

[DRAFT] 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) AND CHAPTER 8 (MULTIPLE FAMILY RESIDENTIAL DISTRICTS) OF THE SAN MATEO COUNTY ZONING REGULATIONS TO ADD SHORT-TERM RENTALS AS AN ALLOWED USE IN SPECIFIED LOCATIONS REQUIRING A SHORT-TERM RENTAL PERMIT.

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

SECTION 1. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 6 (Single Family Residential), Section 6161, is hereby amended to 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 2. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 8 (Multiple Family Residential), Section 6181, is hereby amended to 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 3. The San Mateo County Ordinance Code (Zoning Regulations), Division VI, Part One, Chapter 22 (General Provisions and Exceptions), Section 6401.3 (General Provisions Relating to Short-term Rentals), is hereby added as follows:

SECTION 6401.3. GENERAL PROVISIONS RELATING TO SHORT-TERM RENTALS

1. *Permit required.* Each short-term rental requires a valid short-term rental permit as set forth in this section and must be in compliance with the transient occupancy tax requirements as set forth in Chapter 5.136 of the County Code.

- a. *No authorization of prohibited uses.* Approval of a short-term rental permit does not legalize any use or structure not permitted by law or contract, including but not limited to homeowners association agreements and lease agreements.
 - b. *Nightly Limits.* A short-term rental cannot be rented to short-term tenants for more than 180 nights per calendar year. Nights rented in which the owner is present in the short-term rental do not count toward this limit.
 - c. *Revocation.* Short-term rental permits are subject to suspension and revocation as provided for in this Section.
 - d. *Expiration.* A short-term rental permit shall automatically expire five years from the date of issuance or when the owner no longer has legal ownership or leasehold of the short-term rental, whichever comes first.
 - e. *Renewal.* A short-term rental permit may be renewed within six months of expiration using the Procedure described in this Section.
2. *Definitions.* For the purpose of this Section, the following terms are defined as follows:
- a. "Department" means the San Mateo County Planning and Building Department.
 - b. "Owner" means the person who possesses fee title or is a lessee of at least 30 days to the short-term rental or his or her duly authorized representative.
 - c. "Person" 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.
 - d. "Planning Director" means the Planning Director of the County of San Mateo or his or her designee.
 - e. "Short-term rental" means a single-family dwelling unit, duplex, triplex, or second dwelling unit (including condominium and townhouse units), or portion thereof, rented for the purpose of overnight lodging for a period 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. Non-habitable accessory structures as defined by the California Building Code and legally restricted affordable housing units shall not be used as short-term rentals.
 - 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.

3. *Application.* An application for a short-term rental permit must be made in writing to the Department in accordance with the following requirements:
 - a. Only those persons that come within the definition of “owner” as defined in this Ordinance may apply for a short-term rental permit (“Applicant”);
 - b. If the application is made by a lessee or lessee’s representative, the application must include written authorization from the lessor that the lessee is permitted to use the leased dwelling as a short-term rental;
 - c. If the application is made by an owner’s representative or lessee’s representative, the application must include written authorization from the owner or lessee giving authority to the representative to apply on the owner’s or lessee’s behalf;
 - d. Completed application form as provided by the Department, including signature of the applicant verifying that all information included is true and correct as of the date signed;
 - e. Copy of the rental/lease agreement between the owner and prospective short-term tenant, which shall recite the following performance standards enumerated in this Section:
Number of tenants allowed,
On-site parking,
Trash,
Illegal activity,
Noise;
 - f. Valid Transient Occupancy Registration Certificate issued by the County of San Mateo;
 - g. Evidence of available on-site parking in conformance with the requirements in this section.
 - h. Proof of liability insurance in compliance with this Section; and
 - i. Fees prescribed by the Department Fee Schedule.
4. *Approval Process.* Approval of a short-term rental permit rests exclusively with the Planning Director. The Planning Director shall grant a short-term rental permit if the application meets all of the requirements of this Section and the owner has no outstanding liens, fines, liabilities, code enforcement, lawsuits, arbitrations, or compliance matters to the Department or the County of San Mateo Tax Collector. Public notice prior to consideration of the requested short-term rental permit is not required.

- a. The Planning Director's decision to grant or deny a short-term rental permit is final and is not appealable to the Planning Commission or Board of Supervisors.

5. Performance Standards.

- 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. Children under twelve (12) years of age are not counted toward the maximum.

- b. *On-site parking required.* Each short-term rental that is all or part of a single family dwelling shall provide at least one (1) vehicle parking spot in the garage, driveway or other on-site parking area, or at least two (2) vehicle parking spots 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 home shall provide at least (1) vehicle parking spot in the garage, parking lot, or other on-site parking area.

- c. *Local contact person.* The owner shall designate a local contact person within a 20-mile radius of each short-term rental. The local contact person shall be available 24 hours a day to respond to questions or concerns. An owner may designate him or herself as the local contact person if he or she meets all requirements.

(A) The owner shall submit the name, address and telephone number(s) of the local contact person to the Planning Department, the main San Mateo County Sheriff's Office, local Sheriff Substation, the local fire agency, and all adjacent properties to the short-term rental. For short-term rentals that constitute all or part of a single family home, "adjacent properties" shall be the parcels contiguous to the parcel containing the short-term rental, as well as the parcels immediately across the street from the short-term rental. For short-term rentals that constitute all or part of a unit within a multifamily building, "adjacent properties" shall be those units within the same multifamily building that share side walls, including ceiling and floor walls, with the short-term rental unit.

(B) The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location.

(C) The owner shall notify the agencies and neighboring property owners as specified in this subsection within thirty (30) calendar days of any change in the local contact person's address or telephone number.

(D) The local contact person, shall use his or her best efforts, and respond in a reasonable and timely manner, to ensure that occupants of the short-

term rental 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. *Illegal activity.* The short-term rental shall not be used to host or conduct any illegal activity.
- f. *Noise.* All residential short-term rentals shall comply with the standards of the County Noise Ordinance (San Mateo County Ordinance Code, Title 4, 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. No short-term rental is to 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 conspicuous place in the short-term rental readily visible to all renters:
 - Number of tenants allowed.
 - On-site parking.
 - Trash.
 - Illegal activity.
 - Noise.
- h. *Transient Occupancy Tax.* Each owner shall be in compliance with Chapter 5.136 of the County Code, including all required payments of transient occupancy tax for each short-term rental unit.
- i. *Building Standards.* Each short-term rental shall be in compliance with all applicable laws and regulations including but not limited to the County of San Mateo Zoning Regulations, the California Residential Code, California Fire Code, and all County-issued permits. In addition, each short-term rental shall contain the following safety measures to the extent these measures meet or exceed all applicable laws and regulations:
 - (A) Smoke alarms (listed and approved by the State Fire Marshall) installed in the following locations pursuant to the 2013 California Residential Code or its successor:
 - (i) In each sleeping room.
 - (ii) Outside each separate sleeping area in the immediate vicinity of

the bedroom(s).

(iii) At least one alarm on each story, including basements and habitable attics.

(B) Carbon monoxide alarms (listed by an approved agency such as Underwriters Laboratories) installed in the following locations pursuant to the 2013 California Residential Code or its successor:

(i) Outside each separate sleeping area in the immediate vicinity of the bedroom(s).

(ii) At least one alarm on each story, including basements and habitable attics but not including crawl spaces or uninhabitable attics.

- j. *No signage.* Signs 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 \$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 amounts paid by tenants. Such records are subject to review by the Department upon seven (7) calendar days' notice. Each owner shall retain such records for at least two years for purposes of this Section.
- m. *Dispute resolution.* By accepting a short-term rental permit, all owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a short-term rental.

6. Violations and Penalties.

- a. *Violations.* It is unlawful for any person to use the short-term rental in violation of this section. Violations that last more than one day shall be treated as a new violation for each 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 owner or renter may be subject to any other administrative, civil, or criminal penalties applicable to the violating conduct. If more than two

documented violations occur within any 12-month period, the Department may suspend or revoke a permit. Documented violations include, but are not limited to citations, written warnings, or other documentation filed by law enforcement and/or Code Enforcement Officers.

- c. *Procedure for suspending and/or revoking a permit.* No short-term rental permit shall be revoked or suspended until a hearing is held by the Planning Director or his or her designee.
- (A) Written notice of such hearing shall be served upon the owner, either personally or by registered mail to the address listed in the permit, and shall state:
- (i) The grounds for complaint or reasons for the revocation or suspension;
 - (ii) The time and where, such hearing is to be held. The notice shall be served or mailed at least seven (7) calendar days prior to the hearing. At the hearing, the owner shall be given an opportunity to be heard and may present evidence on his behalf. Within five (5) calendar days of the conclusion of such hearing, the Planning Director or his or her designee shall make findings and determine whether the permit shall be suspended or revoked.
- (B) In the event the permit is suspended or revoked, the owner may appeal the decision to the Planning Commission within fourteen (14) calendar days from the date of the Planning Director's determination. The owner shall file a notice of appeal with the Planning Director on a form provided by the Planning Director and pay any mandatory fees. Upon receipt of the notice of appeal, the Planning Director shall immediately transmit the appeal, together with all relevant records in the matter, to the Planning Commission.
- (C) The Planning Commission may, upon receiving a notice of appeal:
- (i) Review the record of the proceedings held before the Planning Director and either affirm or reverse the decision of the Planning Director, or it may remand the matter back to the Planning Director for further proceedings; or
 - (ii) Set the matter for hearing before the Planning Commission. 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.

- (d) After revocation of a permit, the owner shall not be permitted to apply for a short-term rental permit on the same short-term rental for a period of one (1) year from the date that revocation is made final by the Planning Director or the Planning Commission.
 - (e) Any person found advertising or operating a short-term rental without a valid permit shall be subject to the penalties in this Section. In addition, the person shall not be permitted to apply for or renew a short-term rental permit for any short-term rental for double the number of days that the person had been operating and/or advertising the rental without a permit, with a minimum black-out period of one month and a maximum of one year. The person must also pay any TOT owed before applying for a short-term rental permit.
6. *Severability.* If any section, subsection, sentence, clause or phrase of this Chapter 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 Chapter.

SECTION 4. This Ordinance shall take force and effect immediately upon final certification by the Coastal Commission. The Planning Director may impose a grace period of up to six 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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