23.110.220 V definitions.**

1. "Vacation Rental Unit" means a single-family dwelling unit, detached accessory dwelling unit, or accessory apartment that, for compensation, is rented as a single unit used to lodge individuals or families for a period of less than 30 days and where the owner is not present in the rented unit during the rental period. Individual sleeping rooms shall not be rented individually.

*(Scrivener's note: Subsequent numbers shall be renumbered)*