

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS
ADDING ARTICLE 18.10 TO THE DAVIS MUNICIPAL CODE
REGARDING SHORT-TERM RENTALS**

WHEREAS, the growing popularity of “home-sharing” and other short-term vacation rentals, through the use of websites such as Airbnb and Homeaway, allow individual homeowners, landlords, and tenants to list homes, apartments, and rooms for rent at the price and duration of their choosing;

WHEREAS, the City of Davis (“City”) has had a long standing commitment to affordable housing, implementing inclusionary requirements in its General Plan policies and requiring affordable housing (both rental and ownership) options for households from extremely low to moderate income levels;

WHEREAS, the City Council finds that unregulated “home-sharing” and use of existing housing as short-term rentals threatens the existing availability of decent, safe, sanitary and permanently affordable rental housing in the City of Davis (“City”);

WHEREAS, the City currently requires all hotel operators to register with the City and all transients to pay a transient occupancy tax (“TOT”) in the amount of ten percent (10%) of the rent charged by any operator of a hotel;

WHEREAS, the City currently requires all businesses to register with the City and pay a business license tax, including those who rent their homes or operate a business from their home;

WHEREAS, the City Council finds that the use of short-term rentals within the City is increasing, often evading existing regulations contained in the City’s affordable housing, TOT, and business license tax ordinances; and

WHEREAS, the City Council further finds that the failure to regulate such short term rentals therefore threatens existing safeguards in place to ensure the availability of affordable housing and prevents the City from lawfully collecting business license and transient occupancy taxes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby adopts the recitals of this Ordinance as true and correct and such recitals are hereby incorporated by reference as though fully set forth in the text of this Ordinance.

SECTION 2. Article 18.10 is hereby added to the City of Davis Municipal Code to read in full as set forth in the attached Exhibit “A,” incorporated herein by this reference.

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or

invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law.

SECTION 5. This Ordinance shall take effect and be in full force and effect thirty (30) days from and after the date of its final passage and adoption.

INTRODUCED on the _____ day of _____, 2015, and **PASSED AND ADOPTED** by the City Council of the City of Davis on this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Daniel M Wolk
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk

EXHIBIT "A"

ARTICLE 18.10 SHORT-TERM RENTALS

18.10.010 Purpose.

It is the purpose of this Article to benefit the general public by minimizing adverse impacts on the existing housing supply and neighborhood character of the City and on persons and households of all income levels resulting from the loss of residential units through their conversion to tourist and transient use. This is to be accomplished by regulating the use of existing housing as short-term vacation rentals and by clarifying those responsible for registering with the City as a hotel operator and/or business with the duty to pay appropriate City taxes and fees.

18.10.020 Definitions.

For purposes of this Article, the following words and phrases shall have the following meanings:

- (a) "Business Entity." A corporation, partnership, or other legal entity that is not a natural person that owns or leases one or more Residential Units.
- (b) "Complaint." A complaint submitted to the City alleging a violation of this Article 18.10 and that includes the Residential Unit's address, including unit number, date(s) and nature of alleged violation(s), and any available contact information for the Owner of the Residential Unit at issue.
- (c) "Conversion or Convert." A change of use from Residential Use to Transient Use, including, but not limited to, renting a Residential Unit for Transient Use in violation of this Article.
- (d) "Department." The Department designated by the City Manager for oversight of this program.
- (e) "Director." City Manager or designee
- (f) "Hosting Platform." A person or entity that provides a means through which an Owner may offer a Residential Unit for Transient Use. This service is usually, though not necessarily, provided through an online platform and generally allows an Owner to advertise the Residential Unit through a website provided by the Hosting Platform and provides a means for potential users to arrange Transient Use and payment, whether the user pays rent directly to the Owner or to the Hosting Platform.
- (g) "Owner." Owner includes any person or Business Entity that holds legal title to the Residential Unit or who exercises legal occupancy of a Residential Unit, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity, but does not include a transient.

- (h) “Rent.” The consideration charged, whether or not received, for Transient Use of a Residential Unit 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.
- (i) “Residential Unit.” Any home or house, apartment, condominium, dwelling unit or any portion thereof, including a room or rooms that form part of a tenancy-in-common arrangement in any building or portion thereof, which is designed, built, occupied, rented, leased, let or hired out for Residential Use.
- (j) “Residential Use.” Any use for occupancy for dwelling, lodging, or sleeping purposes typically associated with dwelling for human habitation for a period of greater than 30 days.
- (k) “Short-Term Rental.” A Residential Unit offered for Transient Use by the Owner of the Residential Unit in compliance with the requirements of this Article.
- (l) “Transient.” A person who rents a Residential Unit for Transient Use.
- (m) “Transient Use.” Any use of a Residential Unit for occupancy by reason of concession, permit, right of access, license or other agreement in exchange for Rent for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days, including any occupancy by employees or guests of a Business Entity, regardless of whether the Owner is present or occupying the Residential Unit.

18.10.040 Short-Term Rental Registration Requirements.

- (a) Any Owner offering a Residential Unit for Transient Use, through a Hosting Platform or other means, must first register the Residential Unit as a Short-Term Rental with the City on a form deemed acceptable and furnished by the Director and signed by the Owner under penalty of perjury. At minimum, such registration must occur annually and demonstrate the following:
 - (1) Compliance with all applicable Business License requirements set forth in Chapter 19;
 - (2) Compliance with the Transient Occupancy Tax requirements set forth in Article 15.05 of the Davis Municipal Code;
 - (3) Acknowledgment that the Owner is legally responsible for compliance of all Transients of the Short-Term Rental with the provisions of this Article and the Municipal Code.
 - (4) Registration of the Residential Unit as a Short-Term Rental shall not relieve the Owner of all other legal obligations and restrictions imposed by this Code or any other applicable law or regulation.

- (b) The Owner of a Short-Term Rental shall maintain records for two (2) years demonstrating compliance with this Chapter, including but not limited to information demonstrating the number of days per calendar year he or she has occupied the Residential Unit, the number of days per calendar year the Residential Unit has been rented as a Short-Term Rental, and the amount of Rent charged for each Short-Term Rental stay. These records shall be made available to the Department upon request.
- (c) Nothing contained in this Section 18.10.040 shall be deemed to authorize an activity which is otherwise prohibited by this Code or any other applicable law, regulation, or agreement which may prohibit the Owner from subleasing, renting, or otherwise allowing a Short-Term Rental of the Residential Unit, including the restrictions on affordable housing units set forth in Chapter 18. If the Department determines that use of the Residential Rental as a Short-Term Rental violates any provision of this Code or other applicable law, the Department reserves the right to deny registration and any further Transient Use of the Residential Unit shall be a violation of this Article.

18.10.050 Short-Term Rental Use Restrictions.

- (a) A Residential Unit may not be rented as a Short-Term Rental for an amount exceeding ninety (90) total days out of the calendar year or, if the Owner has not rented or owned the Residential Unit for the full proceeding year, for an amount exceeding twenty-five percent (25%) of the days he or she has owned or rented the Residential Unit for Residential Use. Use of the Residential Unit for Transient Use in excess of the limits set by this Section shall constitute an unlawful Conversion of the unit.
- (b) The Owner of a Short-Term Rental shall limit overnight occupancy of the unit to a specific number of occupants, with the maximum not to exceed two persons per bedroom plus one person.
- (c) Prior to allowing occupancy of a Short-Term Rental, an Owner or the Owner's agent or representative shall enter into a written rental agreement with the Transient which includes (1) the Owner's contact information, including name and phone number; (2) the terms and conditions of the Short-Term Rental, including the occupancy restrictions; (3) the Transient's contact information, including name and phone number, as well as any additional occupants' contact information; and (4) notice of the Transient Occupancy Tax requirements set forth in Article 15.05. If an Owner utilizes a Hosting Platform for booking and payment of the Short-Term Rental, the Hosting Platform confirmation shall constitute a written rental agreement for purposes of this Section so long as all requisite information specified above was included in the listing prior to the Transient's booking and payment.

18.10.060 Requirements for Hosting Platforms.

- (a) All Hosting Platforms shall provide the following information in a notice to any user listing a Residential Unit located within the City through the Hosting Platform's service, prior to the user listing the Residential Unit: that the Davis Municipal Code regulates

Short-Term Rentals of Residential Units within the City and imposes business license and transient occupancy tax obligations.

- (b) A Hosting Platform shall provide to the Department access to any records related to the use and occupancy of each Short-Term Rental in the City for the purpose of inspection or audit to determine compliance with this Article. A Hosting Platform shall maintain such records for a period of two (2) years.
- (c) A Hosting Platform shall comply with all requirements of the Davis Municipal Code, including the requirements for managing agents of hotel operators for purposes of collecting and remitting transient occupancy taxes pursuant to Article 15.05 of the Davis Municipal Code. This Section shall not relieve a Hosting Platform of liability related to an Owner's, Business Entity's, or Transient's failure to comply with all legal requirements of this Article or the payment of applicable transient occupancy taxes.

18.10.070 Violations and Penalties.

- (a) Complaint. Upon the filing of a written Complaint with the Department that an Owner or Hosting Platform is not complying with the requirements of this Article, the Director shall take reasonable steps necessary to determine the validity of the Complaint. Any interested party may file a Complaint, including occupants of a Residential Unit, landlords, local residents and neighbors, and the City. The Director may independently determine whether an Owner or Hosting Platform is offering or renting a Residential Unit for Transient Use in violation of this Article, and shall have discretion to enforce any penalty authorized by this Section. To determine if there is a violation, the Director may initiate an investigation of the subject property and Residential Unit. This investigation may include, but is not limited to:
 - (1) An inspection of the subject property and/or Residential Unit;
 - (2) A request for any pertinent information or records from the Owner or Hosting Platform, demonstrating the occupancy and use of the Residential Unit as a Short-Term Rental.
- (b) Penalty for Violation. Following the filing of a Complaint and the determination of a violation by the Director, this Article may be enforced through the administrative citation procedures set forth in Davis Municipal Code Chapter 1, Article 1.02. This provision is in addition to, and not in lieu of, any other available remedy at law