

ORDINANCE NO. 491

AN ORDINANCE OF CITY OF SISTERS ESTABLISHING REASONABLE REGULATIONS FOR THE OPERATION OF SHORT-TERM RENTALS IN CITY

WHEREAS, City of Sisters ("City") has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

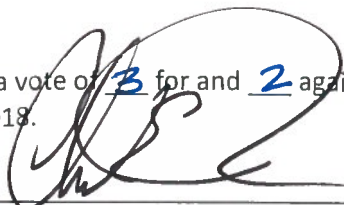
WHEREAS, the Sisters City Council (the "Council") finds that the characteristics, operations, and potential impacts of short-term rentals operating in City necessitate (a) the establishment of reasonable regulations for such operations, and (b) a separate licensing requirement for such rentals; and

WHEREAS, City desires to adopt reasonable regulations on short-term rentals to protect, preserve, and promote the health, safety, welfare, peace, and quiet of City's citizens.

NOW, THEREFORE, THE CITY OF SISTERS ORDAINS AS FOLLOWS:

1. Findings. The above-stated findings contained in this Ordinance No. 491 (this "Ordinance") are hereby adopted.
2. Chapter 5.50; Codification. The provisions contained in the attached Exhibit A (the "Amendments") are hereby adopted and made part of the Sisters Municipal Code (the "Code"). City staff and/or its designee may renumber, format, and make all other edits necessary to codify the Amendments into the Code.
3. Severability; Corrections. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the Council to cure editorial and/or clerical errors.

This Ordinance was PASSED by the City Council by a vote of 3 for and 2 against and APPROVED by the mayor on this 28th day of November, 2018.

  
\_\_\_\_\_  
Chuck Ryan, Mayor

ATTEST:

  
\_\_\_\_\_  
Kerry Prosser, City Recorder

Exhibit A  
Amendments to Code  
(attached)

Exhibit A

**Chapter 5.50  
Short-Term Rental Operating License**

5.50.005      Applicability.

The provisions of this chapter apply to all short-term rentals operating in City.

5.50.010      Purpose.

The purpose of this chapter is to provide an administrative framework and licensing scheme for short-term rentals operating in City.

5.50.020      Definitions.

For purposes of this chapter, the following terms and phrases have the meanings assigned to them below:

“Applicant(s)” means the person applying for a license to operate a short-term rental in City.

“Authorized agent” means a property management company, other entity, or person designated by the owner, in writing, to act on the owner’s behalf.

“City” means City of Sisters, Oregon.

“City council” or “council” means City’s elected legislative body.

“City manager” means City’s city manager or his or her designee(s).

“Code” means the Sisters Municipal Code.

“Dwelling unit(s)” means a single-family residence (e.g., single-family home, apartment unit, duplex unit, or unit in a multiplex unit) used as a home or residence by one person who maintains a household or by two or more persons who maintain a common household.

“Existing short-term rental(s)” means, as of the effective date of this chapter, a property (a) approved and legally permitted under the former 2013 SDC 12.15.2700 to operate as a legal nonconforming use, or (b) a short-term rental that began operating prior to February 1, 2013, when initial short-term rental land use regulations were adopted, and has been lawfully and continually operating since that time.

“Immediate family” is defined as spouse, registered domestic partner, parents, children, children of the spouse/registered domestic partner, siblings, grandparents, grandchildren, parents of the spouse/registered domestic partner, and other close relatives who reside in the owner’s household.

“License” or “operating license” means the license required to operate a short-term rental under this chapter.

“Licensee(s)” means an owner who has received a license under this chapter.

“Owner(s)” means the natural person or legal entity that owns and holds legal and/or equitable title to the subject property. If the owner is a business entity such as a partnership, corporation, limited liability company, limited partnership, limited liability partnership or similar entity, each person who owns an interest in that business entity is considered an owner. For purposes of filing applications and/or other documentation with City under this chapter, “owner” includes an authorized agent.

“Person” means any natural person, corporation, limited liability company, partnership, limited liability partnership, joint venture, firm, association, trust, incorporated organization, and/or any other entity, whether acting in an individual, fiduciary, or other capacity.

“SDC” means the Sisters Development Code.

“Short-term rental(s)” means a dwelling unit used by any person or group of persons entitled to occupy the dwelling unit for rent for a period of less than thirty (30) consecutive days and includes, without limitation, existing short-term rentals and owner-occupied short-term rentals. “Short-term rental(s)” does not mean bed and breakfast inns, hotels, and/or motels.

“Short-term rental operating license(s)” or “license(s)” means permission granted by the City under this chapter as required by Section 5.50.030 to operate, manage, and/or otherwise make available for rent a short-term rental.

“Transfer” means any change of ownership of a property approved to operate as a short-term rental under SDC 2.15.2700 and this Chapter 5.50, whether or not there is consideration; provided, however, “transfer” does not include the following: (a) upon the death of the owner, a change in ownership where title is held in survivorship with a spouse or domestic partner; (b) upon the death of the owner, a transfer to a trust which benefits only the decedent’s spouse, child(ren), or registered domestic partner for the lifetime of the spouse, child(ren), or registered domestic partner; (c) the transfer of ownership of the real property to or between the members of a limited liability company or partnership when the transfer involves the same owner(s); and/or (d) the transfer to a trustee, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity, if at least one owner is living at the time of transfer and retains at least a twenty-five percent (25%) interest in the entity.

#### 5.50.030      Operating License Required.

No person may establish, maintain, operate, advertise, offer, rent, manage, and/or otherwise make available and/or allow any other person to make available for occupancy and/or use, a short-term rental within City without first applying for and obtaining an operating license and paying all applicable license and other fees in accordance with this chapter. The license term will be for a fiscal year, beginning July 1 and ending June 30 of the immediately following year. Notwithstanding anything contained in this chapter to the contrary, a separate operating license is required for each dwelling unit on the same legal lot operating as a short-term rental. For purposes of this Section 5.50.030, “advertise” or “offer”

includes, without limitation, through any media, whether written, broadcasted, posted, electronic, web-based, digital, mobile, or otherwise.

5.50.040 License Application; Renewal; Fees.

A. Initial Application. Application forms for operating licenses will be available at Sisters City Hall. The application documents must be filed with the city manager and, in addition to any other information requested by the city manager, including, without limitation, information necessary to satisfy applicable criteria under Section 5.50.060, must contain the following information along with a certification that the submitted information is true and correct:

1. Owner Information. Owner name(s), permanent residence address(es), permanent residence telephone number(s), and the short-term rental address and telephone number. The application must also include the name(s), mailing address(es), and telephone number(s) of each person holding an ownership interest in the property, or holding an ownership interest in the entity that owns the property.

2. Representative Information. If the owner does not permanently reside within the Sisters City limits and/or is not available when the property is being rented, the owner must provide the name, telephone number, and email address of a representative (which can be a person or company) who may be contacted concerning use of the property (e.g., complaints) related to the short-term rental. The authorized agent may be the designated representative for purposes of this provision.

3. Land Use Approval. The planning file number of the land use approval for the short-term rental use or determination of a legal nonconforming use.

4. Listing Number. The listing number(s) or website address(es) of where the short-term rental is advertised which may include, without limitation, the VRBO, Airbnb, and/or rental website number or account number and/or URL.

5. Additional Information. Such other information as the city manager deems necessary to administer this chapter.

B. Renewal Application. A license renewal application will include information similar in nature to that provided on the licensee's initial permit application and any other information requested by the city manager, including, without limitation, information necessary to satisfy applicable criteria under Section 5.50.060.

C. Timing. Subject to the provisions of this chapter, an application must be submitted in accordance with the following timelines, as applicable:

1. Existing Short-Term Rentals. A complete initial operating license application and fee for each existing short-term rental must be received by City on or before July 1, 2019. Notwithstanding anything herein to the contrary, an operating license issued under this provision must be renewed on the immediately following July 1 and on July 1 of each year thereafter.

2. New Short-Term Rentals. For a property with a new land use permit issued after the effective date of this chapter, the owner and/or authorized agent must apply for an initial

operating license within sixty (60) days of final land use approval permitting the use of the property as a short-term rental. Notwithstanding anything herein to the contrary, an operating license issued under this provision must be renewed on or before the immediately following July 1 and on or before July 1 of each year thereafter.

3. Property Transfers. The new owner of an existing short-term rental must submit a complete initial operating license application and fee within sixty (60) days of the date of the transfer of the property (recording of the deed evidencing such change of ownership). Notwithstanding anything herein to the contrary, an operating license issued under this provision must be renewed on or before the immediately following July 1 and on or before July 1 of each year thereafter.

D. Incomplete Application. If after a preliminary review the city manager determines that an operating license application does not include all required materials, the application will be considered incomplete and City will notify the applicant, in writing, of the deficiencies. If the applicant provides the missing required information within twenty (20) days of the date of City's notice, the application will be considered timely submitted. If the applicant does not provide the required information, the application will be deemed withdrawn.

E. License Fee. Each application (initial or renewal) must be accompanied by all applicable fee(s). The application and investigation fees for initial license applications and license renewal applications will be in an amount set from time to time by council resolution. No portion of the fee is refundable if a license is denied or operating of the short-term rental is discontinued for any reason. Fee(s) for late renewal applications, investigation, and/or any required inspections, may be established, from time to time, by resolution of the city council.

5.50.050      Termination; Expiration.

A. Termination. Subject to the provisions of this chapter, a license terminates automatically on June 30 of each year unless a license renewal application is approved in accordance with this chapter. An operating license must be obtained and/or renewed as required in this chapter. The ability to operate a short-term rental in City will be deemed discontinued, abandoned, and forfeited for failure to obtain or renew a license to operate as provided in this chapter.

B. Late Applications; Expiration.

1. Notice – Late Applications. City will send a notice of expiration of an existing license to the owner and authorized agent (if applicable) of any short-term rental for which a timely renewal application has not been received, advising the owner that the owner has twenty (20) days from the date of the notice to apply for renewal. An application will be considered timely submitted if the City receives a complete application, accompanied by the required fees, within the twenty (20) day late period.

2. License Expiration.

a. If the owner fails to submit a complete application prior to expiration of the twenty (20) day late period described under Section 5.50.050(B)(1), the ability to operate a short-term rental will conclusively be deemed discontinued, abandoned, and forfeited with no further action by City.

b. For new short-term rentals or the new owner of an existing short-term rental, once the sixty (60) day initial license application filing period referenced in Section 5.50.040(C)(2) or (3) expires, as applicable, the ability to operate a short-term rental will conclusively be deemed discontinued, abandoned, and forfeited with no further action by the City.

5.50.060 License Review Criteria.

A. Burden of Proof. The applicant has the burden of proof to demonstrate compliance with each applicable criterion for approval of an initial or renewal operating license. Approval criteria also operate as continuing code compliance obligations of the owner. City may require that other licenses and/or permits be obtained if the short-term rental will include other activities requiring permits or licenses under applicable City laws, ordinances, and/or regulations. The need for other licenses or permits will be determined by City during the application review process. City staff may verify evidence submitted and the applicant will cooperate fully in any investigation.

B. Criteria. In addition to any other conditions and/or requirements imposed by City, the city manager will review an application for an operating license to determine compliance with all review criteria, including, without limitation, the following:

1. Prior Use. Unless a hardship exemption has been granted under Section 5.50.080(F), the application for an operating license for an existing short-term rental or a license renewal application must demonstrate that the property has been rented at least once as a short-term rental in the immediately preceding (12) months, as demonstrated by submission a transient room tax remittance form.

2. Contact Information. The owner has provided information sufficient to verify a qualified person will be available for contact regarding use of the short-term rental during and after business hours. The owner or representative must be available to be contacted by telephone to ensure a response to the short-term rental address at all hours (i.e., 24 hours a day, seven days a week, including holidays) while the property is occupied for rent. The designated representative may be changed from time to time throughout the term of the license upon fourteen (14) days prior written notice to City. In an emergency or absence, contact information for a second qualified person may be provided.

3. Notice to Neighbors. Certification that the owner (a) provided an annual mailing or otherwise distribute by hand, a flier to neighbors within a 250-foot radius of the short-term rental property address containing contact information for the owner and/or representative, or (b) subject to City's sign regulations, posted a small placard or sign near the adjacent street(s) such that the sign or placard may be visible from the public right-of-way advising neighbors and tenants of the contact information for the owner and/or representative. The purpose of this notice is to inform adjacent property owners and residents of contract information to report and/or request resolution of problems associated with the operation of the subject short-term rental. If the permanent contact information changes during the license period, the new information must be mailed or distributed again, or changed on the placard or sign.

4. Availability. Acknowledgement that City may maintain a list of active short-term rental licenses, including, without limitation, the owner and/or representative's name and telephone number, publicly available upon request.

5. Fire and Emergency Safety. A completed checklist, as developed by City, for fire safety (fire extinguishers, smoke alarms, carbon monoxide detectors, etc.) must be submitted with each initial and renewal application.

6. Good Neighbor Guidelines. Certification that the good neighbor guidelines will be effectively relayed to short-term rental tenants, by incorporating the guidelines into the rental contract, including them in the rental booklet, posting them in a conspicuous place in the short-term rental, or a similar method. Renewal applications must include evidence that the good neighbor guidelines have been (and will continue to be) related to all short-term rental tenants.

7. Insurance. Evidence of compliance (or ability to comply prior to issuance of a license) with the insurance requirements under Section 5.50.080(C).

8. No Pending Actions or Violations. As of the date the application is submitted to City, the owner of a short-term rental must not have received a notice of violation issued by City, or any civil citation, regarding compliance of the short-term rental or subject property with any federal, state, and/or local law, rule, regulations, and/or ordinance, including, without limitation, any provision of the Code and/or Sisters Development Code. A voluntary assurance of compliance, negotiated compliance agreement, or deferred sentence agreement will satisfy the requirement that there be no pending actions or violations. The owner must be in compliance with Chapter 3.15 of the Code and subject to the tax administrator's authority under that chapter.

5.50.070      Transferability.

Notwithstanding anything contained in this chapter to the contrary, the operating license is issued in the name of the property owner and is not transferable. The operating license will terminate and be deemed void upon the transfer of the property approved as a short-term rental. Notwithstanding the immediately preceding sentence, the operating license for an existing short-term rental will not be terminated and/or deemed void if the new owner applies for and obtains a new operating license within sixty (60) days of the date of the transfer of the property (recording of the deed evidencing such change of ownership) as required under Section 5.50.040(C)(3).

5.50.080      Operating Requirements.

Except as otherwise expressly provided under this chapter, each short-term rental is subject to and must be operated in accordance with the following operating regulations, in addition to all other applicable federal, state, and/or local laws, regulations, and/or ordinances:

A. Compliance with Applicable Laws. The short-term rental must at all times be operated in compliance with applicable Oregon laws and regulations, including, without limitation, this chapter; all land use/development, building, and fire codes; and all other federal, state, and local laws, regulations, and ordinances, including, without limitation, the payment of all fines, fees, and taxes owing to City, including, without limitation, all taxes and/or fees due and owing under Chapter 3.15 of the Code.



B. Additional License Required. Each person desiring to operate one or more short-term rentals must have a current City business license and be registered under Chapter 3.15 of the Code.

C. Insurance. Each owner of a short-term rental must obtain and maintain commercial general liability insurance in an amount not less than \$500,000 combined single limit for personal injury and property damage and \$1,000,000 in the aggregate or as otherwise prescribed by resolution of the city council. A homeowner's insurance policy or endorsement that provides coverage for short-term rentals by paying guests and has the minimum levels contained in this section may satisfy this requirement. Any insurance policy must cover the actions of any tenants or invitees of the short-term rental.

D. License Display. A short-term rental license issued by City must be displayed in a prominent location within the interior of the dwelling adjacent to the front door. The license must contain the following information: (a) a number or other identifying mark unique to the operating license which indicates the license is issued by City, with the date of expiration; (b) the name of the owner or representative and a telephone number where the owner or representative may be contacted; (c) any required information and conditions specific to the operating license; (d) the property address; and (e) the City of Sisters official logo.

E. Permit Modification. If the land use permit is modified, the operating license must be modified by filing an application for modification with City within thirty (30) days of the final land use decision.

F. Response to Complaints. The owner and/or representative must respond to neighborhood questions, concerns, and/or complaints in a reasonably timely manner depending on the circumstances and in compliance with this Section 5.50.080(F).

1. Complaints. The owner and/or representative must maintain a record of complaints and the actions taken in response to each complaint, as applicable, in an electronic or written manner deemed reasonable to document the interaction. Such record must then be made available for inspection by City within forty-eight (48) hours after request from the city manager.

2. City Authority. Certain types of complaints are subject to City's regulatory authority under other sections of the Code, including, without limitation complaints under Chapter 8.16 of the Code. Nothing contained in this chapter is intended or will be construed to require the owner, agent, and/or representative act as a peace officer or code enforcement officer or put themselves in an at-risk situation. However, reasonable initial inquiries or complaints related to noise, disturbances, occupancy, or parking must first be made to the owner or representative. In addition, complaints specifically related to the good neighbor guidelines, or the condition, operation, and/or conduct of occupants of the short-term rental, should first be made to the owner or representative. If there is a failure to respond or a clearly inadequate response by the owner or representative, a complaint may be submitted to City on a form provided by City and City will respond or investigate as needed. City will first seek voluntary compliance or resolution, but if City finds substantial evidence supporting further action given the complaint(s), City may issue a warning under Section 5.50.080(F)(4).

3. Records. Subject to applicable law, including, without limitation, Oregon Public Records Law, City may provide the owner and/or representative information contained in a complaint.

4. Grounds for Warning. Repeated failure of the owner or representative to timely and reasonably respond to a complaint(s) relayed by City staff is considered grounds for a warning and potential revocation under Section 5.50.090. Issuance of a noise citation (as sustained on appeal if applicable) to a tenant may be grounds for a warning to the owner, only if under the circumstances, in the reasonable judgment of city manager, the owner should be held responsible. Issuance of a public nuisance citation may be grounds for a warning in the appropriate circumstances.

5. Administrative Rules. The city manager may establish administrative rules and regulations consistent with the provisions of this chapter for purposes of interpreting, clarifying, carrying out, furthering, and/or enforcing the provisions of this chapter, including, without limitation, good neighbor guidelines. A copy of such administrative rules and regulations will be on file in the office of the city recorder and be posted on City's website.

G. Reporting. On or before the 15<sup>th</sup> of each month, each owner of a short-rental will submit to City a written report, on a form provided by City, concerning rental information for the immediately preceding month, including, without limitation, the number of nights the short-term rental was occupied by short-term tenants.

5.50.090 Revocation Procedure; Violations; Penalties.

A. Grounds for Denial, Suspension, Revocation. The city manager may deny, suspend, or revoke a license for any of the following:

1. Failure to comply with this chapter;
2. Submitting falsified information to City, including, without limitation, providing material misstatements and/or falsified information in the initial license application and/or license renewal application process;
3. Noncompliance with any other City ordinances or regulations or violations of federal, state, and/or local laws, regulations, and/or ordinances including, without limitation, transient room tax laws;
4. Failure to renew an operating license as set forth in Section 5.50.050;
5. Failure to demonstrate proof of use of the short-term rental during the prior twelve (12) months at the time of license renewal;
6. Expiration or revocation of the land use permit supporting the short-term rental; and/or
7. Such other violations of this chapter of sufficient severity, in the reasonable judgment of the city manager, so as to provide reasonable grounds for revocation of the operating license.

B. Notice. The manager will provide written notice of any license denial, suspension, or revocation and reasons therefor to the licensee by first-class US mail at least ten (10) calendar days prior to the effective date of the denial, revocation, or suspension.

C. Appeal. A decision to deny, suspend, or revoke a permit may be appealed by personally delivering a written notice of appeal to the city manager on or before the effective date of the denial, suspension, or revocation. The manager's decision to revoke or suspend is stayed pending appeal. The city manager will transmit the notice of appeal together with the file of the appealed matter to the council after which transmission the council will fix a time and place for hearing the appeal. The council will give the appellant not less than ten (10) days' prior written notice of the time and place of hearing of the appealed matter. The council will determine whether City's decision was based on a preponderance of the evidence for factual matters and noncompliance with applicable law for legal matters. A decision of the council will be reduced to writing and will be based upon the evidence received/arguments presented. The council may amend, rescind, or affirm the appealed decision. The council's decision will be final on the date of mailing the decision to the appellant. The council's decision is the final decision of City and is appealable only by writ of review to Deschutes County Circuit Court. Council may establish by resolution from time to time, a fee for filing an appeal, which will be jurisdictional.

D. Violations; Infractions. Violation of or failure to comply with any provision of this chapter is punishable upon conviction by a fine not less than \$250.00 and not to exceed \$1,000.00. Each violation and each day that a violation persists constitutes a separate offense. City will be entitled to collect from any owner violating or otherwise failing to comply with this chapter City's reasonable attorney fees and other fees, costs, and expenses incurred by City to enforce this chapter. Owners and authorized agents are jointly and severally liable for such offenses. The following conduct also constitutes a violation of this chapter and is a civil infraction:

1. Representing a dwelling unit as available for occupancy or rent as a short-term rental where the owner does not hold a valid operating license issued under this chapter, or making a short-term rental available for use, occupancy, and/or rent without first obtaining a valid operating license; and/or

2. Advertising for rent and/or renting a short-term rental in a manner that does not comply with the standards of this chapter.

E. Remedies Not Exclusive. The remedies provided in this Section 5.50.090 are not exclusive and will not prevent City from exercising any other rights and/or remedies available under law, nor will provisions of this chapter prohibit or restrict City or other appropriate prosecutor(s) from pursuing any charges under City ordinances.

F. Hardship Exemption. Prior to City initiating revocation proceedings, a licensee may seek a temporary hardship exemption to any circumstance that may be grounds for revocation or suspension of the operating license. To apply for such a hardship, the applicant must complete the form prescribed by City and submit proof, acceptable to City, that: (a) a medical condition of the owner, domestic partner or immediate family member jeopardizes the ability to comply with this chapter; (b) the death of the spouse, domestic partner, or immediate family member jeopardizes the ability of the owner to comply with this chapter; or (c) structural integrity of the short-term rental deems it uninhabitable for tenants and is not self-imposed. City may, in City's sole discretion, approve or deny a request for a

temporary hardship exemption. City may attach a time limit to this hardship exemption, provided, however, such limit will not exceed one-hundred eighty (180) days. A one-time extension may be approved upon request if one of the conditions contained in this section still applies.

5.50.100      Public Nuisance Declared.

Operation of any short-term rental within City's incorporated limits in violation of this chapter is hereby declared a public nuisance and may be abated pursuant to all available remedies.

5.50.110      Indemnification.

By accepting a license issued pursuant to this chapter, the owner(s) and authorized agent(s), on a joint and several basis, indemnify and hold harmless City and City's officers, employees, volunteers, agents, insurers, and self-insurance pool for, from, and against all injuries, claims, demands, actions, suits, damages, liabilities, costs, and/or expenses of any kind whatsoever, including, without limitation, attorney fees and costs, arising out of or resulting from in any manner the operation of the short-term rental, including, without limitation, any bodily injury, personal injury, sickness, disease, death, property loss or damage, and/or any other loss.

5.50.120      Discontinuance of Short-Term Rental Occupancy.

A.      After Revocation. After an operating license has been revoked, the property may not be used or occupied as a short-term rental unless and until a new land use approval has been granted and license issued in accordance with this chapter; provided, however, an owner whose license has been revoked will not be eligible to reapply for a short-term rental license for the same property for a period of twelve (12) months from the date of revocation.

B.      After Expiration. If an operating license expires, the property may not be used or occupied as a short-term rental with the exception of an existing short-term rental during the sixty (60) day grace period during which the new owner may apply for a new operating license. Except for a new owner of an existing short-term rental who makes application during the sixty (60) day grace period, the owner of the property to which the license applied and whose license has expired will be required to apply for and obtain both a land use permit and a short-term rental license before the property may be lawfully used, rented, and/or occupied as a short-term rental.