

ORDINANCE NO. 289-2026

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE ADDING
ARTICLE 9-5 TO CHAPTER IX (BUILDING AND HOUSING) OF THE CLEARLAKE
MUNICIPAL CODE ESTABLISHING SUPPLEMENTAL DISCLOSURE REQUIREMENTS
FOR THE TRANSFER OF RESIDENTIAL REAL PROPERTY**

THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES ORDAIN AS FOLLOWS:

RECITALS

WHEREAS, The City of Clearlake (“City”) is a general law city organized and existing under the laws of the State of California, and pursuant to Article XI, Section 7 of the California Constitution may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Civil Code Section 1102.6a expressly authorizes a city to require disclosures in connection with the transfer of residential real property in addition to those disclosures required by the state Real Estate Transfer Disclosure Statement, and authorizes the use of addenda to facilitate such disclosures; and

WHEREAS, the City has adopted a mandatory, universal solid waste collection program (Clearlake Municipal Code Chapter 11-3; Ordinance No. 198-2017) under which owners and occupants of developed residential property are required to subscribe to and pay for solid waste collection service provided through the City’s franchised hauler, and the City Council finds that prospective purchasers are frequently unaware that such service and the associated charges are mandatory and continue as an obligation of the property’s ownership and occupancy; and

WHEREAS, the City regulates vacation (short-term) rentals (Clearlake Municipal Code Section 18-19.280), including by requiring a vacation rental permit, a transient occupancy tax certificate, and an available local property manager, and by limiting where and how such rentals may operate, that, under Clearlake Municipal Code Section 18-19.280, short-term vacation rental (“STVR”) permits “shall run with the landowner and shall automatically expire upon sale or transfer of the property,” and the City Council finds that prospective purchasers are frequently unaware whether a property may lawfully be used as a vacation rental, that any existing STVR permit will automatically expire upon the sale or transfer and a new owner must obtain a new permit before operating, and what continuing obligations (including transient occupancy tax) apply; and

WHEREAS, many parcels within the City are accessed by private roads, streets, or access easements that have not been accepted into the City-maintained road system, that responsibility for the maintenance, repair, and related costs of such private roads generally falls upon the owners served by them (see California Civil Code Section 845), and the City Council finds that prospective purchasers are frequently unaware that the road serving a property is private and is not maintained, repaired, or improved by the City, and that the property may be subject to a shared road maintenance obligation; and

WHEREAS, the City Council finds that requiring a supplemental written disclosure of these matters at the time of transfer of residential real property—without requiring any inspection, repair, retrofit, correction, permit, or certificate as a condition of transfer—will provide prospective purchasers with material

information bearing on the cost and use of the property while imposing a minimal burden on transferors; and

WHEREAS, this Ordinance is intended to supplement, and not to conflict with, duplicate, or supplant, the disclosure obligations imposed by California Civil Code Sections 1102 et seq. and other applicable state law, and is to be construed consistently with such law; and

WHEREAS, the City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) as further set forth below.

NOW, THEREFORE, the City Council of the City of Clearlake does ordain as follows:

SECTION 1. Findings.

The City Council finds and determines that the foregoing Recitals are true and correct and are incorporated herein by this reference as findings in support of this Ordinance.

SECTION 2. Addition of Municipal Code Chapter.

Article 9-5 (Supplemental Real Property Transfer Disclosures) is hereby added to Chapter IX (Building and Housing) of the Clearlake Municipal Code to read as follows:

ARTICLE 9-5

SUPPLEMENTAL REAL PROPERTY TRANSFER DISCLOSURES

§ 9-5.010 Short Title.

This Article shall be known and may be cited as the “Clearlake Supplemental Real Property Transfer Disclosure Ordinance.”

§ 9-5.020 Purpose and Intent.

The purpose of this Article is to protect the public health, safety, and welfare by ensuring that prospective purchasers of residential real property within the City receive timely, written disclosure of three locally significant matters that frequently are not understood by purchasers and that affect the cost and lawful use of property in the City: (1) the City’s mandatory solid waste (garbage) collection requirement; (2) the regulation and permitting of vacation (short-term) rentals; and (3) the existence of private roads not maintained by the City. This Article is adopted pursuant to the City’s police power and California Civil Code Section 1102.6a. It is intended to supplement state-mandated disclosures and shall be construed consistently with, and not in conflict with, California Civil Code Sections 1102 et seq. and other applicable state law. This Article is a disclosure measure only and does not require any inspection, testing, repair, retrofit, correction, permit, or certificate as a condition of the transfer of any property.

§ 9-5.030 Authority.

This Article is adopted pursuant to Article XI, Section 7 of the California Constitution and California Civil Code Section 1102.6a.

§ 9-5.040 Definitions.

For purposes of this Article, the following terms have the meanings set forth below. Terms not defined here have the meanings given in California Civil Code Sections 1102 et seq. or elsewhere in the Clearlake Municipal Code.

- (a) “City” means the City of Clearlake.
- (b) “Residential real property” means real property located within the City that is improved with one to four dwelling units, including a single-family residence and a residential manufactured home affixed to a permanent foundation, consistent with the scope of California Civil Code Section 1102.
- (c) “Transfer” means a sale, exchange, installment land sale contract, lease with an option to purchase, ground lease coupled with improvements, or transfer of a residential stock cooperative, of residential real property, to the extent such transactions are subject to the disclosure requirements of California Civil Code Sections 1102 et seq.
- (d) “Transferor” means the seller or other person conveying residential real property by Transfer; “Transferee” means the buyer or other person to whom such property is conveyed.
- (e) “Mandatory solid waste service” means the universal, mandatory solid waste collection service required under Clearlake Municipal Code Chapter 11-3 and Ordinance No. 198-2017, as may be amended.
- (f) “Vacation rental” (also “short-term rental” or “short-term vacation rental (STVR)”) means the rental of a residential dwelling unit, or a room therein, for compensation for a period of fewer than 30 consecutive days, as regulated under Clearlake Municipal Code Section 18-19.280, as may be amended.
- (g) “Private road” means any road, street, lane, or vehicular access easement serving the property that has not been accepted into and is not maintained, repaired, or improved by the City.
- (h) “Supplemental Disclosure Statement” means the Clearlake Supplemental Real Property Transfer Disclosure Statement in the form attached to the ordinance codified in this Article as Exhibit A, as it may be amended from time to time pursuant to Section 9-5.110.
- (i) “City Manager” means the City Manager of the City of Clearlake or his or her designee.

§ 9-5.050 Applicability.

Except as exempted in Section 9-5.060, this Article applies to every Transfer of residential real property located within the City. The obligations of this Article are in addition to, and not in lieu of, any disclosure obligation imposed by state law.

§ 9-5.060 Exemptions.

This Article does not apply to any transfer that is exempt from the Real Estate Transfer Disclosure Statement requirement under California Civil Code Section 1102.2, including but not limited to:

- (a) Transfers pursuant to court order, including transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by a bankruptcy trustee, transfers by eminent domain, and transfers resulting from a decree for specific performance;

- (b) Transfers by a trustee under a deed of trust, or by a mortgagee or beneficiary, pursuant to a power of sale or a decree of foreclosure, or by a mortgagee or beneficiary who has acquired the property at a sale conducted pursuant to a power of sale or a decree of foreclosure;
- (c) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- (d) Transfers from one co-owner to one or more other co-owners;
- (e) Transfers made to a spouse, or to a person in the lineal line of consanguinity of one or more of the transferors;
- (f) Transfers between spouses resulting from a judgment of dissolution of marriage, legal separation, or a property settlement agreement incidental to such a judgment;
- (g) Transfers by the State Controller for unclaimed property, transfers as a result of the failure to pay taxes, and transfers or exchanges to or from any governmental entity; and
- (h) Any other transfer exempted from disclosure under California Civil Code Section 1102.2 or other applicable law.

§ 9-5.070 Supplemental Disclosure Required.

In every Transfer subject to this Article, the Transferor shall complete, sign, and deliver to the Transferee a Supplemental Disclosure Statement in substantially the form set forth in Exhibit A. The Transferor shall complete the Supplemental Disclosure Statement in good faith based upon the best of the Transferor's actual knowledge as of the date of completion. A real estate licensee assisting in the Transfer shall have the same duties, and the same limitations on liability, with respect to the Supplemental Disclosure Statement as are provided under California Civil Code Sections 1102 et seq. with respect to the Real Estate Transfer Disclosure Statement.

§ 9-5.080 Time and Manner of Delivery.

The Supplemental Disclosure Statement shall be delivered to the Transferee as soon as practicable before transfer of title, in the same manner as, and to the extent practicable together with, the Real Estate Transfer Disclosure Statement required by California Civil Code Section 1102.3. Delivery may be made in person, by mail, or by electronic delivery to the extent authorized under California law. The Transferee's rights upon late delivery shall be as provided in California Civil Code Section 1102.3. Neither the failure to deliver, nor any error, inaccuracy, or omission in, the Supplemental Disclosure Statement shall invalidate a Transfer or affect title to the property, consistent with Section 9-5.100.

§ 9-5.090 Contents of the Supplemental Disclosure Statement.

The Supplemental Disclosure Statement shall request disclosure of the following, to the extent within the Transferor's actual knowledge:

- (a) Mandatory solid waste (garbage) service. Whether the property is subject to the City's mandatory solid waste service requirement under Clearlake Municipal Code Chapter 11-3; the identity of the City's franchised hauler; that subscription to and payment for solid waste service is mandatory for developed and occupied residential property and continues as an obligation associated with ownership and occupancy of the property; that delinquent solid waste charges may be assigned to

the City and collected as a special assessment against the property on the county property tax roll, in the same manner as ordinary municipal taxes, pursuant to Clearlake Municipal Code Section 11-4.7 and Government Code Sections 38790.1 and 25831, and may thereby become a lien on the property; and whether any exemption (such as for a vacant undeveloped lot or an owner-occupied vacation home) is known to the Transferor to apply to the property.

- (b) Vacation (short-term) rental. Whether the property is currently used or operated as a vacation rental; whether the property holds a current City vacation rental permit and transient occupancy tax certificate (and, if so, the permit and certificate numbers); a notice that, under Clearlake Municipal Code Section 18-19.280, a short-term vacation rental (“STVR”) permit “shall run with the landowner and shall automatically expire upon sale or transfer of the property,” such that a new owner must obtain a new STVR permit before operating a vacation rental; and whether the Transferor is aware of any code violation, complaint, or unpaid transient occupancy tax relating to vacation rental use of the property.
- (c) Private roads and access. Whether the property is accessed by a private road that is not maintained, repaired, or improved by the City; whether a recorded road maintenance agreement or a road association exists with respect to that road; and the Transferor’s knowledge of any maintenance responsibility or cost-sharing obligation (including under California Civil Code Section 845) affecting access to the property.

§ 9-5.100 Effect of Disclosure; No Warranty; No Effect on Title.

- (a) The Supplemental Disclosure Statement is not a warranty of any kind by the Transferor or by any real estate licensee involved in the Transfer, and is not a substitute for any inspection or investigation the Transferee may wish to obtain.
- (b) Nothing in this Article requires any inspection, test, repair, retrofit, correction, permit, or certificate, or compliance with any vacation rental or solid waste requirement, as a condition of Transfer.
- (c) No Transfer of title shall be invalid, and no obligation of any escrow holder or title insurer shall arise or be affected, by reason of a failure to comply with this Article. This Article creates no lien on, and no defect in or cloud upon, title to any property.
- (d) This Article shall be construed to supplement and not to conflict with California Civil Code Sections 1102 et seq. To the extent any provision of this Article is in conflict with state law, state law controls and the remaining provisions of this Article shall remain in full force and effect.

§ 9-5.110 Disclosure Form; Administrative Authority.

The City Manager is authorized to adopt, and from time to time to revise, the form of the Supplemental Disclosure Statement consistent with this Article and applicable state law, and to adopt administrative procedures, instructions, and informational materials to implement this Article. The form attached as Exhibit A shall be effective until revised. Revisions that add or modify disclosure categories shall be consistent with the purposes stated in Section 9-5.020.

§ 9-5.120 Fees.

The City Council may, by resolution, establish fees to recover the reasonable costs of administering this Article. No fee shall exceed the reasonable cost of providing the service for which it is charged.

§ 9-5.130 Enforcement.

- (a) A Transferor who willfully fails to deliver a required Supplemental Disclosure Statement, or who willfully makes a material misstatement of fact in a Supplemental Disclosure Statement, is subject to enforcement under the general enforcement and administrative citation provisions of the Clearlake Municipal Code, including without limitation Chapter 1-9 (Administrative Citations).
- (b) The remedies provided in this Article are cumulative and in addition to any other remedies available at law or in equity. Consistent with California Civil Code Section 1102.13, the failure to comply with this Article shall not invalidate a Transfer.
- (c) A Transferor is not liable for any error, inaccuracy, or omission of any information in the Supplemental Disclosure Statement if the error, inaccuracy, or omission was not within the personal knowledge of the Transferor, consistent with California Civil Code Section 1102.4.

SECTION 3. CEQA.

The City Council finds that this Ordinance is not a “project” subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15378, and alternatively is exempt under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance, which establishes informational disclosure requirements and authorizes no physical activity, may have a significant effect on the environment. City staff is directed to file a Notice of Exemption as appropriate.

SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words be declared invalid or unconstitutional.

SECTION 5. Effective Date and Publication.

This Ordinance shall take effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in accordance with Government Code Section 36933, in a newspaper of general circulation published and circulated in the City, together with the names of the members of the City Council voting for and against the Ordinance.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clearlake at a regular meeting held on the ____ day of _____, 20____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dirk Slooten, Mayor

ATTEST:

Melissa Swanson, City Clerk

APPROVED AS TO FORM:

Scott Drexel, City Attorney

EXHIBIT A

CLEARLAKE SUPPLEMENTAL REAL PROPERTY TRANSFER DISCLOSURE STATEMENT

This Supplemental Disclosure Statement is made pursuant to Article 9-5 of Chapter IX of the Clearlake Municipal Code and California Civil Code Section 1102.6a. It is in addition to, and not a substitute for, the Real Estate Transfer Disclosure Statement and other disclosures required by state law. THIS IS A DISCLOSURE OF THE SELLER'S KNOWLEDGE AS OF THE DATE SIGNED. IT IS NOT A WARRANTY. The City of Clearlake does not require any inspection, repair, permit, or certificate as a condition of sale.

Property Address: _____

Assessor's Parcel No. (APN): _____

1. Mandatory Solid Waste (Garbage) Service

The City of Clearlake requires owners and occupants of developed residential property to subscribe to and pay for solid waste (garbage, recycling, and yard waste) collection service through the City's franchised hauler (Clearlake Municipal Code Ch. 11-3). This requirement is MANDATORY and continues as an obligation of owning and occupying the property. Delinquent solid waste charges may be assigned to the City and collected as a special assessment on the county property tax roll, and may become a lien on the property (Clearlake Municipal Code § 11-4.7; Government Code §§ 38790.1, 25831).

Is the property currently subject to the City's mandatory solid waste service requirement? ☐ Yes ☐ No
☐ Unknown

Name of franchised hauler / account status (if known): _____

Does the seller believe any exemption applies (e.g., vacant undeveloped lot; owner-occupied vacation home)? ☐ Yes ☐ No ☐ Unknown

If yes, explain the claimed exemption: _____

2. Vacation (Short-Term) Rental

The City regulates vacation rentals — dwellings rented for fewer than 30 consecutive days — and requires a Short-Term Vacation Rental (STVR) permit, a transient occupancy tax (TOT) certificate, and a local property manager (Clearlake Municipal Code § 18-19.280). IMPORTANT: Under § 18-19.280, STVR permits "shall run with the landowner and shall automatically expire upon sale or transfer of the property." Any existing permit will expire at this transfer; a buyer who intends to operate a vacation rental must apply for and obtain a new STVR permit before doing so, and should not assume the property may lawfully be used as a vacation rental.

Is the property currently used or operated as a vacation (short-term) rental? ☐ Yes ☐ No ☐ Unknown

Does the property hold a current City vacation rental permit and TOT certificate? ☐ Yes ☐ No ☐ Unknown

If yes, permit no. / TOT certificate no.: _____

Is the seller aware of any code violation, complaint, or unpaid transient occupancy tax relating to vacation rental use of the property? ☐ Yes ☐ No ☐ Unknown

If yes, explain: _____

Buyer acknowledges that any existing STVR permit automatically expires upon this sale or transfer and that a new STVR permit must be obtained before operating a vacation rental: ☐ Acknowledged

3. Private Roads and Access

Some properties in the City are reached by private roads that the City does NOT maintain, repair, plow, or improve. Owners served by a private road are generally responsible for its upkeep and may share those costs (see California Civil Code § 845).

Is the property accessed by a private road that is not maintained by the City? ☐ Yes ☐ No ☐ Unknown

Is there a recorded road maintenance agreement or a road association for that road? ☐ Yes ☐ No ☐ Unknown

Describe any known maintenance or cost-sharing responsibility affecting access: _____

4. Other Locally Significant Conditions

Describe any other locally significant condition known to the seller (or write "None"): _____

Seller Certification

The undersigned seller certifies that the information set forth above is true and correct to the best of the seller's actual knowledge as of the date signed.

Seller Date: _____

Seller Date: _____

Buyer Acknowledgment of Receipt

Buyer Date: _____

Buyer Date: _____