

ORDINANCE NO. 1543

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA CREATING ARTICLE 3 IN CHAPTER 2, TITLE VI OF THE ARCATA MUNICIPAL CODE TO REGULATE SHORT-STAY AND VACATION RENTALS

The City Council of the City of Arcata does ordain as follows:

Section 1: Article 3 is hereby created and added to Chapter 2 (*Business Regulation*) of Title VI (*Business, Professions and Trades*), as follows:

TITLE VI: BUSINESS, PROFESSIONS AND TRADES CHAPTER 2: BUSINESS REGULATION ARTICLE 3: SHORT-STAY AND VACATION RENTALS

SEC. 6300. Purpose.

This Article establishes permit requirements, including a limit on the total number of permits that may be active at any time, and other regulations intended to ensure the safe and orderly conduct of short-stay, vacation, and other similar businesses in the City of Arcata. These regulations are also intended to ensure that only a limited proportion of the City's housing stock, which would otherwise be used for long-term residency, is converted to short-stay use.

SEC. 6301. Definitions.

“Accessory Dwelling Unit” shall have the same meaning as defined in the Land Use Code, Title IX, Sec. 9.100.

“Active Permit” shall mean a Vacation Rental permit that has not expired and the Vacation Rental was occupied for more than 29 days within the fiscal year the permit was in effect.

“Dwelling Unit” shall have the same meaning as defined in the Land Use Code, Title IX, Sec. 9.100, and includes both Primary Dwelling Units and Accessory Dwelling Units.

“Good Standing” shall mean that all Vacation Rental permit requirements are met, all City fees, charges and taxes, including Transient Occupancy Tax, is paid timely.

“Owner” shall mean the entity, person, or persons holding fee title to the property on which a Vacation Rental is operated.

“Operator” shall mean the entity, person, or persons engaged in the leasing, subleasing, or otherwise agreeing to allow a property under its control to be operated as a Vacation Rental. This could be, without limitation, the Owner, a tenant, any property management company responsible for the daily operations and emergency call response, or a third party rental service.

“Primary Dwelling Unit” shall have the same meaning as “Single-Family Dwelling” defined in the Land Use Code, Title IX, Sec. 9.100.

“Vacation Rental” shall mean any Dwelling Unit or portion thereof leased for transient occupancy or other temporary occupancy of one or more persons for up to 29 days at a time. Vacation

Rental shall include any short-stay temporary occupancy for fee living arrangement regardless of its title or its means of advertisement.

SEC. 6302. Permit Required.

- A. General. The Operator of any Dwelling Unit, or portion thereof, that is used as a Vacation Rental shall obtain a permit prior to operation.
- B. Permits are Non-exclusive. The Operator of a Vacation Rental shall obtain any and all other permits and satisfy all other requirements of federal, state, or local law, including obtaining a Business License, and complying with Transient Occupancy Tax provisions of the Arcata Municipal Code, Title VI Chapters 1 and 3, respectively.
- C. Limitation of Permits. The total number of Vacation Rental permits that may be issued by the City at any one time is limited to 100, which shall be issued on a first-come first-served basis until the permit limit is reached.
- D. Exemptions from Limitation. The following Vacation Rental types shall not be counted towards the limitation stated in Section 6302.C, but the Operator of any such Vacation Rental shall obtain a Vacation Rental permit prior to operation, and operation shall be subject to all other requirements of this Article:
 1. A Dwelling Unit that is operated as a Vacation Rental for fewer than 30-days total in any fiscal year, whether consecutive days or not;
 2. A Dwelling Unit operated as a Vacation Rental which is also occupied by either the Owner or a tenant with month-to-month or longer term tenancy;
- E. Permit Limitation Grace Period. During the first six months after enactment of this Short-stay and Vacation Rentals Ordinance, any Operator who demonstrates receipt of income from operating a Vacation Rental during the prior 12-month period may apply for a Vacation Rental permit for that Dwelling Unit irrespective of the number of Vacation Rental permits then issued by the City and the Vacation Rental permit limitation. Any Operator who does not file an application within this six-month period is not eligible for a Vacation Rental permit limitation exception. If this grace period results in the issuance of more than 100 Vacation Rental permits, no new Vacation Rental permits will be issued until the total number of issued Vacation Rental permits falls below 100. If Vacation Rental operations had been discontinued during the prior 12-month period due to the COVID-19 pandemic, the Operator may demonstrate Vacation Rental operating income from activity occurring during 2019 in order to qualify for the limitation exemption.
- F. Permit Term. Vacation Rental permits shall be issued for one year terms on an annual fiscal year basis.

SEC. 6303. Permit Issuance, Requirements.

- A. Zoning Clearance. Upon receiving an application for a Vacation Rental permit and prior to the issuance of an initial Vacation Rental permit, the City Manager may require the Operator to obtain clearance from Community Development Department to establish that use of the property satisfies zoning standards (“Zoning Clearance”). Generally, the Zoning Clearance

will be completed during Community Development Department Business License review; however Zoning Clearance may occur at other times as warranted by the circumstances. Reissuance of a Vacation Rental permit will not require a new Zoning Clearance unless the site conditions, uses, or zoning are altered, changed or amended subsequent to issuance of the initial Vacation Rental permit.

B. Emergency Contact. Operators shall post contact information for a 24-hour emergency contact at each Vacation Rental. Signage shall be visible from the public right-of-way facing the front of the property and posted within 10 feet of the back of walk or edge of street. Signage shall be no larger than 12"x16". The point of contact shall be a person with authority to immediately address emergencies and/or neighborhood impacts.

C. Inspection. The Building Official shall conduct a building code inspection of the Dwelling Unit at the time of initial Vacation Rental permit application if the Building Official reasonably believes that health and safety violations may exist on the property. Vacation Rental permits will not be issued for a Dwelling Unit that fails to meet applicable building code requirements. A Vacation Rental permit may be revoked at any time if the Building Official subsequently determines that building code violations exist.

D. Permit Reissuance.

1. An Operator holding an Active Permit in Good Standing may apply for and receive a reissued Vacation Rental permit provided that the application is made no sooner than 90 days and no later than 30 days prior to expiration of the Vacation Rental permit.
2. Upon receiving a request for permit reissuance, the City Manager or its designee shall determine whether a permit is an Active Permit and in Good Standing. The Operator shall submit to the City Manager or designee Transient Occupancy Tax and other records deemed pertinent by the City Manager or designee to make these determinations.

E. Permit Fee. The fee for administration and permit issuance shall be established by resolution of the City Council and shall be separate from and additional to all other fees that may be required by the City for operation of a Vacation Rental.

F. Permit Transfer. A Vacation Rental permit may not be transferred to a different Dwelling Unit.

G. Change in Ownership. The Operator shall notify the City at least 30 days prior to a change in Ownership of the Dwelling Unit.

H. The City Manager may establish administrative procedures to implement this Chapter.

SEC. 6304. Administrative Enforcement Remedies

A. General. When the City Manager finds that a permittee has violated or continues to violate any provision in this Article, the permit, or applicable State or local law, the City Manager may suspend or revoke the permit, and may impose administrative penalties in accordance with Title I, Chapter 3 of the Arcata Municipal Code.

- B. Permit Suspension. The City Manager may immediately, without prior notice or hearing, suspend a Vacation Rental permit after informal notice to the permittee whenever such suspension is necessary to stop an actual or threatened activity that reasonably appears to violate any applicable City law, regulation, rule or order. Any permittee notified of a suspension of its permit shall immediately discontinue operating the Vacation Rental.
- C. Permit Revocation. The City Manager may revoke a Vacation Rental permit for good cause, including, but not limited to, the following reasons:
 - 1. Failure to timely address neighborhood impacts and police call-outs to the Vacation Rental;
 - 2. Failure to pay any fees, taxes, charges, or fines associated with or incurred by operation of the Vacation Rental;
 - 3. Violation of any Vacation Rental permit condition, term, or any provisions of this Article or any other applicable state or local law.
- D. Reconsideration. Any permittee affected by any administrative enforcement action made by the City Manager may file with the City Manager a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the permittee's request for reconsideration. The City Manager shall schedule a meeting with the permittee to consider the reconsideration request, and shall make a final determination within fifteen (15) days after the meeting. The City Manager's decision, action, or determination shall remain in effect during such period of reconsideration.
- E. City Council Appeal. The City Manager's reconsideration determination may be appealed by the affected permittee to the City Council by submitting a written request for appeal to the City Manager no later than ten (10) days after notification of the City Manager's reconsideration decision. The written appeal shall be heard by the City Council within sixty (60) days from the date of filing. The City Manager's decision, action, or determination shall remain in effect during such period of appeal.
- F. Automatic Permit Termination. Permits shall be voidable upon non-use, upon cessation of the activity, upon change of ownership of the Dwelling Unit, or upon such other cause as set forth in regulations adopted by resolution of the City Council.

SEC. 6305. **Judicial Remedies.**

- A. Injunctive Relief, Penalties. When the City Manager finds that an Operator has violated any Vacation Rental permit condition, the provisions of this Article, or any other applicable City, County, or State law, the City through its City Attorney may petition the Humboldt County Superior Court for the issuance of a temporary restraining order, preliminary, and/or permanent injunction as may be appropriate to restrain the continuance of the activity. The City may also seek such other action as is appropriate for legal and/or equitable relief. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Operator.
- B. Criminal Prosecution. Any violation of this Chapter may be prosecuted by the City Attorney and charged in the discretion of the City Attorney as either a misdemeanor or an infraction.

SEC. 6307. Remedies Nonexclusive.

A. The remedies in this Article are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant permittee.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: California Environmental Quality Act – This ordinance creates a regulatory framework to ensure that the leasing of short-stay vacation rentals of existing housing stock does not negatively impact residential neighborhoods or the availability of existing or new housing stock. The primary effect of the program is to limit the expansion of the activity to its current level, and thereby establishes a limit on a current condition. Consequently, it can be seen with certainty that there is no possibility that enactment of this ordinance will have a significant impact on the environment.

Section 4: Effective Date: This Ordinance shall be effective 30 days after adoption.

DATE: February 17, 2021

ATTEST:

/s/ Bridget Dory
City Clerk, City of Arcata

APPROVED:

/s/ Brett Watson
Vice Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1543, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 17th day of February, 2021, by the following vote:

AYES: WATSON, ATKINS-SALAZAR, GOLDSTEIN, SCHAEFER

NOES: NONE

ABSENT: PEREIRA (Recused)

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata