

CITY COUNCIL AGENDA REQUEST FORM

Today's date: 11 / 7 / 17

Date of meeting 11 / 15 / 17

(City Council meetings are held the 1st and 3rd Wednesday of each month.)

Name of Citizen, Organization, Elected Official, or Department Head making request:

Planning Staff

Address: 1123 Lake Street

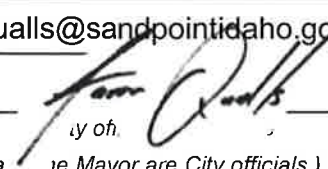
Phone number and email address: 208.255.1738 aqualls@sandpointidaho.gov

Authorized by: Aaron Qualls

name of City official

City of

(Department Heads, City Council members, and the Mayor are City officials.)



Subject: Short Term Rental Ordinance

Summary of what is being requested: Workshop to discuss further potential changes to the Short Term Rental Ordinance

The following information **MUST** be completed before submitting your request to the City Clerk:

1. Would there be any financial impact to the city? Yes No

If yes, in what way? _____

2. Name(s) of any individual(s) or group(s) that will be directly affected by this action:

Have they been contacted? **Yes or No**

3. Is there a need for a general public information or public involvement plan? **Yes or No**

If yes, please specify and suggest a method to accomplish the plan: Yes No

Public hearing if further changes directed by Council

4. Is an enforcement plan needed? **Yes or No** Yes No Additional funds needed? **Yes or No** Yes No

5. Have all the affected departments been informed about this agenda item? **Yes or No** Yes No

This form must be submitted no later than 5 working days prior to the scheduled meeting. All pertinent paperwork to be distributed to City Council must be attached.

ITEMS WILL NOT BE AGENDIZED WITHOUT THIS FORM



Staff Report

To: City Council
From: Planning Staff
Report: November 8, 2017
Meeting: November 15, 2017
Item: Short Term Rental (STR) Workshop

General Information

Requested Action: Discuss Options for revising the Short Term Rental Ordinance and direct staff accordingly

Purpose: To revise Sandpoint City Code Title 3, Chapter 12

Included in Staff Report:

1. Staff Overview & Policy Objectives
2. Alternative Revisions

Attached:

1. Ordinance with the most recent changes from Council
2. Map of existing Permitted Short Term Rentals within the Residential Zones

1. Staff Overview & Policy Objectives

Overview

Since the City Council's decision to adopt changes to Title 3, Chapter 12 Short Term Rental of Dwelling Units, staff has been directed to address two more remaining issues:

1. Additional legal language is needed within section 5 of the ordinance in order to enforce compliance based on the advertisement of short-term rentals. The staff proposed solution is to incorporate the following language into section 5:

An advertisement promoting the availability of short-term rental property in violation of City code is prima facie evidence of a violation and may be grounds for denial, suppression or revocation of a license. Advertising that offers a dwelling unit as a short-term rental shall constitute prima facie evidence of the operation of a short-term rental of the unit and the burden of proof shall be on the owner, operator, or lessee of record to establish that the subject property is being used as a legal short-term rental or is not in operation.

2. Staff has also been directed to provide for a waitlist service for those properties within an existing 300’ buffer of an existing short-term rental or some alternative to provide a way for any residential property to have the potential at some point in time to become a short-term rental. This presents some challenges with respect to fairly administering such a waitlist under the provisions of the currently drafted ordinance:
 - a. *Challenge 1 – Double Jeopardy* – Another buffer may emerge from a property further limiting a waitlisted property — Creates a false sense of security
 - b. *Challenge 2 – Who’s on First* – During the application window, the city would need to put a hold on any other VR permits in the area so that the waitlisted properties remain unaffected during the application window — Raises question of rights/timing

Irrespective of the waitlist, Staff is also seeking guidance from the City Council as to whether those short term rental units that are occupied more than 6 months out of the year by a primary resident (i.e. a home owner with the home owner exemption) should be treated equal to those units rented out exclusively on a short-term basis.

<i>The 3 Different “Tiers” of Short Term Rentals</i>	
<i>Tier 1</i>	<i>Host Occupied STR: Where a homeowner or primary resident rents out rooms while present</i>
<i>Tier 2</i>	<i>Occasional STR: Where the whole unit is rented but for the majority of the year, the homeowner or primary resident occupies the unit.</i>
<i>Tier 3</i>	<i>Dedicated STR: The Unit is rented out exclusively on a short term basis</i>

Policy Objectives

1. Ensure that Sandpoint’s traditional neighborhoods—highly valued by residents—are not transformed exclusively into tourist areas to the detriment of long-term residents.
2. Minimize public safety risks and negative impacts to neighborhoods.
3. Provide permanent residents an equitable path to occasionally utilize their properties as short-term-rentals.
4. Ensure that the availability of dedicated short-term rental properties are balanced with the need for affordable long-term rental housing options.
5. Ensure that the City is able to collect resort city lodging taxes fairly and equitably.
6. Ensure that any resulting ordinance changes are enforceable so that a level playing field is maintained.
7. Ensure any resulting ordinance changes are in accord with Idaho House Bill 216, which goes into effect Jan. 1st, 2018.

Sandpoint Comprehensive Plan Quotes:

“Provide Sandpoint workers with affordable housing options near jobs, public transportation, and non-motorized transportation options.”

“Sandpoint residents value their traditional neighborhoods, including the Downtown and areas such as Sixth Avenue. The community recognizes the need to preserve not just individual historic buildings, but the traditional scale and feeling of the city’s original neighborhoods platted by Farmin.”

“In recent times, Sandpoint’s fortunes have spurred growth and investment in such a way as to compromise affordability. To combat this, residents have become more proactive in a role for themselves and for the City in promoting and encouraging a wide range of housing types, keeping pace with housing demand, and acting to improve other livability factors to bridge the distance between costs of living in Sandpoint with what residents earn.”

2. Ordinance Revision Alternatives

Option 1

Eliminate Buffer completely and let the market govern the outcome in the residential neighborhoods. Optionally, place additional restrictions on multifamily (one per development with the exception of waterfront in proximity to downtown) and on accessory dwelling units (i.e. home owner occupation required and/or no more than one unit per parcel).

Example City: Coeur d'Alene

Option 2

Eliminate the buffer and allow Tier 1 and Tier 2 STRs outright with permit. Prohibit Tier 3 STRs in residential zones and provide for a 2-year sunset clause for existing units. NOTE: HB 216 compliance should be confirmed through legal.

Example City: Bozeman, MT

Option 3

Eliminate the buffer and allow Tier 1 and Tier 2 STRs outright with permit. Place a cap on the number of Tier 3 STRs based on zone (i.e. X number in the RS Zone / Y Number in the RM Zone) Optionally, limit Tier 3 STRs to one per block or street segment.

Specific standards for multifamily developments and ADUs could also apply (i.e. the waterfront standard in proximity to downtown and homeowner occupation for ADUs)

Waitlist also administered (but must be eligible based on dispersion requirement by block or street segment)

Example City: New Orleans, LA

Option 3a

Same as Option 3 except: cap is placed on the number of Tier 2 & 3 STRs based on zone and optionally, limit Tier 2&3 STRs to one per block or street segment.

Option 4

Keep buffer in place for Tier 3 STRs but once property is sold, it may only be eligible after a certain amount of time (i.e. 1 year) has elapsed giving others in the neighborhood the opportunity to apply. A geo tagged waitlist could also be administered that will notify a property owner if they become eligible for a Tier 3 STR from the disappearance of a buffer. Additionally, a GIS eligibility map would also be published online.

Example City: Bend, OR

Tourist homes

Licensed




Yes




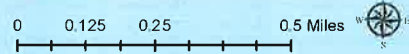
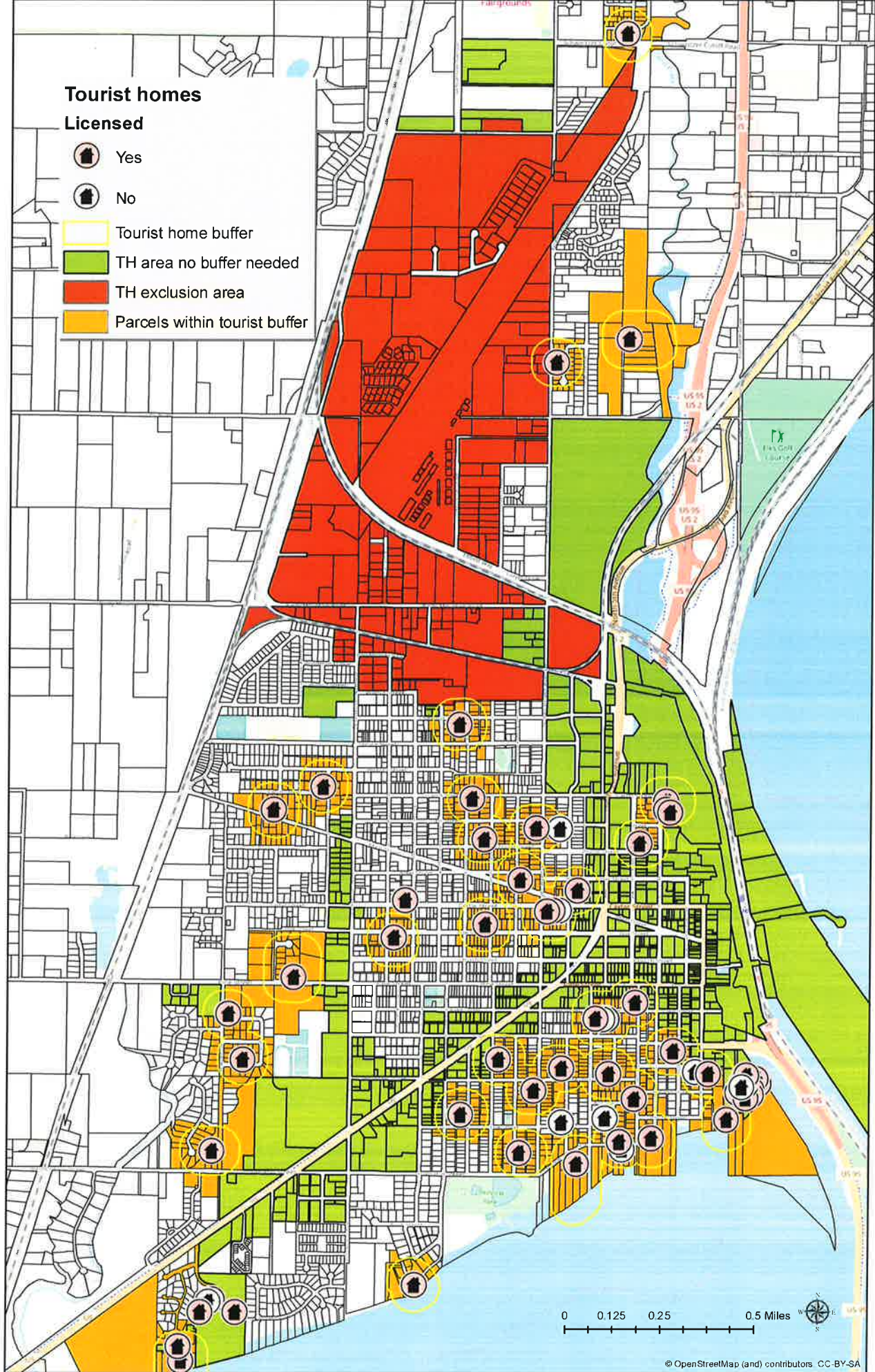
No

 Tourist home buffer

 TH area no buffer needed

 TH exclusion area

 Parcels within tourist buffer



Chapter 12

SHORT TERM RENTAL OF DWELLING UNITS

3-12-1: PURPOSE:

3-12-2: DEFINITIONS:

3-12-3: VACATION RENTAL OCCUPANCY REQUIREMENTS:

3-12-4: STANDARDS:

3-12-5: VIOLATION; INFRACTION; PENALTY:

3-12-1: PURPOSE:

The purpose of this chapter is to safeguard the public health, safety and general welfare in order to protect the integrity of the city's residential neighborhoods by limiting and regulating the vacation home rental occupancy of dwelling units.

In the adoption of these regulations, the city finds that the rental of dwelling units for periods of thirty (30) days or less has the potential to be incompatible with surrounding residential uses. Therefore, special regulation of dwellings used for vacation home rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located.

3-12-2: DEFINITIONS:

LOCAL CONTACT PERSON: An area property manager, owner, or agent of the owner, who is readily available to respond to tenant and neighborhood or city questions or concerns.

MANAGING AGENCY OR AGENT: A person, firm or agency representing the owner of the tourist home rental, or a person, firm or agency owning the tourist home rental.

OWNER: The person or entity that holds legal and/or equitable title to the private property. A long term lease satisfies the equitable title provision if the legal owner consents to licensing. The owner may act through an agent or property manager, but the owner shall remain responsible for compliance with these provisions.

VACATION HOME: A residence, including a single-family unit or a multi-family unit, which is rented for the purpose of overnight lodging for a period of not less than two (2) days and not more than thirty (30) days. Rentals for less than two (2) days shall be considered a motel and regulated accordingly. Vacation homes are also commonly referred to as tourist homes, bed and breakfast establishments or vacation rentals.

VACATION HOME RENTAL OCCUPANCY: The use of a dwelling unit, or a portion thereof by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time less than thirty (30) but at least two (2) days, counting portions of days as full days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property. Home exchanges where money is not transferred shall be excluded from this definition.

3-12-3: VACATION RENTAL OCCUPANCY REQUIREMENTS:

- A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit for vacation rental occupancy within the city without obtaining a vacation rental permit.
- B. Permits for vacation rentals may be allowed subject to all provisions of this chapter.
- C. Occupancy Tax: Compliance with the requirements of [chapter 10](#), "Hotel/Motel Occupancy Tax", of this title is required.
- D. A vacation rental permit is issued to a specific owner of a dwelling unit. The vacation rental permit shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the vacation rental permit except as provided below. For purposes of this section, "sale or transfer" shall mean any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse or child or transfers on the owner's death to a trust which benefits only a spouse or child for their lifetime. A permit holder may transfer ownership of the real property to: a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to this section so long as the transferor lives and remains the only owner of the entity.
- E. Within the residential zones, no vacation rental shall be located within three hundred feet (300') of a parcel on which any other vacation rental is located, except as provided herein. The three hundred foot (300') buffer distance shall be measured from the edges of the legally described parcel on which the vacation rental home is located.
 - 1. Where the vacation rental unit is included in a multi-unit development with the following standards:
 - a. Such development must include not less than ten (10) units.
 - b. Such development must include property that adjoins the waterfront.
 - c. Such development must be within one thousand and five hundred (1,500) feet of the downtown core defined as being within the boundaries of First Avenue, Cedar Street, Fifth Avenue and Pine Street. Developments located farther than 1,500 feet from the downtown core that meet standards E-1-a and E-1-b above shall not be required to adhere to the buffer requirement but may only be allowed short term rentals at a ratio of 1 per 10 units.
 - 2. Where approved for a greater vacation rental density as part of an approved planned unit development. Existing approved planned unit developments must be formally amended to be eligible for this greater density.
 - 3. Where rooms are rented within an owner occupied primary dwelling unit.
 - ~~4. Where the vacation rental unit is a permitted accessory dwelling unit. However, a principal dwelling and its associated accessory dwelling unit may not be concurrently permitted for short-term occupancy.~~
- F. A vacation home rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the new owner shall apply for and receive a vacation

home rental permit before using the dwelling as a vacation home rental. New owners will only be issued a vacation home rental permit where the required three hundred foot (300') buffer can be satisfied.

G. Accessory Dwelling Units (ADUs): The 300' buffer described in section 3-12-3-E shall apply to ADUs. Additionally, ADUs rented on a short-term basis shall be required to have owner occupancy on the parcel.

3-12-4: STANDARDS:

A. The vacation rental occupancy of a dwelling unit, as permitted by section [3-12-3](#) of this chapter, shall comply with the following standards:

1. Permit:

a. Commencing on the effective date hereof, any person who is permitted to engage in the rental of a dwelling for vacation home rental occupancy shall have obtained a vacation home rental permit before the rental of the dwelling for vacation home rental occupancy. Application for such a permit shall be made upon suitable forms furnished by the city. The permit is valid for one year, or the remainder of the calendar year in which the permit is issued, and must be renewed annually. Renewal of the permit requires a complete permit application and fee no later than January 1 for the calendar year. If a complete application and applicable fee have not been received by the city within forty five (45) days of the annual renewal date, the vacation home rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the city shall revoke the vacation home rental permit.

2. Issuance: The issuance of a vacation home rental permit shall be subject to the following requirements:

a. Inspection:

(1) At the time of application for a new vacation home rental permit, the dwelling unit shall be subject to inspection by the building official or their designee. Prior to the issuance of the vacation home rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the building official pursuant to the requirements of this chapter.

(2) All applicants that have a vacation home rental permit shall be required to submit a notarized statement affirming compliance with a city provided self-inspection checklist affirming compliance with the standards set forth in this chapter annually. Such statement shall be submitted with the complete application and applicable fee required for the annual vacation rental permit renewal.

(3) Any inspections required under this chapter may be conducted by a private inspector certified by the International Code Council at the owner's expense.

b. Bedroom windows shall be operable to allow for emergency egress. All emergency escape windows shall have a minimum five and seven tenths (5.7) square foot net opening with a maximum sill height of forty-four (44) inches.

c. Single or multiple-station smoke alarms shall be installed and maintained in accordance with manufacturers specification:

(1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(2) In each room used for sleeping purposes.

(3) In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

d. A CO Detector is required on each floor if: there is a garage, solid fuel appliance or gas appliance

e. The vacation rental shall be equipped with a minimum of one 2A:10BC type extinguisher; at least one such extinguisher is required per floor. Fire extinguishers(s) shall be mounted in visible locations with the tops of the fire extinguishers mounted between three and five feet above the floor, and shall be accessible to occupants at all times.

f. Occupancy: No recreational vehicle, travel trailer, tent or other temporary shelter shall be used as a vacation rental.

g. Local Representative:

(1) Each vacation home rental shall list a local representative who permanently resides within twenty (20) vehicular miles of Sandpoint city limits.

(2) If the police department is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation pursuant to subsection [3-12-5B](#) of this chapter.

(3) The designated local representative may be changed by the permit holder from time to time throughout the term of the permit. However, to change the local representative, the permit holder must file a revised permit application that includes the name, address and telephone number of the new local representative. Failure to notify the city of a change in the local representative constitutes a violation pursuant to subsection [3-12-5B](#) of this chapter.

(4) Within the residential zones, property owners and/or residents within two hundred feet (200') of the dwelling shall be provided with the name and telephone number of the owner or the local representative prior to use of the dwelling as a vacation rental. The permit holder shall provide documentation to the city of this notification through a notarized statement and list of the owners and/or residents contacted. The purpose of this notification is so that adjacent property owners and residents can contact the responsible person to report and request the resolution of problems associated with the operation of the vacation home rental. Failure to provide this required notification constitutes a violation pursuant to section [3-12-5](#) of this chapter and that violation shall be counted in the number of violations assessed against the permit pursuant to section [3-12-5](#) of this chapter.

Notification shall not be required for units identified in section 3-12-3-E1, E2 and E3 of this chapter.

h. Permit Posting: The vacation home rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:

- (1) The name of the local representative and a telephone number where the representative may be reached;
- (2) The name and a telephone number where the property owner can be reached;
- (3) The telephone number and website address of the city of Sandpoint and the Sandpoint police department;
- (4) The maximum number of occupants permitted to stay in the dwelling;
- (5) The solid waste and recycling collection day; and
- (6) The Sandpoint snowplowing regulations.

i. Inactivity: License issuance and continued validity shall be contingent upon the owner's good faith effort to actively engage in the rental of the property. Failure to provide documentation of rental activity for a minimum of twelve (12) nights during a twelve (12) month period, prorated quarterly, prior to the vacation rental permit renewal deadline shall constitute an immediate forfeiture of the license.

3-12-5: VIOLATION; INFRACTION; PENALTY:

The following conduct shall constitute a violation for which the penalties and sanctions specified in this section may be imposed:

1. Violations:

- a. The tenants of the dwelling have created noise, disturbances, or nuisances, in violation of this code, or violations of state law pertaining to the consumption of alcohol, or the use of illegal drugs.
- b. The owner has failed to comply with the standards of section [3-12-4](#) of this chapter.

2. Penalties:

- a. For the first two (2) violations within a twelve (12) month period, the sanction shall be a warning notice.
- b. For the third violation within a twelve (12) month period, the sanction shall be a revocation of the permit.

3. Written Notice: The city shall provide the permit holder with a written notice of any violation of this section that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.

4. Appeal Of Suspension or Revocation: Pursuant to this section, the city shall provide the permit holder with a written notice of the permit suspension or revocation and the reasons therefore. The permit holder may appeal the suspension or revocation to the city council by filing a letter of appeal to the city clerk within twenty (20) days after the date of the mailing of the planning director's order to suspend or revoke the permit. The planning director's suspension or revocation shall be stayed until the appeal has been determined by the city council. The city council shall conduct a hearing on the appeal within sixty (60) days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may uphold, modify, or overturn the decision of the planning director to suspend or revoke the permit based on the evidence received.
5. Application For Permit After Revocation: A person who has had a vacation home rental permit revoked shall not be permitted to apply for a permit at a later date.
6. Infraction: Unless otherwise provided, any person who shall commence or continue to operate a short term rental for which a permit is required by any provision of this title without first procuring the same shall be deemed guilty of an infraction and, upon conviction thereof, shall be fined one hundred dollars (\$100.00). An infraction is a civil public offense, not constituting a crime, for which no period of incarceration is imposed. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.