

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDMENT TO THE ZONING ORDINANCE TO INCLUDE 17.06.160 ENTITLED "SHORT-TERM RENTALS" WHICH ESTABLISHES A PERMITTING PROCESS AND APPROPRIATE STANDARDS FOR WHOLE DWELLING UNITS OR PORTIONS OF THE SAME FOR A PERIOD OF 29 CONSECUTIVE DAYS OR LESS, ALONG WITH ASSOCIATED REGULATIONS TO MITIGATE NEGATIVE IMPACTS.

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THE CITY COUNCIL OF THE CITY OF MARINA DOES ORDAIN AS FOLLOWS

1. Chapter 17.06.160 Added. The Municipal Code is hereby amended by the addition of Chapter 17.06.160 entitled "Short-Term Rentals" to read as set forth on the attached six (6) page marked EXHIBIT "A" and incorporated herein by this reference thereto.
2. Effective Date. This ordinance shall take effect and be in force 30 days from and after its final passage.
3. Posting of Ordinance. Within 15 days after the passage of this ordinance, the City Clerk shall cause it to be posted in the three public places designated by resolution of the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on the 15th Day of October 2019, and was passed and adopted at a regular meeting duly held on the 5th Day of November 2019, by the following vote:

AYES, COUNCIL MEMBERS: Berkley, Urrutia, Morton, Delgado

NOES, COUNCIL MEMBERS: O'Connell

ABSENT, COUNCIL MEMBERS: None

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

Add in its entirety the following new section to Chapter 17 of the Marina Municipal Code:

Chapter 17.06.170 SHORT-TERM RENTALS

A. Purpose

The purpose of this chapter is to establish a permitting process and appropriate standards for the short-term rental of a whole dwelling unit, or portion of the same, for a period of twenty-nine (29) consecutive days or less.

B. Definitions

For the purposes of this chapter, the following definitions shall apply:

1. “Hosting Platform” means a marketplace in whatever form or format which facilitates home-sharing or vacation rental, through advertising or other means, using any medium of facilitation, and from which the operator of the housing platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.
2. “Primary Residence” means an Owner’s permanent residence or usual place of return for housing as documented by at least two forms of identification. An Owner may have only one primary residence at any given time. A Primary Residence may be a duplex or dwelling as defined in 17.04.260, 17.04.265, 17.04.270, 17.04.280, 17.04.290, or 17.04.291.
3. “Registry” or “City Registry” is the list of STR permits issued in a calendar year. The City shall bear responsibility for keeping the Registry up-to-date with current permits.
4. “STR Guest(s)” or “Guest(s)” means any person or group of persons staying at an STR for no more than twenty-nine (29) consecutive days.
5. “STR Owner” or “Owner” means the person, or persons, individually, jointly, in common, or a living trust whereby the trustor and trustee are the same person whereby such property is under single or unified control holding fee title which rents a dwelling operated and used as an STR.
6. “Short-term Rental” or “STR” means a Primary Residence, or any portion thereof, rented for occupancy for lodging or sleeping purposes for a period of twenty-nine consecutive (29) days or less.
7. “Transient Occupancy Tax” or “TOT” means local transient tax as set forth in Chapter 3.12 of the Marina Municipal Code. The tax is paid by the Guest when paying for their rental. The collected TOT is then remitted to the City.

C. Short-term Rental Requirements and Conditions

1. *Compliance with Applicable Laws.* The Owner must comply with all applicable laws, rules, and regulations pertaining to the use and occupancy of the STR.
2. *Short-term Rental Permit required.* A permit from the City (hereinafter referred to as a “STR Permit”) is required for all STRs. No person shall rent, offer to rent, or advertise for

rent any STR for a term shorter than twenty-nine (29) consecutive days without a valid STR Permit, which may be issued by the City in the manner provided for by this chapter.

3. *Validity period.* An STR Permit shall expire on June 30th of each calendar year and may be renewed upon reissuance of a business license and proof of timely payment of Transient Occupancy Tax (TOT) during the time period of operation of the STR. An STR Permit is only valid for up to one year, subject to renewal, and does not run with the land. Therefore, the issuance of an STR Permit for a period of up to one year does not create a fundamentally vested right. As such, the City reserves the right to deny renewal of an STR Permit for any reason, without the applicant having a right to hearing or other due process rights.
4. *Change in Ownership.* The STR Permit shall be invalidated by a change in Owner of an STR, except when a spouse or domestic partner is added to the title of the property or the property is converted to a trust, which is principally under the same ownership. If the STR Permit is invalidated by a change in ownership, the Owner must complete the reapplication process within forty (40) days or the right to the STR Permit will be lost.
5. *Noise and disturbances.* Guests are subject to the requirements of Marina Municipal Code, Chapter 9.24 – Noise Regulations.
6. *Revocation of STR Permit.* An STR Permit may be revoked by the City due to the failure to meet the requirements set forth in this Code and State Law, subject to the discretion of the City.
7. *Appeal process.* Revocation of an STR Permit may be appealed pursuant to Marina Municipal Code section 17.48.050. The appeal shall be accompanied by a filing fee, if any, as established by City Council resolution.
8. *Good Neighbor Brochure.* A Good Neighbor Brochure, the contents of which shall be set by resolution of the Planning Commission, shall be required on the premises of any STR.
9. *Occupancy limitations.* The maximum number of Guests permitted in an STR is two per bedroom, plus two additional Guests per unit (as shown in the following table). No more than twelve (12) Guests shall be permitted to stay in an STR.

Number of Bedrooms	Number of Guests Allowed
0 (studio)	2
1	4
2	6
3	8
4	10
5+	12

10. *Transient Occupancy Tax.* Transient Occupancy Tax (TOT) shall be collected on all short-term rentals. STR Owners are solely responsible for the collection of all applicable TOT and remittance of the collected tax to the City on a monthly basis. If a Hosting Platform collects payment for short-term rentals, then it and the STR Owner shall both have legal responsibility for the collection and remittance of TOT.

D. Permit Application Procedures

An application for an STR Permit shall be filed with the Community Development Department upon forms, the content of which shall be set by Resolution of the Planning Commission and shall, at a minimum, request:

1. The name, address, assessor's parcel number (APN) for the STR Owner's property, and telephone number of the Owner of the STR for which the STR Permit is to be issued.
2. A statement of the anticipated daily rental charge for the STR and written acknowledgment of the responsibility to pay TOT associated with the rental of the STR.
3. A valid business license issued by the City for the STR, with the stipulation that the actual business license number must be included in any solicitation for an STR.
4. An STR Permit application fee.

E. Hosting Platform Requirements

1. Hosting Platforms together with STR Owners shall be responsible for collecting all applicable TOTs and remitting the same to the City. The Hosting Platform shall be considered an agent of the Owner for purposes of TOT collections and remittance responsibilities as set forth in Chapter 3.12 of this Code.
2. Subject to applicable laws, Hosting Platforms shall disclose to the City on a regular basis each home-sharing and vacation rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each stay.
3. Hosting platforms shall not complete any booking transaction for any residential property or unit unless it is listed on the City's Registry at the time the Hosting Platform receives a fee for the booking transaction.
4. A Hosting Platform operating exclusively on the Internet, which operates in compliance with subsections (1), (2), and (3) above, shall be presumed to be in compliance with this Chapter, except that the Hosting Platform remains responsible for compliance with the administrative subpoena provisions of this Code.
5. The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal laws and will not apply if determined by the City to be in violation of, or preempted by, any such laws.