

BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

In the Matter of:

Ordinance 21-6

An Ordinance Updating the City's Rules
Regarding Short-term Rentals

The City Council of the City of Orinda DOES ORDAIN as follows:

SECTION 1.

The City Council of the City of Orinda intends, by adopting this ordinance, to amend Section 17.3.12 (Short-term rentals) within Title 17 (Zoning) of the Orinda Municipal Code (OMC). These amendments intend to address potential impacts to public health, safety, and welfare by imposing regulations on short-term rentals in the City.

SECTION 2.

The following portions of the Municipal Code are amended and added as specified below and in Attachment A. **Attachment A** shows additions with double-underlined text and deletions with ~~strike-out text~~.

Municipal Code Provision	Action
§17.3.12	Amendments as shown in Attachment A .

SECTION 3 – PURPOSE AND INTENT.

- A. The purpose of this ordinance is to make permanent and integrate the provisions of urgency Ordinance 19-08, adopted on November 19, 2019, and extended on December 19, 2019, and November 10, 2020, by Ordinances 19-10 and 20-06, respectively, regarding regulations for short-term rentals.
- B. If not regulated, short-term rentals can create nuisances including disorderly conduct, crime, and other activities that have adverse impacts on public health, safety, and welfare. The restrictions of this ordinance are necessary to prevent potential adverse impacts on the public health, safety, and welfare posed by short-term rentals where the host does not own and live on the property, rents for less than two nights, and/or is not present to monitor and regulate activity at the rental.

SECTION 4.

Pursuant to Government Code 65858(d), the City Council hereby issues the following report describing the measures that have been taken to alleviate the condition that led to the adoption of urgency Ordinance 19-08 concerning short-term rentals:

The circumstances and conditions that led to adoption of urgency Ordinances 19-08, 19-10, and 20-06 are proposed for alleviation through the measures described in this Ordinance 21-6. The purpose and necessity of the urgency ordinance were to prevent significant adverse impacts to the public health, safety, and welfare posed by short-term rentals where the host does not own and live on the property, rents for less than two nights, and/or is not present to monitor and regulate activity at the rental. The proposed code amendments contained in this Ordinance 21-6 will prevent those negative public health, safety, and welfare impacts.

SECTION 5.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION 6.

This ordinance is consistent with the Orinda General Plan.

SECTION 7.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines (Title 14 of the California Code of Regulations) Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change in the environment, directly or indirectly. Further, this action is exempt from CEQA under CEQA Guidelines section 15061(b)(3) (the amendments are exempt because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

SECTION 8.

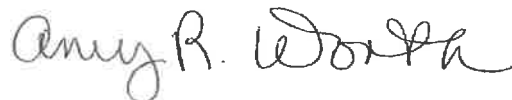
This ordinance becomes effective **thirty (30) days** after adoption.

SECTION 9.

The City Clerk shall either (a) have this ordinance published once within fifteen (15) days after adoption in a newspaper of general circulation, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

Following a duly-noticed public hearing, the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orinda held on August 3, 2021 and was adopted and ordered published at a regular meeting held on September 7, 2021 by the following vote:

AYES: COUNCILMEMBERS: Fay, Gee, Kosla, Miller, Worth
NOES: COUNCILMEMBERS: None



Amy Worth, Mayor

ATTEST:



Sheri Smith, City Clerk

ATTACHMENT A

17.3.12 – Short-term rentals.

A. Definitions.

1. “Host” means the person or people identified as the owner on a short-term rental registration form submitted to the City.
2. “Hosting platform” means a person, legal entity or an association of individuals that provide a means, which may or may not be internet-based, through which a short-term rental is offered to the public, in exchange for a fee or other compensation. A hosting platform generally has the following attributes: allows a host to advertise a short-term rental, and provides a means to arrange and enter into agreements to occupy short-term rentals, whether payment of rent is made directly to the host or through the hosting platform.
3. “Short-term rental” means the rental of a property in full or in part for a term of less than thirty (30) consecutive days.

A.B. Registration Required. It is unlawful for any person to operate a short-term rental within ~~any residential district in~~ the City without first registering the short-term rental pursuant to this section; ~~provided however, that persons operating any short-term rental(s) within the City upon adoption of this section shall register such rental(s) within sixty (60) days of its effective date.~~

B.C. Registration. In the registration filed with the City, the ~~hostowner and operator (if different from the owner)~~ shall acknowledge the following requirements:

1. When any portion of the short-term rental is rented, the total maximum occupancy of the dwelling containing the short-term rental is limited to the maximum number specified on the proof of registration. That maximum is calculated as follows: two (2) people per bedroom plus three (3) people;
2. The ~~owner/operator~~host of a short-term rental on any given lot may only arrange for one rental to take place at any given time on that lot;
3. The short-term rental ~~owner and operator are jointly~~host is responsible for ensuring the short-term rental complies with all local, state, and federal health and safety requirements, including those regarding smoke detectors, fire alarms, and fire extinguishers;
4. The short-term rental ~~owner and operator are jointly~~host is responsible for compliance with all City regulations including those regarding noise, parking, and occupancy. Compliance with those requirements shall be included in any written agreement used for the short-term rental;
5. While rented, the short-term rental shall not be used for any use or event that would require a Temporary Event Permit pursuant to Chapter 17.37; and

6. The short-term rental registration is non-transferable.

C.D. Registration Process.

1. Each short-term rental shall be annually registered with the Planning Director or his or her designee by completing a City-provided registration form that shall set forth the following information:

a. The name, address, telephone number, and signature of the owner of the short-term rental for which the registration is sought;

~~b. If someone other than the owner of the short-term rental will be responsible for operating that rental, that person's name, address, telephone number, and signature;~~

~~The name and telephone number of local contact person(s) who can be available twenty-four (24) hours a day to accept telephone calls and respond physically to the short-term rental within thirty (30) minutes when the short-term rental is rented;~~

~~e.b.~~ The address of the short-term rental;

~~d.c.~~ The number of bedrooms in the short-term rental, which will be used to calculate the occupancy limit for the short-term rental when it is being rented in full or in part. The maximum occupancy formula is: two (2) people per bedroom plus three (3) people;

~~e.d.~~ Affirmation that all construction at the property containing the short-term rental was conducted in compliance with building codes applicable at the time;

~~e.~~ The short-term rental's first operation date, if prior to the effective date of this section;

~~e.~~ Acknowledgement that the short-term rental does and shall comply with all requirements set forth in ~~Subsection B~~ of this section;

~~Acknowledgement that the owner/operator shall include the City short-term rental registration number provided with the proof of registration on any written advertisements (whether in paper or electronic form) for use of the short-term rental;~~

~~h.g.~~ Evidence of a valid transient occupancy registration certificate issued by the Tax Administrator in compliance with Section 3.12.060. The application for a transient occupancy registration certificate may be filed concurrently with the registration required under this section; and

~~i.h.~~ An agreement to hold harmless, indemnify and defend the City against claims and litigations arising from or related to the issuance of the short-term rental registration.

D.E. Registration Fee Required. At the time of registration, the ~~owner/host o~~ ~~perator~~ shall pay a registration fee in an amount set from time to time by resolution of the City Council to reimburse the City for the cost of processing the registration. Registration shall be initiated only upon the successful payment of the registration fee. The registration fee is not refundable.

E.F. Registration Investigation by Planning Director. The Planning Director may make or cause to be made, within a reasonable time after the filing of a registration form pursuant to ~~Subsection C of~~ this section, an investigation of the veracity of the information provided on the registration form.

F.G. Proof of Registration—Record Kept by Planning Director. Upon a determination of compliance with the provisions of this section, the Planning Director shall issue to ~~each he host owner/operator~~ a proof of registration showing the name of the ~~owner, host the operator (if applicable)~~, the address of the short-term rental, the maximum occupancy for the property during any rentals, the City short-term rental registration number, and the date of expiration of the registration (one year from date of issuance).

H . Hosted Stay Requirement. Short-term rentals are prohibited unless:

- 1 . The short-term rental takes place on property owned by the host and containing the host's primary residence;
- 2 . The host personally lives on the property when it is used for short-term rentals. A host will only be considered to live at the property used for a short-term rental if they are physically and personally present at the time of the short-term rental. Such physical presence must include sleeping overnight. A host will not be considered to live at the property used for a short-term rental if they are away from the property overnight, including on vacation;
- 3 . The host is physically present to monitor and regulate activity during the short-term rental, including by meeting guests upon arrival;
- 4 . The duration of the short-term rental is at least two nights;
- 5 . Any on-line listings and/or other advertisement authorized by the host for the short-term rental specify that the host will be present and/or share the dwelling unit used for the short-term rental; and
- 6 . Any on-line listings and/or other advertisements authorized by the host clearly identify the short-term rental registration number provided by the City.

I . Regulations for Hosting Platforms.

- 1 . Hosting platforms shall retain records documenting compliance with this section for a period of three years after any short-term rental, including, but not limited to, records indicating the history of all short-term rental

reservations on the subject property from the hosting platform, length of stay per reservation, and number of persons per reservation.

- 2 . Hosting platforms shall be required to prompt hosts to include the City- issued registration number in their listing, in a format designated by the City. Upon notice from the City that a listing is non-compliant, hosting platforms shall cease any short-term rental booking transactions for said listing within five business days. A hosting platform shall not complete any booking transaction for any residential property or unit subject to a City notice, until notified by the City that the residential property or unit is in compliance with the local registration requirement.
- 3 . Safe Harbor. A hosting platform operating exclusively on the internet, which operates in compliance with subsections (1) and (2) above shall be presumed to be in compliance with this section.
- 4 . The provisions of this subsection I shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).
- 5 . The provisions of this subsection I shall not be effective until January 7, 2022.

G.J. Enforcement. Violations of this section may be enforced pursuant to Title 19.

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