ORDINANCE NO. 2023-379

AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING THE TOWN OF WINDSOR MUNICIPAL CODE AND ZONING ORDINANCE TO ESTABLISH REQUIREMENTS FOR SHORT-TERM RENTALS

WHEREAS, the Town of Windsor ("Town") is authorized by Article XI, Section 7 of the California Constitution to make and enforce all regulations and ordinances using its police powers; and

WHEREAS, the Town's Zoning Ordinance currently does not permit short-term rentals and any use not explicitly permitted by the Zoning Ordinance is prohibited; and

WHEREAS, the Town's Zoning Ordinance currently does not permit short-term rentals and therefore does not establish specific standards, regulations or permitting requirements for Short-Term Rentals, and therefore does not have adequate authority to consider appropriate health and safety regulations applicable to Short-Term Rentals to safeguard the health, safety, and general welfare of the community; and

WHEREAS, although short-term rentals are not permitted in Windsor, there has been a proliferation of short-term rentals operating within the Town in the last few years; and

WHEREAS, the Town does not have the resources to take enforcement action against every violation of the Town's Municipal and Zoning Codes, and prioritizes violations that are a threat to public health and safety; and

WHEREAS, in 2015 the Town's Community Development Director established an internal Short-Term Rental policy that established the following requirements for a residential unit to be used as a short-term rental: (1) approval of a business license; (2) safety inspection by the Fire District; and (3) compliance with Fire District requirements; and

WHEREAS, the purpose of the internal short-term rental policy established by the Community Development Director was to ensure that short-term rentals complied with fire safety requirements critical for maintaining health and safety; and

WHEREAS, although short-term rentals remained not permitted under the Town's Zoning Code, short-terms rentals complying with the internal short-term rental policy established by the Community Development Director were not subject to code enforcement action in order to allow the Town to focus on higher priority violations; and

WHEREAS, any person engaged in, operating, or conducting a business within the Town is required to obtained a business license, and issuance of a business license is not a determination that the business complies with applicable Town codes; and

WHEREAS, receipt of a business license does not create a vested right to continue any use, and a business license may be revoked or renewal denied if the business violates applicable Town Codes; and

WHEREAS, on February 17, 2016, the Town Council received a presentation regarding short-term rentals and to review potential transient occupancy tax (TOT) revenue and provide direction to staff; and

WHEREAS, on November 1, 2017, the Town Council directed staff to prepare an ordinance formally allowing short-term "vacation rentals" as one of a number of measures intended to address housing and economic impacts resulting from the Nuns and Tubbs fires of October 2017; and

WHEREAS, on March 17, 2021, the Town Council held a study session to discuss policy options for Short-Term Rentals and provided direction to staff; and

WHEREAS, the Town began an outreach strategy that included online information and a survey available to the general public between June 14, 2021, and July 6, 2021, and over 1,200 responses were collected; and

WHEREAS, based on input from the community and the Town Council, an initial draft Short-Term Rental Ordinance was prepared and made available for public review and comment from October 15, 2021 through November 29, 2021; and

WHEREAS, on November 29, 2021, the Town hosted a community meeting to review the initial draft ordinance and collect public comment; and

WHEREAS, to implement restrictions on Short-Term Rentals, the Town has undertaken proposed amendments to the Town of Windsor Municipal Code and Zoning Ordinance to regulate Short-Term Rentals; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 11, 2022, at which it reviewed the proposed options for regulating Short-Term Rentals, considered all public comments and related CEQA exemption, and provided direction to staff for changes to the proposed Ordinance and continued the meeting to a date certain; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 25, 2022, at which it reviewed the proposed options for regulating Short-Term Rentals, considered all public comments and related CEQA exemption, and forwarded a resolution to the Town Council to find the proposed ordinance exempt from CEQA and approve the ordinance establishing standards for Short-Term Rentals; and

WHEREAS, because the Housing Element update that was being prepared in early 2022 could include policies or programs associated with Short-Term Rentals, the Town's Community Development Director decided to postpone the Town Council's consideration of a Short-Term Rental ordinance until after the Draft Housing Element had been circulated for public comment; and

WHEREAS, the Town Council, on August 17, 2022, by urgency ordinance directed Town staff to cease the processing of new Short-Term Rentals under the 2015 internal policy; and

WHEREAS, the Town Council held a duly noticed public hearings on February 15, March 1 and April 19, 2023, at which it reviewed the proposed amendments to the Zoning Ordinance and provided direction to staff for changes to the proposed ordinance; and

WHEREAS, based on the direction from the Town Council, Town staff prepared a revised proposed ordinance; and

WHEREAS, the Town Council desires to reaffirm the existing prohibition on non-hosted short term rentals in residential districts, and make such prohibition explicit in the Zoning Code to eliminate any potential confusion; and

WHEREAS, the Town Council desires to make hosted short term rentals in residential and commercial districts, as well as non-hosted short term rentals in commercial districts, a permitted use, subject to certain regulations and operating standards; and

WHEREAS, the proposed ordinance requires operators to obtain a Short-Term Rental License prior to commencing operations; and

WHEREAS, the proposed ordinance also establishes operating standards for Short-Term Rentals, as well as procedures for submittal of applications, enforcement of violations, and revocation of licenses; and

WHEREAS, the Short-Term Rental License created by the proposed ordinance is a regulatory license not a land use permit, and it does not confer any vested rights to operate; and

WHEREAS, non-hosted short term rentals are currently not permitted in the Town, are therefore prohibited, and operators have no right to continue such use; and

WHEREAS, even if non-hosted short term rentals were currently a permitted use in the Town, the Town has the authority to terminate that use after a reasonable amortization period; and

WHEREAS, the Town Council desires to continue to prohibit non-hosted short-term rentals in residential zoning districts, but has determined that existing non-hosted short-term rentals may continue to operate July 1, 2025; and

WHEREAS, non-hosted short-term rentals in residential zoning districts operating prior to July 1, 2025 must comply with all performance standards, which are necessary to ensure that the use is not a nuisance; and

WHEREAS, non-hosted short-term rentals eliminate critically important units from the Town's available housing stock, and frequently cause significant nuisance issues as reported by residents during multiple public comment periods; and

WHEREAS, delaying enforcement actions against non-hosted short-term rentals in residential zoning districts until July 1, 2025 will provide the Town with time to implement administration of the ordinance, as well as provide adequate time for owners of such uses to recoup their investments or find alternative locations for their uses; and

WHEREAS, it is the intent of the Town Council for the amendments enacted by this ordinance to control over the provisions of Windsor Zoning Code Chapter 27.50, to the extent that chapter would otherwise be applicable to the operation of short term rentals; and

WHEREAS, the proposed ordinance will not result in any material loss of investment for property owners because homes currently used as non-hosted short term rentals may still be rented as hosted short term rentals, rented for periods of longer than thirty (30) days, or sold to individuals who desire to occupy the home as their principal residence, and the market for home rentals and sales in Windsor is very strong; and

WHEREAS, suspending enforcement against non-hosted short term rentals until June 30, 2025, in addition to the time they were already allowed to operate without being subject to enforcement, will provide a reasonable opportunity for property owners to recover any investments that they are unable to recover through sale or long term rental of the home; and

WHEREAS, the Town Council desires to amend the Town's transient occupancy tax ordinance to require hosting platforms, such as Airbnb and VRBO, to collect the applicable transit occupancy tax from guests of Short-Term rentals;

WHEREAS, the Town Council held a duly noticed public hearing on June 7, 2023, at which time it reviewed and considered the proposed ordinance, the staff report of the same date, and all public comments; and

WHEREAS, the proposed amendments will not allow for, nor encourage any more development than is already anticipated under the Town's General Plan; and

WHEREAS, adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) given that the proposed ordinance is not a "project" within the meaning of Section 15378 of the CEQA Guidelines (title 14, Chapter 3 of the California Code of Regulations) because it does not have the potential for causing a significant effect on the environment and, therefore, is not subject to review pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR DOES HEREBY ORDAIN AS FOLLOWS.

SECTION 1. The above recitals are hereby declared to be true and correct.

SECTION 2. Findings.

The Town Council finds that:

A. A duly noticed public hearing, in accordance with California Government Code Section 65856, regarding the proposed amendments to the Municipal Code Zoning Ordinance was held by the Town Council on June 7, 2023.

B. The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15061(b)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 3. Section 27.60.020, "Definitions," of the Town of Windsor Zoning Ordinance is hereby amended to include the following definitions in the alphabetically appropriate location to read as follows (additions **bold and underlined**, deletions in ~~strikethrough~~):

Bed and Breakfast Inns (B&Bs). Residential structures with one family in permanent residence with up to five bedrooms rented for overnight lodging, where meals may be provided subject to Section 27.34.060 (Bed and Breakfast Inns), and applicable Health Department regulations. A Bed and Breakfast Inn with more than five guest rooms is considered a hotel or motel and is included under the definition of "Hotels and Motels." Does not include ~~Room Rental~~ **Short-Term Rental**, which is separately defined.

Hotel or Motel. Facilities with guest rooms or suites provided with or without kitchen facilities, rented to the general public for transient lodging (less than 30 days). Hotels provide access to most guest rooms from an interior walkway, and typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Motels provide access to most guest rooms from an exterior walkway. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, and accessory retail uses, etc. **Does not include Short-Term Rental, which is separately defined.**

Room Rental. The renting of individual bedrooms **for a term of 30 days or more** within a dwelling and/or the providing of table board to two or more unrelated people, whether or not meals are provided.

Short-Term Rental. A dwelling unit or part of a dwelling unit rented for a period of less than 30 days.

Short-Term Rental, Hosted. A Short-Term Rental where the owner or primary occupant occupies a bedroom in the dwelling unit during the entire rental period. In addition, this includes the occupation of an Accessory Dwelling Unit (ADU) by the owner or primary occupant while the primary unit is being rented. Short-Term Rental of an ADU is prohibited.

Short-Term Rental, Hosted shall also include a Short-Term Rental where the owner or primary occupant is the permanent resident of the dwelling unit being rented, and rents the dwelling unit for a maximum of sixty (60) days per calendar year without occupying a bedroom in the dwelling unit during the entire rental period. For the purposes of this definition, a "permanent resident" shall be an individual who resides in the dwelling unit a majority of a calendar year and provides proof satisfactory to the Director and executes a related affidavit.

Short-Term Rental, Non-Hosted. A Short-Term Rental where the owner or primary occupant does not occupy a bedroom in the dwelling unit for one or more nights during the rental period.

SECTION 4. The "Residential Uses" section Table 2-2 of Section 27.08.030, "Residential District Land Uses and Permit Requirements" of the Town of Windsor Zoning Ordinance is hereby amended to read as follows (additions **bold and underlined**, deletions in ~~strikethrough~~):

TABLE 2-2 **Allowed Uses and Permit Requirements for Residential Zoning Districts**	P Permitted Use (2) (3) MUP Minor Use Permit Required (3) UP Use Permit Required (3) — Use not allowed

LAND USE (1)	PERMIT REQUIREMENT BY ZONE						Specific Use Regulations
	ER	SR	VR	MDR	CR**	HDR	
RESIDENTIAL USES* **							
Accessory dwelling units******	P	P	P	P	—	—	27.34.180
Guest house	P	P	MUP	MUP	MUP	MUP	27.34.090
Home occupations	P	P	P	P	P	P	27.34.100
Indoor Marijuana Cultivation (Nonmedical, up to 6 plants)*****	P	P	P	P	P	P	27.37.030 27.42.020
Junior accessory dwelling units******	P	P	P	P	—	—	27.34.185
Kennels, hobby	MUP	MUP	MUP	MUP	MUP	MUP	
Mobile home parks	—	UP	UP	UP	—	UP	27.34.120
Multi-family dwellings	—	UP	UP	P	P	P	27.08.060
Organizational houses (convents, fraternities, etc.)	UP	UP	UP	UP	UP	UP	
Residential accessory uses and structures	P	P	P	P	P	P	27.34.170
Residential care homes – 6 or fewer clients	P	P	P	P	P	P	
Residential care homes – 7 or more clients	MUP	MUP	MUP	MUP	MUP	MUP	
Short-Term Rental (Hosted)	**P**	**P**	**P**	**P**	**P**	**P**	**27.34.220**
Short-Term Rental (Non-hosted)	**—**	**—**	**—**	**—**	**—**	**—**	**27.34.220**
Single family dwellings	P	P	P	P	—	—	
Single room occupancy housing (SRO)****	—	UP	UP	P	P	P	27.08.070
Zero lot line projects	—	—	UP	UP	UP	UP	

SECTION 5. The "Residential Uses" section of Table 2-4 of Section 27.10.030, "Commercial District Land Uses and Permit Requirements," of the Town of Windsor Zoning Ordinance is hereby amended to read as follows (additions **bold and underlined**, deletions in ~~strikethrough~~):

TABLE 2-4 **Allowed Uses and Permit Requirements for Commercial Zoning Districts** (Rev. 02/06/13, Ord. 2013-277)	**P Permitted Use (2) (3)** **MUP Minor Use Permit Req. (3)** **UP Use Permit Req. (3)** **— Use not allowed**

LAND USE (1)	PERMIT REQUIRED BY DISTRICT									Specific Use Regulations
	NC	CC	TC	TC AUFO	TC EO (11)	SC	GC	BC	RC	
RESIDENTIAL USES										
Agricultural worker housing	—	P	—	—	—	—	—	—	—	
Caretaker housing	—	P	—	—	—	P	P	—	—	

		TABLE 2-4 Allowed Uses and Permit Requirements for Commercial Zoning Districts (Rev. 02/06/13, Ord. 2013-277)							P Permitted Use (2) (3) MUP Minor Use Permit Req. (3) UP Use Permit Req. (3) — Use not allowed		
LAND USE (1)		PERMIT REQUIRED BY DISTRICT									Specific Use Regulations
		NC	CC	TC	TC AUFO	TC EO (11)	SC	GC	BC	RC	
Emergency shelters		—	P	—	—	—	—	—	—	—	27.21.030
Indoor Marijuana Cultivation (non-medical, up to six plants)**		P	P	P	P	—	P	P	P	P	27.37.030 27.42.020
Live-work facilities		P	P	P (9)	P (9)	—	P	UP	P	P	
Multi-family dwellings, in a mixed use project		UP(4)	P(4)	P(4)	P	—	UP(4)	UP (4)	P(4)	P(4)	27.08.060 27.34.110
Residential care homes		MUP (4)	MUP (4)	MUP (4)	—	—	—	—	MUP (4)	MUP (4)	
Short-Term Rentals (Hosted and Non-Hosted)		**P**	**P**	**P**	**P**	**P**	—	—	—	—	**27.34.220**

SECTION 6. Section 27.32.220, "Short-Term Rentals," is hereby added to Chapter 27.34, "Standards for Specific Land Uses," of the Town of Windsor Zoning Ordinance to read as follows:

"27.34.220 – Short-Term Rentals

A. The provisions of this Section establish standards for the operation of Short-Term Rentals within the Town of Windsor in a manner to provide for the appropriate location and to preserve the character of the neighborhoods in which they are located.

B. Non-Hosted Short-Term Rentals are prohibited from operating in Residential Districts. Notwithstanding the foregoing, a Non-Hosted Short-Term Rental operating with a valid Town business license on March 1, 2023 may continue to operate until July 1, 2025, after which point the use shall be terminated.

C. All Short-Term Rental uses permitted by this chapter must, prior to establishing and operating any such Short-Term Rental use, obtain and maintain at all times a valid Short-Term Rental License from the Town of Windsor pursuant to Chapter 23, "Short-Term Rentals," of Title III, "Public Welfare," of the Windsor Municipal Code.

D. Short-Term Rentals are prohibited from operating unless in conformance with the provisions of this chapter as well as Chapter 3-23 of the Windsor Municipal Code.

E. Any Short-Term Rental use existing as of the date Section 27.34.220 is enacted, but which is not permitted by this Section, shall terminate no later than July 1, 2025. This termination date is established by the Town Council as a reasonable amortization period. This Section shall control over anything to the contrary in Windsor Zoning Code, including but not limited to Chapter 27.50.

F. All the provisions of this chapter shall be immediately enforceable as to all Short-Term Rentals located with the Town as defined herein but this chapter is not intended to regulate

hotels, motels, inns, or other rental arrangements including but not limited to community care facilities, lodging houses, rooming houses, supportive housing, or transitional housing. Notwithstanding the foregoing, the existing timeshare facility located at 1251 Shiloh Road and similar facilities (as determined by the Director) in commercial zoning districts shall be exempt from the requirements of this Chapter."

SECTION 7. Chapter 23, "Short-Term Rentals," is hereby added to Title III, "Public Welfare," of the Windsor Municipal Code to read as follows:

Chapter 23. Short-Term Rentals.

3-23-100 – Purpose.
3-23-110 – Definitions.
3-23-120 – Short-Term Rental License - General.
3-23-130 – Short-Term Rental License – Non-Hosted STRs in Residential Districts.
3-23-140 – Short-Term Rental Operating Standards.
3-23-150 – Revocation.
3-23-160 – Hearing and Appeal of Denial or Revocation.
3-23-170 – Penalty.

3-23-100 – Purpose.

The purpose of this Chapter is to establish a licensing requirement and regulations for the operation of Short-Term Rentals in the Town of Windsor in order to preserve and protect the Public health, safety and welfare.

3-23-110 – Definitions.

A. "Advertising" means signs, circulars, cards, telephone books, newspapers, magazines, posters, email, mobile applications, television, radio, internet websites, social media, or any other representation implying or stating that a property is available for short-term rental use.

B. "Director" means the Director of Community Development of the Town of Windsor, or such other person designated by the Town Manager to carry out the duties set forth in this Chapter.

B. "Host" means an owner or primary occupant that rents out a residential dwelling unit to third parties for short-term rental use.

C. "Hosting platform" means a marketplace in whatever form or format that facilitates the short-term rental activity through advertising, match-making, or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

D. "Short-Term Rental" means a dwelling unit or part of a dwelling unit rented for a period of less than 30 days.

E. "Manager" means a natural person acting as an agent and representative of the host and responsible for the management and supervision of the Short-Term Rental.

F. "Short-Term Rental, Hosted" means a Short-Term Rental where the owner or primary occupant occupies a bedroom in the dwelling unit during the entire rental period. In addition, this includes the occupation of an Accessory Dwelling Unit (ADU) by the owner or primary occupant while the primary unit is being rented. Short-Term Rental of an ADU is prohibited.

G. "Short-Term Rental, Non-Hosted." means a Short-Term Rental where the owner or primary occupant does not occupy a bedroom in the dwelling unit for one or more nights during the rental period.

H. "Short-Term Rental License" or "STR License" shall mean a license issued by the Town authorizing a dwelling unit to be used as a Non-Hosted Short-Term Rental and/or Hosted Short-Term Rental, as specified in the license.

3-23-120 – Short-Term Rental License - General.

A. No person may establish and operate a Short-Term Rental without first obtaining and maintaining at all times a valid Short-Term Rental License.

B. Only a natural person or persons who is/are the owner of record of the residential real property proposed to be rented as a Short-Term Rental may submit an application for an STR License. Owner includes a personal or family trust consisting of natural persons and the trustees of such trust but does not include residences or condominiums owned as a timeshare, limited liability partnership or corporation, fractional ownership of six or more interests, or a business entity. A permanent occupant of the residential real property proposed to be rented may submit an application only if it is also signed by the property owner.

C. An application for a STR license shall be submitted on forms provided by the Town, and accompanied by the appropriate application fee established by the Town Council by resolution. The application form provided by the Town shall include, but not be limited to, the following information:

1. The name, address, e-mail address, and telephone number of the owner, as well as the host and manager, if different from the owner.
2. A site plan of the property, which shall identify all off-street and on-street parking for the short-term rental use as well as outdoor facilities including, but not limited to, pools, spas/hot tubs, bocci ball courts, fire pits, and other amenities.
3. The maximum occupancy of the short-term rental allowed pursuant to Section 3-23-140(L).
4. An attestation from the applicant that any applicable covenants, conditions, and restrictions ("CC&Rs") or similar agreement do not prohibit the property from being used as a Short-Term Rental.
5. Such other information as the Community Development Director or Building Official deems reasonably necessary to administer this chapter.

D. A STR License shall be non-transferable, shall not run with the land, and shall be valid only at the site described in the application. A STR License shall be valid for one (1) year from the date of issuance, and may be renewed upon submission of a renewal application and fee to the Town.

E. The Director may deny an application for a new STR License or renewal of an existing STR License for any of the following reasons:

1. The application is incomplete or the full application fee has not been paid;
2. The application contains a false or misleading statement or omission of material fact;
3. The property is subject to an enforcement action under any provision of the Windsor Municipal Code or Zoning Ordinance;
4. The applicant is delinquent on any payment to the Town of any fees, penalties, taxes, or any other monies related to the property;
5. Within twenty-four (24) months of application, the applicant had a STR License revoked or renewal denied;
6. Within twenty-four (24) months of application, a STR License was revoked or renewal denied at the property subject to the application;
7. The operation of a Short-Term Rental at the property is a threat to the public health, safety, or welfare; or
8. The Short-Term Rental does not comply with, or has violated one or more of the applicable requirements of this Chapter, the Windsor Zoning Ordinance or any other applicable law, including the Windsor Building Code or Fire Code. In applying this section, the Director shall consider the number and severity of the violation(s).

F. No more than three (3) Short-Term Rental Licenses shall be issued to any one host.

G. Upon approval of an STR License, the Director shall mail a notice of the approval to the occupants of all properties located within three hundred feet (300') of the approved Short-Term Rental. The notice shall identify the name of the property owner, host and manager (if different from the property owner), and their contact information.

H. The Director shall maintain a list identifying the location of all licensed Short-Term Rentals in the Town, as well as the contact information for each property owner, host and manager (if different from the property owner). The list shall be available to the public upon request.

3-23-130 – Short-Term Rental License – Non-Hosted STRs in Residential Districts.

A. Non-Hosted Short-Term Rentals are prohibited from operating in Residential Districts. Notwithstanding the foregoing, a Non-Hosted Short-Term Rental operating with a valid Town business license on March 1, 2023 may continue to operate until July 1, 2025, after which point the use shall be terminated pursuant to Windsor Zoning Code section 27.34.220.

B. A Non-Hosted Short-Term Rental operating in a Residential District until July 1, 2025 must comply with all operating standards contained in Section 3-23-140 and provide the

Town with the name, address, e-mail address, and telephone number of the owner, as well as the host and manager, if different from the owner, on a form prepared by the City. Notwithstanding the foregoing, Non-Hosted Short-Term Rentals operating pursuant to this Section shall not be required to comply with requirements related to the posting of a STR License number because they are not eligible to obtain an STR License.

C. Non-Hosted Short-Term Rentals shall not be eligible for a STR License. Any business license for a non-hosted short term rental renewed after the enactment of this Chapter shall terminate on June 30, 2025.

3-23-140 – Short-Term Rental Operating Standards.

All Short-Term Rentals in the Town shall comply with the requirements listed in this Section. it shall be the responsibility of the host to ensure that all individuals present at the Short-Term Rental comply with this section.

A. No person shall advertise or rent any STR without a Town issued STR License number listed in a visible location on the advertisement, including any listing on a Hosting Platform.

B. Posted Rules. In a location visible from the interior of the front entrance, the Host shall post a sign identifying the following information for guests: the Host or manager's contact information, Town issued license number, quiet hours, parking regulations, maximum occupancy, guests and any other information required by the Town. It is the responsibility of the Host to immediately update the posted rules when any relevant information changes.

C. Signs. On-site signs are prohibited.

D. Business License. All Short-Term Rentals must obtain and maintain a valid Business License issued in accordance with Title III, Chapter 6 of the Town of Windsor Municipal Code.

E. Fire Safety Inspection. All Short-Term Rentals are required to complete a Fire Safety Inspection through the Sonoma County Fire District in conjunction with the Business License. This inspection shall also be required for a STR License renewal

F. Events. Events of any kind, including parties, are not permitted at a Short-Term Rental. Short-Term Rentals shall be used solely for temporary lodging and not for any other purpose.

G. Accessory Dwelling Units. An accessory dwelling unit shall not be permitted as a Short-Term Rental consistent with Section 27.34.180, Accessory Dwelling Units, of the Windsor Zoning Ordinance.

H. Parking. All vehicles associated with occupants or guest of the Short-Term Rental shall be located in property's existing driveway or existing covered parking (garage or carport), except that a maximum of one vehicle shall be permitted to park on the street immediately adjacent to the Short-Term Rental if a parking spot is available.

I. Safety. All Short-Term Rentals must include operating smoke detectors and CO2 detectors,

be adequately heated, and otherwise satisfy all applicable requirements of the California Building Standards Code and applicable Fire Codes in effect in the Town, as well as all requirements of the Sonoma County Fire District.

J. Quiet hours. Quiet hours, which include a prohibition of any sound or vibration detectable at the property line shall be in effect from 9:00 p.m. to 8:00 a.m. For a Hosted Short-Term Rental, the Owner must be present at the property from at least 9:00 p.m. to 8:00 a.m.

K. Visual check-in. The Host of the Short-Term Rental is required to check-in guests either in-person or remotely using an on-premises camera and microphone.

L. Occupancy Limit. Occupancy of a Short-Term Rental is limited to a maximum of two (2) overnight occupants per bedroom, and no more than eight (8) total occupants.

M. Camera & Noise Monitor. The Host shall install at least one (1) camera at or near the front entrance of the home that enables the Host or Manager to remotely monitor the number of individuals entering the home and activity in the front yard. The Host shall install at least one (1) noise monitor in the backyard the home that enables the Host or Manager to remotely monitor the noise level in the backyard.

N. Litter & Loitering. The front yard of the Short-Term Rental shall be kept clear of litter and debris at all times. Occupants or guests of the Short Term Rental are prohibited from loitering in the front yard of a short-term rental.

O. Response. The Host, or manager if different than the host, must be available and able to respond, 24 hours a day, within thirty (30) minutes from the time of notification of any issue to manage the Short-Term Rental and respond to reported issues, contact the tenants regarding complaints received, and/or be physically present at the Short-Term Rental unit to address reported concerns, including unreasonable noise or disturbance, disorderly or unlawful conduct or any violation of this Chapter or applicable law.

P. Minimum Age. The Host shall not rent the STR to any individual under twenty-five (25) years old. This restriction shall only apply to the individual making the reservation, and shall not prohibit other younger individuals from staying in the home with individual making the reservation.

Q. Minimum Stay. A Host shall not rent a non-hosted STR to any individual for a period of fewer than two (2) consecutive nights.

R. The property owner shall be responsible for immediately notifying the Town and the occupants of all properties located within three hundred feet (300') of the Short-Term Rental if the contact information for the property owner, host, or manager change.

3-23-150 – Revocation.

A STR Licenses may be revoked by the Director at any time if he or she determines that any of the following has occurred:

A. There have been three (3) or more violations of this Chapter or other applicable law at the Short-Term Rental confirmed by the Town within one (1) year. Notwithstanding the foregoing, the Director may revoke an STR License if fewer than three (3) violations have occurred if the Director determines that the severity of the violation(s) justifies the revocation.

B. Any event occurs at the Short-Term Rental in which charges for criminal activity are filed by the Sonoma County District Attorney against an occupant of the Short-Term Rental property.

C. The Host or property owner has not paid all required taxes, fines, penalties and fees to the Town in full by the date upon which said monies became due.

D. The Host submitted a STR License application containing a material misrepresentation or omission of a material fact.

E. There has been a transfer or attempt to transfer a STR License to another person, entity, or property.

F. A change occurs in any material fact upon which the STR License was issued where the change was not reported to the Town within fourteen (14) calendar days.

3-23-160 – Hearing and Appeal of Denial or Revocation.

A. Any person denied a STR License, or any person whose STR License has been revoked may appeal such decision by completing a "request for hearing" form and returning it to the Town in accordance with the instructions on the form within fifteen (15) calendar days from the date the administrative decision is served or deemed to have been served, together with any applicable appeal fee established by the Town Council.

B. Upon receiving a written request for a hearing, the Town Manager or his/her delegate shall set the matter for a hearing on a date not less than fifteen (15) and not more than sixty (60) calendar days from the date that such request is filed in accordance with the provisions of this section. The person requesting the hearing and the Town may agree to a hearing date that is either sooner or later than the time periods required herein for a hearing. Unless advanced notice is otherwise waived by the requesting party, the person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing. The failure of any appellant to appear at the scheduled hearing shall constitute a forfeiture of the right to appeal and be a bar to judicial review of the hearing officer decision based upon a failure to exhaust administrative remedies.

C. The Town Manager shall be authorized to appoint as hearing officer any person or persons, who is qualified by training or experience and who is not otherwise in the administration of this chapter or the supervision of Short-Term Rentals. The hearing officer may, but is not required to be, a Town employee.

D. The hearing shall be conducted to determine the existence of any facts which constitute grounds for the denial or revocation of a STR License. The applicant or permittee may have the assistance of counsel or may appear by counsel and may present evidence. The hearing is intended to be informal in nature. Formal rules of evidence and discovery do not apply. The Town Manager may, from time to time, adopt procedures for the format and proceedings of the administrative hearing. Both parties shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation. The Town shall have the burden of proof by preponderance of the evidence to establish that the responsible person committed the violation specified in revocation or denial. On the hearing officer's own discretion or upon request by any party, the hearing officer may continue the hearing and request additional information from any person or witness prior to issuing a written decision. Notice of the continued hearing must be given to each party and shall include the time, date, and place to which the hearing is to be continued.

E. After considering all of the testimony and evidence submitted at the hearing or continued hearing, the hearing officer shall issue a written decision setting forth the findings supporting the decision within fifteen (15) calendar days of the hearing, unless the hearing officer determines good cause exist to extend time. The written decision shall include the reasons for the decision. The written decision shall be served on each party by certified mail, postage prepaid with a requested return receipt. The decision of the hearing officer shall be final.

3-23-170 – Penalty.

A. Any person or entity who violates this chapter shall be guilty of a misdemeanor, punishable by any remedy authorized by this Municipal Code or applicable law, at the election of the Town.

B. A violation of this Chapter that pose a threat to public health or safety may be punishable by a fine of up one thousand five hundred dollars ($1,500) per violation for a first violation, three thousand dollars ($3,000) per violation for a second violation of the same regulation, and five thousand dollars ($5,000) per violation for all subsequent violations of the same regulation within one calendar year. For the purposes of this section, each instance of non-compliance with any requirement in this chapter shall be a separate violation.

C. Notwithstanding anything herein to the contrary, a violation of this Chapter that does not pose a threat to public health or safety, including the first violationg of failure to obtain an STR License or pay any applicable fee or tax, shall be subject to a maximum fine of up to $1,000 per violation.

D. In the event that Government Code section 36900 is amended to authorize the Town to impose fines in a greater amount than set forth herein, the Town shall be authorized to impose the fines set forth in Government Code section 36900.

E. A fine for violating this section may be issued administratively in accordance with Article 3. of Chapter 1, of Title 1.

SECTION 8. Section 2-3-100, "Definitions" of Chapter 3 "Transient Occupancy Tax" of Title II, "Revenue and Taxation" of the Town of Windsor Municipal Code is hereby amended to read as follows (additions **bold and underlined**, deletions in ~~strikethrough~~):

2-3-100 – Definitions.

For the purposes of this chapter, the following words and phrases shall, except where the context otherwise requires, have the meanings respectively ascribed to them by this section:

Booking transaction **shall mean any reservation or payment service provided by a person, who facilitates the transaction of renting a residential dwelling unit between a prospective transient user and a host.**

Host. **Any person who is an owner, lessee, or sub-lessee of a residential dwelling unit, or portion thereof, offered for rent for a period of less than thirty (30) calendar days, regardless of whether such person lives in the residential dwelling unit while it is rented to a transient user. Host also includes any person who offers, facilitates, or provides services to facilitate, a vacation rental or home-share, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit regardless of whether the person is an owner, lessee, or sub-lessee of a residential property or unit offered for use as a vacation rental or home-share. Any person, other than an owner, lessee, or sub-lessee, who operates home-sharing or vacation rental activities exclusively on the Internet shall not be considered a host.**

Hosting Platform **shall mean a person who participates in the Short-Term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.**

Hotel shall mean any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes. Such term includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. The term "hotel" does not include an organized camp, as that term is defined by section 18897 of the Health and Safety Code of the State.

Occupancy shall mean the use or possession, or the right to the use or possession of any one (1) or more rooms or portion thereof, in any hotel or dwelling for lodging or sleeping purposes.

Operator shall mean the person who is proprietor of the hotel, whether in the capaTown of owner, lessee, sublessee, mortgagee in possession, licensee or any other capaTown. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his/her principal.

Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

Person shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

Rent~~;~~ i; shall mean the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

Tax administrator shall mean the Town Manager.

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 (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy written and signed prior to any days of occupancy claimed as non-transient days."

SECTION 9. Section 2-3-210, "Collection of Tax by Operator; Advertisements of Assumption of Tax, etc., Prohibited" of Chapter 3 "Transient Occupancy Tax" of Title II, "Revenue and Taxation" of the Town of Windsor Municipal Code is hereby amended to read as follows (additions **bold and underlined**, deletions in ~~strikethrough~~):

2-3-210 - Collection of Tax ~~by Operator~~; Advertisements of Assumption of Tax, etc., Prohibited.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator.

Hosting platforms shall be responsible for collecting all applicable taxes imposed by this Section. The hosting platform shall be considered an agent of the host for purposes of tax collections and remittance responsibilities, and shall have the same responsibilities as an operator as set forth in this Section.

No operator of a hotel **or hosting platform** shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided by this chapter.

SECTION 10. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable. The Town Council of the Town of Windsor hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 11. Effective Date.

This Ordinance shall be effective thirty (30) days following its adoption.

SECTION 12. Publication or Posting.

The Town Clerk of the Town of Windsor shall cause this Ordinance to be published, or to be posted in at least three (3) public places in the Town of Windsor, in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED, AND ADOPTED this 21st day of June 2023, by the following vote:

AYES: **COUNCILMEMBER WALL, VICE MAYOR SALMON, AND MAYOR REYNOZA**
NOES: **COUNCILMEMBER FUDGE**
ABSTAIN: **NONE**
ABSENT: **COUNCILMEMBER POTTER**

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ROSA REYNOZA, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK