

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the matter of:

Amending Various Sections of Title 2)
– Administration and Personnel, and)
Title 8 – Planning and Zoning, of the)
Moraga Municipal Code to Amend)
Section 8.04.020 – Definitions, of Title)
8, Planning and Zoning, of the Town)
of Moraga Municipal Code to Include a)
Definition of “Hosted Short-Term)
Rental,” “Non-Hosted Short-Term)
Rental,” “Operator,” “Owner,” and)
“Short-Term Rental,” and Establishing)
Chapter 8.114 - Short-Term Rentals, in)
Order to Regulate Short-Term Rental)
Units within the Town (CEQA)
*Determination: Exempt Pursuant to)
CEQA Guidelines Section 15061[b][3])
General Rule Exemption))*

ORDINANCE NO. 290

WHEREAS, on November 13, 2019 the Town Council asked staff to facilitate its consideration as to whether a Short-Term Rental policy should be implemented; and

WHEREAS, the Moraga Municipal Code (MMC) currently does not contain any rules and regulations regarding the establishment of businesses that engage in the rental of an individual’s home for less than thirty (30) days; and

WHEREAS, the Town published a public hearing notice in the East Bay Times, a newspaper of general circulation, on April 10, 2020 to advertise a Planning Commission hearing on April 20, 2020 on proposed language amending the MMC to implement a Short-Term Rental policy in accordance with California Government Code Section 65091; and

WHEREAS, on April 20, 2020, the Planning Commission held a duly noticed public hearing and took public testimony on the proposed amendments and considered evidence submitted in the form of the staff report and ultimately voted 5-2 to recommend Council adoption of the proposed Ordinance; and

WHEREAS, the Town published a public hearing notice in the East Bay Times, a newspaper of general circulation, on May 2, 2020 to advertise the Town Council hearing on May 13, 2020 in accordance with California Government Code Section 65091; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the proposed amendments to the MMC are exempt

from CEQA in that they do not constitute a “project” as defined by CEQA since they do not have the potential to result in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment; and

WHEREAS, on May 13, 2020, the Town Council held a duly noticed public hearing, took testimony on, and considered the proposed amendments.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MORAGA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Town Council finds that the proposed amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) in that they do not constitute a “project” as defined by CEQA since they do not have the potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

SECTION 2. Pursuant to Moraga Municipal Code Section 8.12.100, the Town Council hereby finds as follows:

- a. **The change proposed is consistent with the objectives, policies, general land uses and programs specified in the general plan** in that it is consistent with Land Use Goal LU1.1: “Neighborhood Preservation, protect existing residential neighborhoods from potential adverse impacts of new residential development and additions to existing structures.” By regulating Short-Term Rentals, the Town will preserve residential development and protect existing residential neighborhoods. There are risks to neighborhood safety associated with Short-Term Rentals, and the need for regulation is high as Short-Term Rentals are currently occurring within the Town. These operations are occurring without regulations designed to mitigate such dangers, leaving neighborhoods vulnerable to danger that could have been reasonably mitigated by appropriate regulation.
- b. **The change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district which it is approved** in that the proposed regulations apply to residential uses only. The Ordinance will not result in any new development in or change the character of the Town’s residential neighborhoods but will apply in all residential districts to regulate the use of dwelling units as temporary rentals.
- c. **A community need is demonstrated for the changes proposed** in that on May 13, 2020 the Town Council, in response to a tragic incident involving a short-term rental in the City of Orinda, identified the need for a basic Short-Term Rental Ordinance for the community, and determined that the proposed ordinance would meet that need.
- d. **The adoption of the Ordinance will be in conformity with public convenience, general welfare, and good zoning practice** in that the proposed Ordinance would

provide additional regulation of a Moraga Home Occupation to increase the safety and welfare of the Town’s residential neighborhoods where Short-Term Rentals may exist. The proposed regulations would be consistent with good zoning practice as Short-Term Rentals are accessory to residential land uses and are becoming more commonly regulated in municipalities across the State.

SECTION 3. The Town Council hereby amends the following sections of Title 8 of the Moraga Municipal Code as follows:

8.04.020 – Definitions

“Hosted Short-Term Rental” is a Short-Term Rental with an Owner or Operator who lives on-site, in either the primary or accessory dwelling unit, for the majority of the calendar year and treats it as their primary residence.

“Non-Hosted Short-Term Rental” is a Short-Term Rental without an Owner or Operator who lives on-site for the majority of the calendar year.

“Operator” is an individual who operates a Short-Term Rental. This individual can be the owner or a lessee and/or outside representative, hosting the Short-Term Rental.

“Owner” is the individual, trustee, or managing member of a LLC that is on the title of the property on which a Short-Term Rental is located.

“Short-Term Rental” is the rental of a dwelling unit, in full or in part, for a term of less than thirty (30) consecutive days.

8.114 – Short-Term Rentals

8.114.010. Purpose

The purpose of this chapter is to regulate the use and operation of all Short-Term Rentals within the Town. Establishing regulations governing Short-Term Rentals of residential property within the Town of Moraga is necessary in order both to ensure the health, safety, and welfare of the residents of the Town of Moraga and to allow for the Short-Term Rental of single-family and multi-family dwelling units for less than thirty (30) consecutive days, while still preventing Short-Term Rental activities from becoming a nuisance or a threat to public health, safety or welfare.

8.114.020. Restrictions

- A. All Short-Term Rentals must be Hosted. Non-Hosted Short-Term Rentals are prohibited within the Town of Moraga;
- B. A Short-Term Rental shall not be rented for a duration of less than two (2) consecutive nights; and

C. The Short-Term Rental must be located within a permitted and permanently constructed dwelling unit. For example, without limitation, Short-Term Rental in a vehicle, trailer, or tent is not allowed.

8.114.050. Enforcement and Violations.

The Town may enforce this Chapter by any means permitted by law, including, but not limited to, those penalty provisions set forth in Chapter 1.24 and/or Chapter 1.28 of Title 1 of this Code.

SECTION 4. Effective Date. This Ordinance becomes effective thirty (30) days after its final passage and adoption.

SECTION 5. This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

SECTION 6. Severability. If any provision of the Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or applications of the Ordinance. To this end, the provisions of this Ordinance are severable. This Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Moraga, California, held on May 27, 2020, and was adopted and ordered published at a regular meeting of the Town Council held on June 10, 2020 by the following vote:

AYES: Mayor Korpus, Councilmembers Sos and Wykle
NOES: Vice Mayor McCluer, Councilmember Woehleke
ABSTAIN: None
ABSENT: None

AFFIRMED:

Kymberleigh N. Korpus, Mayor

ATTEST:

Marty C. McInturf, Town Clerk