

ORDINANCE NO. 771

**CITY OF MILLBRAE, COUNTY OF SAN MATEO
STATE OF CALIFORNIA**

**AN ORDINANCE AMENDING CHAPTER 3.30 OF TITLE 3, CHAPTER 5.100 OF TITLE 5,
AND CHAPTER 10.05 OF TITLE 10, AND ADDING CHAPTER 7.30 OF TITLE 7 OF THE
MILLBRAE MUNICIPAL CODE TO PROVIDE FOR THE REGULATION OF SHORT-TERM
RESIDENTIAL RENTALS AND COLLECTION OF TRANSIENT OCCUPANCY TAXES
THEREFROM**

WHEREAS, short-term residential rentals (STRRs) are a form of rental wherein the lessor leases all or part of a single family dwelling, a unit in a multi-family dwelling, or an accessory dwelling unit to a renter for residential purposes for durations fewer than 30 consecutive days; and

WHEREAS, many Millbrae residents operate or desire to operate STRRs out of their homes as a means of generating extra income; and

WHEREAS, the City benefits from STRRs through increased tourism and commercial activity; and

WHEREAS, STRRs have the potential to cause disturbances in residential neighborhoods and impact the well-being of the surrounding community; and

WHEREAS, the City desires to permit and regulate STRRs in a manner that minimizes the impact on neighbors while maximizing the benefit to the community; and

WHEREAS, many individuals renting STRRs do so through new methods not adequately addressed by the City's transient occupancy tax collection system; and

WHEREAS, staff recommends amending Title 3, Chapter 3.30 "Uniform Transient Occupancy Tax" of the Millbrae Municipal Code to provide for the collection of transient occupancy tax from STRRs; and

WHEREAS, staff recommends amending Title 5, Chapter 5.100 "Response to Unruly Gatherings" of the Millbrae Municipal Code to provide law enforcement with additional remedies to address unruly disturbances arising out of STRRs; and

WHEREAS, staff recommends adding Title 7, Chapter 7.30 "Short-Term Residential Rental Permits" of the Millbrae Municipal Code to provide for a permitting and regulatory scheme for STRRs; and

WHEREAS, staff recommends amending Title 10, Chapter 10.05 "Zoning" of the Millbrae Municipal Code to include STRRs as a permitted use in all zoning districts where residential uses are allowed, subject to certain conditions.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MILLBRAE DOES ORDAIN AS FOLLOWS:

SECTION 1: AMENDMENT OF CHAPTER 3.30 UNIFORM TRANSIENT OCCUPANCY TAX

Subsection A. Section 3.30.020 "Definitions" is hereby amended to add subsection (H) as follows:

H. "Hosting Platform" means a means or facility through which an operator may offer a short-term residential rental unit, or portion thereof, for occupancy by a transient. A hosting platform includes, but is not limited to, an internet-based platform that allows an operator to advertise and arrange for occupancy of a commercial lodging or short-term residential rental by a transient, whether the transient pays rent directly to the operator or to the hosting platform.

Subsection B. Section 3.30.060 "Registration" is hereby amended and restated in its entirety to read as follows:

Section 3.30.060 Registration

Within ten days after commencing business, each operator of any hotel renting occupancy to transients shall register said hotel with the tax administrator and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. An application for a Transient Occupancy Registration Certificate must include whether the operator intends to collect and remit transient occupancy tax through a hosting platform, and the identity of any hosting platform the operator intends to use.

Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. The following statement: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit."

Subsection C. Section 3.30.070 "Reporting and remitting" is hereby amended and restated in its entirety to read as follows:

3.30.070 Reporting and remitting

- A. Each operator shall on or before the tenth day of each month, or at the close of any shorter reporting period, or longer reporting period, which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and

received, the amount of tax collected for transient occupancies during the preceding calendar month, the amount of tax collected on the operator's behalf by a hosting platform, the identity of the hosting platform that has participated in each transaction, the total number of rooms available, and the number of rooms rented.

B. The tax administrator may, but he is not required to establish longer reporting periods for any operator if he deems it necessary by reason of the internal accounting and accounts payable system of that operator.

C. Returns and payments are due immediately upon cessation of business for any reason.

D. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city and shall be promptly deposited in a separate account maintained in the name of the operator as trustee in a commercial bank or other financial institution, until payment hereof is made to the tax administrator. Each operator shall notify the city of the name and address of the commercial bank or financial institution with whom the trustee account is maintained.

Subsection D. Section 3.30.075 "Collecting and remitting by hosting platforms" is hereby added to read as follows:

Section 3.30.075 Collecting and remitting by hosting platforms

Any hosting platform may enter into an agreement with the City for the collection and remittance of transient occupancy taxes on behalf of operators. Where a hosting platform has entered into such an agreement, the hosting platform has the same duties and liabilities of the operator under Chapter relating to collection and remission of transient occupancy taxes. Compliance with the provisions of this Chapter by either the operator or the hosting platform is considered to be compliance by both. Notwithstanding the foregoing, agreements for collection and remittance of transient occupancy taxes by hosting platforms do not relieve operators of other requirements imposed by this Chapter beyond the scope of the agreement, including, without limitation, reporting and recordkeeping requirements. Each hosting platform collecting rent or transient occupancy tax for hotels in the City must register in its own name and post its Transient Occupancy Registration Certificate on its website, if applicable.

Notwithstanding the foregoing, the tax administrator, at his or her sole discretion, may require a hosting platform that collects payment of rent on behalf of an operator of a hotel in the City to comply with Section 3.30.050 and Section 3.30.070 on behalf of the operator without an agreement.

SECTION 2: AMENDMENT OF CHAPTER 5.100 UNRULY DISTURBANCES

Subsection A. Section 5.100.050 "Collection of charges" is hereby amended and restated in its entirety to read as follows:

Section 5.100.050 Collection of charges

The person or persons in charge of the premises and the person or persons in charge of the unruly gathering, or if any such person is a minor, then the parent or guardians of such person, shall be jointly and severally liable for the cost of providing the special emergency security services as provided in this section. If the property is rented as a short-term residential rental at

the time of the unruly disturbance, the permittee and authorized agent, as those terms are defined in Chapter 7.30 of this Code, are jointly and severally liable with all other persons in charge of the premises or gathering for the costs of providing the special emergency security services.

Within ten days of the second call to an unruly gathering, the chief of police or his designee shall calculate the charges payable under this section and shall cause a bill to be produced and sent to the persons responsible for such charges.

In the event that such a bill is not paid, in cash, within thirty days of its issuance, the bill shall be referred to the city attorney for appropriate collection activity.

SECTION 3: ADDITION OF CHAPTER 7.30 SHORT-TERM RESIDENTIAL RENTAL PERMITS

Subsection A. Chapter 7.30 "Short-Term Residential Rental Permits" is hereby added to Title 7 of the Millbrae Municipal Code to read as follows:

7.30.010 Scope, Purpose and Findings.

1. The purposes of this chapter (which may be referred to as the "Short-Term Residential Rental Ordinance") are to document the procedures and regulations that govern the application for, and the issuance and implementation of, permits for the operation of any short-term residential rental use within the city.
2. The City Council hereby finds that unregulated transient occupancy uses in residential and nonresidential districts present a threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located, and to the availability of housing stock in compliance with the Housing Element of the General Plan.
3. The City Council hereby finds that the adoption of a comprehensive ordinance regulating the issuance of and operating conditions attached to short-term residential rental permits is necessary to protect the public health, safety and welfare. The purpose of this section is to provide a permit system and to impose operational requirements to minimize the potential adverse impacts of transient uses in residential neighborhoods and zoning districts on traffic, noise and density, to ensure the health, safety and welfare of renters and guests patronizing short-term residential rentals, as well as the adjacent occupants, and to impose limitations on the permits issued in order to ensure the long term availability of housing stock in compliance with the Housing Element of the City of Millbrae General Plan.
4. The City Council hereby finds that the provisions of this section which impose restrictions on commercial speech, pursuant to the restrictions on advertisements, are necessary in order to advance the city's legitimate interest in preventing rental activity that violates this code, and in regulating fraudulent, misleading, or deceptive advertising. These restrictions on advertising are necessary in order to prevent advertisers from engaging in unlawful rental activity and from misleading the general public to think that a particular property in the City of Millbrae is available for transient occupancy if, in fact, the advertised property is not authorized to be used for transient occupancy purposes in accordance with this section.
5. The City Council hereby finds that the city's regulation of short-term residential rental uses in accordance with this section is a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this section.

7.30.020 Definitions.

As used in this section:

“Authorized Agent” means the person specifically authorized by an permittee of an non-hosted unit to represent and act on behalf of the permittee and to act as an operator, manager and contact person of a non-hosted unit, and to provide and receive any notices identified in this section on behalf of the permittee. The authority to operate and manage the short-term residential rental Unit must include the authority to enter the unit at any time while rented for the purposes of verifying compliance with applicable laws. The authorized agent may include the permittee, or persons other than the permittee.

“Director” means the Director of the Community Development, or a designee of the Director of Community Development.

“Enforcement Officer” means the Director, Chief Building Official, Fire Marshall, City Code Enforcement Officer, City Department Manager (to the extent responsible for enforcing provisions of this code), peace officer, or any other city employee designated by the Director, City Manager, or Section 1.05.020 to enforce this Chapter.

“Guest” means an invitee of a renter or other person visiting a renter of a short-term residential rental unit who does not rent the unit.

“Hosted Unit” means a short-term residential rental at which the permittee and sleeps while it is being rented, and at which no more than two bedrooms are rented for transient occupancy at a given time pursuant to this Chapter.

“Nighttime Hours” means 9:00 p.m. to 7:00 a.m. Sunday through Thursday evenings and 10:00 p.m. to 7:00 a.m. Friday and Saturday evenings.

“Non-Hosted Unit” means a short-term residential rental that is not a hosted unit.

“Permittee” means the person to whom a short-term residential rental permit is issued pursuant to this Chapter.

“Primary Residence” means a dwelling unit where a person is domiciled, and resides for at least 265 nights per year. A person may only have one primary residence at any given time. If a property has multiple dwelling units, including duplexes, triplexes, and properties with accessory dwelling units, each unit is considered a separate residence subject to the primary residence requirement.

“Renter” means a person, other than a permittee, renting or occupying a short-term residential rental Unit for compensation of any kind in accordance with the terms of this Chapter.

“Short-Term Residential Rental” is defined in Section 10.05.0200. “Short-term residential rental” includes all hosted units, and all non-hosted units.

“Short-Term Residential Rental Unit” means the structure in which a short-term residential rental use is operating.

7.30.030 Short-Term Residential Rental Permit Required

Operating a short-term residential rental unit without a short-term residential rental permit, including, without limitation, advertising, booking guests, and accepting monetary compensation for lodging, is prohibited.

7.30.040. Applications for Short-Term Residential Rental Permits

A complete application for a short-term residential rental permit must contain all of the following:

- A. The following information documented in a form acceptable to the Director:
 - 1. The name of the applicant and contact information for the applicant.
 - 2. The address of the proposed short-term residential rental unit.
 - 3. Proof of ownership of the proposed short-term residential rental unit, or proof of the property owner's consent to the property's use as a short-term residential rental.
 - 4. Documentation that establishes the proposed short-term residential rental unit is the applicant's primary residence.
 - i. If the applicant seeks to rent the short-term residential rental as a non-hosted unit, identify at least two authorized agents (include the name, mailing address, email address, and telephone number) and adequate documentation to establish that the authorized agents have the authority to operate and manage the unit.
 - 5. The number of bedrooms and approximate square footage in the short-term residential rental unit, and the maximum number of overnight occupants under the limitations imposed under Section 7.30.070.
 - 6. Documentation establishing that all designated bedrooms meet all applicable local building and safety code requirements.
 - 7. The number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants.
 - 8. A proposed notification to neighbors, conforming with the requirements of Section 7.30.060.
 - 9. A copy of the applicant's transient occupancy tax registration certificate.
 - 10. Agreement to hold harmless, indemnify and defend the city against claims and litigation arising from the operation of the short-term residential rental.
 - 11. Agreement to comply with all applicable laws and permit conditions, including the short-term residential rental operating restrictions set forth in Section 7.30.070.
 - 12. Certification of the information submitted.
 - 13. Any other information the Director deems necessary to process the application.
- B. A permit fee to cover the costs of the application and the administration of the City's regulatory program, in an amount determined by the Council. The fee may be prorated for applications submitted for a partial year.
- C. For tenants and applicants to rent non-hosted units, a refundable deposit of \$1,000 to cover recoverable costs and penalties, including citations, cleanup and emergency response costs, incurred by the City relating to the short-term residential rental. If the City draws on the deposit, the permittee must replenish the deposit within 30 days following a written request. The Director may require a larger or smaller deposit for good cause as a condition of approval.
- D. The Director may develop a process for renewal of short-term residential rental permits that allows the City to verify the applicant's continued compliance with this

Chapter. At the Director's discretion, a permit renewal may require less information than the initial application.

7.30.050 Permit Processing

Upon receipt of an application, the Director will determine whether the application is complete. If the application is incomplete, the Director will notify the applicant. If the applicant fails to submit the required information or fees necessary to complete the application in a timely manner, the Director may deem the application withdrawn and return all submittals to the applicant.

The Director will approve a complete application where the applicant demonstrates: 1) the ability to meet the requirements of this chapter; 2) the short-term residential rental use will not be detrimental to the public health, safety, or welfare; 3) the applicant has not had a short-term residential rental permit revoked in the prior 24-month period; and 4) no more than three violations of applicable federal, state, or local law, regulation, or permits relating to a short-term residential rental operated by the applicant, including, without limitation, violations of this Chapter, have occurred in the past 24-month period; 5) the applicant has no delinquent transient occupancy tax payments, fees, or penalties relating to the short-term residential rental Unit. For the purposes of this Section, all violations by renters, guests, and the permittee of the same provision at the same time on the same day constitute a single violation.

Notwithstanding the foregoing, the Director may impose reasonable conditions on a permit where the Director determines that the condition will enhance the public health, safety, or welfare of the permittee, renters, or neighbors. The Director must provide a written statement explaining any decision to deny or conditionally approve an application.

7.30.060 Notice to Neighbors

Within 30 days of approving a short-term residential rental permit, the Director must provide to all property owners within 500 feet of the permit:

- A. A concise summary of the terms of the permit, including: (i) the maximum number of daytime and nighttime hours occupants permitted in the short-term residential rental unit; (ii) the maximum number of vehicles which are allowed to be parked on the property; (iii) any conditions applied to the short-term residential rental permit; and (iv) how to obtain a complete copy of the permit and this section.
- B. The name and contact information, including telephone numbers and emails where the permittee (for a hosted unit) or the authorized agents (where the permit includes operation of a non-hosted unit) of the short-term residential rental may be reached at all times, 24 hours per day while the short-term residential rental unit is rented, and the location of the City's registry of short-term residential rental registry for permittees and authorized agents.
- C. The City of Millbrae Code Enforcement telephone number and the Sheriff's non-emergency number where members of the public may report violations of the short-term residential rental permit.

7.30.070 Short-Term Residential Rental Permits

- A. A short-term residential rental permit allows the permittee to rent the short-term residential rental unit for an unlimited number of nights as a hosted unit, and if approved by the Director, up to 100 nights as a non-hosted unit during the duration of the permit.

B. Renters must comply, and permittees must ensure compliance of their renters, with the following rules:

1. Nighttime hours occupancy of the short-term residential rental may not exceed two persons per bedroom, plus two additional persons per short-term residential rental Unit. For the purposes of this section, a studio is considered to have zero bedrooms.
2. Daytime occupancy is limited to twice the nighttime occupancy of the short-term residential rental.
3. No additional parking is required for short-term residential rental units. The number of vehicles of renters and guests is limited to the number of onsite parking spots. permittees must make existing on-site parking spaces available to renters and guests.
4. The permittee must provide appropriate refuse and recycling service for the short-term residential rental Unit. The property must be free of debris both onsite and in the street. Trash cans must not be placed on the street prior to 24 hours before the scheduled pick-up day and must be promptly removed from the street following service.
5. Renters and/or guests of the short-term residential rental unit may not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any state law pertaining to noise or disorderly conduct; provided, however, that the city does not intend to authorize, and the city does not authorize, the permittee to act as a peace officer or place himself or herself in harm's way.
6. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise or other problems in the neighborhood are prohibited from occurring at the short-term residential rental unit as a component of short-term residential rental activities.
7. Smoking, including, without limitation, smoking of tobacco or cannabis, is not allowed inside short-term residential rental units.
8. Renters and guests must comply with all applicable federal, state, and local laws, regulations, ordinances, and permit conditions.

C. As part of the application for rental, the permittees must require prospective renters to sign an agreement acknowledging the rules set forth in this section and promising to comply with them. The permittee must post the rules in a prominent location inside the short-term residential rental unit.

D. Each written advertisement (whether paper or electronic form) for a short-term residential rental use must include the permittee's "City of Millbrae Certified Short-Term Residential Rental" permit number and business license number as part of the rental offering.

E. Violation of any operating restriction by a renter or guest, and failure to prevent the violation by the permittee are separate offenses. Permittees are strictly liable for failing to prevent violations by their renters and guests of their renters.

F. The permittee must comply with all applicable laws, including, without limitation, all requirements of the Business License Ordinance (Chapter 7.05 of this code) and the Transient Occupancy Tax Ordinance (Chapter 3.30 of this code) for the short-term residential rental use.

G. Effectiveness of each short-term residential rental permit is conditioned upon the applicant obtaining a City business license.

H. Each short-term residential rental permit expires on at the end of the fiscal year in which it is issued. The City's fiscal year currently runs from July 1 to June 30.

I. A permittee whose permit does not include the authority to rent as a non-hosted unit may request to operate the hosted unit as a non-hosted unit by providing the Director by complying with the requirements of Section 7.30.040(A)(4)(i) and 7.30.040(C). The Director may impose conditions that will enhance the public health, safety, or welfare of the permittee, renters, or neighbors, and may alter the amount of the deposit for good cause.

J. Each short-term residential rental permit is personal to the permittee to whom it is issued. short-term residential rental permits are non-transferrable.

K. The Director may promulgate further regulations necessary or convenient to further the purposes of this chapter.

7.30.080 Authorized Agents

A. When the short-term residential rental unit is rented, the permittee (for a hosted unit) or at least one authorized agent (for a non-hosted unit) must respond to all telephone and email messages relating to issues of permit compliance or the health, safety, or welfare of the public or the renter at the short-term residential rental unit within 30 minutes at all times, 24 hours per day.

B. The permittee (for a hosted unit) or at least one authorized agent (for a non-hosted unit) must be on the premises of the short-term residential rental unit within one hour of being notified by a renter, the Director, or an enforcement officer that there is a need to address an issue relating to permit compliance or the health, safety, or welfare of the public or the renter.

C. A permittee for a non-hosted unit may change any authorized agent listed on the permit with at least 48 hours-written notice to the Director. The notice must include sufficient documentation to establish that the proposed authorized agent has the authority to manage and operate the unit.

D. The City will maintain a public registry of permittees (for hosted units), authorized agents (for non-hosted units), and their contact information.

7.30.090 Permit Revocation

At any time during the term of a short-term residential rental permit, the Director is authorized to initiate proceedings to revoke or modify the permit, if the Director determines in his or her discretion that: (1) the short-term residential rental use is detrimental to the public health, safety, or welfare; (2) the permittee has provided materially false or misleading information in any submittal required under this chapter; (3) the permittee has failed to make any payments of taxes, penalties, or costs owed to the City within 30 days of when such payment is due; (4) three or more violations of any applicable federal, state, or local law, regulation, or permit, including, without limitation, this chapter, relating to a short-term residential rental operated by the permittee have occurred within the previous 24-month period; (5) the short-term residential rental unit is no longer the permittee's primary residence.

For the purposes of this section all violations by permittees, renters, and guests of the same provision at the same time on the same day constitute a single violation.

The Director must give the permittee written notice of the proposed revocation, the grounds for the proposed revocation, and the time and place at which the permittee will be given a reasonable opportunity to show cause why the permit should not be revoked. The notice may be served personally upon the permittee or may be mailed to the permittee at the address of the

short-term residential rental at least 10 days prior to the date of the hearing. Upon conclusion of the hearing the Director may revoke the permit for the grounds stated above or modify the permit to include conditions the Director deems sufficient to remedy the grounds for the revocation.

7.30.100 Enforcement

Violations of this chapter are subject to penalties as stated in Section 1.05.010 of this Code, except that violations of Section 7.30.030 are subject to a fine of up to \$1,000 per violation. Each day, or portion thereof, in which a violation continues is a new violation.

Nothing herein prevents the City from enforcing violations of this chapter by any other means authorized by law.

7.30.110 Appeal

Any decision by the Director made pursuant to this chapter, including on an application or in a permit revocation hearing is appealable pursuant to Section 10.05.2700 et seq. of this Code.

SECTION 4: AMENDMENT OF CHAPTER 10.5 ZONING

Subsection A. Section 10.05.200 "Definitions" is hereby amended to insert the following definition:

"Short-term residential rental" means all or part of a single family dwelling, a unit in a multi-family dwelling, or accessory dwelling unit offered for compensation for the purpose of sleeping, residing, lodging or other similar activities for fewer than 30 consecutive calendar days, counting portions of days as full calendar days. A short-term residential rental is distinguished from a "commercial lodging" and a "boardinghouse/roominghouse" in that the units used as short-term residential rentals are of the type typically occupied by permanent residents as a house or an apartment. A short-term residential rental is distinguished from a "bed and breakfast" in that short-term residential rentals may, but need not be, single-family residences, and need not serve breakfast.

Subsection B. The row "Accessory Uses" in Section 10.05.410 "Land Use Table" is hereby amended to include the row depicted in Exhibit A, attached hereto and incorporated by reference.

Subsection C. Section 10.05.510 "Uses" of Article V "Single-Family Residential Large Lot or "R-1LL" District" is hereby amended and restated in its entirety to read as follows:

10.05.0510 Uses.

The following uses shall be permitted, conditional, or accessory uses in the R-1LL district:

- A. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- B. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short-term residential rentals.

Subsection D. Section 10.05.510 "Uses" of Article VII "Single-Family Residential or "R-1" District" is hereby amended and restated in its entirety to read as follows:

10.05.0610 Uses.

The following uses shall be permitted, conditional or accessory uses in the R-1 district:

- A. Permitted uses: single-family dwellings and state-regulated residential care facilities.
- B. Conditional uses: places of worship, schools (pre-K and K through twelve), country clubs, golf courses, parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short-term residential rentals.

Subsection E. Section 10.05.710 "Uses" of Article VII "Duplex/Triplex Residential or "R-2" District" is hereby amended and restated in its entirety to read as follows:

10.05.0710 Uses

The following uses shall be permitted, conditional, or accessory uses in the R-2 district:

- A. Permitted uses: single-family dwellings, duplexes, triplexes, and state-regulated residential care facilities.
- B. Conditional uses: care facilities, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, and bed and breakfasts.
- C. Accessory uses: home occupations, short-term residential rentals.

Subsection F. Section 10.05.810 "Uses" of Article VIII "Multifamily Residential or "R-3" District" is hereby amended and restated in its entirety to read as follows:

10.05.0810 Uses

The following uses shall be permitted, conditional, or accessory uses in the R-3 district:

- A. Permitted uses: single-family dwellings, duplexes, triplexes, multiple-family dwellings, care facilities, and state-regulated residential care facilities.
- B. Conditional uses: rooming and boarding houses, clubs and lodges, community centers, places of worship, schools (pre-K and K through twelve), parks, utility services, wireless communications facilities, medical offices, professional offices, bed and breakfasts, and commercial lodging.
- C. Accessory uses: home occupations, short-term residential rental.

Subsection G. Section 10.05.1010 "Uses" of Article X " Commercial or "C" District" is hereby amended and restated in its entirety to read as follows:

10.05.1010 Uses

The following uses shall be permitted, conditional, or accessory uses in the C district:

- C. Accessory uses: drive-through facilities, home occupations, outdoor dining, and outdoor display of merchandise, short-term residential rentals.

Subsection H. Section 10.05.1120 "Uses" of Article XI "Downtown Improvement Area or "DIA" District" is hereby amended and restated in its entirety to read as follows:

10.05.1120 Uses

C. Accessory Uses.

1. Primary frontage: outdoor dining and outdoor display of merchandise.
2. Secondary frontage: home occupations, short-term residential rentals, and outdoor display of merchandise.

Subsection I. Section 10.05.1930 "Short-Term Residential Rental" of Article XIX "Accessory Uses" is hereby added to read as follows:

10.05.1930 Short-Term Residential Rental

A. Requirements

1. Only single family homes, units in duplexes, triplexes, and multifamily dwellings, and accessory dwelling units may be rented, in whole or in part, as short-term residential rentals provided they are located in a zoning district where allowed as accessory uses.
2. Short-term residential rentals are subject to the operating restrictions set forth in Chapter 7.30 of this Code.

B. Permits

No person may operate a short-term residential rental without a short-term residential rental permit as described in Chapter 7.30 of this Code.

SECTION 4: CEQA

This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to §§ 15060 (c)(2) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment), 15303 (the activity is a conversion of an existing small structure from one use to another with no modifications to the exterior of the structure) and 15060 (c)(3) the activity is not a project as defined in § 15378 of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, directly or indirectly; it prevents changes in the environment pending the completion of the contemplated studies. This ordinance also is exempt from CEQA pursuant to the "common sense" exemption under § 15061(b)(3) of the CEQA Guidelines, because the City Council hereby determines and finds that there is no possibility that the ordinance may have a significant effect on the environment.

SECTION 5: SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or 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

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 sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be held unconstitutional, invalid or unenforceable.

SECTION 6: EFFECTIVE DATE; PUBLICATION

This Ordinance shall be in full force and effect thirty (30) days from and after the date of its passage. At least five (5) days prior to its adoption and within fifteen (15) days after its adoption, a summary of the Ordinance shall be published once in a newspaper of general circulation published in the County of San Mateo and circulated in the City of Millbrae.

INTRODUCED at a regular meeting of the City Council of the City of Millbrae held on July 24, 2018.

PASSED and ADOPTED at a regular meeting of the City Council of the City of Millbrae held on July 30, 2018 by the following vote:

AYES, COUNCILMEMBERS: Papan, Lee, Schneider and Holober

NOES, COUNCILMEMBERS:

EXCUSED, COUNCILMEMBERS: Oliva



7/31/18

ACTING CITY CLERK of the City of Millbrae

APPROVED:



MAYOR of the City of Millbrae