

ORDINANCE NO. 2021-22

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA,
AMENDING CHAPTER 9.38 OF THE ENCINITAS MUNICIPAL CODE REGULATING
SHORT-TERM RENTALS**

WHEREAS, on June 15, 2005, the Encinitas City Council adopted Ordinance No. 2005-09 to add Chapter 9.38 to the Encinitas Municipal Code regulating short-term rentals; and

WHEREAS, on July 19, 2006, the City Council adopted Ordinance No. 2006-05, which repealed and replaced Ordinance No. 2005-09; and

WHEREAS, cities have a legitimate governmental interest in preserving the residential character of their neighborhoods and protecting against public nuisance activities, so long as their regulations do not unfairly discriminate against or impair an individual's rights of privacy and association; and

WHEREAS, there has been an increase in privately-owned residential dwellings being used as short-term rentals in the City of Encinitas ("City") through the rapid deployment of "peer-to-peer" application-based technology; and

WHEREAS, the City recognizes that when operated responsibly, short-term rentals provide a benefit to the City by expanding the number and type of lodging facilities in the area, encouraging visitation to local businesses, and helping recapture existing enforcement costs; and

WHEREAS, the City further recognizes that, unless properly regulated, these facilities may have adverse impacts on nearby properties and residents, and pose a threat to the public health, safety and general welfare; and

WHEREAS, the City has received a number of complaints with respect to adverse secondary effects that the operation of short-term rentals have on residential neighborhoods, including, but not limited to, excessive noise, disorderly conduct, overcrowding, parking and traffic issues, trash/debris, and other similar quality of life issues; and

WHEREAS, this Ordinance is necessary to further regulate these facilities; impose additional operating requirements on short-term rentals to minimize the adverse impacts on traffic, and noise; impose reasonable limitations to ensure the long-term availability of housing stock in compliance with the Housing Element of the City's General Plan; ensure neighborhood compatibility and maintain harmony with surrounding uses; ensure transient occupancy taxes are remitted to the City; protect the health, safety and welfare of renters and guests patronizing short-term rentals, and continue protecting the health, safety and general welfare of the City's residents; and

WHEREAS, on March 17, 2021, the City Council formed a short-term rental subcommittee, and initiated an agenda item directing staff to propose amendments to Encinitas Municipal Code (EMC) Chapter 9.38 for Council consideration; and

WHEREAS, on May 11, 2021, a publicly noticed virtual community meeting was held with the subcommittee, City staff and members of the public to discuss a pilot enforcement program, anticipated changes to EMC Chapter 9.38, and consideration of a good neighbor policy for short-term rentals. Prior

to, during, and following the public workshop, City staff received helpful feedback from residents, as well as owners of short-term rentals currently operating in the City; and

WHEREAS, on October 27, 2021, the City Council conducted a noticed public hearing, received public comments regarding the proposed amendments to the Ordinance, and directed staff to modify the proposed regulations; and

WHEREAS, City staff considered the public input received, as well as input from the subcommittee, and direction received from the City Council, in drafting the regulations; and

WHEREAS, November 17, 2021, the City Council conducted a noticed public hearing for the purpose of considering the proposed amendments to the Ordinance; and

WHEREAS, the City Council has duly considered all testimony presented at the public hearings, and the evaluation and recommendations from staff; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the State of California Guidelines for Implementation of CEQA (commencing with Section 15000 of Title 14 of the California Code of Regulations), the City is the "lead agency" for the preparation and consideration of environmental documents for this Ordinance.

NOW, THEREFORE, the City Council of the City of Encinitas, California, hereby ordains as follows:

SECTION 1: The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2: Chapter 9.38 of the Encinitas Municipal Code (Regulating Short-term Rentals) is hereby amended, as shown in **Exhibit A**, attached hereto and incorporated herein by this reference.

SECTION 3: The adoption of this Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment, in that this Ordinance regulates the establishment of a short-term rental within an already developed structure and contains no provisions that will directly or indirectly result in a physical change in the environment.

SECTION 4: If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5: The City Clerk is directed to prepare and have published a summary of the Ordinance no less than five days prior to consideration of its adoption, and again within 15 days following adoption, indicating the votes cast.


INTRODUCED at a regular meeting of the City Council of the City of Encinitas, California, held on this 17th day of November 2021; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Encinitas, California, held on the 8th day of December 2021.



Catherine S. Blakespear, Mayor

ATTEST:



Kathy Hollywood, City Clerk Deputy

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney

CERTIFICATION

I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on this 17th day of November, 2021 and that thereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on this 8th day of December, 2021 by the following vote, to wit:

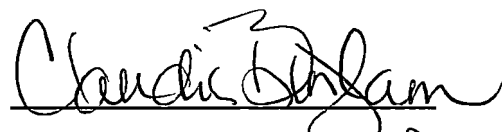
AYES: Blakespear, Kranz, Lyndes, Mosca

NOES: None

ABSENT: Hinze

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Encinitas, California, this 8th day of December, 2021.



Kathy Hollywood, City Clerk Deputy

EXHIBIT A

Chapter 9.38 (Regulating Short-term Rentals) of the Encinitas Municipal Code is hereby **amended** to read as follows (~~strikeout~~ is used to denote existing text being deleted; underline is used to denote new text being added; double underline is used to denote text being moved):

Chapter 9.38 REGULATING SHORT-TERM RENTALS

9.38.010 Purpose—Findings and Determinations.

The City Council finds and determines that the City of Encinitas ("City") has experienced an increase in permitting of Short-Term Rental units located in residential areas and that it is necessary to impose reasonable limitations on the use and operation of such permitted uses to ensure the long-term availability of housing stock. As the popularity of short-term rentals has grown, the City has received numerous complaints related to short-term rentals, including, but not limited to, large and unruly gatherings, received numerous complaints related to short-term rentals, including, but not limited to, excessive noise, disorderly conduct, illegal parking, vandalism, overcrowding, traffic congestion and excessive accumulation of refuse. The City Council further finds and determines that these adverse impacts are related to the transitory nature of the occupants of violations of short-term rentals by the occupants and guests of short-term rentals. The purpose of this chapter is to establish regulations to address and mitigate these adverse impacts to allow the public and residents to peacefully enjoy the City by ensuring neighborhood compatibility and maintaining harmony with surrounding uses. This chapter is also intended to continue protecting the health, safety, and welfare of short-term rental occupants, guests, and the City's residents.

This chapter is not intended to regulate non-vacation type rental arrangements not generally characterized by the adverse impacts referenced in this section, nor is it intended to unreasonably obstruct the lawful use of short-term rentals in the City. This chapter is not intended to provide any owner of a single-family or duplex unit with the right or privilege to violate any Covenants, Conditions and Restrictions (CC&Rs) applicable to the owner's single-family or duplex unit.

9.38.020 Definitions.

A. "Agent" means a person or entity designated by the owner in writing to ensure compliance with the requirements of this chapter with respect to the short-term rental unit on the owner's behalf.

B. "Bedroom" means a room that could be used for sleeping purposes having minimum widths of seven feet and having a closet, excluding bathrooms, kitchen, living room, and laundry.

C. "Duplex" as defined within this Chapter shall mean a building or buildings on a single lot containing not more than two dwelling units. An accessory unit constructed in accordance with Encinitas Municipal Code Chapter 30.48 shall not be counted as a dwelling unit for purposes of this definition.

D. "Hosted unit" means a short-term rental whereby the property owner remains on-site during the short-term rental period (except during daytime and/or working hours) and resides on-site or on a property immediately adjacent to the short-term rental unit property.

E. "Non-Hosted unit" means a short-term rental whereby the property owner does not remain or reside on-site or on a property immediately adjacent to the short-term rental unit property during the short-term rental period.

F. "Owner" means the owner of the short-term rental who has an interest in the property as provided for in the property deed. All persons listed in the deed that have an ownership interest are required to sign the short-term rental permit application. If the property is held in a trust or is part of a limited liability company (LLC), the trustee or the general member of the LLC must sign the short-term rental permit application. If the property is held in a corporation's name, the corporation's duly-authorized agent shall sign the short-term rental permit application. Each owner shall be held jointly and severally liable for any violations of this chapter.

G. "Short-term rental" means the rental of any single-family or duplex unit that is a privately-owned structure, or any portion of any structure (non-accessory dwelling unit as that term is defined in Government Code Section 65852.2, which may be amended from time-to-time), for occupancy for dwelling, lodging, or sleeping purposes of 30 consecutive days or less in the City, including single-family or duplex units. For purposes of this chapter, non-monetary forms of compensation shall also qualify a property as a short-term rental.

9.38.030 Permit Required/Penalty.

Any short-term rental shall obtain a short-term rental permit pursuant to this chapter. Any No person operating shall rent, offer to rent, or advertise for rent a short-term rental without a valid short-term rental permit shall be guilty of a misdemeanor issued by the City pursuant to and in the manner provided for by this chapter.

9.38.040 Permit Requirements-Application and Issuance.

Short-term rentals shall be regulated in all residential zones including residential developments in PRDs (planned residential districts), as follows:

A. Business Registration Certificate. Owner/agent must obtain and maintain a current and valid business registration certificate issued by the City pursuant to Chapter 6.60 of this Municipal Code at all times while operating a short-term rental at the property.

A.B. Contents of Application. Requirements. 1. Applicants shall submit an application for a short-term rental permit to the City of Encinitas each year for each unit. A permit application must include all of the following information, which shall be updated when there is any change to ensure that the City has current information on file at all times relating to the short-term rental and its owner(s)/agent(s), as applicable: The application for a permit shall be accompanied by a nonrefundable application fee as established by the City Manager; however, the fee shall be no greater than necessary to defer the cost incurred by the City in administering the provisions of this chapter. Although the applicant may be the property owner or the property owner's agent, the property owner shall be the party responsible for compliance with all provisions of this chapter and all of the laws regulating short-term rentals.

2. Upon change of property ownership or material fact, a new application for a short-term rental permit shall be required to continue operation of the short-term rental and within 14 days of said change the property owner or his/her agent shall submit the required application and fee.

3. Granting or Denial of Application. The application shall be granted unless the applicant does not meet the conditions and requirements of the permit, or fails to demonstrate the ability to comply with the Encinitas Municipal Code and other applicable law.

~~4. Any false statements or information provided in the application are grounds for revocation and/or imposition of penalties, as outlined within this chapter.~~

1. Legal name, address and telephone number of all owner(s), agent(s), and the 24-hour, seven-day per week local contact person (if different from owner/agent).

2. The address and Assessor's Parcel Number of the property proposed to operate as a short-term rental unit.

3. The number of bedrooms within the unit.

4. The number of existing on-site parking spaces designated for the exclusive use of the unit.

5. The number of fire extinguishers and smoke and carbon monoxide alarms at the short-term rental property, and a self-certification of compliance with the Fire Code subject to review and approval by the City's Fire Marshal.

6. Signed statement acknowledging that the owner is permitted to use the owner's property as a short-term rental, per applicable private governing documents.

7. Copy of any application and all other forms that renters of the short-term rental will be required to complete.

8. Copy of the owner's rules and regulations for the short-term rental.

9. Signed statement by the owner acknowledging all of the following: (i) all of the information contained in the short-term rental permit application is true and correct; (ii) all owner(s)/agent(s), and the designated local contact person, are familiar with the requirements of this chapter; (iii) all owner(s)/agent(s), and the designated local contact person, are responsible for ensuring compliance with this chapter; (iv) failure to comply with this chapter and all applicable provisions of the Encinitas Municipal Code may result in suspension and/or revocation of a short-term rental permit.

10. Evidence of liability insurance for the property in an amount of at least one million dollars (\$1,000,000) to cover the short-term rental operations, which insurance shall be maintained during the entire term of any permit issued by the city. Renewal must be provided to the City before expiration of the insurance on file.

11. Such other information as the City Manager, or designee, deems reasonably necessary to administer this chapter.

12. The application and permit are only applicable to the individual(s) named on the application and are non-transferable.

B.C. Operational Requirements. Application Fee. The application for a permit shall be accompanied by a nonrefundable application fee or renewal fee established by the City Council; however, the fee shall be no greater than necessary to defray the costs incurred by the City in administering and enforcing the provisions of this chapter. Although the applicant may be the property owner or the property owner's agent, the property owner shall be the party responsible for compliance with all provisions of this chapter and all of the laws regulating short-term rentals.

~~1. Applicants shall use "best efforts" to insure that the occupants and/or guests of the short-term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Encinitas Municipal Code or any applicable~~

law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol, or the use of illegal drugs.

2. ~~Applicants shall, upon receiving notification that occupants or tenants of his or her short term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the Encinitas Municipal Code or applicable law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol or the use of illegal drugs, respond in a timely manner within two hours of the time the initial call (complaint) was made, and within 24 hours of the initial call use best efforts to prevent the recurrence of such conduct by the occupants and to take corrective action to address any violation. Failure to respond timely to two or more complaints regarding tenant violations is grounds for penalties as set forth in this chapter. It is not intended that the property owner, local agent or contact person act as a peace officer or place himself or herself in an at-risk situation.~~

3. ~~The property owner or agent shall limit overnight occupancy of the short term rental unit to a specific number of occupants not to exceed two persons per bedroom plus one additional person per dwelling. All other applicable occupancy laws shall apply.~~

4. ~~The property owner shall limit the number of vehicles of overnight occupants to the number designated in the permit which shall not exceed the number of designated on-site parking spaces. All designated on-site parking spaces shall be made available for the vehicles of occupants.~~

5. ~~The property owner or agent of a short term rental unit shall comply with all the provisions of the Encinitas Municipal Code.~~

6. ~~Trash and refuse shall not be left or stored within public view except from sunset of the day prior to trash pick-up until up to midnight on the day designated for trash pick-up. All trash will be in approved receptacles pursuant to Section 11.20.090 of the Encinitas Municipal Code.~~

7. ~~The City Manager or his/her designee shall have the authority to impose additional standards and/or conditions to short term rental permits as necessary to achieve the objectives of this chapter.~~

8. ~~Interior Display of Short-Term Rental Permit. Applicants shall affix the short term rental permit on the inside of the main entry door of each short term rental unit to which it applies. The interior display will also contain the maximum number of overnight occupants permitted to stay in the unit, the maximum number of vehicles for overnight occupants, and a 24-hour, seven-day phone number of the private party responsible for the facility.~~

9. ~~Exterior Display of Short-Term Rental Unit. Applicants shall display on the exterior of a short term rental unit, a notice provided by the City containing a 24-hour, seven-day phone number for a private party responsible for the facility to take complaints regarding its operation. The exterior display will also contain the number of bedrooms, maximum number of overnight occupants permitted to stay in the unit, and the maximum number of vehicles for overnight occupants. The notice shall be in plain view of the general public and/or common areas and shall be maintained in good condition at all times.~~

~~10. Adjacent Property Owners Notified. Applicants are also required to provide adjacent property owners with the 24-hour, seven-day phone number for a private party responsible for the facility.~~

~~11. Rental Agreements. Information on the permitted occupancy of the dwelling, parking capacity for each unit, and trash disposal requirements shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit.~~

~~12. The operational requirements may be modified by the City Manager based on site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term rental. All requests must be in writing and shall identify how the strict application of the operational requirements creates an unreasonable hardship to a property, and if the requirement is not modified, reasonable use of the property for a short-term rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site. Such hardships cannot be self-induced or economic. In addition, any modification to the operational requirements cannot further exacerbate an already existing problem.~~

D. Change of Ownership. Within fourteen (14) days of a change of property ownership or conveyances that materially change the ownership interest in the property, a new application for a short-term rental permit to continue operation of the short-term rental and shall be accompanied by the required application fee. A request for change of ownership for the purpose of evading fines or the suspension or revocation of a permit will be automatically denied.

E. Granting of Application. The application shall be granted unless the applicant does not meet the conditions and requirements of the permit or fails to demonstrate the ability to comply with the Encinitas Municipal Code or other applicable laws, rules or regulations. All permits issued under this ordinance must be renewed twelve (12) months from the initial date of issuance. If the term of liability insurance expires within the permit term, the permit approval is automatically revoked unless evidence of insurance renewal is provided to the City in advance of expiration.

F. False Statements. Any false statements or information provided in the application are grounds for denial of a short-term rental permit, or if the permit has already been issued by the City, revocation and/or imposition of penalties, as outlined within this chapter.

9.38.050 Permit Operating Requirements.

Short-term rentals shall be regulated in all residential zones including residential developments in PRDs (planned residential districts), as follows:

A. Avoidance of Public Nuisance. Owner/Agent shall ensure that the occupants and/or guests of the short-term rental unit do not create a public nuisance by allowing unruly gatherings or creating raucous noise. Owner/Agent shall ensure that any unruly gatherings, raucous noise, disorderly conduct, or other violations of state or local codes are timely abated.

B. Loud and Raucous Noise Prohibited. It shall be unlawful and shall constitute a public nuisance for any owner/agent of a short-term rental unit to cause, allow or permit the emission or transmission of any loud or raucous noise, as identified in Section 9.32.414 of this Municipal Code, from any sound-making equipment or sound-amplifying device to occur or be maintained at a short-term rental. A raucous noise may include, but is not limited to, the following: yelling, screaming, shouting, or making

other disturbing noises which unreasonably interferes with the peace and quiet of the nearby residents or members of the public.

C. Loud and Unruly Gatherings Prohibited. It shall be unlawful and shall constitute a public nuisance for any owner/agent of a short-term rental unit to cause, allow or permit a loud and unruly gathering to occur or be maintained at a short-term rental. A loud and unruly gathering shall include, but is not limited to, the following: the number of occupants and/or guests at the short-term rental exceeds the number permitted on the short-term rental permit; the activities of the occupants and/or guests create raucous noise and/or unreasonably loud amplified music in violation of Section 9.32.414 of this Municipal Code, that may be heard by nearby residents or members of the public; and/or occupants and/or guests engage in or create disorderly conduct in a manner that disturbs the public peace.

D. Prompt Response to Complaints. Owner/Agent shall, upon receiving notification from a resident, the City, the Sheriff's Department, a rental platform, or any other means, that any occupants or guests of a short-term rental unit have created raucous noise, engaged in disorderly conduct or committed violations of the Encinitas Municipal Code or applicable law pertaining to noise, disorderly conduct, overcrowding, the consumption of alcohol or the use of illegal drugs, respond within one (1) hour of the time the initial call (complaint) was made to take corrective action to address any violation. Failure to respond timely to complaints is grounds for penalties as set forth in this chapter. It is not intended that the property owner, local agent or contact person act as a peace officer or place himself or herself in an at-risk situation. Owner/Agent shall provide documentation on what steps were taken to mitigate the issue.

E. Permitted Occupancy. The property owner or agent shall limit overnight occupancy of the short-term rental unit to a specific number of occupants not to exceed two (2) persons per bedroom plus one additional person per dwelling unit. All other applicable occupancy laws shall apply.

F. Parking. The property owner or agent shall limit the number of vehicles at the short-term rental unit to the number designated in the permit. All designated on-site parking spaces shall be made available for the vehicles of occupants. Street parking is prohibited and vehicles shall not impede access to sidewalks and adjoining neighbor properties or driveways.

G. Compliance with Laws. The property owner or agent of a short-term rental unit shall comply with all applicable provisions of the Encinitas Municipal Code, and all other federal, state, and local laws, rules, and regulations.

H. Trash and Refuse. Trash and refuse shall not be left or stored within public view except at a location that is designated for collection from sunset on the day prior to trash pick-up until up to midnight on the day designated for trash pick-up. All trash shall be in approved receptacles pursuant to Section 11.20.090 of the Encinitas Municipal Code.

I. Additional Standards Imposed by City Manager, or Designee. The City Manager, or designee, shall have the authority to impose additional standards and/or conditions to short-term rental permits as necessary to address complaints regarding the operation of the short-term rental and to achieve the objectives of this chapter.

J. Interior Display of Short-Term Rental Permit. Owner/Agent shall affix the short-term rental permit on the inside of the main entry door of each short-term rental unit to which it applies. The interior display shall also contain the maximum number of overnight occupants permitted to stay in the unit, the

maximum number of vehicles, and a 24-hour, seven-day per week local phone number of the owner/agent responsible for the short-term rental unit.

K. Exterior Display of Short-Term Rental Unit. Owner/Agent shall display, at a minimum size of 8.5 inches by 11 inches on the exterior of a short-term rental unit during the period of short-term rental operation, a notice provided by the City containing a 24-hour, seven-day per week local phone number of the owner/agent responsible for the short-term rental unit. The exterior display must also contain the number of bedrooms, maximum number of occupants permitted to stay in the unit, and the maximum number of vehicles. The notice shall be in plain view of the general public and/or common areas and shall be maintained in good condition.

L. Adjacent Property Owners Notified. Applicants are also required to provide adjacent property owners located within three hundred (300) feet of the subject short-term rental property with the 24-hour, seven-day per week local phone number of the owner/agent responsible for the short-term rental unit, and a copy of the good neighbor policy on a form provided by the City.

M. Rental Agreements. Information on the permitted occupancy of the dwelling, parking capacity for each unit, and trash disposal requirements shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit.

N. Payment of Transient Occupancy Tax. Owner/Agent shall comply with all provisions of Chapter 3.12 of this Municipal Code concerning the payment of Transient Occupancy Tax (TOT). The TOT calculation shall include cleaning fees, resort fees, and other fees as part of the total rent charged for the short-term rental unit. If the owner/agent uses a hosting platform, the hosting platform shall be considered an agent of the host for purposes of collecting and remitting the TOT to the City.

O. Outdoor Fire Pits. No open wood-burning fire pits, bonfires or campfires are permitted at short-term rental properties. Natural gas/propane burning fireplaces and fire pits with 20-pound tanks or smaller are acceptable outside, provided the device is at least 10 feet away from a structure and any flammable materials.

P. Grills and Barbeques. Grills and barbeques are not permitted beneath a potentially flammable source, including, but not limited to, trees, umbrellas, decks, or other appurtenant structures, and shall be no less than 10 feet away from a structure and any flammable materials. Charcoal grills of any type are strictly prohibited.

Q. No Roof Access. Due to neighborhood privacy concerns and potential risks of bodily harm, accidental death or injury and other safety concerns, standing, sitting, sleeping, lying, walking, or running on the roof of any short-term rental is prohibited. This does not include permitted roof decks.

R. Life/Safety Compliance. The property that is the subject of the short-term rental must meet basic life/safety requirements, including, but not limited to, operable smoke and carbon monoxide alarms, fire extinguisher, and first aid kit, and shall comply with minimum operating standards.

S. Inspections. Owner/agent shall permit the City to inspect the short-term rental unit and property: (i) prior to the issuance of a short-term rental permit, and/or (ii) in response to any complaint received by the City for the purpose of making a reasonable inspection to observe and enforce compliance with all applicable laws, rules and regulations, including the provisions of this chapter.

T. No Subletting. The subletting of a short-term rental unit is prohibited. Only owners/agents with a valid short-term rental permit issued by the City are permitted to advertise and rent out a property as a short-term rental unit.

U. No Special Events Permitted Onsite. Weddings, corporate events, commercial functions, and any other similar events that have the potential to cause traffic, parking, noise, or other problems in the neighborhood are prohibited at the short-term rental property or as a component of short-term rental activities.

V. No Commercial Filming. No commercial filming shall occur on-site of the short-term rental property concurrently with an active short-term rental permit.

W. Recreational Vehicles. An owner/agent shall obtain all necessary permits to allow the overnight parking of a recreational vehicle for a guest of the short-term rental subject to the provisions and requirements of Section 14.40.155 of this Municipal Code.

X. Permitted Guest Hours. Guest hours permitted at the short-term rental shall be limited from 8:00 a.m. to 10:00 p.m. daily.

Y. Advertisements. It shall be unlawful for any person or entity to advertise a short-term rental in the City without a valid and current permit issued by the City. All advertisements for a property operating with a valid short-term rental permit, including those advertisements posted on or by hosting platform sites, must include the short-term rental permit number provided by the City, the maximum number of occupants permitted to stay in the unit, and the maximum number of vehicles permitted to be parked at the unit.

Z. Minimum Night Stay. Non-hosted short-term rental units shall have a minimum night stay of three (3) consecutive nights. This provision shall not apply to hosted short-term rental units.

AA. Permit Modifications. The operational requirements may be modified by the City Manager, or designee, based on site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term rental. All requests must be in writing and shall identify how the strict application of the operational requirements creates an unreasonable hardship to a property, and if the requirement is not modified, reasonable use of the property for a short-term rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site. Such hardships cannot be self-induced or economic. In addition, any modification to the operational requirements cannot further exacerbate an already existing problem.

9.38.0560 Violations and Penalties, Enforcement.

~~A. Violations. The following conduct shall constitute a violation for which the penalties specified in subsection B of this section may be imposed, or the penalties imposed and permit suspended:~~

- ~~1. The property owner has failed to comply with the standard conditions pursuant to this chapter; or~~
- ~~2. The property owner has failed to comply with additional conditions imposed by the City Manager pursuant to the provisions of Section 9.38.040B7; or~~
- ~~3. The property owner has violated any provision of this chapter; or~~
- ~~4. The property owner has failed to pay applicable taxes or fees.~~

~~B. Penalties. The penalties specified in subsection A of this section shall be as follows:~~

- ~~1. For the first violation within any 24-month period, the penalty shall be a fine of \$250.00;~~
- ~~2. For a second violation within any 24-month period, the penalty shall be a fine of \$500.00;~~

3. For a third violation within any 24-month period, the penalty shall be a fine of \$750.00;

4. For a fourth violation within any 24-month period, the penalty shall be a fine of \$1,000.00 and suspension of the permit.

A. It shall be unlawful for any person to fail to comply with any of the requirements of this chapter or with any standards/conditions of a short-term rental permit, or to operate a short-term rental within the jurisdiction of the City contrary to or in violation of any of the provisions of this chapter, any applicable provisions of this Code, or any other applicable laws, rules, and regulations.

B. Any person who violates any provision of this Chapter shall be subject to the fine amounts set forth in Government Code Section 36900(d), as that section may be amended from time to time.

C. Violations of this chapter may be enforced by any method allowed in Chapter 1.08 of this Municipal Code, or any other applicable enforcement mechanism available to the City.

9.38.0670 Imposition of Penalties/Suspension—Procedure Denial, Suspension and Revocation of Permits.

~~Penalties, including a notice of violation, shall be imposed, and permits shall be suspended, only in the manner provided in this section.~~

~~A. The City Manager shall cause an investigation to be conducted whenever there is reason to believe that a property owner has failed to comply with the provisions of this chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the investigator shall issue written notice of the violation and intention to impose a penalty, or penalty and suspend the permit. The written notice shall be served on the property owner and operator or agent and shall specify the facts which in the opinion of the investigator, constitute substantial evidence to establish grounds for imposition of the penalties, or penalties and suspension, and specify that the penalties will be imposed and/or that the permit will be suspended and penalties imposed within 15 days from the date the notice is given unless the owner and/or operator files with the City Clerk the fine amount and a request for a hearing before the City Manager.~~

~~B. If the owner requests a hearing within the time specified in subsection A of this section, the City Clerk shall serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which shall be scheduled not less than 15 days, nor more than 45 days of receipt of request for a hearing. The City Manager or his/her designee shall preside over the hearing. The City Manager or his/her designee shall impose the penalties, or penalties and suspend the permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the penalty, or penalty and suspension are consistent with this chapter. The hearing shall be conducted according to the rules normally applicable to administrative hearings. A decision shall be rendered within 30 days of the hearing and the decision shall be appealable to the City Council if filed with the City Clerk no later than 15 days thereafter, pursuant to Chapter 1.12.~~

A. Denial, Suspension or Revocation. In addition to any other remedy provided by this chapter, a short-term rental permit may be denied, and if already issued, may be suspended or revoked by the City Manager, or designee, pursuant to this section.

B. Grounds. A permit issued under this chapter may be denied, suspended or revoked upon any of the following grounds:

1. A material misrepresentation, false or misleading information was included on the application or renewal application for a permit application.
2. A violation of any provision under this chapter, any applicable provision of this Code, and/or any other applicable law, rule or regulation has occurred on the premises of the short-term rental unit.
3. An authorized official has given notification of existing health or safety violations on the property or non-compliance with applicable laws, rules or regulations relating to health and safety.
4. A short-term rental permit for the property has been revoked in the previous twelve (12) months, unless the property has been sold and the new owner can demonstrate to the City change of property ownership during that time period.
5. The applicant is delinquent in the payment of any outstanding fees, assessments or taxes owed to the City related to any property located in the City that is owned by the applicant, including, but not limited to, Transient Occupancy Taxes (TOT).

C. Appeal of Denial, Suspension or Revocation. The appeal procedures for the denial, suspension or revocation of a short-term rental permit shall be those set forth in Chapter 1.12 of this Municipal Code.

D. Public Notice of Suspension or Revocation. If a short-term rental permit is suspended or revoked pursuant to this section, notification of the suspension or revocation shall be provided by the City to all record property owners located within three hundred (300) feet of the subject short-term rental. Posting of the suspension or revocation shall also be provided on the City's short-term rental webpage.

E. Prohibited Operations. If a short-term rental permit is revoked pursuant to this section, the owner/agent shall not operate a short-term rental at the property for a period of twelve (12) months from the date of such revocation. No permit that is revoked by the City may be transferred to any other person or entity to operate a short-term rental at the property during such period of revocation.

9.38.0780 Permits and Fees Not Exclusive.

Permits and fees required by this chapter shall be in addition to any license, permit, or fee required under any other chapter of this Code. The issuance of any permit pursuant to this chapter shall not relieve the property owner of the obligation to comply with all other provisions of this Code pertaining to the use and occupancy of their property.

9.38.4090 Private Actions to Enforce.

Any person who has suffered, or alleges to have suffered, damage to person or property because of a violation of this chapter may bring an action for money damages and any other appropriate relief in a court of competent jurisdiction against the party alleged to have violated this chapter.

Nothing herein shall be deemed or construed to create any right of action against the City or any of its officers, employees, or agents. The sole purpose and intent of this section is to create a right of action between private parties, entities, and interests, which are or may be impacted or affected by various aspects of short-term rentals within the City.

9.38.100 Applicability to Existing Short-Term Rental Permits

Existing permit holders with a valid and current short-term rental permit issued by the City prior to the effective date of Ordinance No. 2021-22, must be in full compliance with the provisions of this Chapter no later than ninety (90) days from the effective date of Ordinance No. 2021-22, with the exception of any fee increase authorized under Section 9.38.040(C), which fee increase shall not apply until the time of renewal of the short-term rental permit.