

ORDINANCE NO. 2015-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ
AMENDING SECTIONS 24.16.160 (9) and 24.16.170 (7) OF THE SANTA CRUZ
MUNICIPAL CODE PERTAINING TO LIMITING SHORT TERM/VACATION RENTALS
IN ACCESSORY DWELLING UNITS.

BE IT ORDAINED By the City of Santa Cruz as follows:

Section 1: Section 24.16.160 (9) of the Santa Cruz Municipal Code is hereby amended to read as follows:

9. Occupancy.

a. The property owner or an adult member of the property owner's immediate family for whom the property owner is a court appointed conservator must occupy either the primary or accessory dwelling as his or her principal place of residence except under circumstances as established by resolution by the City Council that may require the property owner to vacate the unit during which time the property owner or a member of the property owner's family who has the property owner's power of attorney or is an executor of the property owner's estate may apply to the City Council for approval of a temporary change in use allowing both units to be rented for a period of no more than two years with a possible extension of one year by the Planning Director if circumstances warrant. Upon the expiration of the Rental Period, the property owner shall re-occupy the property, cease renting one of the units, or sell the property to a buyer who will reside on the property. A fee for such a request shall be in an amount established by resolution by the City Council.

b. For purposes of this chapter, the property owner is the majority owner of the property as shown in the most recent Santa Cruz County assessor's roll.

c. If there is more than one property owner of record the owner with the majority interest in the property shall be deemed the property owner for purposes of this chapter. Any property owner of record holding an equal share interest in the property may be deemed the majority property owner if no other property owner owns a greater interest. (For example, if the property is owned by two people, each with a fifty percent interest, either of the two owners may be deemed the property owner for purposes of the owner occupancy requirement. If three people own the property, each with a thirty-three and one-third percent interest, any one of the three may be deemed the property owner for purposes of the owner occupancy requirement.)

d. Notwithstanding subsection (a) of this section, the Community Development Director, in consultation with the City Manager and City Attorney, shall be authorized to promulgate regulations intended to legalize accessory dwelling units which are non-confirming solely by virtue of the fact that the property owner has failed to comply with subsection (a)'s owner occupancy requirement, including but not limited to, regulations providing for the amortization of the non-conformity by specifying a period of time within which the absentee owner must either establish occupancy or discontinue the accessory dwelling unit use of the property or alternatively sell the property, and

regulations providing for the recordation of land use agreements specifying the terms of amortization.

e. Accessory dwelling unit properties shall be used for long term residential purposes only. Accessory dwelling unit properties may not be used on a transient occupancy basis or for short term/vacation rental purposes.

1) Exception. A legal accessory dwelling unit property that had legal status prior to November 10, 2015, and was in use as a short term/vacation rental prior to that date, and for which the owner remits transient occupancy tax in compliance with Section 3.28 of this title in full in a timely manner for the use of the property as short term/vacation rental purposes, may continue the use as long as the owner of record on November 10, 2015 maintains ownership of the property. The owner must meet the owner-occupancy requirement of this code. Upon sale or transfer of the property to any subsequent owner all short term/vacation rental use of the property shall be discontinued and the new and subsequent owners thereof shall comply with long term residential purposes of this section e.

2) Exception. A legal accessory dwelling unit property that commenced use as a short term/vacation rental between November 10, 2015 and the effective date of this ordinance section or that commenced use as a short term/vacation rental use prior to November 13, 2015 and for which transient occupancy tax payments had not been made or paid in full prior to that date, but for which the owner remits transient occupancy tax in full in compliance with Section 3.28 of this title prior to the effective date of this ordinance for the use of the property as short term/vacation rental purposes, may continue the use for two years until December 24, 2017 after which the short term/vacation rental use shall cease. The owner must meet the owner-occupancy requirement of this code. Upon sale or transfer of the property to any subsequent owner within this two year period all short term/vacation rental use on the property shall be discontinued and the new and subsequent owners thereof shall comply with long term residential purposes of this section e.

Section 2: Section 24.16.170 (7) of the Santa Cruz Municipal Code is hereby amended to read as follows:

24.16.170 DEED RESTRICTIONS.

Before obtaining a building permit for an accessory dwelling unit the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory dwelling unit shall not be sold separately.
2. The unit is restricted to the approved size.
3. The use permit for the accessory dwelling unit shall be in effect only so long as the property is in compliance with this Ordinance including Section 24.16.160.9.

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4. The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement and/or revoking the conditional use permit.
5. The deed restrictions shall lapse upon removal of the accessory dwelling unit.
6. For properties with accessory dwelling units that are located in a Permit Parking Program District, the primary residence and the accessory dwelling unit combined shall qualify only for the number of residential parking permits that would have been available to the primary residence. No additional permits will be granted for the accessory dwelling unit.
7. The accessory dwelling unit or the primary unit shall not be used as a short term or vacation rental.

Section 3: Section 24.22.699 of the Santa Cruz Municipal Code is hereby added to read as follows:

24.22.699 SHORT TERM/ VACATION RENTAL.

Short term/vacation rental is a residential unit in which overnight accommodations are offered for hire, or in which living accommodations for periods of less than thirty days are customarily offered for hire, or otherwise used in a manner or purpose that would require the owner to comply with the requirements of the Santa Cruz Municipal Code Chapter 3.28 “Transient Occupancy Tax.”

Section 4: Severability. If any section, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of the ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subdivision, subsection, paragraph, sentence, clause or phrase of this ordinance.

Section 5: This ordinance shall take effect and be in force thirty (30) days after final adoption.

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PASSED FOR PUBLICATION this 10th day of November, 2015, by the following vote:

AYES: Councilmembers Chase, Posner; Vice Mayor Mathews; Mayor Lane.

NOES: Councilmembers Comstock, Noroyan.

ABSENT: Councilmember Terrazas.

DISQUALIFIED: None.

APPROVED: ss/Don Lane, Mayor

ATTEST: ss/Bren Lehr, City Clerk Administrator

PASSED FOR FINAL ADOPTION this _____ day of _____, 2015,
by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2015-15
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk Administrator