

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO AMENDING TITLE 10 TO ADD SECTION 10.44.350 “SHORT-TERM RENTAL USE INCIDENTAL TO A PRIMARY RESIDENCE AS A PILOT PROGRAM FOR ONE YEAR,” AMENDING SECTION 10.44.020 TO ADD REFERENCE TO SHORT-TERM RENTAL USE INCIDENTAL TO A PRIMARY RESIDENCE AND AMENDING TABLE 10.22-1 “SITE DEVELOPMENT STANDARDS – RESIDENTIAL ZONING DISTRICTS” OF THE SAUSALITO MUNICIPAL CODE

WHEREAS, in recent years, technology and innovation have expanded the use of short-term rentals (i.e., renting dwelling units or portions thereof for less than 30 consecutive calendar days) as a form of temporary lodging to allow visitors to stay in and experience a local community; and

WHEREAS, short-term rentals in property other than a primary residence create unfavorable consequences, including negative impacts on the residential character of surrounding neighborhoods and increased nuisance activity; and

WHEREAS, this ordinance will protect the City’s housing stock by allowing only an authorized host to rent his or her registered primary residence unhosted to transient users on a limited basis in a calendar year; and

WHEREAS, pursuant to the authority granted to the City of Sausalito (“City”) by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare and safety; and

WHEREAS, adoption and enforcement of regulations and other land use regulations lies within the City’s police powers; and

WHEREAS, the City Council discussed the short-term rental issue at public meetings on March 17, 2015, June 30, 2015, January 26, 2016; and

WHEREAS, the City Council established a short-term rental working group to conduct two community forums in June of 2016 and conduct a survey on Open City Hall (an online forum for civic engagement) to receive community input; and

WHEREAS, the City Council established the Short Term Rental Task Force composed of a Councilmember, a Historic Landmarks Board member, a Planning Commissioner and two community members in July of 2016 to discuss code enforcement, devise a plan to work with platforms to get reporting data, the impact Short Term Rentals (STRs) have on Accessory Dwelling Units (ADUs), consider establishing a program, regulations/restrictions on STRs, and report back to the City Council with recommendations; and

WHEREAS, the City Council discussed the short-term rental issue at public meetings on July 26, 2016, September 27, 2016, November 29, 2016, February 28, 2017, and October 9, 2018; and

WHEREAS, on October 9, 2018 the City Council directed staff to draft a pilot program which would allow a limited number of short-term rentals in residential neighborhoods, subject to a permitting process, registration, a business license and payment of transient occupancy tax and include requirements that the host must be the primary resident of the unit, limits on the number of unhosted days a unit may be occupied as a short-term rental, a limit on the number of short-term rental permits the City may issue, and parking requirements; and

WHEREAS, the City Council reviewed the pilot program on January 8, 2019 and directed staff to initiate a Zoning Text Amendment for a pilot program which would allow a limited number of short-term rentals in residential neighborhoods; and

WHEREAS, the Planning Commission held a duly noticed and advertised public hearing on [insert date] and considered evidence in the record and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council determined that the Code Amendments are consistent with the goals, policies, and programs of the Sausalito General Plan and are consistent with the objectives of the City’s Zoning; and

WHEREAS, [add CEQA finding].

THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 10.22.030 of the Sausalito Municipal Code is hereby amended to read as follows:

10.22.030 Allowable land use.

Table 10.22-1

LAND USES ALLOWED IN RESIDENTIAL DISTRICTS*

Land Use	Residential Zoning Districts						See SMC
	R-1	R-2	PR	R-3	H	A	
Residential Uses							
<u>Short-Term Rental Use Incidental to a Primary Residence</u>	<u>P²</u>	<u>P²</u>		<u>P²</u>			<u>10.44.350 (Short-Term Rental Use Incidental To A Primary</u>

							<u>Residence As A Pilot Program For One Year)</u>
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²Permitted only subject to the permitting requirements of SMC 10.44.350

Section 2. Section 10.44.030 of the Sausalito Municipal Code is hereby amended to read as follows:

10.44.020 Accessory uses and structures.

A. Purposes. In addition to the general purposes of this chapter, the specific purposes of this section regulating accessory uses and structures are as follows:

1. To provide for uses that are necessary to the operation or enjoyment of a lawful principally permitted or conditional use;
2. To provide for uses that are appropriate, incidental and subordinate to any lawful primary use;
3. To provide for residential accessory uses that are customarily part of a single-family dwelling, including but not limited to swimming pools, workshops, studios, greenhouses and garages; and
4. To provide minimum standards for the timing and development of accessory uses and structures.

B. Accessory Uses. The following accessory uses are permitted in all districts when located on the same parcel as the principal use:

1. Installation and operation of necessary facilities and equipment in connection with schools and other institutions permitted in the respective district.
2. Recreation, refreshment, and service buildings in public parks.
3. Storage of not more than one horse trailer within an enclosed building located consistent with all the provisions of this title.
4. Trees, shrubs and other ornamental planting.
5. Renting rooms for long-term (more than 30 days) occupancy in a dwelling. No more than two paying occupants may be accommodated at any one time.
6. Renting a primary residence for short-term (30 days or less) occupancy pursuant to SMC 10.44.350 (Short-Term Rental Use Incidental To a Primary Residence as a Pilot Program For One Year)
7. Home occupations permitted pursuant to SMC 10.44.030 (Home occupations).

8. Private swimming pools, cabanas, tennis courts and similar recreation facilities.
9. Private garages, carports and parking areas.

Section 3. Section 10.44.030 of the Sausalito Municipal Code is hereby added to read as follows:

10.44.350 - Short-Term Rental Use Incidental to a Primary Residence

A. Purpose. The purpose of this section is to:

1. Establish a pilot program period to allow limited short-term rental uses while preventing the loss of housing stock;
2. Preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance and safety impacts on adjacent neighbors; and
3. Provide a permitting process for the City to track and enforce these requirements as needed and ensure appropriate collection of transient occupancy taxes.

B. Definitions. For purposes of this section, the following definitions shall apply:

1. “Pilot program period” means the period of time in which a short-term rental permit shall be valid, which shall begin the day that the first short-term rental permit is issued by the Community Development Department and end one year from that date.
2. “Primary resident” means any person who is the owner of record of residential real property or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short-term rental either through a hosting platform or individually as an operator. No person can claim to be the primary resident of more than one dwelling unit. No short-term rental permit shall be granted to anyone other than a primary resident.
3. “Hosting platform” means a through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.
4. “Primary residence” means a primary residence is a dwelling unit where a primary resident has been physically present for no less than 183 days in a

calendar year and that the person regards as home. A person may only have one primary residence. Evidence of a primary resident's primary residence includes, but is not limited to, documentation from income tax statements or a driver's license. If a property has multiple dwelling units each dwelling unit shall be considered a separate residence subject to the primary residence requirement. An accessory dwelling unit [*or junior accessory dwelling unit, if new legislation is enacted*] is not considered a primary residence for the purpose of this section.

5. "Short-term rental" means the use or possession of or the right to use or possess any room or rooms, or portions thereof in any primary residence for residing, sleeping or lodging purposes for less than 30 consecutive calendar days, counting portions of days as full calendar days.

6. "Short-term renter" means 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 less than 30 consecutive calendar days, counting portions of calendar days as full calendar days.

7. "Short-term rental permit" means a permit that allows the use of a dwelling unit as a short-term rental pursuant to the regulations set forth herein.

7. "Hosted stay" means an overnight stay where a short-term renter occupies a portion of the primary residence when the primary resident is present. A primary resident is considered present when they are on the premises during *[insert direction from Council here on hours]*.

8. "Unhosted stay" means an overnight stay where a short-term renter occupies the primary residence when the primary resident is not present.

9. "Local Contact Person" means For unhosted stays, a person who resides in Sausalito who is available 24 hours per day, 7 days per week during the term of any unhosted stay. For hosted stays, the primary resident who is available 24 hours per day, 7 days per week during the term of any hosted stay.

C. Permitted Use. Short-term rental uses shall be permitted in any primary residence subject to the requirements of this section, including compliance with the operating standards, registration, Transient Occupancy Tax payments, and recordkeeping obligations during the pilot program period. Except as provided for in this section, all other short-term rental uses shall be prohibited.

D. Short-term Rental Permit Required. Prior to advertising or making available the primary residence for renting, the primary resident shall apply for a short-term rental permit to use their primary residence as a short-term rental with the City. This application shall be submitted on a form prepared by the City and shall include the name and contact information of the primary resident, the address of the primary residence being used for short-term rental, the contact information for the local contact person, an

acknowledgement of compliance with the requirements of the City's Zoning Ordinance, Municipal Codes, applicable health and safety standards, and other information as requested, including:

1. Name, address, phone and email contact information of the property owner, primary resident and local contact person. The local contact number and person must be reachable at all times during day or night and able to physically respond to the short-term rental location within 30 minutes of notification.
2. A floor plan and site plan which shows the proposed use of each room, in each building, the street name, and off-street parking.
3. An affidavit from the primary resident affirming that:
 - a) The short-term rental unit is primary resident's primary residence and is their home, and they have been, and will continue to be, physically present for no less than 183 days in a calendar year at the primary residence. Evidence of a primary resident's primary residence includes, but is not limited to, documentation from income tax statements or a driver's license.
 - b) The primary resident will provide each short-term renter with a copy of the "Good Neighbor" handbook.
 - c) The primary resident will comply with, and the primary resident will be responsible for short-term renters to comply with any applicable provisions of a homeowners agreement, timeshare ownership agreement, condominium board regulations, tenant organization rules, lease or other agreements or covenants that apply to the dwelling unit.
 - d) The primary resident shall maintain a valid short-term rental permit and business license at all times, and shall agree to collect and remit transient occupancy taxes on all gross receipts pertaining to short-term rental use of the property.
 - e) Smoke and carbon monoxide alarms are installed and that fire extinguishers are in accessible locations in the short-term rental unit.
 - f) Notification to neighbors shall be provided pursuant to this section.
4. A building inspection report shall be submitted to the city upon initial application. The building inspection checklist shall be completed by a certified third-party general contractor, building or home inspector. The inspection report shall use a form approved by the City. The building official or his/her designee may conduct a follow-up inspection to ensure the accuracy of information provided to the City and inspect any deficiencies that may need correction. The

primary resident shall reimburse the City for all building inspection costs; payments shall be nonrefundable for applications found by the city to not be suitable or to qualify for short-term rental.

5. All required fees shall be paid in an amount established by resolution of the City Council and updated from time to time.

6. Any other information which the Community Development Director may require to properly administer the pilot program.

The submitted information shall be used to determine whether to permit the short-term rental. The primary resident will be notified if an application is incomplete. If the primary resident fails to timely submit the required information or fees necessary to complete the application, the application shall expire and be deemed withdrawn.

E. Standards. The following standards shall apply to short-term rentals:

1. Legal Dwelling. Short-term rentals may only occur within legal dwelling units.

2. Hosted Stays. There shall be no limit on the number of days a primary residence may be occupied as a hosted short-term rental.

3. Annual Limit on Unhosted Stays. A primary residence may be occupied as an unhosted short-term rental for no more than 90 days per calendar year.

4. Local Contact Person. The primary resident shall designate a local contact person who shall:

- a) Be available 24 hours a day, seven days a week to manage the short-term rental unit;
- b) Respond in a reasonable and timely manner (not to exceed 30 minutes from the time of notification) to reported concerns or complaints pertaining to, but not limited to, the following: unreasonable use of the short-term rental unit property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the short-term rental unit, or any other requirement or limit set forth in this section or in the city's administrative policy and procedures.
- c) Take immediate remedial action to resolve such complaints.

5. Parking. On-site parking shall be provided for the short-rental [*TBD on amount*] [*For Council Discussion: Unless the primary resident can demonstrate that on-site parking is available for the short-term rental unit, a short-term rental permit shall not be granted in areas of the City where the street width to which a parcel is accessed from is less than 16 feet, reflecting the areas in the City where the impact of short-term rental parking would cause a significant impact on*

traffic flow, and threaten the public safety and welfare by impeding fire and emergency access due to factors such as substandard street widths. [this policy TBD by Council if redundant if on-site parking is required]

6. Advertising. The short-term rental permit number must be displayed prominently in all advertising (online or otherwise).

7. Signage. The entrance door to the short-term rental primary residence must be clearly posted with a standardized sign/symbol to be issued by the City of Sausalito so the short-term renter will know they are knocking on or opening the correct door.

8. Notification to Neighbors. Written notification shall be provided to all owners and occupants of all properties within a radius of 300 feet of the short-term rental primary residence. The notification shall:

- a) Be conducted by the primary resident using a template prepared by the Community Development Department
- b) Indicate that the subject property will be the location of a short-term rental and provide the name of the local contact person, the phone number and email address for the local contact person, the phone number and the email address of the Sausalito short-term rental hotline, and the street address of the short-term rental.
- c) An affidavit from the primary resident certifying that the notice has been provided in conformance with this section at least 10 days prior to the primary resident applying for a new business license or renewing an existing business license shall be submitted to the Sausalito Community Development Department at the time of application for a business license or business license renewal and the business license/renewal shall not be issued in the absence of such an affidavit.

9. Responsibilities of Short-Term Renter. The primary resident shall inform at least one responsible short-term renter regarding occupancy, parking, noise, trash collection schedules, smoking regulations and other requirements or limits set forth in this section and the City's municipal code.

F. Decision. The Community Development Director or his/her designee shall be responsible for making decisions on short-term rental permit applications. After an application is deemed complete, registration shall be approved where the primary resident demonstrates the ability to meet the requirements of this chapter.

G. Validity. An approved short-term rental permit shall be valid through the end of the pilot program period. If the pilot program is extended, an approved short-term rental

permit shall expire after one year of issuance. An approved registration shall be personal to the primary resident and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.

H. Limit on Number of Short-Term Rental Permits. The Community Development Department shall not issue more than one-hundred (100) short-term rental permits during the pilot program period. *[Method of issuance, lottery or first come/first serve, to be decided.]*

I. Revocation or Modification.

1. Cause for Revocation or Modification. The Zoning Administrator may revoke or modify a Vacation Rental Permit. Revocation or modification shall require a public hearing held in the manner prescribed by Chapter 10.82 of the Municipal Code. The following shall be grounds for revocation or modification:

- a) The approval was based on false information submitted by the applicant.
- b) A citation is issued pursuant to Chapter 1.10 of the Sausalito Municipal Code.
- c) The use for which such approval is granted is not being exercised.
- d) The approved permit is being, or recently has been, exercised contrary to or in violation of any statute, ordinance, law, or regulation.
- e) There has been a substantial change in the circumstances including, but not limited to, changes in the applicable law since approval.

2. Revocation. The short-term rental permit shall be suspended automatically upon violation of any applicable provision of this Title as set forth in subsection 1 above. The Community Development Director shall notify the property owner of said suspension. The Community Development Director shall order all operations or any portion thereof, authorized by the permit to cease during the time it is suspended. The Zoning Administrator shall notice and hold a public hearing within thirty (30) days, in accordance with the procedure prescribed by Chapter 10.82 of the Municipal Code. Following public hearing, if the Zoning Administrator is not satisfied that the owner of the vacation rental unit is complying with the applicable regulations governing the permit, the Zoning Administrator shall revoke the permit or take such action necessary to ensure compliance.

J. Violations. Any violation of these regulations is subject to enforcement action pursuant to Chapter 1.10 of the Sausalito Municipal Code.

K. Monthly Statements. The primary resident shall submit monthly statements to the City of Sausalito detailing the number of nights rented on a hosted and unhosted basis, and the amount of rent collected per night. If the primary resident uses a hosting platform(s) to facilitate the rental transaction of the short-term rental unit, statements shall be required directly from the hosting platform.

L. Business License Required. A business license is required pursuant to Chapter 5.05 of the Sausalito Municipal Code. Payment of fees and all required transient occupancy tax remittance associated with the short-term rental is also required. The primary resident shall submit such information concerning the short-term rental activity as may be required to enable the tax collector to verify the amount of tax paid.

M. Transient Occupancy Tax (TOT). Transient occupancy taxes must be collected for short-term rentals and paid to the City pursuant to Chapter 3.12, of the Sausalito Municipal Code. Collection of transient occupancy taxes for short-term rentals shall be the responsibility of the primary resident. The hosting platform shall collect TOT when they have signed a voluntary collection agreement (or equivalent) with the City.

N. Requirements Not Exclusive. The issuance of a short-term rental permit shall not relieve any person of the obligation to comply with all other provisions of this code applicable to the use and occupancy of the property.

O. Administrative Policy. The Community Development Director shall have the authority to develop administrative policies to implement the intent of this Chapter.

P. Sunset Provision. Short-term rental permits shall be deemed to be invalid at the conclusion of the pilot program period. The City Council may by resolution extend the pilot program period, with renewal requirements for short-term rental permits.

Section 4. *[insert CEQA finding]*

Section 5. If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage. Before the expiration of fifteen (15) days after passage by the City Council a summary of this Ordinance shall be published once in a newspaper of general circulation published in the City of Sausalito.

THE FOREGOING ORDINANCE was read at a regular meeting of the Sausalito City Council on the ____ day of _____, ____, and was adopted at a regular meeting of the City Council on the ____ day of _____, ____, by the following vote:

AYES: Councilmembers:

DRAFT- FOR REVIEW BY COUNCIL ON 1/8/19

NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Mayor

ATTEST:_____