

**CITY AND BOROUGH OF SITKA**

**ORDINANCE NO. 2022-21**

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 22  
“ZONING” OF THE SITKA GENERAL CODE BY UPDATING CHAPTER 22.08  
“DEFINITIONS” AND CHAPTER 22.24 “SPECIAL USE PERMITS”**

**1. CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

**2. SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

**3. PURPOSE.** The purpose of this ordinance is to update the allowance of a conditional use permit for short term rentals with regard to limiting the permanence of permits issued, residency requirements in the application for a permit, as well as addressing a gap in how short-term rentals and long term are defined.

**4. ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 22, entitled “Zoning”, be amended by updating Chapter 22.08, entitled “Definitions”, at section 22.08.735, entitled “Short-term rentals” and Chapter 22.24, entitled “Special Use Permits”, at section 22.24.010, entitled “Conditional uses” to read as follows (deleted language stricken, new language underlined):

**Title 22  
ZONING**

**Chapters:**

- 22.04 Introduction and General Provisions**
- 22.08 Definitions**
- 22.12 Zoning Maps and Boundaries**
- 22.16 District Regulations**
- 22.20 Supplemental District Regulations and Development Standards**
- 22.24 Special Use Permits**
- 22.30 Zoning Code Administration**

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**Chapter 22.08  
DEFINITIONS**

**Sections:**

\* \* \*

22.08.735 Short-term rentals.

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**22.08.735 Short-term rentals.**

“Short-term rentals” means rentals of single dwelling units for less than ~~fourteen~~ thirty consecutive days for money or other valuable consideration by one party which then occupies the dwelling.

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**Chapter 22.24  
SPECIAL USE PERMITS**

Sections:

- 22.24.005 General.
- 22.24.010 Conditional uses.

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**22.24.010 Conditional uses.**

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**Table 22.24.010-2**

**Initiation and Termination Periods**

	<b>Short-Term Rental Conditional Use Permits</b>	<b>Bed and Breakfast Conditional Use Permits</b>	<b>Interim Mobile Homes Conditional Use</b>	<b>All Other Conditional Use Permits</b>
Period in which the permit must be activated following planning commission approval or permit becomes void	One year	One year	One year	Two years
If permit is not used during period, permit becomes void after activation	One year	One year	One year	Two years
Mandatory review period <sup>1</sup>	Set by planning commission at time of approval	Set by planning commission at time of approval	Set by planning commission at time of approval	Set by planning commission at time of approval
Number of years after approval that permit sunsets	Set by planning commission at time of approval	Set by planning commission at time of approval	Set by planning commission at time of approval	Set by planning commission at time of approval
<u>Whether permit is transferrable upon sale or transfer of ownership of subject property</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>

Note (1): It shall be the responsibility of the applicant to submit materials one month prior to the end of any review period. Failure to submit materials within the time specified shall automatically void the approval.

~~Note (2): It is recognized in land use case law that conditional use permits are grants to a property and run with the parcel and not the owner.~~

**Table 22.24.010-2**

**Initiation and Termination Periods**

	<b>Short-Term Rental Conditional Use Permits</b>	<b>Bed and Breakfast Conditional Use Permits</b>	<b>Interim Mobile Homes Conditional Use</b>	<b>All Other Conditional Use Permits</b>
<p>Note (32): Substantial construction progress must be made on a project approved through the variance process within one year of the date of the variance approval or the approval becomes void. In the event it can be documented that other substantial progress has been made, a one-year extension may be granted by the planning commission if a request is filed within eleven months of the initial approval.</p>				

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**C. Conditional Use Permit Provisions for Short-Term Rentals.**

1. Short-term rental establishments ~~as described in subsection F of this section~~ shall be approved as conditional uses in the R-1, R-1 MH, R-1 LD, R-1 LDMH, R-2, and R-2 MHP zoning districts with the following conditions:

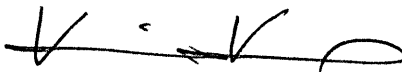
- a. Existing short-term rentals operating in conformance with all other applicable regulations prior to the effective date of the ordinance codified in this section may continue operating as nonconforming uses so long as payments of bed taxes and any other fees are current.
- b. The permit application and process will be the same as that required for bed and breakfasts, including submission and review of both interior and exterior site plans.
- c. Increase in density and other impacts on the immediate surrounding neighborhood which would occur as a result of approval of short-term rentals may be a consideration in the granting of the permit.
- d. Cessation of an approved short-term rental operation for twelve consecutive months shall result in revocation of the permit and require reapplication and approval of a new conditional use permit. Timely payment of sales taxes shall be one of the primary indicators of compliance with this section.
- e. When the planning commission approves a permit with the condition referring to the number of children in the facility, the term "children" shall refer to individuals who are fifteen years old or younger.
- f. Primary residence requirements. All short-term rentals approved on or after September 14, 2022, must comply with primary residence requirements as provided below.

- i. To be eligible to apply for a short-term rental, the property containing the short-term rental must also contain the applicant's primary residence. A primary residence is that which is occupied by the applicant as the applicant's principal place of residence at least 180 days out of the year as documented by motor vehicle registration, voter registration, and/or other such evidence determined to be conclusive by the planning commission. Applicants will be required to submit a sworn affidavit attesting that the property is their primary residence. An applicant cannot claim more than one property as their primary residence.
- ii. Dwelling units on the property eligible for a permit include a single-family home, a mobile or manufactured home, or the non-owner-occupied unit within a two-family or multi-family unit.
- iii. An approved permit shall automatically become void if the property is no longer the applicant's primary residence. Permits shall also become void immediately upon sale or transfer of the property. Permits are non-transferable between persons and locations.
- iv. It is the intent of subsection (C)(1)(f) of this section that the primary residence requirements be strictly followed. However, exceptions may be granted in cases of extreme personal hardship to the applicant determined by the planning commission. In these cases, the maximum term of the permit when an exception is granted is twelve months with one possible, six-month extension if granted upon further application. The applicant shall have the burden of proof to demonstrate the exception is warranted due to circumstances beyond their control such as the employment or health needs of the applicant's or a family member. Exceptions may not be granted solely to address financial considerations or inconvenience. The property must be the primary residence of the applicant at the time of application for an exception.

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**5. EFFECTIVE DATE.** This ordinance shall become effective the day after the date if its passage.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska, this 13<sup>th</sup> day of September, 2022.



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Kevin Knox, Deputy Mayor

ATTEST:



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Sara Peterson, MMC  
Municipal Clerk

1<sup>st</sup> reading: 8/23/2022  
2<sup>nd</sup> and final reading: 9/13/2022

Sponsors: Knox/Mosher