



City of Encinitas Development Services Department

SHORT-TERM RENTAL PERMIT FAQ

August 2022

HOW MANY SHORT-TERM RENTALS CAN I HAVE?

Only **one** short-term rental shall be allowed within a dwelling. In addition, **multiple rentals** of the unit at the same time are **prohibited**. Multiple rentals at the same time would be classified as a bed and breakfast, subject to the regulations outlined in Encinitas Municipal Code (EMC) Section 30.48.040.

CAN I RENT A PORTION OF MY HOME AS A SHORT-TERM RENTAL?

Yes. EMC Section 9.38.020(G) defines a short-term rental as “[...] any single-family or duplex unit that is a privately owned structure, or any portion of any structure [...] for occupancy for dwelling, lodging, or sleeping purposes of 30 consecutive days or less in the City.”

IS A SHORT-TERM RENTAL PERMIT SUBJECT TO TRANSIENT OCCUPANCY TAX?

Yes. Effective January 1, 2009, short-term rentals shall be subject to a 10% Transient Occupancy Tax. Payments are made directly to the City’s Finance Department. For additional information, please contact the Finance Department at (760) 633-2654.

ARE THERE PERMIT APPLICATION AND RENEWAL FEES FOR A SHORT-TERM RENTAL?

Yes. A \$425 non-refundable permit and renewal fee is required for the City to operate the short-term rental program.

WHERE ARE SHORT-TERM RENTALS ALLOWED?

A short-term rental is only allowed within a privately-owned single-family or duplex unit. A duplex unit consists of one or two buildings on a single lot containing no more than two dwelling units.

ARE SHORT-TERM RENTALS ALLOWED IN NON-RESIDENTIAL ZONES?

Yes. A short-term rental may be allowed in other non-residential zones subject to the provisions of that zone. For example: in commercial mixed-use zones on Coast Highway 101 for the Downtown Specific Plan, hotel/motels (or transient habitation) are allowed subject to a use permit. Since a short-term rental is a transient use by definition (rented 30 days or less), a short-term rental in this zone is subject to the approval of a use permit.

CAN I RENT OUT MY ACCESSORY DWELLING UNIT AS A SHORT-TERM RENTAL?

No. A number of ordinances regarding housing were passed in 2018, provisions of which prohibited short-term rentals from being located within accessory dwelling units. However, if you were previously approved by the City to operate a short-term rental in an accessory dwelling unit, you may continue to do so. In this case, the accessory

dwelling unit’s short-term rental permit will be considered a non-conforming use. The legal nonconforming use will be terminated if the use remains inactive for 180 consecutive days following the expiration date of the annual permit.

CAN I RENT MY 2ND UNIT THAT WAS APPROVED UNDER THE AFFORDABLE UNIT POLICY (OR ANY OTHER ILLEGAL UNIT POLICIES)?

No. The Affordable Unit Policy and previous policies to address 2nd units constructed illegally (without permits) were established to help preserve affordable units to lower income individuals. A short-term rental would prohibit the use of the unit as an affordable unit.

HOW IS OVERNIGHT OCCUPANCY DETERMINED?

Overnight occupancy is limited to two persons per bedroom plus one additional person per dwelling unit [EMC Section 9.38.050(E)]. A bedroom is defined in EMC Chapter 30.04 as “a room that could be used for sleeping purposes having minimum widths of 7 feet and having a closet, excluding bathrooms, kitchen, living room, and laundry.” A closet must be attached to a wall. A freestanding wardrobe, armoire, or similar structure is not considered a closet. The bedroom must have doors to separate it from other rooms.

HOW IS OVERNIGHT OCCUPANCY CALCULATED WHEN I RENT ONLY A PORTION OF MY HOME?

When a short-term rental is a portion of a single-family home or duplex unit, occupancy shall be determined as two persons per bedroom. Since the entire unit is not being rented, the “one additional person per dwelling” does not apply. Any additional occupancy would be evaluated on a case-by-case basis.

WHAT CAN I DO IF I RENT TO A FAMILY OF 4 BUT MY OCCUPANCY IS LIMITED TO 3?

You can submit a written request to modify a permit operating requirement based on site-specific circumstances. The request “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” [EMC Section 9.38.050(AA)]. Any identified hardships must relate to physical constraints of the subject site. The request is evaluated by staff and a determination is made. It is important to note that “any modification to the operational requirements cannot further exacerbate an already existing problem.”

HOW IS VEHICLE PARKING FOR THE SHORT-TERM RENTAL DETERMINED?

Vehicle parking shall not exceed the number of designated on-site parking spaces. All designated spaces must meet minimum parking standards (i.e., size, back-up, location, etc.) defined in EMC Chapter



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30.54. All designated spaces shall be made available for the rental occupant. Street parking is prohibited, and vehicles shall not impede access to sidewalks and adjoining neighbor properties or driveways.

CAN I STORE MY BOAT IN MY GARAGE?

Maybe. If the parking within the garage is designated for use by the short-term rental, it must be available for the guest whether they use it or not. If the garage is used for storing the owner's boat, vehicle, or other things, it is not considered to be "available" and is not allowed to be counted as designated parking for the short-term rental.

CAN I COUNT PARKING IN FRONT OF MY GARAGE?

Maybe. Any parking identified in the front of the garage must be consistent with minimum parking standards. This not only includes parking stall size but also back up requirements and tandem parking limitations.

WHEN A PORTION OF A HOME IS A SHORT-TERM RENTAL, HOW IS THE PARKING CALCULATED?

Parking designated for the short-term rental is in addition to the parking required for the home. A minimum of two parking spaces will be designated for the portion of the home which is not part of the short-term rental. (This could increase to 3 depending on the size of the home.) The parking for the short-term rental will then be calculated in addition to that required for the home.

WHAT IF I CANNOT MEET THE PERMIT OPERATING REQUIREMENTS OF THE SHORT-TERM RENTAL ORDINANCE (EMC CHAPTER 9.38.050)?

EMC Chapter 9.38.040B12 states that the Operational Requirements may be modified. This is based on site-specific circumstances for the purpose of allowing reasonable accommodation of the short-term rental.

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.

IF I ONLY RENT OUT MY HOME A COUPLE OF WEEKS OF THE YEAR, DO I HAVE TO DISPLAY THE SIGN YEAR-ROUND?

A request for reasonable accommodations must be made in writing to request to not display the signage year-round. If approved, the

exterior sign must go up on the unit one week prior to the unit being rented, and may be removed one week following the unit being used as a short-term rental.

WHAT LIABILITY INSURANCE IS ACCEPTABLE?

An insurance policy is required to have liability coverage in an amount of \$1,000,000.00. The insurance may come in the form of an individual homeowner's insurance policy or an umbrella insurance policy. Some of the hosting platforms, such as AirBnB, offer liability insurance in the amount of \$1,000,000.00.

IS THE SHORT-TERM RENTAL SUBJECT TO A CITY INSPECTION?

Yes. An inspection will be conducted by the City prior to the short-term rental permit being approved or renewed. The City staff person will need access to the interior of the unit to conduct the inspection to verify compliance with EMC Chapter 9.38. In addition, during the inspection, the City staff person will verify that accuracy of the information provided during the application process. Inspections may also be conducted in the event that a complaint is received regarding the operation of the short-term rental unit.

Examples of some things the City staff person will be looking for the following during the inspection: smoke detectors, carbon monoxide detectors, fire extinguishers, excessive occupancy, parking spaces, etc.

WHAT CAN I DO IF I AM EXPERIENCING AN ISSUE WITH A SHORT-TERM RENTAL?

First, contact the rental units 24/7 contact person. The 24/7 contact information can be found on the permit which is required to be displayed in a visible location during the rental unit period. The short-term rental operator is required to resolve any complaints or issues that may arise during a rental period within an hour of receiving a complaint pursuant to EMC Section 9.38.050(D).

If there was a failure to respond during regular City Hall operating hours (8:00 AM to 5:00PM Mon- Thur; and 8:00 AM to 4:00 PM alternating Fridays/closed alternating Friday's), then please contact the City's [Code Enforcement Division](#) by completing the [online complaint form](#).

If there was a failure to respond during non-regular City Hall operating hours (4:00 or 5:00 PM to 8:00 AM), then please contact the Sheriff Departments non-emergency line at (858) 565-5200 or contact the City's 24/7 hotline at (760) 249-7767.

In case of an emergency, please call 9-1-1.

WHERE CAN I LEARN MORE?

Information on submittal requirements, fees, and more can be found on the City's [Short-term Rentals](#) webpage: www.encinitasca.gov/short-term-rentals