

ORDINANCE NO. 20-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN
AMENDING SECTIONS 159.031, 159.032, 159.327, 159.329, 159.512,
159.514, 159.515, 159.517 AND 159.518 OF CHAPTER 159 OF TITLE
XV OF THE AUBURN MUNICIPAL CODE REGARDING SHORT-TERM
RENTALS AND SECOND LIVING UNITS

THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS FOLLOWS:

Section One: Code Amendment. Section 159.031 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

The following uses shall be permitted in the Two-Family Residential (Duplex)(R-2) District:

- A. All uses permitted in the R-1 District; and
- B. Two-family (duplex) dwelling units as regulated by the provisions of § 159.016.

Section Two: Code Amendment. Section 159.032 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

- A. The following uses shall be permitted in the Medium Density Multiple-Family Residential (R-3) District:
 - 1. All uses permitted in the R-1 and R-2 Districts;
 - 2. Multiple-family dwelling units as regulated by the provisions of § 159.016.
 - 3. Rest homes and outpatient nursing care homes for up to 15 persons, including the children or adults constituting the family;
 - 4. Supportive housing; and
 - 5. Transitional housing.
- B. The following uses shall be permitted in the Medium Density Multiple-Family Residential (R-3) District subject to the approval of a use permit:

1. Hospitals, medical and dental clinics and professional offices;
2. Rooming houses for up to 15 persons;
3. Nursery schools and child care centers; and
4. Residential care facility – large.

Section Three: Code Amendment. Section 159.327 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

A second living unit may be permitted on parcels with an existing single-, two- or multi-family dwelling in the following zones, subject to compliance with the provisions of this subchapter and approval by the Director:

1. Single-Family Residential District (R-1).
2. Two-Family Residential (Duplex) District (R-2).
3. Medium Density Multi-Family Residential District (R-3).
4. Exclusive Agricultural District (A-1).
5. Agricultural Residential District (AR).

Section Four: Code Amendment. Section 159.329 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

The following development standards shall apply to requests for second living units:

- A. The second unit may be attached to the existing dwelling or detached from the existing dwelling and located on the same lot as the main living unit. No passageway is required between the second living unit and the street.
- B. Size of a second living unit:
 1. If a second unit is attached to an existing dwelling, the floor area of the second unit shall not exceed 50% of the existing dwelling's living area.
 2. The maximum size of a detached second living unit shall be 1,200 square feet.
 3. No provision in this section shall prohibit the construction of a second living unit up to 800 square feet and 16 feet in

height, if constructed in compliance with all other applicable local development standards.

C. The setback standards for a second living unit are as follows:

1. Front yard setback - 20 feet.
2. Side yard setback - 4 feet.
3. Rear yard setback - 4 feet.
4. If the second living unit is detached from the main living unit, a 10-foot setback shall be maintained between structures.
5. There is no setback requirement for an existing living area or accessory structure, or a structure constructed in the same location and to the same dimensions as an existing structure, that is converted into a second living unit or a portion of a second unit.

D. *Height.*

1. A detached second living unit shall not exceed 16 feet in height and shall be limited to 1 story.
2. The roof of the second living unit shall have no other use.

E. A minimum of 1 paved off-street parking space shall be provided for a second living unit. This space may be provided in setback areas in locations determined by the city or through tandem parking, including tandem parking on an existing driveway, unless the city makes specific findings that such parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the city. Notwithstanding the foregoing, no parking requirement shall apply in any of the following instances:

1. The second living unit is located within a 1/2 mile walking distance of public transit.
2. The second living unit is located within an architecturally and historically significant district.
3. The second living unit is part of the existing primary residence or an existing accessory structure thereto.
4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
5. When there is a car share vehicle located within 1 block of the second living unit.

- F. Proposed construction shall comply with the lot coverage requirements of the zoning district, which include the lot coverage requirements for accessory buildings within the 25-foot rear yard.
- G. Additions and alterations made to a main living unit to accommodate a second living unit shall conform in design, materials, and colors to those existent on the main living unit. If the second living unit is detached from the main living unit, the second living unit shall conform in design, materials and colors to those existent on the main living unit.
- H. The second living unit shall comply with all applicable building and fire code requirements, except that a second living unit attached to an existing dwelling is not required to have fire sprinklers if they are not required for the existing dwelling.
- I. If the second living unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks meet the requirements in division (C) above, then no new or separate utility connection directly between the second living unit and utilities is required. For all second living units that are not described in Government Code section 65852.2(A)(1), the city may require new or separate utility connections directly between the second living unit and utilities, and it may require the owner to pay an applicable connection fee or capacity charge proportionate to the additional burden the second living unit places on the service provided.
- J. The City shall not charge any impact fee on the development of a second living unit less than 750 square feet.

Section Five: Code Amendment. Section 159.512 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

For the purpose of this subchapter, the following definitions shall apply unless the context clearly requires a different meaning to serve the intent of this subchapter.

GOOD NEIGHBOR BROCHURE. A document prepared by the city that summarizes the general rules of conduct, consideration, and respect, including without limitation provisions of the City of Auburn Municipal Code and other applicable laws, rules, or regulations, pertaining to the use and occupancy of a short term rental unit.

OWNER. Any person who:

- A. Owns the property on which the short term rental is located, and
- B. Takes responsibility for the management or maintenance of the property and short term rental.

SHORT TERM RENTAL PERMIT. A permit that allows the use of a privately owned residential dwelling as a short term rental unit pursuant to the provisions of this subchapter.

SHORT TERM RENTAL UNIT. A private residential dwelling, or any portion of such dwellings, such as, but not limited to, a single family attached or detached unit or multiple family attached or detached unit, apartment house, condominium, cooperative apartment, rented for occupancy for dwelling, lodging, or sleeping purposes for any period less than 30 consecutive days, in exchange for any form of payment. The definition of short term rental does not include "house swapping" where no money exchange is occurring or "vacation rentals" as defined herein.

TRANSIENT. See § 33.186 of the Auburn Municipal Code.

VACATION RENTAL. Renting out of a furnished apartment or house on a temporary basis, for 30 days or less.

Section Six: Code Amendment. Section 159.514 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

The owner must obtain a short term rental permit from the city, before renting any short term rental unit.

Section Seven: Code Amendment. Section 159.515 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

- A. The owner must submit an application for a short term rental permit on an application form provided by the city.
- B. The short term rental permit application shall be accompanied by an application fee as established by resolution of the City Council.

Section Eight: Code Amendment. Section 159.517 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

- A. The owner shall use reasonably prudent business practices to ensure that the short term rental unit is used in a manner that

complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short term rental unit.

- B. *Maximum number of days and nights for rent or lease.* The maximum number of days that a short term rental may be occupied by any 1 transient is 30 consecutive days.
- C. *Maximum number of occupants.* The maximum number of overnight guests for a short term rental shall not exceed 2 persons per bedroom, excluding children under the age of 12. Additional daytime guests are allowed between the hours of 7:00 a.m. and 10:00 p.m.
- D. *Appearance, visibility or location.* A short term rental shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting, or any advertising mechanism.
- E. *On-site parking required.* The parking spaces required shall be in addition to the parking required of the existing residential unit. A minimum of 1 parking space shall be provided for each guest room. All parking associated with a short term rental shall be located entirely on-site and may be located within the existing driveway.
- F. *Noise.* Occupants of the short term rental shall comply with the noise standards and regulations of the City of Auburn Municipal Code, Chapter 93.
- G. *Renter notification.* The owner shall provide each occupant of the short term rental with the following information prior to occupancy of the unit and shall post such information in a prominent location within the unit:
 - 1. Name of the owner with 24-hour availability;
 - 2. The maximum number of overnight occupants permitted pursuant to this subchapter;
 - 3. Trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash on the exterior of the property;
 - 4. A copy of the good neighbor brochure.

Section Nine: Code Amendment. Section 159.518 of Chapter 159 of Title XV of the Auburn Municipal Code is hereby amended to read as follow:

- A. While a short term rental unit is rented, the owner shall be available 24 hours per day, 7 days per week for the purpose of responding within a timely manner to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit or their guests. To comply with this subdivision, the owner shall do one or both of the following:
 - 1. Reside within one hour's travel time of the property.
 - 2. Contract for or otherwise acquire property management services for the short term rental unit from a person or entity located within one hour's travel time.
- B. The owner shall use reasonably prudent business practices to ensure that the occupants and guests of the short term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the short term rental unit.
- C. Prior to occupancy of a short term rental unit, the owner shall:
 - 1. Provide a copy of the good neighbor brochure to the occupant; and
 - 2. Require the occupant to execute a formal acknowledgment that he or she is legally responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the short term rental unit by all occupants of the short term rental and their guests. This information shall be maintained by the resident/owner for a period of 3 years and be made readily available upon request of any officer of the city responsible for the enforcement of any provision of the Municipal Code or any other applicable law, rule or regulation pertaining to the use and occupancy of the short term rental.
- D. The owner shall upon notification that any occupant or guest of the short term rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the subject short term rental, promptly respond in a timely manner to immediately halt or prevent a recurrence of such conduct by the responsible person, occupants, or guests. Failure of the owner to respond to calls or complaints regarding the condition, operation, or conduct of occupants or guests of the short term rental within a timely

manner shall be subject to all administrative, legal and equitable remedies available to the city.

- E. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the city's authorized waste hauler on scheduled trash collection days.
- F. The owner shall post a copy of the short term rental permit and a copy of the good neighbor brochure in a conspicuous place within the short term rental unit, and a copy of the good neighbor brochure shall be provided to each occupant of the subject short term rental.
- G. The Director and Planning Commission, shall have the authority to impose additional conditions on the use of any given short term rental to ensure that any potential secondary effects unique to the short term rental unit are avoided or adequately mitigated.
- H. The standard conditions set forth herein may be modified by the Planning Commission, upon request of the owner based on site specific circumstances for the purpose of allowing reasonable accommodation of a short term rental. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short term rental would not be allowed. Any hardships identified must relate to physical constraints to the subject site and shall not be self-induced or economic. Any modifications of the standard conditions shall not further exacerbate an already existing problem.
- I. The owner shall be in compliance with all of the regulations pertaining to the operation of a short term rental use.
- J. The short term permit is not transferable.
- K. Such other information or conditions as the Director deems reasonably necessary to administer this subchapter.
- L. Prior to the operation of a short term rental, the owner shall obtain a business license from the City of Auburn.
- M. If a short term rental contains 3 or more units, the owner shall comply with the requirements of Auburn Municipal Code section 33.185 et seq. regarding transient occupancy taxes.

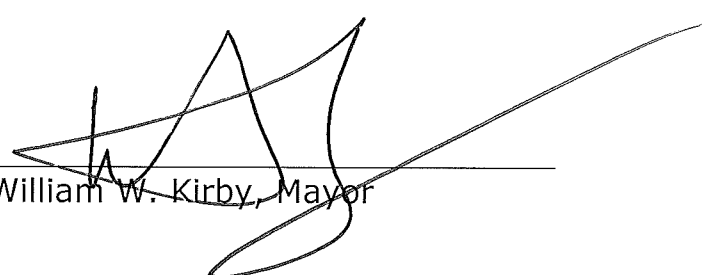
Section Ten: California Environmental Quality Act. The City Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the City Council, and hereby determines that the adoption of provisions of this Ordinance related to short-term rentals will not have a significant effect on the environment. The provisions of this Ordinance related to short-term rentals are therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations. Additionally, the remaining proposed changes constitute minor adjustments to the City's zoning ordinance to implement new State law requirements related to second living units as established in Government Code section 65852.2. Those provisions, therefore, are statutorily exempt from review under CEQA pursuant to Public Resources Code section 21080.17, which states that CEQA does not apply to a city's adoption of an ordinance to implement the provisions of Government Code section 65852.2. Finally, the ordinance is not a "project" under CEQA Guidelines section 15378, because it is an activity that will not cause a direct (or reasonably foreseeable indirect) physical change in the environment. If this Ordinance is found subject to CEQA, it is categorically exempt therefrom pursuant to Title 14, Section 15305 of the California Code of Regulations (Minor Alterations in Land Use Limitations).

Section Eleven: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Auburn hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section Twelve: Inconsistent Provisions. Any provision of the Auburn Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

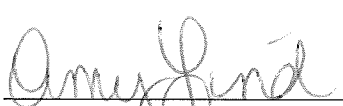
Section Thirteen: Publication and Effective Date. This ordinance shall take effect 30 days after final adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

DATED: February 10, 2020



William W. Kirby, Mayor

ATTEST:



Amy Lind, City Clerk

I, Amy Lind, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the 10th day of February 2020 by the following vote on roll call:

Ayes: Maki, Amara, Berlant, Kirby
Noes: Spokely
Absent:
Abstain:

A handwritten signature in cursive script, appearing to read "Amy Lind", is written over a horizontal line.

Amy Lind, City Clerk