

ORDINANCE XXXX

AN ORDINANCE OF THE CITY OF SEAL BEACH AMENDING THE SEAL BEACH MUNICIPAL CODE AMENDING SECTION 11.04.05.135 (SHORT-TERM RENTAL OF RESIDENTIALLY ZONED PROPERTY) TO PERMIT AND REGULATE SHORT-TERM RENTALS IN RESIDENTIAL ZONES IN THE CITY AND FINDING THE ORDINANCE TO BE EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF SEAL BEACH DOES ORDAIN AS FOLLOWS:

Section 1. Section 11.4.05.135 of the Seal Beach Municipal Code is hereby amended in its entirety to read as follows:

"11.4.05.135 Short-Term Rental of Residentially Zoned Property.

A. **Purpose.** The purpose of this Chapter is to establish regulations, standards, and a permitting process governing the renting or leasing of privately owned visitor-serving residential dwelling units on a short-term basis in order to maintain the long-term rental housing stock in the City; comply with the Coastal Act; ensure the collection and payment of Transient Occupancy Taxes ("TOT"); safeguard the residents of the City of Seal Beach by ensuring that Short-Term Rental activities do not threaten the character of residential neighborhoods; and ensure that such Short-Term Rental activities do not become a nuisance, or threaten the public health, safety, or welfare of neighboring properties.

B. **Definitions.**

The following definitions shall apply to this Section:

"Booking Transaction" means any reservation and/or payment service provided by a person or entity who facilitates a Short-Term Rental transaction between a prospective Guest and a Short-Term Rental Owner.

"City" means City of Seal Beach.

"Director" means the Director of Community Development or their designee.

"Guest" means any person or persons renting a Short-Term Rental as a transient occupant.

"Local Contact Person" means the Owner or person designated by the Owner to respond to and take remedial action regarding Short-Term Rental issues or complaints.

"Owner" means a property owner who is contracting with Guests for Short-Term Rental of any structure or portion of a structure for dwelling, lodging or sleeping purposes, either directly or indirectly through a Hosting Platform such as VBRO or AirBnB. "Owner" may be a person, group or entity.

"Platform Agreement" means a duly-executed agreement between a Hosting Platform and the City, which, among other things, provides that the Hosting Platform will collect from Short-Term Rental Tenants and pay the Transient Occupancy Tax to the City on behalf of Short-Term Rental Owners, and will book only those STRs that have a valid Short-Term Rental Permit.

"Primary Residence" means a person's permanent residence or usual place of return for housing as documented by at least two (2) of the following current documents: driver's license; voter registration; tax documents showing the residential unit as the person's residence; or a utility bill.

"Prohibited Buildings List" means a list maintained by the City identifying the address(es) of all buildings and/or properties whose owner(s), including any applicable homeowners' association or board of directors, have notified the City, pursuant to City procedures, that Short-Term Rentals are not permitted to operate anywhere in such building or property including, without limitation, deed restricted affordable housing units.

"Short-Term Rental" ("STR") means a single residential dwelling unit, or portion thereof, that is offered or provided to paying Guests by a Short-Term Rental Owner for twenty-nine (29) or fewer consecutive nights. The term "Short-Term Rental" shall not include hotels, motels, inns, or bed and breakfast inns.

"Short-Term Rental Advertisement" means any method of soliciting Guests to use a dwelling unit for Short-Term Rental purposes.

"Short-Term Rental Permit" or "Permit" means a Permit, with a Permit number, issued by the City to allow Short-Term Rentals.

"Short-Term Rental Tenant" ("STR Tenant") means a person who has entered into an agreement to compensate an Owner for the use and occupancy of a Short-Term Rental, and who shall be responsible for compliance with the applicable terms of this Chapter and the STR Permit.

"Transient Occupancy Tax" ("TOT") means local Transient Occupancy Tax as set forth in Chapter 4.35 of the Seal Beach Municipal Code or any successor ordinance.

C. Permit Required.

1. No person or entity shall advertise, rent to a Guest, or otherwise operate a Short-Term Rental ("STR") in the City unless a Permit has been issued by the City pursuant to this Chapter. The Owner of an STR shall apply to obtain a Permit from the City and must remain in compliance with all requirements of this Chapter. The Director will provide an application form for an STR Permit which shall include all information determined by the Director to be necessary to evaluate the eligibility of the Owner and subject property, consistent with this Chapter.

2. The STR Permit required by this Chapter shall not apply to any “vacation rental” in operation pursuant to a valid Conditional Use Permit (“CUP”) issued by the City under Ordinance No. 1619-U prior to October 1, 2022, as long as such CUP remains valid and in effect. The STR shall comply with the conditions of its CUP and the operational requirements of this Chapter. If a CUP is terminated or revoked, the Owner shall obtain a STR permit prior to re-establishing a STR on the same property.

3. Within thirty (30) calendar days following the effective date of this Chapter, all STR Owners shall apply for STR Permits pursuant to this Chapter. Owner shall provide proof of property ownership and shall be the person that signs the application.

4. An application for an STR Permit shall be made in writing accompanied by a fee established by resolution of the City Council, provided, however, the fee shall be no greater than necessary to defer the cost incurred by the City in administering the provisions of this Chapter.

5. An STR Permit is valid for one (1) year from the date of issuance. The STR Permit is personal and may not be transferred or assigned and does not run with the land. An STR Permit may be renewed annually by the Director if the STR Owner: (1) pays the renewal fee; (2) provides information concerning any changes to the previous application for, or renewal of, the STR Permit; (3) submits records to demonstrate compliance with this Chapter as required by the Director; and (4) the STR is otherwise in compliance with the requirements of this Chapter.

6. The STR Owner shall identify, to the satisfaction of the City, a Local Contact Person, who shall be available twenty-four (24) hours per day, seven (7) days a week for: (1) responding within one (1) hour to complaints regarding the condition, operation, or conduct of the STR or its occupants; and (2) taking any remedial action necessary to resolve such complaints.

7. STR Permits issued pursuant to this Chapter are subject to the following standard STR permit conditions, in addition to any other property-specific condition the Director deems necessary in order to maintain neighborhood compatibility:

(a) The Owner shall, by written agreement with the STR Tenant, limit overnight occupancy of the STR to a specific number of occupants. The maximum number of Guests who may occupy the STR at one time is two persons per bedroom, plus two additional Guests (including children). Lofts that meet California Building Code egress requirements are considered a bedroom for the purposes of the occupancy calculation. In no event may the maximum occupancy exceed twelve (12) persons in any STR.

(b) Large-scale events (i.e., exceeding maximum allowed occupancy) such as parties, weddings, fundraisers, and conferences, are prohibited.

(c) The Owner shall insure that the occupants and/or Guests of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate

provisions any Federal, State, or Local law pertaining to noise, disposal of waste, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.

(d) The Owner shall, upon notification that occupants and/or Guests of his or her STR have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of any Law, including those pertaining to noise, disposal of waste, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly prevent a recurrence of such conduct by those occupants or Guests.

(e) The Owner of the STR unit shall post a copy of the STR Permit and the STR Permit conditions in a conspicuous place within the STR.

(f) Eligibility requirements. The Owner must satisfy the following requirements at the time of submitting an STR Permit application:

(i) The dwelling unit shall not be a deed-restricted affordable housing unit, in a group residence as defined by Section 11.6.05.010 of the Seal Beach Municipal Code, or included on the Prohibited Buildings List.

(ii) An Owner shall not be granted a permit for more than one (1) STR within the City of Seal Beach.

(iii) No more than one STR permit shall be issued per property except in multi-family single lot subdivisions (i.e. condominiums or townhomes) the number of STR Permits allowed shall be as follows:

Number of units per property	Number of STR Permits
Up to 15	1
16 or more	4

(iv) The dwelling unit or property used as an STR shall not be the subject of any active or pending code enforcement actions or violations pursuant to the Seal Beach Municipal Code. A code enforcement notice of violation, if issued to an STR must be addressed within fifteen (15) days, or the STR Permit shall be revoked.

(v) If the dwelling unit or property used as an STR is subject to the rules of a homeowners' or condominium association, any Short-Term Rental activity shall comply with those rules and this Chapter shall not be inferred to grant any permission that invalidates or supersedes any applicable requirements of those homeowners' or condominium associations.

(vi) The Owner shall provide proof that the STR is not prohibited by a Homeowners' Association Conditions Covenants and Restrictions or any other community standards/guidelines, applicable to the proposed STR. A letter from the Homeowners' Association would satisfy this requirement.

(vii) The Owner shall sign 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 Seal Beach, its officers, employees and agents from any liability in any way arising out of the use of the STR including, without limitation, from the STR Guests.

(viii) The Owner shall maintain in effect a policy or policies of liability insurance for the property and the STR that meet or exceed the City's standard insurance requirements for STRs, as published on the City's website. The Owner shall provide a copy of the applicable certificates of insurance, naming the City, its officers agents and employees, as additional named insured with the STR permit application and each renewal application, and at other times within three (3) business of days following request by a City representative.

(ix) The STR shall be a legally permitted dwelling unit. Accessory Dwelling Units, as defined in Section 11.4.05.115(B) of the Seal Beach Municipal Code shall not be used as an STR unless the unit was legally established prior to January 1, 2020.

(x) A Junior Accessory Dwelling Unit as defined in Section 11.4.05.115(B) shall not be advertised or used as an STR.

D. STR Regulations.

1. All marketing and advertising of an STR, including any listing on a Hosting Platform, shall clearly list the City-issued STR Permit number.

2. STRs are prohibited in any part of the property not approved, permitted, and constructed for residential use including, but not limited to, vehicle(s) parked on the property, storage sheds, trailer(s), garage(s), boat(s) or similar watercraft, tree house(s), or any temporary structure(s), including, but not limited to, tent(s).

3. Each STR shall have a notice posted within the unit in a location clearly marked and accessible to the Guest (e.g., posted on the refrigerator, included within a binder with additional information on the unit, etc.), containing the following information:

- (a) The maximum number of occupants permitted in the unit;
- (b) Location of parking spaces;
- (c) Name and contact information for the Owner and/or Local Contact Person;
- (d) Trash and recycling pickup information;
- (e) Emergency contact information for police, fire, or emergency medical services;
- (f) Evacuation plan for the unit showing emergency exit routes, exits, and fire extinguisher locations; and

(g) Tsunami evacuation routes, if the STR is located in a tsunami zone.

4. No sign shall be posted on the exterior of the STR to advertise the availability of the unit.

5. It is unlawful for any STR Owner, occupant, renter, lessee, person present upon, or person having charge or possession of the STR premises, to make or continue to cause to be made or continued any loud, unnecessary, or unusual noise which disturbs the peace and quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area, or which violates any provision of Chapter 7.15 ("Noise") of the Seal Beach Municipal Code.

6. The minimum age of the STR Tenant shall be 25 years old.

7. The City will post STR contact information on the City website for the public to access.

8. An STR may not be operated as any other commercial home-based business.

9. The Owner shall, upon reasonable request from the City, permit the City's Building Official or their designee to inspect the STR for compliance with this Chapter and the Permit.

E. STR Owner Requirements.

1. The Owner shall provide information on the maximum allowed number of occupants, parking capacity and location of parking spaces, noise regulations and quiet hours, and trash and recycling disposal requirements in writing to prospective Guests, prior to their occupancy.

2. The Owner shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with applicable health, building, fire, and safety codes; and information related to emergency exit routes on the property, local contact, and emergency contact information.

3. Transient Occupancy Taxes shall be collected on all STRs pursuant to Seal Beach Municipal Code Chapter 4.35 and paid to the City as required by that Chapter. If a Hosting Platform does not collect payment for the rental, Hosts or Operators are solely responsible for the collection of all applicable TOT and remittance of the collected tax to the City in accordance with Chapter 4.35 of this Code (Uniform Transient Occupancy Tax).

4. The Owner and the Guest shall be responsible and liable for any activity which may create a nuisance or other tortious or criminal violations at an STR.

5. The Owner shall authorize any Hosting Platform on which his or her STR(s) is listed to provide to the City the operator listing and other information to demonstrate compliance with all provisions of this Chapter.

F. Hosting Platform Responsibilities.

1. Hosting platforms shall not process or complete any Booking Transaction for any STR, unless the STR has a valid current STR Permit issued by the City. Hosting platforms are required to list the STR Permit number and expiration date.

2. Within forty-five (45) days of the effective date of this Ordinance, Hosting Platforms with listings located in the City shall provide to the City contact information of the Hosting Platform.

3. A Hosting Platform with listings located in the City shall provide to the City on a monthly basis, in a format specified by the City, the STR Permit number of each listing, the name of the person responsible for each listing, the address of each such listing, and, for each Booking Transaction that occurs within the reporting period, the number of days booked, and the total price paid for each rental.

4. Hosting Platforms shall remove any listings for STRs, including those on the City's Prohibited Buildings List, from the platform upon notification by the City.

5. Hosting Platforms shall be responsible for collecting all applicable TOT and remitting the same to the City. The Owner shall remain responsible for collection and remittance of the TOT in the event that a Hosting Platform fails to fulfill its responsibilities under this Section to collect and/or remit to the City or the Hosting Platform and the Owner enter into an agreement regarding the fulfillment of this subsection.

6. All Hosting Platforms operating in the City must comply with all Federal, State, or Local (including the Huntington Beach Municipal Code) laws.

G. Enforcement.

1. Violations of this Section shall be enforced as provided in Chapter 1.15 of this Code.

2. Each separate calendar day in which a violation exists may be considered a separate violation. However, a thirty (30) day-warning period from the effective date of this Ordinance shall be provided prior to issuing fines for advertising an STR without a valid STR Permit number.

3. If the City issues three (3) citations for separate violations of this Ordinance against an STR within any twelve (12) month period and those violations are confirmed or enforced in an administrative or criminal court proceeding, the STR Permit shall be revoked, or suspended, or additional conditions may be imposed by the Director by providing written notice to the STR Owner setting forth the basis of the

intended action and giving the STR Owner an opportunity, within fourteen (14) calendar days, to appeal the revocation, suspension, or amendment of the Permit in writing to the City Manager or their designee. If such an appeal is timely filed, the City Manager or designee shall hold a hearing and may determine to grant the appeal, revoke the STR Permit, suspend the STR Permit, or impose additional conditions upon the STR Permit and thereafter give written notice of the decision to the STR Owner. If an STR Permit is revoked, the STR may not be re-registered with the City, and the property may not be used as an STR, for a period of twelve (12) months from the date of revocation. The action of the City Manager or designee on such an appeal shall be final and not subject to further administrative appeal.

4. The City hereby finds and declares that repeated violations of this Chapter constitute a public nuisance which may be enjoined under all applicable laws including Code of Civil Procedure Section 731.

5. An STR Owner convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil or administrative proceeding brought by the City may be ordered to reimburse the City its full investigative and enforcement costs and pay all unpaid TOT if applicable, in addition to any other remedy at law or equity.

6. The remedies provided in this Section are cumulative and not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties, or procedures established by law.

7. The Director, or their designee, shall have the authority to establish administrative rules and regulations consistent with the provisions of this Chapter for interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter.

8. If any provision of this Section conflicts with any provision of Title 11 (Zoning) as to STRs, the terms of this Section shall control.”

Section 2. Environmental Review.

The adoption of this Ordinance is not a “project” under CEQA because it can be seen with certainty that the new regulation of short-term rentals in fully built-out residential areas will lead to no direct or indirect physical change in the environment. Alternately, the City finds that adoption of this Ordinance is categorically exempt from CEQA Review as a minor change in land use limitations under CEQA Guidelines Section 15305.

Section 3. Severability.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other section provisions, or

clauses, or applications, and to this end the provisions, sections, and clauses of this ordinance are declared to be severable.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days following its adoption by the City Council.

Section 5. Certification. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance or a summary thereof to be published as required by law. The City Manager is directed to widely publicize the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Seal Beach on this ___ day of ___, 2022, by the following vote:

AYES:

NOES:

Joe Kalmick, Mayor

ATTEST:

Gloria D. Harper, CMC, City Clerk

APPROVED AS TO FORM

Craig A. Steele, City Attorney