

ORDINANCE NO. 835 – C.S.

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADDING ARTICLE 49 TO CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE RELATING TO SHORT-TERM RENTALS

RESOLVED by the City Council of the City of Pacifica, California, that

WHEREAS, Chapter 7 of Title 3 the Pacifica Municipal Code imposes a transient occupancy tax on any persons occupying space, for thirty consecutive calendar days or less, in any structure or portion of any structure for dwelling, lodging or sleeping purposes, based on a percentage of rent charged; and

WHEREAS, the City Council of the City of Pacifica wishes to memorialize that short-term rentals are a permitted use in residential districts under the City's zoning code, subject to all other applicable provisions of the Pacifica Municipal Code, including the transient occupancy tax; and

WHEREAS, the City of Pacifica will collect data regarding public health, safety, and welfare impacts related to operation of short term rentals and may decide to enact further appropriate regulations in the future; and

WHEREAS, pursuant to applicable law, the permitting of short-term rentals under this ordinance does not establish any vested land use right, and short term rentals will be subject to further regulation or prohibition pursuant to the City of Pacifica's police power; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendment to enact Article 49 of Chapter 4 of Title 9 of the Pacifica Municipal Code, and adopted Resolution No. 994 initiating and recommending City Council approval of Text Amendment TA-111-15 on April 16, 2018; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed amendment to enact Article 49 of Chapter 4 of Title 9 of the Pacifica Municipal Code on May 29, 2018, and introduced Ordinance No.835 – C.S. on May 29, 2018.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Enacted. Article 49 of Title 9, Chapter 4, of Pacifica Municipal Code is hereby enacted to read in its entirety as follows:

Section 9-4.4900 – Purpose and Intent.

The purpose of this article is to establish regulations governing the short-term rental of residential property within the City of Pacifica in order to ensure the health, safety, and welfare of the residents of the City of Pacifica, and to allow for the short term rental of single-family and multi-family dwelling units for less than 30 consecutive days, while still preserving the

single-family character of neighborhoods, and preventing short-term rental activities from becoming a nuisance or a threat to public health, safety or welfare.

Section 9-4.4901 – Definitions.

For the purposes of this article, unless otherwise apparent from the context, the following words and phrases are defined as set forth below:

- (a) “Administrator” means the Assistant City Manager or designee.
- (b) “Advertising platform” means any online site that provides a means for the host to advertise or otherwise offer for rent a short-term rental.
- (c) “Operate” means the operation of a short-term rental, and includes the acts of establishing, offering, maintaining, or listing for rent a short-term rental with an advertising platform.
- (d) “Rental” means the occupancy or use of a dwelling unit property, in exchange for any form of rent that may be valued in money, including cash, credit, goods, labor, or property, regardless of whether such rent is actually received.
- (e) “Short-term rental” means the use of a dwelling unit, or portion of it, for a rental of less than 30 consecutive days.

Section 9-4.4902 – Short-Term Rentals Permitted.

Short-term rentals are permitted in all residential zones, subject to compliance with the following requirements:

- (a) No person may operate a short-term rental without first obtaining a short-term rental permit issued pursuant Section 9-4.4903.
- (b) In accordance with Section 9-4.453(a)(6), no person may operate a short-term rental in any accessory dwelling unit.
- (c) Each person operating a short-term rental shall comply with the transient occupancy tax requirements set forth in Chapter 7 of Title 3 of this Code, and shall obtain a Transient Occupancy Registration Certificate pursuant to the Section 3.7-06.
- (d) Each person operating a short-term rental shall obtain a business license and pay the business license tax required pursuant to Chapter 1 of Title 3 of this Code.
- (e) No person shall operate or allow short-term rental of property in any location not approved for use as a permanent dwelling unit including, but not limited to, any vehicle, trailer, tent, storage shed or garage.

Section 9-4.4903 – Short-term Rental Permit Required.

A short-term rental permit may be approved by the Administrator, provided that the Administrator determines the applicant has met the following requirements:

- (a) *Application.* The applicant must complete an application on a form provided by the City, accompanied by a fee established by resolution of the City Council.
- (b) *Property owner consent.* If the applicant is a tenant, he or she must demonstrate written consent of the property owner to operate short-term rentals on the property.
- (c) *Contact information.* The applicant must provide current contact information to the City, and information regarding the advertising platform(s) to be used.

- (d) *Guest Safety.* The short-term rental must have a smoke detector, carbon monoxide detector, and fire extinguisher. **The applicant must submit a signed safety declaration in a form prepared by the Administrator, to be kept in the property file at the City.**

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 restrictions imposed by a homeowners association or in a lease agreement.

Section 9-4.4904 – Permit Term and Renewal

A short-term rental permit is valid until December 31 of the year it is issued, unless suspended or revoked by the Administrator. The permittee may renew the permit annually, by submitting a renewal application and fee before the expiration of the permit.

Section 9-4.4905 – Operating Requirements.

A short-term rental shall, at all times, be operated subject to the following standards:

- (a) *Permit Required.* The short-term rental must be operated under a valid short-term rental permit issued by the City in accordance with Section 9-4.4903.
- (b) *Current Information.* The short-term rental permittee shall, during the term of the permit, promptly inform the Administrator regarding any changes regarding information provided in the application, including contact information and information regarding advertising platforms used by the permittee to advertise the short-term rental.
- (c) *Guest Safety.* The short-term rental permittee must provide the following materials electronically to any guests before arrival and make available printed materials on-site for the guest with the following information:
 - (1) A diagram of exits, fire extinguisher locations, and fire and police contact numbers; and
 - (2) The short-term rental permittee's contact information; and
 - (3) The City's noise regulations (Chapter 10 of Title 5 of this Code); and
 - (4) The City's Social Host Liability Ordinance (Chapter 28 of Title 5 of this Code).

Section 9-4.4906 – Permit Revocation and Enforcement.

- (a) *Permit Suspension or Revocation.* The Administrator may suspend or revoke a short-term rental permit after making a determination that the permittee has violated any of the provisions of this article or is operating the short-term rental in a manner that is detrimental to the public health, welfare or safety or constitutes a nuisance. The Administrator shall provide the permittee with written notice stating the supporting factual basis for the decision. The notice shall contain an advisement of the right to request an appeal before a hearing officer by filing a written appeal.
- (b) *Appeal to Hearing Officer.* Suspension or revocation issued by the Administrator pursuant to paragraph (a) will be effective ten days from the date appearing on the notice, unless a timely appeal is filed before such date along with the deposit of an appeal fee established by resolution of City Council. A hearing shall be scheduled before the hearing officer within thirty (30) days. The decision of the hearing officer shall be a final administrative order, with no further administrative right of appeal or reconsideration. The hearing officer may sustain a denial, suspension or revocation, overrule a denial, suspension or revocation, reduce a revocation to a suspension and/or reduce the length of a suspension.

- (c) Reapplication. No application for a short-term rental permit will be accepted within one year after a short-term rental permit is revoked.
- (d) *Enforcement.* The City may enforce this article by any means permitted by law, including but not limited to those penalty provisions set forth in Chapter 2 of Title 1 of this Code. The City Council may establish fines for violating this article by resolution.

Section 3. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the San Mateo County Clerk.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 5. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

Section 6. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

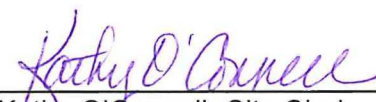
PASSED AND ADOPTED this 11th day of June, 2018, by the following vote:

AYES: Martin, O'Neill, Digre, Vaterlaus, Keener
NOES: None
ABSTAIN: None
ABSENT: None



John Keener, Mayor

ATTEST:



Kathy O'Connell, City Clerk

APPROVED AS TO FORM:



Michelle Marchetta Kenyon, City Attorney