

ORDINANCE NO. 4224

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING THE HUNTINGTON BEACH MUNICIPAL CODE BY ADDING
CHAPTER 5.120, REGULATING SHORT-TERM RENTALS

The City Council of the City of Huntington Beach ordains as follows:

Section 1. The Huntington Beach Municipal Code is amended by adding Chapter 5.120 to read as follows:

CHAPTER 5.120
SHORT-TERM RENTALS

5.120.010 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; ensure the collection and payment of Transient Occupancy Taxes ("TOT"); safeguard the residents of the City of Huntington Beach by ensuring that Short-Term Rental activities do not threaten the character of residential neighborhoods; and ensuring that such Short-Term Rental activities do not become a nuisance, or threaten the public health, safety, or welfare of neighboring properties. This Chapter will establish two Zones in the City where Short-Term Rentals are permitted. Zone 1 will consist of all areas of the City excluding Sunset Beach. Zone 2 will consist of Sunset Beach. In Zone 1 and Zone 2, Short-Term Rentals are permitted in owner occupied residential dwelling units as set forth herein. In Zone 2 Short-Term Rentals are permitted for existing owner "un occupied" residential dwelling units who obtain a permit within six (6) months of the effective date of the resolution establishing the permit fee(s). After six (6) months, no new permits for owner un occupied residential dwelling units will be issued.

5.120.020 Definitions.

A. "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 Host or Operator.

B. "City" means City of Huntington Beach.

C. "Director" means the Director of Community Development or a designee.

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

E. "Host" means a property owner who is an occupier of the property at the time of, and for the duration of, the Short-Term Rental.

F. "Hosted Stay" means a Short-Term Rental at a Primary Residence whereby the Host occupies the Short-Term Rental property and remains on-site and resides in a habitable

dwelling unit or portion thereof throughout the Guest's stay (except during daytime and/or work hours).

G. "Hosting Platform" means a person or entity that participates in the Short-Term Rental business by collecting or receiving a fee in exchange for a fee or other compensation, directly or indirectly through an agent or intermediary, for by conducting a Booking Transaction for a Hosted or Un Hosted Short-Term Rental using any medium of facilitation.

H. "Local Contact Person" means the Operator or Host or person designated thereof to respond to and take remedial action regarding Short-Term Rental issues or complaints.

I. "Platform Agreement" means a signed agreement between a Hosting Platform and the City, which, among other things, provides that the Hosting Platform will collect and submit Transient Occupancy Tax and any Improvement District Assessment established pursuant to California Streets and Highways Code sections 36500 and 36600 to the City on behalf of Short-Term Rental Hosts or Operators.

J. "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: driver's license; voter registration; tax documents showing the residential unit as the person's residence; or a utility bill.

K. "Prohibited Buildings List" means a list identifying the address(es) of all buildings 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, including deed restricted affordable housing units.

L. "Short-Term Rental ("STR")" means a residential dwelling unit, or portion thereof, that is offered or provided to a paying Guest(s) by a Short-Term Rental Host or Operator for thirty (30) or fewer consecutive nights. The term "Short-Term Rental" shall not include hotels, motels, inns, or bed and breakfast inns.

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

N. "Short-Term Rental Operator" or "Operator" means property owner of a dwelling unit in Sunset Beach, or portion thereof, who offers or provides that dwelling unit, or portion thereof, for an Un Hosted Short-Term Rental.

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

P. "Short-Term Rental Tenant" means a person who has entered into a Short-Term rental agreement for a dwelling unit in exchange for Short-Term occupancy of the dwelling unit.

Q. "Transient Occupancy Tax" ("TOT") means local Transient Occupancy Tax as set forth in Chapter 3.28 of the Huntington Beach Municipal Code.

R. "Un Hosted Short-Term Rental" means a Short-Term Rental in Sunset Beach, where there is no Host and the Operator resides off-site during the Guest's stay.

S. "Zone 1" means the City of Huntington Beach excluding the property located within the Sunset Beach Specific Plan.

T. "Zone 2" means property located within the Sunset Beach Specific Plan.

5.120.030 Permit Required.

A. No person or entity shall advertise, rent, or operate a Short-Term Rental (STR) in the City unless a Permit has been issued by the City pursuant to this Chapter. An Operator or Host of the STR shall apply with the City to obtain a Permit and shall be responsible for complying with all requirements of this Chapter. Application for a STR Permit shall be in a form prescribed by the Director and include all information determined by the Director to be necessary to evaluate the eligibility of the Host or Operator, consistent with this Chapter.

B. An application for a STR Permit shall be 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.

C. STR Hosts or Operators shall apply for STR Permit pursuant to this Chapter. Existing unpermitted STR Hosts or Operators shall apply for a STR Permit within six months after the effective date of resolution adopting the STR Permit fee. The Host or Operator shall provide proof of property ownership and shall be the person that signs the application.

D. A 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. A STR Permit may be renewed annually if STR Operator or Host: (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. Failure to submit a renewal application to the City at least thirty (30) days prior to the expiration of the STR Permit shall render the STR Permit and permission to operate an STR null and void.

E. STR Permits issued pursuant to this Chapter are subject to the following standard STR permit conditions:

1. The Host or Operator shall, by written agreement with the Tenant, limit overnight occupancy of the STR to a specific number of occupants, with the number of occupants not to exceed that permitted by the provisions of this Section.

2. The Host or Operator 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 (including the Huntington Beach Municipal Code) law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.

3. The Host or Operator 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, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly prevent a recurrence of such conduct by those occupants or guests.

4. The Host or Operator of the STR unit shall post a copy of the STR Permit and the STR Permit conditions in a conspicuous place within the STR.

5. The Host or Operator shall provide a Guest parking plan to the City for approval prior to issuance of a STR Permit.

6. The maximum number of ~~persons, guests including the Host(s)~~, 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 ten (10) persons in any STR. Large-scale events (i.e., exceeding maximum allowed occupancy) such as commercial parties, weddings, fundraisers, and conferences, are prohibited.

F. Eligibility requirements. In addition to any specific STR Permit requirements set forth by the Director, the following requirements must be met at the time of submitting a STR Permit application:

1. The dwelling unit shall not be a deed restricted affordable housing unit, in a special group residence, a Single Room Occupancy (as defined by the City Zoning Code), or included on the Prohibited Buildings List.

2. The Operator or Host shall not be granted a permit for more than one STR within the City of Huntington Beach (including Sunset Beach).

3. There will only be one STR permit 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 3	1
4 or more	3

4. The STR Operator 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. In the event the STR is “hosted”, the Host shall be the Local Contact Person.

5. The dwelling unit or property used as a STR shall not be the subject of any active or pending code enforcement actions or violations pursuant to the City’s Municipal Code.

6. If the dwelling unit or property used as a STR is subject to the rules of a homeowners’ or condominium association, Short-Term Rental activity must comply with those rules and this Chapter shall not be inferred to grant any permission that invalidates or supersedes any provisions of those homeowners’ or condominium associations.

7. The Host or Operator 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 Huntington Beach, the City Council of the City of Huntington Beach, individually and collectively, and the City of Huntington Beach representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs at any time received, incurred, or accrued as a result of, or arising out of the STR Host or Operator's actions or inaction in the operation, occupancy, use, and/or maintenance of the Short-Term Rental.

8. The STR shall be a legally permitted dwelling unit. Accessory Dwelling Units or Junior Accessory Dwelling Units may be permitted as a STR only if the unit was legally established prior to the effective date of this Ordinance and otherwise meets the requirements of this Chapter.

G. The Host/Operator shall provide proof that the STR is not prohibited by the Homeowners' Association Conditions Covenants and Restrictions or any other community standards/guidelines, applicable to the proposed STR.

5.120.040 STR Regulations.

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

B. STR is prohibited in any part of the property not approved and permitted 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).

C. Un Hosted STRs are prohibited in the City of Huntington Beach except in Zone 2. Existing Un Hosted STRs in Sunset Beach have 6 months from effective date of the adoption of a resolution establishing a STR Permit Fee to obtain a STR Permit.

D. 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:

1. The maximum number of occupants permitted in the unit;
2. Location of parking spaces;
3. Trash and recycling pickup information;
4. Emergency contact information for police, fire, or emergency medical services; and
5. Evacuation plan for the unit showing emergency exit routes, exits, and fire extinguisher locations.

E. The name of the local contact and a telephone number at which that person may be reached on a twenty-four (24) hour basis posted in a place that can be read by a member of the public without entering the STR.

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

G. It is unlawful for any STR Operator, Host, 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 8.40 ("Noise Control") of the Huntington Beach Municipal Code.

H. The minimum age of STR Tenants shall be 25 years old.

I. Following compliance with California Streets and Highways Code 36600 *et al.*, STRs will become part of the Huntington Beach Tourism Business Improvement District (BID) and comply with all requirements including payment of legally established BID Assessments.

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

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

5.120.050 STR Host or Operator Requirements.

A. The Host or Operator 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 to prospective guests, prior to their occupancy.

B. The Host or Operator shall provide and maintain working fire extinguishers, smoke detectors, and carbon monoxide detectors, in compliance with life, fire, and safety codes; and information related to emergency exit routes on the property, local contact, and emergency contact information.

C. The Host or Operator shall maintain and provide proof of liability insurance appropriate to cover the STR as required by the City.

D. Transient Occupancy Taxes shall be collected on all STRs pursuant to Huntington Beach Municipal Code Chapter 3.28. 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 3.28 (Uniform Transient Occupancy Tax). Upon compliance with California Streets and Highways Code 36600 *et al.*, the Host or Operator shall also be responsible for collection and remittance of all BID Assessments. If a Hosting Platform does collect payment for the STRs, then the Hosting Platform and the Operator and Host shall both have legal responsibility for the collection and remittance of the TOT and BID Assessment.

E. The Operator, Host and/or property owner shall be jointly responsible and liable for any licit or illicit activity which may create a nuisance or other tortious violations arising at a STR.

F. The Host or Operator 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.

5.120.060 Hosting Platform Responsibilities.

A. 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.

B. 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.

C. 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.

D. 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.

E. ~~Hosting Platforms shall inform all Hosts or Operators who use the platform of the Hosts or Operator's responsibility to collect and remit all applicable local, state, and federal taxes, unless the platform has a Platform Agreement.~~ Hosting Platforms shall be responsible for collecting all applicable TOT and TBID assessments and remitting the same to the City. Should a Hosting Platform fail to fulfill its responsibilities under this Section, or the Hosting Platform and the owner enter into an agreement regarding the fulfillment of this subsection, the owner shall remain responsible for collection and remittance of the TOT and TBID assessments the Hosting Platform failed to collect and/or remit to the City.

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

5.120.070 Enforcement.

A. Violations of this chapter include, but are not limited to:

1. Failure of the Local Contact Person to take action to respond to a complaint within one (1) hour after the complaint is received or a contact is attempted, and the Local Contact Person cannot be reached;

2. Failure to notify the City when the Local Contact Person's information changes;

3. Violation of the STR maximum occupancy, noise, or other requirements as set forth in this Chapter;

4. Providing false or misleading information on a STR Permit application, or other documentation required by this Chapter;

5. Any attempt to rent an unregistered STR by advertising the property for Short-Term Rental purposes;

6. Completing a Booking Transaction in the City without a valid City-issued STR Permit number;

7. Completing a Booking Transaction where the STR Permit has been revoked or suspended by the City;

8. Violations of State, County, or City health, building, or fire regulations;

9. Conduct or activities at the STR that constitute a public nuisance or which otherwise constitute a hazard to public peace, health, or safety;

10. Authorizing, permitting, facilitating or otherwise allowing any Un Hosted STR occupancy or activity in any dwelling unit in the City, except as legally permitted in Sunset Beach.

B. The Fine for violations of any provision of this Chapter shall be one thousand dollars (\$1,000) for each violation. Each separate day in which a violation exists may be considered a separate violation. However, a thirty (30) day warning period shall be provided prior to issuing fines for advertising a STR without a valid STR Permit number.

C. If three (3) fines have been issued against a STR Host or Operator within a twelve (12) month period, the STR Permit may be revoked, or suspended, or additional conditions may be imposed by the Director by providing written notice to the STR Host or Operator setting forth the basis of the intended action and giving the STR Host or Operator an opportunity, within fourteen (14) calendar days, to present responding information to the Director. After the fourteen (14) day period, the Director shall determine whether to 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 Host or Operator. If a STR Permit is revoked, the STR may not be re-registered with the City for a period of twelve (12) months from the date of revocation.

D. 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.

E. Any person, Hosting Platform, or STR Host or Operator 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 action brought by the City shall be ordered to reimburse the City its full investigative and enforcement costs, pay back all unpaid TOT if applicable, and remit all illegally obtained rental related revenue to the City.

F. Pursuant to the Huntington Beach Charter, the City may issue and serve administrative subpoenas as necessary to obtain specific information regarding STR listings located in the City, including, but not limited to, 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, to determine whether the STR listings comply with this Chapter. Any subpoena issued pursuant to this Section shall not require the production of information sooner than thirty (30) days from the date of service. A person, Hosting Platform, or STR operator that has been served with an administrative subpoena may seek judicial review during that thirty (30) day period.

G. 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.

H. The City Manager, or 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.

I. If any provision of this Chapter conflicts with any provision of Title 20-25 (Zoning), the terms of this Chapter shall control.

5.120.080 Severability Clause.

If any provision or clause of this Chapter 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 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 20____.

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney

REVIEWED AND APPROVED:

City Manager

INITIATED AND APPROVED:

Community Development Director