

ORDINANCE NO.
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

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AN ORDINANCE AMENDING CHAPTER 6 (SINGLE FAMILY RESIDENTIAL DISTRICTS), CHAPTER 8 (MULTIPLE FAMILY RESIDENTIAL DISTRICTS), AND CHAPTER 22 (GENERAL PROVISIONS AND EXCEPTIONS) OF THE SAN MATEO COUNTY ZONING REGULATIONS TO ADD SHORT-TERM RENTALS AS AN ALLOWED USE IN SPECIFIED LOCATIONS SUBJECT TO A SHORT-TERM RENTAL PERMIT.

SECTION 1. FINDINGS. The Board of Supervisors of San Mateo County (“County”) hereby finds and declares as follows:

WHEREAS, vacation or short-term rental properties have existed for many years in San Mateo County; and

WHEREAS, with the advent of online short-term rental listing websites, short-term rentals have grown in popularity in the County. The new generation of short-term rental websites have made it much easier for property owners to advertise their properties and for renters to find available rentals; and

WHEREAS, this evolution has sometimes caused concern for coastal residents and has prompted discussion regarding impacts from short-term rentals with respect on the preservation of neighborhood character, the availability of rental housing stock, and public safety. Coastside residents and the public in general have raised various questions and concerns about STRs, including with respect to noise abatement, rental density, availability of parking, and garbage disposal; and

WHEREAS, the County currently has no permitting process in place to regulate short-term rentals; and

WHEREAS, the County recognizes that there is a growing trend in the region toward using residential properties for short-term rental purposes; and

WHEREAS, the County has determined that a permitting process will limit any impacts of such short-term rental uses, while providing a range of visitor-serving overnight opportunities in the County’s coastal areas; and

WHEREAS, the San Mateo County Planning Commission considered the proposed regulations for short-term rentals and held public hearings regarding these

regulations on March 22, 2017 and May 10, 2017; and

WHEREAS, opportunity for public participation in the Planning Commission hearing process was provided through (1) publication of all Planning Commission meeting announcements in the San Mateo County Times and Half Moon Bay Review newspapers, and (2) direct mailing of meeting announcements and reports to interested parties; and

WHEREAS, on May 10, 2017, the Planning Commission adopted a recommendation that the Board of Supervisors approve the proposed ordinance; and

WHEREAS, on June 6, 2017, the Board of Supervisors conducted a public hearing on the ordinance recommended for approval by the Planning Commission, considered all comments received, determined that the amendment is consistent with the General Plan and Local Coastal Plan; and

WHEREAS, opportunity for public participation in the Board of Supervisors hearing process was provided through (1) publication of all Board of Supervisors meeting announcements in the San Mateo County Times and Half Moon Bay Review newspapers, and (2) direct mailing of meeting announcements and reports to interested parties; and

WHEREAS, all interested parties were afforded the opportunity to be heard at the Board of Supervisors hearing; and

WHEREAS, the County prepared and circulated an Initial Study and Negative Declaration in compliance with the California Environmental Quality Act from December 21, 2016 to January 10, 2017; and

WHEREAS, the Board of Supervisors has considered the proposed Negative Declaration and finds on the basis of the whole record in this proceeding that there is no substantial evidence that the short-term rental ordinance will have a significant effect on the environment and that the Negative Declaration reflects the Board of Supervisor's independent judgment and analysis.

NOW, THEREFORE, The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

SECTION 2. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 6 (Single Family Residential), Section 6161, is hereby amended to add a Subsection 6161(m), which shall read as follows:

Section 6161. Uses Permitted.

- (m) In the Coastal Zone, Short-Term Rentals, subject to a short-term rental permit issued in accordance with County Zoning Regulations, Chapter 22, Section 6401.3.

SECTION 3. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 8 (Multiple Family Residential), Section 6181, is hereby amended to add a Subsection 6181(f), which shall read as follows:

Section 6181. Uses Permitted.

- (f) In the Coastal Zone, Short-Term Rentals, subject to a short-term rental permit issued in accordance with County Zoning Regulations, Chapter 22, Section 6401.3.

SECTION 4. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 22 (General Provisions and Exceptions), is hereby amended to add a Section 6401.3 (General Provisions Relating to Short-Term Rentals), which shall read as follows:

SECTION 6401.3. GENERAL PROVISIONS RELATING TO SHORT-TERM RENTALS

- 1) *Purpose.* The purpose of this Section is to establish rules and regulations concerning short-term rental units as visitor-serving accommodations in the Coastal Zone of San Mateo County in a manner that protects coastal resources and the residential character of the areas where short term rental uses occur. The provisions of this Section shall provide for a short-term rental permit process, permit performance standards addressing safety requirements and neighborhood character, and the payment of Transient Occupancy Tax (TOT) pursuant to existing regulations.
- 2) *Permit required.* Each short-term rental requires a valid short-term rental permit as set forth in, and subject to, the requirements of this Section. A separate short-term rental permit is required for each property address. In the event multiple rental options are advertised or available at a single property address (e.g. multiple rooms available for rent separately or in any combination in one house), one permit shall be required to cover the total rental activity proposed.
 - a) *No authorization of prohibited uses.* Approval of a short-term rental permit does not legalize any use or structure not otherwise permitted by law or contract, including but not limited to homeowners association agreements and lease agreements.
 - b) *Coastal Zone requirements.* A short-term rental located in the Coastal Zone must comply with the conditions specified in Sections 6160 and 6180 of the Zoning Regulations; conform to the Local Coastal Program; and comply with all conditions of any existing or subsequently issued Coastal Development Permits, as specified in Chapter 20B of the Zoning Regulations.

- c) *Nightly limits.* A short-term rental cannot be rented for more than one hundred eighty (180) nights per calendar year. Any night in which a short-term rental is rented during which the property owner is present at the address where the short-term rental is located does not count against this limit.
 - d) *Suspension or revocation.* Short-term rental permits are subject to suspension or revocation as provided in this Section.
 - e) *Expiration.* A short-term rental permit shall automatically expire three (3) years after the date of issuance, or when the permit holder no longer has legal ownership or a leasehold of the short-term rental, whichever occurs first.
 - f) *Renewal.* A short-term rental permit may be renewed up to six (6) months prior to the expiration of the permit, using the same application process as for issuance of an initial permit.
- 3) *Definitions.* For the purposes of this Section, the following terms are defined as follows:
- a) “Department” means the San Mateo County Planning and Building Department.
 - b) “Owner” means an individual, a group of individuals, an association, firm, partnership, corporation, a legal entity recognized by any state or the federal government, or other natural or legal entity, public or private, who possesses fee title to or is a lessee of at least thirty (30) days of the short-term rental, or his or her authorized representative.
 - c) “Community Development Director” means the Director of the County of San Mateo Planning and Building Department or his or her designee.
 - d) “Short-term rental” means a single-family dwelling unit or multifamily unit, or portion(s) thereof, rented for the purpose of overnight lodging for a period of less than thirty (30) consecutive days other than (a) ongoing month-to-month tenancy granted to the same renter for the same unit or (b) a house exchange for which there is no rental payment. “Short-term rental” does not include (1) non-habitable accessory structures as defined by the California Building Code; (2) second units as defined in Zoning Regulations Chapter 22.5; and (3) housing units subject to affordable housing covenants and/or income restrictions under County, state, or federal law.
 - e) “Short-term rental permit” means the permit applied for and granted pursuant to this Section 6401.3 of the Zoning Regulations.
 - f) “Short-term tenants” means those persons who rent a short-term rental for less than thirty (30) consecutive days other than for (a) ongoing month-to-month tenancy granted to the same renter for the same unit or (b) a house

exchange for which there is no rental payment.

- 4) *Application.* A separate application for a short-term rental permit shall be made to the Department for each address at which short-term rental activity is intended to occur, in accordance with the following requirements:
- a) Only an owner, as defined in this Section 6401.3, may apply for a short-term rental permit.
 - b) If the application is made by a lessee or lessee's representative, the application must include written authorization from the lessor of the subject property establishing that the lessee is permitted to use the leased dwelling unit as a short-term rental.
 - c) If the application is made by an owner's or lessee's representative, the application must include written authorization establishing the representative's authority to apply for a short-term rental permit on behalf of the owner or lessee.

The application shall include all of the following on a form developed and provided by the Department:

- d) Completed application form as provided by the Department, including signature of the owner verifying that all information provided is true and correct as of the date signed.
- e) Copy of the rental or lease agreement between the owner and a prospective short-term tenant or copy of advertisement offering the short-term rental, which shall recite the following performance standards set forth in this Section:
 - i) Number of tenants allowed;
 - ii) On-site parking;
 - iii) Trash;
 - iv) Prohibition of illegal activity;
 - v) Noise
- f) Valid Transient Occupancy Registration Certificate issued by the County of San Mateo pursuant to Ordinance Code Chapter 5.136, or alternative satisfactory evidence demonstrating compliance with Ordinance Code Chapter 5.136.
- g) Evidence of available on-site parking in compliance with the requirements of this Section.

- h) Evidence that the address/street number of the short-term rental is visible from the road in front of the parcel.
 - i) Proof of liability insurance for short-term rentals in compliance with this Section.
 - j) Any other information which may be reasonably required by the Community Development Director to ensure compliance with this Section.
 - k) Fees prescribed by the Department fee schedule.
- 5) *Approval Process.* Authority to approve an application for a short-term rental permit rests exclusively with the Community Development Director. The Community Development Director shall grant an application for a short-term rental permit if the application meets all of the requirements of this Section and the owner has no outstanding compliance-related violations with the County at the time of application, including but not limited to those with the Department or the Tax Collector. Such outstanding compliance matters may include but are not limited to liens, fines, liabilities, and code compliance matters.

Consistent with Section 6328.11.2(b) of the County Zoning Regulations, public notice of short-term rental permits shall be given at least ten (10) calendar days prior to a decision to approve or deny such permit by the Community Development Director. Said notice shall be distributed to the California Coastal Commission, all property owners and residents within 100 feet of the perimeter of the subject parcel on which the short-term rental is proposed, and all other interested parties who have requested, in writing, such notice. A public hearing prior to consideration of the requested short-term rental permit is not required.

The decision of the Community Development Director shall be final and shall not be appealable to the Planning Commission or Board of Supervisors.

- 6) *Performance Standards.* All short-term rentals are subject to the following performance standards, which are incorporated into each short-term rental permit:
- a) *Number of tenants allowed.* The maximum number of short-term tenants allowed in an individual short-term rental shall not exceed two (2) persons per bedroom rented, plus two (2) additional persons (i.e., if one bedroom is rented, up to four short-term tenants are permitted). Children under twelve (12) years of age are not counted toward this maximum.
 - b) *On-site parking required.* Each short-term rental that is all or part of a single-family dwelling unit shall provide at least one (1) vehicle parking space in the garage, driveway, or other on-site parking area, or at least two (2) vehicle parking spaces if the maximum occupancy of the short-term rental exceeds eight (8) short-term tenants as defined in this Section. Each short-term rental that is all or part of a unit within a multifamily building shall provide at least one (1) vehicle parking space in the garage, parking lot, or

other on-site parking area. The parking required by this Section shall be available for use by the short-term tenants while the short-term rental is occupied by such tenants.

- c) *Local contact person.* The owner shall designate a local contact person who shall remain within a twenty (20) mile radius of each short-term rental and be available at all times to respond to questions or concerns while the short-term rental is occupied by tenants. In cases of emergency, the local contact person shall be available to physically report to the short-term rental within a reasonable time period not to exceed one (1) hour. The local contact person shall otherwise be available during normal business hours to respond to questions or concerns. An owner may serve as the local contact person if he or she meets all requirements set forth in this section.
 - i) The owner shall submit the name, address, and telephone number(s) (including a phone number at which the local contact person can be reached at all times) of the local contact person to the Department. The Department will distribute this contact information to the San Mateo County Sheriff's Office, the local Sheriff's Office substation, the local fire agency, and all property owners and occupants within 100 feet of the short-term rental.
 - ii) The name, address, and telephone number(s), including a phone number at which the local contact person can be reached at all times, of the local contact person shall be permanently posted in a prominent location in the short-term rental unit.
 - iii) The owner shall notify the Department as specified in subsection (i), above, in writing within ten (10) calendar days of any change in the local contact person's name, address, or telephone number.
 - iv) The local contact person shall use his or her best efforts, and respond in a reasonable and timely manner, to ensure that short-term tenants do not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site.
- d) *Trash.* If placed outdoors, trash and recyclables shall be stored in covered containers.
- e) *Prohibition on illegal activity.* The short-term rental shall not be used to host or conduct any illegal activity.
- f) *Noise.* All short-term rentals shall comply with the standards of the County Noise Ordinance (Ordinance Code Chapter 4.88) and a copy of that chapter shall be posted in an open and conspicuous place in the unit and shall be readily visible to all tenants and guests. The short-term rental shall not involve on site use of equipment requiring more than standard household electrical current at 110 or 220 volts, or unreasonable activities that produce

noise, dust, odor, or vibration detrimental to occupants of neighboring properties.

- g) *Posting of performance standards.* Each owner shall post the following performance standards in a prominent location in the unit, readily visible to all short-term tenants:
 - i) Number of tenants allowed;
 - ii) On-site parking;
 - iii) Trash;
 - iv) Prohibition on illegal activity;
 - v) Noise.
- h) *Transient Occupancy Tax.* Each owner shall comply with Chapter 5.136 of the Ordinance Code, including all required payments of transient occupancy tax for each short-term rental unit.
- i) *Building standards.* Each short-term rental shall be, and at all times remain, in compliance with all applicable laws and regulations, including but not limited to the County of San Mateo Zoning Regulations and Building Regulations, the California Residential Code, the California Fire Code, the California Health and Safety Code, and the terms of all County-issued permits. In addition, each short-term rental shall comply with the following safety measures, prior to issuance of a short-term rental permit:
 - i) Smoke alarms (listed as complying with UL 217 and approved by the State Fire Marshall) installed (1) in each bedroom, (2) outside but in the immediate vicinity of each bedroom, and (3) on each level of the dwelling unit, including basements and habitable attics.
 - ii) Carbon monoxide alarms (listed as complying with UL 2034) installed (1) outside but within the immediate vicinity of each bedroom, and (2) on every level of the dwelling unit, including basements.
 - iii) At least one fire extinguisher installed on each habitable level of the dwelling unit.
- j) *No signage.* Signs advertising the short-term rental that are visible from the exterior of the short-term rental are prohibited, including but not limited to signs posted on or around the exterior of the short-term rental and signs posted in windows.
- k) *Liability insurance.* Each owner shall maintain at least five hundred thousand dollars (\$500,000) in liability insurance on the short-term rental

while the short-term rental is occupied by short-term tenants.

- l) *Record keeping.* Each owner shall keep true and accurate records of the number of nights the short-term rental is rented and the amount paid by tenants, and all records as may be necessary to determine the amount of tax that may be owed to the County. The owner shall provide such records for review by the Department, the Tax Collector, the Auditor/Controller, or their designee upon ten (10) calendar days' notice. Each owner shall retain such records for at least three (3) years for purposes of this Section. Failure to keep or produce records as required is a violation subject to the penalties set forth in this Section.
 - m) *Dispute resolution.* By accepting a short-term rental permit, the owner agrees to engage in good faith efforts to resolve disputes with neighbors arising from the short-term rental.
- 7) *Violations and Penalties; Procedure.*
- a) *Violations.* It is unlawful and a violation subject to the penalties set forth in subsection (b) for any person to use or operate a short-term rental in violation of this Section. It is unlawful to advertise any short-term rental without a valid permit. For the purposes of this Section, the terms "advertise," "advertisement," or "advertising" mean the act of drawing the public's attention to a short-term rental in order to promote the availability of the short-term rental.
- Violations that last more than one (1) calendar day shall be treated as a new violation for each calendar day that the violation continues.
- b) *Penalties.* Violation(s) of this Section may be subject to those penalties set forth in Chapter 1.40 of the Ordinance Code (Administrative Remedies), including monetary penalties as provided, in addition to the provisions for suspension or revocation of a permit as set forth in this Section. These penalties are not exclusive, and the owner or short-term tenant may be subject to any other administrative, civil, or criminal penalties applicable to the violating conduct.

If more than two (2) documented violations occur within any twelve (12)-month period, the Department may suspend or revoke any short-term rental permit that has been issued for the relevant unit(s). Documented violations may include, but are not limited to, citations, written warnings, or other documentation filed by law enforcement officers, Sheriff's deputies, code compliance officers, or similar officers vested with enforcement duties under federal, state, or local law or regulation. Documented violations shall also include the owner, permit holder, or other individual engaged in short-term property rental's failure to produce relevant short-term rental and/or Transient Occupancy Tax records upon County's reasonable request as required by this Section or other applicable federal, state, or local law or regulation.

After revocation of a permit, the owner shall not be permitted to apply for or receive a short-term rental permit for the same short-term rental for a period of at least one (1) year from the date that revocation is made final by the Community Development Director or the Planning Commission.

Any owner who advertises or operates a short-term rental without a valid permit shall be subject to the penalties in this Section. In addition, the owner shall be subject to a "black-out period" during which the owner may not apply for or renew a short-term rental permit for any short-term rental. The black-out period shall continue for double the number of days that the owner operated or advertised the rental without a permit, with a minimum black-out period of (1) one month and a maximum black-out period of one (1) year. The owner must also pay any Transient Occupancy Tax owed before applying for a short-term rental permit.

- c) *Procedure for suspending or revoking a permit.* Before revoking or suspending a short-term rental permit, the Community Development Director or his or her designee shall allow the permit holder the opportunity for a hearing.
 - i) The Department shall provide a written notice of the hearing which shall contain the following information:
 - (1) The grounds for complaint or reasons for the proposed revocation or suspension;
 - (2) The time and location of the hearing.
 - ii) The notice shall be deposited in the United States Mail, in a sealed envelope, with adequate postage, and addressed to the owner at the address listed on the permit at least ten (10) calendar days prior to the hearing. Service by mail shall be deemed completed at the time of deposit in the United States mail receptacle. In the event the hearing is held in response to the filing of a complaint, the Department shall also provide notice of the hearing to the complainant.
 - iii) At the hearing, the owner shall be given an opportunity to be heard and to present evidence on his or her behalf. Within five (5) calendar days of the conclusion of the hearing, the Community Development Director or his or her designee shall make written findings and determine whether the permit shall be suspended or revoked. The Department will promptly serve the written findings on the owner.
 - iv) In the event the permit is suspended or revoked, the owner may appeal the decision to the San Mateo County Planning Commission within fourteen (14) calendar days from the date that the Community Development Director's written determination is mailed to or personally served on the owner. The owner shall file a notice of

appeal with the Department on a form provided by the Department, together with any processing fee set forth in the Department fee schedule. Upon receipt of the notice of appeal, the Department shall immediately transmit the appeal, together with all relevant records in the matter, to the Planning Commission.

- v) The Planning Commission may, upon receiving a notice of appeal:
 - (1) Review the record of the proceedings held before the Community Development Director or his or her designee and either affirm or reverse the decision, or it may refer the matter back to the Community Development Director for further proceedings; or
 - (2) Set the matter for hearing before the Planning Commission, providing notice of the hearing as required for hearings before the Community Development Director. At the hearing, the Planning Commission shall hear and decide the matter de novo. The decision of the Planning Commission is final and is not appealable to the Board of Supervisors.
- 8) *Monitoring.* Upon final approval of this Ordinance, the Department shall implement a monitoring program to determine the efficacy of the Ordinance. The results of this monitoring program shall be presented to the Planning Commission on an annual basis.
- 9) *Severability.* If any section, subsection, sentence, clause or phrase of this Section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Section.

SECTION 5. This Ordinance shall take force and effect immediately upon final certification by the Coastal Commission. The Community Development Director may authorize a period of up to six (6) months from the date this Ordinance takes effect to allow otherwise compliant short-term rentals to come into compliance with the permit requirement of this Ordinance.

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