

## **Chapter 16 Article 8 SHORT-TERM RENTALS**

Escondido, California Municipal Code

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### **16.8.010 Title.**

This Article shall be referred to as the "Short-Term Rental Ordinance."

### **16.8.020 Purpose.**

The purpose of this article is to regulate privately-owned residential dwellings within the City used as short-term rental units, ensure that transient occupancy taxes (TOT) are paid and collected, and minimize the potential negative effects of short-term rental units on surrounding residential neighborhoods.

The City reserves the right to change the regulations provided in this article at any time, including discontinuing the issuance of short-term rental unit permits, notwithstanding any impacts to existing or future short-term permit holders. Anyone accepting a short-term rental unit permit pursuant to this article acknowledges and accepts that possibility.

### **16.8.030 Definitions.**

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them by this section:

"Advertisement" shall mean, in addition to the Advertisement definition described in Chapter 16, section 16-3, any online or Internet-based offer or solicitation of short-term rental activity.

"Apartment" shall mean a rented room or set of rooms that is part of a multifamily building and is used as a place to live.

"Bedroom" shall mean a part or division of a residential building enclosed by walls, floor, and ceiling intended and designed for sleeping.

"Condominium" shall mean those residential units consisting of an undivided interest in common in a portion of real property coupled with a separate interest in a space called a unit, including those units governed by Article 49, Air Space Condominium and Community Apartment Projects of Chapter 33, Zoning of the Escondido Municipal Code.

"Guest" or "Transient" shall mean 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 thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a home shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the host and the guest 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 the ordinance codified in this article may be considered.

"Host" shall mean an owner of a dwelling unit who rents their residence for transient occupancy.

"Hosting platform" shall mean a business or person that provides a means through which a host may offer a dwelling unit, or portion thereof, for home-sharing. A hosting platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a property owner or tenant to advertise the dwelling unit through a website provided by the hosting platform and provides a means for potential guests to arrange short-term rentals, whether the guests pay rent directly to the host or to the hosting platform.

"Ineligible Units" shall mean accessory dwelling units (ADUs) or junior accessory dwelling units (JADUs); units created utilizing an SB9 application; inclusionary housing or other income-restricted housing units; or any other ineligibility based on state law.

"Multi-family housing development" shall mean a building designed for multiple dwelling unit occupancy. Units in multi-family housing developments are not classified as single-unit attached structures.

"Responsible contact person" shall mean a person, either the short-term rental owner or their designee, who will be available twenty-four (24) hours per day to accept telephone calls regarding the short-term rental when occupied and who will have the duty to respond within one hour.

"Short-term rental" shall mean all or any portion thereof of a residential dwelling unit which is advertised or held out to the public as a place regularly rented for dwelling, lodging or sleeping purposes to one party with a duration of occupancy of thirty (30) consecutive days or less. Hotels, motels, and other land uses explicitly defined and regulated in the Municipal Code separately from short-term rentals are not considered to be short-term rentals.

"Short-term rental permit" shall mean a permit for a short-term rental unit.

"Transient occupancy tax" shall mean the tax levied by the City in accordance with Chapter 25 Article 4 of the Municipal Code. This tax is levied upon individuals or businesses engaged in the rental of sleeping accommodations to the public.

### **16.8.040 Permits required for operation.**

- A. A host must obtain the following types of permits prior to advertising or renting any privately-owned residential dwelling to any transient for a period of (30) consecutive days or less:
  - a. An Escondido business license as required by Chapter 16 section 16-16 and 16-17;
  - b. Short-term rental permit as required by this article;
  - c. Transient occupancy tax registration certificate as required by Chapter 25 section 25-77.

### **16.8.050 Eligibility.**

- A. Short-term rentals may be permitted in single-family detached, duplex, two-family, and three-family dwelling units, and townhomes.

- B. Short-term rentals may be permitted on properties with multiple dwelling units, apartments, and condominiums with the following limitations:
  - a. For multi-family housing developments of 2 to 50 units: 1 short-term rental permit;
  - b. For multi-family housing developments of 51 to 99 units: 2 short-term rental permits;
  - c. For multi-family housing developments of 100 units or more: 2% of total units or 5 short-term rental permits, whichever is fewer;
  - d. A maximum of 25 short-term rental permits shall be issued citywide for units in multi-family housing developments. The City shall maintain a waiting list on a first-come, first-served basis if the number of short-term rental permit applications exceeds 25;
  - e. A short-term rental shall be included in calculating the total number of units for the purpose of determining allowable short-term rentals in a multifamily development. ADUs, inclusionary housing, or any other unit that is precluded from being used as a short-term rental may not be counted toward the total allowable number of units.
- C. The total number of short-term rental permits shall be limited to a maximum of 2 percent of the total housing units within the City of Escondido. The City or its designee shall maintain a waiting list if the number of short-term rental applications exceeds this percentage.
- D. No short-term rental permit shall be issued for any housing unit if the unit's parcel is within 500 feet of a parcel with a currently permitted short-term rental unit. Distances shall be measured from the closest property line of the property containing the currently permitted short-term rental unit to the closest property line of the proposed short-term rental unit measured using the Escondido Geographic Information System.
- E. Short-term rentals shall not be permitted in Ineligible Units.
- F. This article is not intended to allow any residential property owner to violate any private conditions, covenants, and restrictions applicable to the owner's property that may prohibit the owner from using their property as a short-term rental unit, as defined in this article.

### **16.8.060 Application and processing requirements.**

- A. Business Licenses. To apply for a business license, a host shall file an application with the City as provided for in Chapter 16 (Licenses) and obtain a transient occupancy registration certificate as required in Chapter 25 Article 4 (Transient Occupancy Tax).
- B. Short-Term Rental Permit. To apply for a short-term rental permit, a host shall file an application on a form provided by the City including the following information:
  - a. The name, address, valid email address, and telephone number of the owner of the subject short-term rental unit, and documentation showing proof of ownership;
  - b. The address of the proposed short-term rental unit;
  - c. The number of bedrooms and the applicable occupancy limit of the proposed short-term rental unit;
    - i. The permitted occupancy for a short-term rental dwelling unit shall be two guests per bedroom plus two additional guests;
  - d. The name, address, valid email address, and telephone number of the designated responsible contact person who will be available twenty-four (24) hours per day to accept telephone calls regarding the short-term rental when occupied and the ability to respond within one hour, if different than the owner;
  - e. A signed acknowledgement by the applicant that:

- i. The short-term rental unit is legally permitted and meets the Fire and Building Code standards for a habitable unit;
  - ii. The space used for short-term rental meets or exceeds fire and life safety requirements, including installation of smoke and carbon monoxide detectors, and adequate means of egress;
  - iii. The City can examine all places of business in the City to ascertain whether the provisions of this article have been complied with, as described in Chapter 16 section 16-232;
  - iv. The host has current and valid insurance that explicitly covers short-term rental activity;
  - v. The host shall adhere to the short-term rental regulations listed in this article; and
  - vi. The unit being rented is not an Ineligible Unit.
- C. A short-term rental permit application shall be accompanied by payment of an application processing fee established by resolution of the City Council.
- D. Within thirty (30) days of a change of property ownership, change of operator, or any other change in material facts pertaining to the information contained in the short-term rental permit or as outlined in Chapter 16 section 16-16 and 16-17, the host shall submit an application and requisite application fee for a new short-term rental permit, if continued short-term rental is desired, prior to continuing to rent the subject unit as a short-term rental unit.
- E. A short-term rental permit shall not be issued or renewed if there are unresolved City code compliance cases, outstanding City fines or fees, or City liens on the property.
- F. Short-term rental permit renewals are subject to any intervening changes in this article and renewal shall be denied if the short-term rental no longer qualifies under the requirements of this article, unless specifically exempted therefrom.
- G. The City will conduct an inspection of the short-term rental unit prior to issuing a new permit and prior to issuing any renewal permit, as described in Chapter 16 section 16-232.
- H. A short-term rental permit application may be denied if the host has had a prior short-term rental permit suspended or revoked, or if, under a prior short-term rental permit, the host violated any of the short-term rental regulations listed in this article.
- I. Appeals of permitting decisions shall be done in accordance with Chapter 16 Article 5.

### **16.8.070 Expiration and renewal.**

- A. A short-term rental permit is valid for the same duration as the associated business license. It may not be transferred, does not run with the land, and is valid only at the original short-term rental site. The short-term rental permit shall automatically expire upon sale or transfer of the property. No registration may be assigned, transferred, or loaned to any other person or entity.
- B. A short-term rental permit may be renewed if the host meets the following renewal requirements:
  - a. Payment of registration renewal fees and all required transient occupancy tax remittance associated with the short-term rental unit. The host shall submit such information concerning the short-term rental activity as may be required to enable the Finance Department to verify the amount of tax paid;
  - b. Does not have any outstanding violations pertaining to this article;
  - c. Documents and provides any changes that have occurred to the information on the current short-term rental permit.

- C. If a host fails to renew their current short term rental permit within five (5) business days before its expiration, upon the permit's expiration, the host may be placed on a wait list for available permits. Only current permits may be renewed. The City may not provide reminders to hosts of an upcoming expiration and it is the host's sole responsibility to maintain a current permit at all times during the operation of the short-term rental unit.

### **16.8.080 Operational requirements.**

- A. While a short-term rental unit is rented, the host or a designated responsible contact person shall be available twenty-four (24) hours a day, seven (7) days a week for the purpose of responding within one (1) hour to complaints regarding the condition, operation, or conduct of occupants or guests of the short-term rental unit.
  - a. Upon notification that any occupant and/or guest of the short-term rental unit has created a loud and unruly noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule, or regulation pertaining to the use and occupancy of the subject short-term rental unit, the host or designated responsible contact person shall promptly respond within one (1) hour in an appropriate manner to immediately halt or prevent a recurrence of such conduct by any occupants and/or guests.
  - b. Failure of the host or designated responsible contact person to respond to calls or complaints regarding the condition, operation, or conduct of occupants and/or guests of the short-term rental unit within one (1) hour and in an appropriate manner shall render the host subject to all administrative, legal, and equitable remedies available to the City, up to and including short-term rental permit revocation or suspension per the provisions of Chapter 16, Article 6.
  - c. No person shall advertise, undertake, maintain, authorize, book, or facilitate any renting to guests in a manner that does not comply with this article.
- B. No person shall advertise any short-term rental without a City-issued short-term rental permit number depicted in a visible location on the advertisement, including any listing on a hosting platform.
- C. A short-term rental unit shall not be advertised for or used by more than two guests per bedroom plus two additional guests at one time. If the short-term rental permit limits occupancy to a number less than that calculated pursuant to this section, the limit in the permit shall govern.
- D. Short-term rentals shall be limited to one booking per property per day. A booking may consist of the short-term rental of one or more bedrooms in the home or the short-term rental of the entire home. A short-term rental may operate in conjunction with the rental of an entire dwelling unit for periods of more than thirty (30) consecutive days, provided all other conditions required by this article are met.
- E. No additional parking shall be required for short-term rentals. Existing on-site parking spaces shall be made available to guests.
- F. A Short-term rental property shall not adversely affect the residential character of the surrounding neighborhood nor shall the use generate noise, vibration, glare, odors, traffic, parking congestion, or loud and unruly gatherings that interfere with any person's enjoyment of their residence. The short-term rental activity shall comply with all provisions of the Escondido Municipal Code including, but not limited to, Chapter 17 Article 12 (Noise) and Chapter 6 Article 20 (Property Maintenance).
- G. A short-term rental unit shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting, signage except as defined in Section (L) below, or any advertising mechanism.

- H. A short-term rental unit shall provide for adequate waste, recycling, and organics containers as defined in Chapter 14 section 14-2.2 (Solid Waste and Recycling Containers) along with proper storage of said containers per the performance standards provided in Chapter 33 section 33-113 (Residential Zones).
- I. A short-term rental unit shall only be used for overnight lodging. Events and large gatherings of people who cannot occupy the short-term rental pursuant to the limitations in section 16.8.060(B)(c) including, but not limited to, weddings, banquets, and personal or corporate events, are prohibited as part of the short-term rental use. The dwelling shall not be advertised or rented for the purpose of accommodating such uses.
- J. No person shall offer or engage in short-term rental activity in any part of the property not approved for residential use, including, but not limited to, a vehicle parked on the property, a storage shed, trailer, garage, or any temporary structure such as a tent.
- K. The following information shall be posted in a conspicuous location within the short-term rental unit:
  - a. The short-term rental permit number;
  - b. The name and contact information for the host and/or designated responsible contact person;
  - c. The maximum number of overnight occupants;
  - d. Applicable rules and schedules for trash storage and pickup, noise, and parking;
  - e. Local emergency information; and
  - f. Contact information for the City's Code Compliance Division and Police Department.
- L. A City-approved exterior Notice Sign shall be posted on a short-term rental unit, in plain view of the general public and/or common area and shall be maintained in good condition at all times. The notice shall continue to be displayed as long as the unit is used as a short-term rental. All information must be typed using an originally designed template and printed in a landscape format on at least a standard sheet of paper, 8 ½"x11", or professionally made sign of equivalent size, and shall include the following information:
  - a. The short-term rental permit number;
  - b. The name and contact information for the owner and/or designated responsible contact person;
  - c. The total number of bedrooms; and
  - d. The maximum number of overnight occupants.
- M. All short-term rental owners shall comply with the provisions of any city, county, state, or federal disaster or emergency orders.
- N. Unless otherwise provided in this article, the host shall comply with all provisions of Chapter 25 Article 4 of the Escondido Municipal Code concerning TOT, including, but not limited to, collecting, remitting, and recording relevant taxes.

### **16.8.090 Recordkeeping duties.**

The host shall maintain for a period of four years records in such form as the tax administrator (as defined in, and required by, Chapter 25 Article 4) may require to determine the amount of TOT owed to the City. The tax administrator shall have the right to inspect such records at all reasonable times (Chapter 25 section 25-87). Such records shall be maintained at the host's premises or shall be available for delivery to the tax administrator within one business day after request. (Chapter 25 section 25-87(b))

### **16.8.100 Violations.**

- A. It shall be a public nuisance for any person to commit, cause, or maintain a violation of this article, which shall be subject to the provisions of Chapter 17 Article 12 (Noise) and Chapter 6 Article 20 (Property Maintenance).

- B. As described in Chapter 16 Article 6, the City may issue a notice of violation to any occupant, owner(s) or operator, pursuant to this article, if there is any violation of this article committed, caused, or maintained by any of the above parties. The City may:
  - a. Suspend or revoke any license issued under the provisions of this article upon information that any of the provisions of this article, or any other ordinance or statute, is being violated by the license holder.
- C. Unless otherwise provided herein, any person convicted of an infraction shall, for each separate violation of this article be subject to: (1) a fine in an amount not to exceed one thousand dollars (\$1,000) for a first conviction of an offense; (2) a fine in an amount not to exceed three thousand dollars (\$3,000) for a second conviction of the same offense within a twelve-month period of the date of the first offense; and (3) a fine in an amount not to exceed five thousand dollars (\$5,000) for the third conviction of the same offense within a twelve-month period of the date of the first offense. The City may issue an administrative citation to any host, occupant, owner(s) or operator, pursuant to the provisions set forth in Chapter 1A (Administrative Remedies), including, but not limited to, the imposition of any and all civil and/or criminal penalties set forth therein if there is any violation of this article committed, caused, or maintained by any of the above parties.
- D. The City may pursue any remedy, citation, fee, or fine for any violation related to the collection, documentation, and remittance of all relevant taxes as outlined in Chapter 25 Article 4 (Transient Occupancy Tax).
- E. Each and every day on which a violation occurs shall be deemed to be a separate violation. Multiple incidents in one day may be pursued by the City as separate violations.
- F. The following violations may result in either the immediate revocation of a short-term rental permit and any affiliated licenses and/or denial of future short-term rental permits:
  - a. Operation without required licenses, permits, or certificates;
  - b. Failure to include a valid short-term rental permit number in advertisements;
  - c. Advertising an occupancy greater than the permitted number of guests;
  - d. Intentionally misrepresenting any material fact in procuring the license or permit;
  - e. Use of any Ineligible Unit for short-term rental activity;
  - f. Failure to timely remit TOT or other taxes;
  - g. Three or more violations of the operational requirements of this Chapter other than those listed above, but including those relating to Chapter 17 Article 12 (Noise) and Chapter 6 Article 20 (Property Maintenance) in a license year.
- G. The remedies provided in this section are not exclusive, and nothing in this article shall preclude the use or application of any other remedies, penalties, or procedures established by law. The City may pursue any other administrative or judicial legal remedies available, including, but not limited to, civil injunctions, license revocations, and civil penalties for violations of this article.

### **16.8.110 Revocation.**

- A. Grounds for Suspension and Revocation
  - a. Major Violations
    - i. Immediate and major violations that jeopardize public safety, violate licensing requirements, or involve criminal activities, such as felonies on site, non-payment of taxes, or significant license issues, may result in the immediate revocation of the short-term rental permit at the discretion of the City for the period of one-year from the date of revocation.
  - b. Three Strikes for Lower-Level Violations

- i. The City will adopt a three-strikes policy for lower-level quality-of-life violations, including but not limited to noise disturbances, disorderly conduct, and repeated violations of operational requirements.
- ii. Each documented violation will be considered a strike.
- iii. Upon the third strike within a one-year timeframe, the short-term rental permit will be subject to immediate revocation.

B. Reapplication Period

a. Reapplication After Revocation

- i. After the revocation period expires, an applicant seeking to resume short-term rental activity must reapply for a new short-term rental permit.
- ii. The reapplication process will include a thorough review of the property's compliance history and may require additional measures to address past violations.
- iii. The City may determine if a host is eligible for a new permit at its discretion.

C. Appeals

- a. Hosts may appeal the revocation decision through the appeals process outlined in Chapter 16 Article 5.
- b. Appeals must be submitted within the specified timeframe provided in Chapter 16 section 16-222 after the revocation decision.

### **16.8.120 Severability.**

If any provision of this ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this ordinance are hereby declared to be severable.

### **16.8.130 Effective Date**

The effective date of this ordinance shall be **[TBD]**