

ORDINANCE NO. 1440

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY ADDING CHAPTER 5.92 TO THE DALY CITY MUNICIPAL CODE RE: SHORT-TERM RENTALS

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DALY CITY DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 5.92 of Title 5 of the Daly City Municipal Code is hereby added to read as follows:

**Chapter 5.92  
SHORT-TERM RENTALS**

<b>5.92.010</b>	<b>Purpose</b>
<b>5.92.020</b>	<b>Applicability</b>
<b>5.92.030</b>	<b>Definitions</b>
<b>5.92.040</b>	<b>Eligibility</b>
<b>5.92.050</b>	<b>Requirements</b>
<b>5.92.060</b>	<b>Fees</b>
<b>5.92.070</b>	<b>Expiration and Renewal</b>
<b>5.92.080</b>	<b>Enforcement</b>
<b>5.92.090</b>	<b>Amnesty Period for Short-Term Rentals</b>

**5.92.010 – Purpose.**

The purposes of the Short-Term Rentals related regulations contained in this Chapter are:

- A. To prevent long-term rental units from being replaced with Short-Term Rentals and protect affordable housing units from conversion.
- B. To preserve and protect neighborhood character and livability from nuisances that are often associated with Short-Term Rentals.
- C. To generate City revenue to share City infrastructure cost and other public expenditures by operation of Short-Term Rentals under established standards.
- D. To provide alternative forms of lodging.

**5.92.020 – Applicability.**

The following standards apply to short-term rentals whereby a dwelling unit is shared, in whole or in part, for transient occupancy as a way of generating rental income.

**5.92.030 – Definitions.**

For the purposes of this Chapter, the following terms shall have the following meanings:

- A. **“Bedroom”** means a part or division of a building enclosed by walls, floor, and ceiling intended and designed for sleeping.
- B. **“Condominium”** means a single, individually-owned dwelling unit in a multi-unit building in which the owner holds sole title to the unit, but owns land and common property (i.e. elevators, halls, roof, stairs, etc.) jointly with other unit owners, and shares the upkeep expenses on the common-property with them.
- C. **“Guest”** means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a home shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the host and the guest providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered.
- D. **“Home-sharing”** means an accessory use of a primary residence for the purposes of providing temporary lodging, for compensation, for periods of 30 consecutive days or less.
- E. **“Host”** means an owner or tenant of a dwelling unit who rents their primary residence for home-sharing under this Chapter.
- F. **“Hosted stay”** means a home-sharing activity whereby the host remains on-site throughout the guest’s stay (except during daytime and/or work hours).
- G. **“Hosting platform”** means a business or person that provides a means through which a Host may offer a dwelling unit, or portion thereof, for home-sharing. A Hosting Platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a property owner or tenant to advertise the dwelling unit through a website provided by the Hosting Platform and provides a means for potential guests to arrange short-term rentals, whether the guests pay rent directly to the Host or to the Hosting Platform.
- H. **“Primary residence”** means a host's permanent residence or usual place of return for housing as documented by evidence of occupancy as determined by the Finance Department and Planning Department. A person may only have one primary residence and must reside there for a minimum of 265 days per year.
- I. **“Un-hosted stay”** means a home-sharing activity whereby the host remains off-site during the guest's stay.
- J. **“Vacation rental”** means a dwelling unit that is not a primary residence and which is available for temporary lodging for compensation. The term "vacation rental" shall not include single-room occupancy buildings, bed and breakfast inns, hotels, or corporate housing.

#### **5.92.40 – Eligibility.**

- A. Short-term rentals shall be permitted in single-family residences, condominiums, duplexes, townhomes, and properties with multiple rental units. For owner-occupied properties with

multiple rental units, the owner of such property may only host a short-term rental in the dwelling unit that is their primary residence.

- B. Short-term rentals shall not be permitted in inclusionary housing or other income-restricted housing units or on properties with accessory dwelling units or junior accessory dwelling units.
- C. Vacation rentals, as defined in this Chapter, are prohibited and shall not be operated in the City.

#### **5.92.050 – Requirements.**

The host is required to obtain a business license from the Finance Department and Short-Term Rental permit from the Planning Department before renting any primary residence to any guest.

- A. **Business License.** To apply for a business license, a host shall file an application with the Finance Department as stipulated in Chapter 5.12 (*Licensing Regulations*) and obtain a Transient Occupancy Registration Certificate from the Finance Department as stipulated in Chapter 3.32 (*Transient Occupancy Tax*).
- B. **Short-Term Rental Permit.** To apply for a Short-Term Rental permit, a host shall file an application with the Planning Department on a form provided by the Planning Department and shall include all information required by the instructions on the application and the guidelines necessary to implement this Chapter.
  - a. **Eligibility Requirements.** The following requirements must be met for approval of a Short-Term Rental permit:
    - i. The host shall sign a notarized affidavit confirming the following:
      - 1. The short-term rental unit is their primary residence. If the host is not the property owner, a notarized supplemental authorization form signed by all property owners must be submitted with the application.
      - 2. The designated local responsible contact person will be available twenty-four (24) hours per day to accept telephone calls regarding the short-term rental when occupied and respond within one hour. The host shall keep on file with the City the name, telephone number, and mailing address of the designated local responsible contact person who shall be responsible for responding to questions or concerns regarding the operation of the short-term rental. This information shall be posted in a conspicuous location within the short-term rental.
      - 3. The short-term rental is legally permitted and habitable based on building permit history. In the absence of a building permit record demonstrating such, the Building Official shall determine if the accessory structure is suitable for habitability and an inspection of the accessory structure may be required.

4. The space used for short-term rental meets or exceeds fire and life safety requirements, including installation of smoke and carbon monoxide detectors, and adequate means of egress.
  5. The host has signed an indemnification and hold harmless agreement in a form approved by the City Attorney, agreeing to indemnify, save, protect, hold harmless, and defend the City of Daly City, the City Council of the City of Daly City, individually and collectively, and the City of Daly City representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs at any time received, incurred, or accrued as a result of, or arising out of host's actions or inaction in the operation, occupancy, use, and/or maintenance of the property.
  6. The host shall adhere to the short-term rental regulations listed in Sections 5.92.050.C and 5.92.050.D.
- b. For properties with active business licenses for short-term rentals issued prior to January 1, 2021, compliance with this Chapter shall be required upon expiration of said business license.

**C. Short-Term Rental Regulations.**

- a. Un-hosted stays shall be limited to a maximum of 100 days per year. There shall be no limit for hosted stays.
- b. If a dwelling unit is subject to the rules of a homeowners' or condominium association, this Chapter shall not grant any permission that invalidates or supersedes provisions regarding home-sharing.
- c. Short-term rentals shall not be advertised for or used by more than two guests per bedroom plus two additional guests at one time.
- d. Short-term rentals shall be limited to one booking per property per day. A booking may consist of the short-term rental of one or more bedrooms in the home or the short-term rental of the entire home. A short-term rental may operate in conjunction with a long-term rental, the rental of a primary residence for periods of more than 30 consecutive days, in the home.
- e. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to guests.
- f. Short-term rentals shall not adversely affect the residential character of the neighborhood nor shall the use generate noise, vibration, glare, odors, or other effects that unreasonably interfere with any person's reasonable enjoyment of his or her residence. To this effect, the short-term rental activity shall comply with all provisions of the Daly City Municipal Code, including, but not limited to Chapter

8.32 (*Litter*), Chapter 9.22 (*Disturbing the Peace*), and Chapter 10.40 (*Residential Parking Permits*).

- g. No person shall advertise, undertake, maintain, authorize, book, or facilitate any renting to guests in a manner that does not comply with this Chapter.
- h. No person shall advertise any short-term rental without a City issued short-term rental permit number depicted in a visible location on the advertisement, including any listing on a hosting platform.
- i. No signs shall be posted on the exterior of the dwelling unit advertising the presence of the short-term rental use.
- j. Commercial events including, but not limited to weddings, banquets, and corporate events, are prohibited from occurring as part of the short-term rental use. The dwelling shall not be advertised or rented for the sole purpose of accommodating such uses.
- k. No person shall offer or engage in short-term rental in any part of the property not approved for residential use, including but not limited to, a vehicle parked on the property, a storage shed, trailer, garage, or any temporary structure such as a tent.

**D. Host Requirements.**

- a. The host, and the property owner if the host is the tenant, shall be responsible for any nuisance violations arising at a property during short-term rental activities.
- b. The host shall identify a local responsible contact person to be available twenty-four (24) hours per day during the term of any hosted or un-hosted stay who shall respond to any concerns or requests for assistance related to the condition, operation, or conduct of guests of the short-term rental within one hour.
- c. The host shall provide and maintain fire extinguishers, smoke detectors, carbon monoxide detectors, and information related to emergency exit routes and emergency contact information.
- d. The host shall keep and preserve all records as may be necessary to determine the amount of such tax as he/she may have been liable for the collection of and payment to the City, including the number and length of each short-term rental stay, and the price paid for each stay. The Finance Department and Planning Department shall have the right to inspect these records at all reasonable times. Hosts shall provide a copy of the records from the last year to the Finance Department at the time of renewing the short-term rental permit.
- e. The host shall fully comply with all the requirements of Chapter 3.32 (*Transient Occupancy Tax*) and any successor sections.

**5.92.060 – Fees.**

The City Council shall establish and set by Resolution all fees and charges as may be necessary to effectuate the purpose of this Chapter.

### **5.92.070 – Expiration and Renewal.**

- A. A Short-Term Rental permit is valid for the same duration as the associated business license which expires on September 30<sup>th</sup> of the year the business license is issued. It may not be transferred, does not run with the land, and is valid only at the original short-term rental site. The Short-Term Rental permit shall automatically expire upon sale or transfer of the property. No registration may be assigned, transferred, or loaned to any other person.
- B. A short-term rental permit may be renewed if the host meets the following renewal requirements:
  - a. Payment of registration renewal fees and all required transient occupancy tax remittance associated with the short-term rental. The host shall submit such information concerning the short-term rental activity as may be required to enable the Finance Department to verify the amount of tax paid.
  - b. Is deemed to have been in conformance with the provisions of this Chapter for the past year.
  - c. Documents and provides any changes that have occurred to the information on the current short-term rental permit.
  - d. Submits short-term rental records as required in Section 5.70.040.D for the last year.
- C. Failure to renew prior to the expiration date will result in expiration of the short-term rental permit.

### **5.92.080 – Enforcement.**

- A. Failure to comply with any provision of this Chapter may constitute a violation.
- B. If the same property being used for short-term rental has been issued three violations between the date the Short-Term Rental permit was issued and the next renewal period, the property shall become ineligible for renewal of the Short-Term Rental permit at the next renewal period of that calendar year. At the start of the renewal period of the next following calendar year, the eligibility of said property shall be reinstated.
- C. The City has the sole discretion to suspend the Short-Term Rental permit of any property being used for short-term rental with one or more violations pursuant to Chapter 8.16 (*Property Maintenance and Nuisance Abatement*) of the Daly City Municipal Code. If a Short-Term Rental permit is revoked, the host must wait at least one calendar year before an application for short-term rental can be filed for that property.
- D. Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs, pay all back Transient Occupancy Taxes, and remit all illegally obtained rental revenue to the City so that it may be returned to the short-term rental guests or used to compensate victims of illegal short-term rental activities.

- E. Any person who violates any provision of this Chapter shall be subject to administrative fines and administrative penalties pursuant to Chapter 8.16 (*Property Maintenance and Nuisance Abatement*) of the Daly City Municipal Code.
- F. The remedies provided in this Section are not exclusive, and nothing in this Chapter shall preclude the use or application of any other remedies, penalties, or procedures established by law. The City may pursue any other administrative or judicial legal remedies available, including, but not limited to, civil injunctions, license revocations, and civil penalties for violations of this Chapter.

#### **5.92.090 – Amnesty Period for Short-Term Rentals.**

Short-term rentals with a business license operating on or before the enactment of this Chapter shall be considered existing, unpermitted uses. An amnesty period of nine (9) months ending on September 30, 2021 after the effective date of this Chapter is being provided to allow existing, unpermitted uses to be legalized by conforming to the requirements of this Chapter, including compliance with operating standards, registration, and recordkeeping obligations. Existing short-term rental uses that do not conform to the requirements of this Chapter on or before September 30, 2021 after the effective date of this Chapter shall cease operation and be prohibited from resuming unless and until the use conforms to the requirements of this Chapter.

**SECTION 2. Severability.** If any section, subsection, provision or part of this Ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

**SECTION 3. Environmental Determination.** The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378, that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project as provided by the Act, in that it does not have a potential for resulting in a detrimental physical change in the environment, directly or ultimately, as provided in Title 14, Section 15378(a), and that it is also exempt under the definition of "project" in Section 15378(b)(3) in that it concern general policy and procedure making.

**SECTION 4. Publication and Effective Date.** Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's Office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's Office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This ordinance shall become effective on January 1, 2021. For

properties 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 California Public Resources Code.

Introduced this \_\_\_\_\_ 9<sup>th</sup> \_\_\_\_\_ day of \_\_\_\_\_ November \_\_\_\_\_, 2020.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the 23<sup>rd</sup> day of \_\_\_\_\_ November \_\_\_\_\_, 2020, by the following vote:

AYES, Councilmembers: \_\_\_\_\_ Buenaventura, Daus-Magbual, \_\_\_\_\_

\_\_\_\_\_ DiGiovanni, Manalo, Sylvester \_\_\_\_\_

NOES, Councilmembers: \_\_\_\_\_ None \_\_\_\_\_

Absent, Councilmembers: \_\_\_\_\_ None \_\_\_\_\_

\_\_\_\_\_  
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

\_\_\_\_\_  
GLENN R. SYLVESTER  
MAYOR OF THE CITY OF DALY CITY