

BEFORE THE PLANNING COMMISSION OF THE CITY OF ORINDA

In the Matter of:
An Ordinance Regarding Short-Term
Rental Registration Requirement and
Restrictions

Resolution PC 17-04

The Planning Commission of the City of Orinda FINDS AND RESOLVES as follows:

1. The Planning Commission has taken testimony and reviewed and considered an ordinance regarding short-term rental registration requirement and restrictions (attached as Exhibit A).
2. In addition to the ordinance presented in Exhibit A, the Planning Commission also recommends that the City Council consider adding a provision to the ordinance to prohibit re-registration for two calendar years to property owners or registrants who have committed three or more violations of Orinda Municipal Code Section 17.3.12 within one year.
3. The Planning Commission recommends that the City Council approve the ordinance, as modified by the above Section 2, pursuant to the findings listed in Exhibit A.

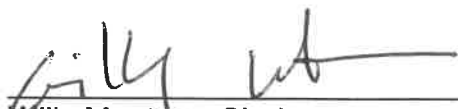
PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission on June 27, 2017, by the following vote:

AYES: Mautner, Iverson, Parnigoni, Adamson, McGrath, Roberts

NOES:

ABSENT: Smith

ABSTAIN:



Willy Mautner, Chair

ATTEST:



Drummond Buckley, Planning Director

EXHIBITS

A. Ordinance No. 17-04 (An Ordinance Regarding Short-Term Rental Registration Requirement and Restrictions)

BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

In the Matter of:
An Ordinance Regarding Short-Term
Rental Registration Requirement and
Restrictions

Ordinance 17-04

The City Council of the City of Orinda DOES ORDAIN as follows:

SECTION 1. The City Council of the City of Orinda intends, by adopting this ordinance, to add Section 17.3.12 (Short-term rentals) to Title 17 of the Orinda Municipal Code (Zoning) and to make other related amendments to Sections 17.2.3 (Definitions), 17.37.4 (Temporary Event Permit) and 3.12.020 (Uniform Transient Occupancy Tax). These amendments are intended to add registration requirements and other conditions on the operation of short-term rentals within the City’s residential zoning districts.

SECTION 2. The following sections of the Municipal Code are amended and added as specified below and in Attachment A. Attachment A shows additions with double-underlined text and deletions with ~~strike-out text~~.

Municipal Code Provision	Action
Section 3.12.020	Amendments as shown in Attachment A
Section 17.2.3	Amendments as shown in Attachment A, including new definitions to be inserted in alphabetical order
Section 17.3.12	New section added as shown in Attachment A
Section 17.37.4	Amendments as shown in Attachment A

SECTION 3. Purpose and intent.

A. The purpose of this ordinance is to make clear in the municipal code that a property owner may rent all or a portion of their residence for short-term, overnight lodging. It is the intent of this ordinance to ensure that short-term rentals are compatible with, and do not change the character of, the surrounding residential area by generating more traffic or noise than would normally be expected in a semi-rural residential setting.

B. Short-term rentals of the type already operating in Orinda provide a community benefit by expanding the number and type of lodging facilities available and assist owners of short-term rentals by providing revenue that may be used for maintenance, upgrades and other costs.

C. If not regulated, short-term rentals can create excessive noise, disorderly conduct, traffic congestion and illegal vehicle parking. Such outcomes would require response from police, fire, paramedic and other City services. The

restrictions of this ordinance are necessary to prevent a burden on City services and adverse impacts on residential neighborhoods posed by short-term rentals.

D. This ordinance is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.

SECTION 4. Once the City has registered 100 short-term rentals pursuant to this ordinance, the Planning Commission shall hold a public hearing to consider the effectiveness of this ordinance in meeting its stated purpose and intent, and if necessary, to recommend changes to the ordinance to the City Council. Nothing in this section shall limit the right of the Planning Commission or City Council to take any action with respect to short-term rentals at any time, including before the 100 short-term rental threshold is reached.

SECTION 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION 6. This ordinance is consistent with the Orinda General Plan.

SECTION 7. This ordinance will not have a significant impact on the environment as defined by the California Environmental Quality Act (CEQA). The proposed code amendments are categorically exempt from CEQA under CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations) and Section 15061(b)(3) (Review for Exemption, General Rule). Short-term rentals are already operating within the City, and that use is not expected to expand as a result of this ordinance. Rather, the ordinance is expected to help ensure that short-term rentals are operated in a responsible manner, consistent with City rules such as noise limits, parking restrictions, and occupancy limits.

SECTION 8. This ordinance becomes effective 30 days after adoption.

SECTION 9. The City Clerk shall either (a) have this ordinance published once within fifteen (15) days after adoption in a newspaper of general circulation, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

Following a duly noticed public hearing, the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orinda held on _____, 2017 and was adopted and ordered published at a regular meeting held on _____, 2017 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Eve Phillips, Mayor

ATTEST:

Sheri Spediacci, City Clerk

Attachment A

3.12.020 - Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, all or part of a dwelling unit used as a short-term rental, or other similar structure or portion thereof.

"Occupancy" means the use or possession or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Short-term rental" is defined in Section 17.2.3.

"Tax Administrator" means the Planning Director.

"Transient" 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 twenty-nine (29) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of twenty-nine (29) days has expired unless there is an agreement in writing between the operator and the occupant 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 this chapter may be considered.

Chapter 17.2.3 – Definitions (addition to be inserted in alphabetical order).

"Dwelling" means a building designed exclusively for residential occupancy, including single-family and multifamily uses, ~~but not including a hotel, motel or boardinghouse.~~

"Short-term rental" means a dwelling that is leased or rented in full or in part for the purpose of overnight lodging for less than thirty (30) consecutive day terms. Short-term rentals are not considered home occupations (as defined in Section 17.3.7).

17.3.12 - Short-term rentals.

A. Registration required. It is unlawful for any person to operate a short-term rental within any residential district in the City without first registering the short-term rental pursuant to this section, provided however, that persons operating any short-term rental(s) within the City upon adoption of this section shall register such rental(s) within sixty (60) days of its effective date.

B. Registration. In the registration filed with the City, the registrant shall acknowledge the following requirements:

1. When any portion of the short-term rental is rented, the total maximum occupancy of the dwelling containing the short-term rental is limited to the maximum number specified on the proof of registration. That maximum is calculated as follows: two (2) people per bedroom plus three (3) people;
2. The short-term rental owner and registrant (if different from the owner) are jointly responsible for ensuring the short-term rental complies with all local, state, and federal health and safety requirements, including those regarding smoke detectors, fire alarms, and fire extinguishers;
3. The short-term rental owner and registrant (if different from the owner) are jointly responsible for compliance with all City regulations including those regarding noise, parking, and occupancy. The owner or registrant shall include compliance with those requirements in any written agreement used for the short-term rental;
4. While rented, the short-term rental shall not be used for any use or event that would require a Temporary Event Permit pursuant to Chapter 17.37;
5. The short-term rental registration shall be non-transferable; and
6. The operator of a short-term rental on any given lot may only arrange for one rental to take place at any given time on that lot.

C. Registration process.

1. The short-term rental owner (or other person, with express permission from the short-term rental owner) shall annually register with the Planning Director or his or her designee by completing a City-provided registration form that shall set forth the following information:
 - a. The name, address and telephone number of the owner of the short-term rental for which the registration is sought, and verification that the registrant is either the owner of the short-term rental or has express permission from the short-term rental owner;

b. The name and telephone number of local contact person(s) who can be available twenty-four (24) hours a day to accept telephone calls and respond physically to the short-term rental within thirty (30) minutes when the short-term rental is rented;

c. The address of the short-term rental;

d. The number of bedrooms in the short-term rental, which will be used to calculate the occupancy limit for the short-term rental when it is being rented in full or in part. The maximum occupancy formula is: two (2) people per bedroom plus three (3) people;

e. Confirmation that all construction at the property containing the short-term rental was conducted in compliance with building codes applicable at the time.

f. The short-term rental's first operation date, if prior to the effective date of this section;

g. Acknowledgement that the short-term rental does and shall comply with all requirements set forth in Subsection B of this section;

h. Acknowledgement that the registrant shall include the City short-term rental registration number provided with the proof of registration on any written advertisements (whether in paper or electronic form) for use of the short-term rental;

i. Acknowledgement that the registrant shall post the proof of registration on a door, window, or wall so that it is clearly visible from the entrance to the short-term rental;

j. Evidence of a valid transient occupancy registration certificate issued by the Tax Administrator in compliance with Section 3.12.060. The application for a transient occupancy registration certificate may be filed concurrently with the registration required under this section; and

k. An agreement to hold harmless, indemnify and defend the City against claims and litigations arising from or related to the issuance of the short-term rental registration.

D. Registration fee required. At the time of registration, the registrant shall pay a registration fee in an amount set from time to time by resolution of the City Council to reimburse the City for the cost of processing the registration. Registration shall be initiated only upon the successful payment of the registration fee. The registration fee is not refundable.

E. Registration investigation by Planning Director. The Planning Director may make or cause to be made, within a reasonable time after the filing of a registration form pursuant to Subsection C of this section, an investigation of the veracity of the information provided on the registration form.

F. Proof of registration—Record kept by Planning Director. Upon a determination of compliance with the provisions of this section, the Planning Director shall issue to each registrant a proof of registration showing the name of the registrant, the address of the short-term rental, the maximum occupancy for the property during any rentals, the City short-term rental registration number, and the date of expiration of the registration (one year from date of issuance).

G. Enforcement. Violations of this section may be enforced pursuant to Title 19.

17.37.4 - Standards.

The Zoning Administrator may grant, deny or conditionally grant a temporary event permit without notice and public hearing if findings of fact are made in support of each of the following standards:

A. The proposed temporary event will be located, operated and maintained in a manner consistent with the policies of the general plan, applicable specific plan and the provisions of this Title 17;

B. The proposed temporary event will not be located, operated or maintained in a short-term rental;

BC. The temporary event will not be detrimental to property or improvements in the area adjacent to the temporary use;

CD. The temporary event will not create a significant adverse impact on the uses or activity patterns of development in the immediate area; and

DE. The temporary event will not otherwise adversely affect the public health, safety and welfare.

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