



CITY OF BIG BEAR LAKE *California*

MEETING DATE: January 11, 2021

TO: Honorable Mayor Caretto and Members of the City Council

FROM: Frank A. Rush, Jr., City Manager

SUBJECT: City Manager Comments – Item 2.3

URGENCY ORDINANCE APPROVING DEVELOPMENT CODE AMENDMENT 2020-103 RELATED TO TRANSIENT PRIVATE HOME RENTALS, ADDING TITLE 4, SECTION 1, TO THE MUNICIPAL CODE RELATED TO VACATION RENTALS, AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

ACTION TO BE CONSIDERED

City Council will consider adopting an urgency ordinance to repeal sections 17.03.310 and 17.03.315 of the Development Code related to transient private home rentals, and replace these regulations with new, temporary regulations in a new Title 4 of the Municipal Code. The proposed new, temporary regulations would amend the City's enforcement protocols for violations of the City's vacation rental regulations to enable the immediate issuance of citations, focus the City's enforcement efforts on the most common and disruptive violations, and significantly increase the penalties for violations.

The urgency ordinance is presented at this time in order to more effectively prevent and resolve behavioral concerns associated with vacation rentals during the City's peak visitation season now underway, which has been exacerbated by an increase in visitation associated with COVID-19. The proposed new, temporary regulations would remain in effect for the next few months while the City develops new, permanent regulations aimed at more effectively regulating the behavior of vacation rental guests in Big Bear Lake. It is anticipated that additional provisions may ultimately be added to the new, temporary regulations included in the proposed urgency ordinance after the receipt of significant public input in the next few months.

RECOMMENDED MOTION(S)

Motion to adopt the Urgency Ordinance Approving Development Code Amendment 2020-103 Related to Transient Private Home Rentals, Adding Title 4, Section 1 to the Municipal Code Related to Vacation Rentals, and Finding the Action Exempt from the California Environmental Quality Act.

RESPONSIBLE STAFF Larry Vaupel, Director of Tourism Management - Staff Report Attached

ADDITIONAL CITY MANAGER COMMENTS

The proposed urgency ordinance is intentionally drafted to simplify the City's regulations, in order to promote a better understanding by City staff, vacation rental guests, vacation rental owners, vacation rental managers, and our residents, and, most importantly, focus the City's efforts on the key concerns associated with vacation rentals.

Practically speaking, the key changes to the City's vacation rental ordinance that would result from the Council's adoption of the proposed urgency ordinance are as follows:

- City staff would be solely responsible for enforcement, would respond as soon as possible to every complaint, and would determine whether a violation has occurred. Under the current ordinance, primary enforcement responsibility is delegated to vacation rental owners / managers, and punitive action is rarely taken.
- The vacation rental owner / manager would still be required to respond if / when summoned by the City code compliance officer, but would not be contacted until City staff is on site and has determined that a violation has occurred. The vacation rental owner / manager response is intended to ensure that the owner / manager fully understands the concerns, can take steps to prevent a repeat violation by the same guest, and can take steps to prevent violations by future guests.
- The proposed ordinance includes fines of \$500 and \$1,000 for violations involving poor guest behavior, and allows the fine to be levied against the guest, the owner, and/or the manager.
- Any music producing devices may be operated indoors only, and the music should not be audible at the property line – at any time of the day or night.
- No parties, weddings, or other large gatherings would be permitted at the vacation rental property unless specifically authorized by the City at least 30 days in advance. Such requests would likely be granted infrequently, and would only be granted if there are adequate plans in place to ensure respectful behavior, guarantee relative peace and quiet, and not be disruptive to the neighborhood.
- All vehicles associated with vacation rental properties, including overnight or daytime guests, would be required to park in the garage or driveway of the property. No on-street parking would be permitted at any time.
- The use of spas or any other outdoor activity that disturbs the peace would be prohibited after 10 pm.
- The City would have the authority to revoke or suspend the vacation rental license after just one violation. In reality, we would expect this authority to be utilized only in extreme egregious circumstances, however, it would send a strong message and provide maximum flexibility for addressing significant concerns. In reality, we would expect to work with the vacation rental owner / manager to resolve concerns, and would likely provide additional chances to resolve ongoing concerns.
- Vacation rental licenses would only be issued for properties owned by individuals and families, and business entities would be prohibited from owning vacation rental properties. Additionally, it would not be possible to offer a leased property as a vacation rental.
- Vacation rental properties would be required to include license numbers in all advertisements, and any vacation rental properties operating without a license would be prohibited from

operating for at least a year (and only if ownership changed in the future) and the owner would be permanently prohibited from securing a vacation rental license in Big Bear Lake.

- The filing of frivolous complaints against a vacation rental would be prohibited, and would subject frivolous complainants to a \$250 fine.
- The City would no longer require the use of exterior signs affixed to vacation rental properties. The specific intent of the new ordinance is to ensure respectful behavior by vacation rental guests (noise, parking, parties), and our ultimate goal is create a neighborhood environment where it is impossible to determine if a home is occupied by permanent residents, a second homeowner, or vacation rental guests. Ultimately, one should not be able to tell the difference.

It is important to note that the proposed urgency ordinance does not include a previously discussed requirement that all vacation rental properties be managed by a professional vacation rental manager with a “brick and mortar” presence in the Big Bear Valley. However, I am hopeful that Council will consider this requirement or some variation thereof when new permanent regulations are approved later this spring. Ultimately, it is imperative that the City’s program foster a cooperative and communicative relationship with engaged vacation rental owners and managers.



CITY OF BIG BEAR LAKE *California*

MEETING

DATE: January 11, 2021

TO: Honorable Mayor and Members of the City Council

THROUGH: Frank A. Rush, Jr., City Manager

FROM: Larry Vaupel, Director of Tourism Management

SUBJECT: Urgency Ordinance Approving Development Code Amendment 2020-103 Related to Transient Private Home Rentals, Adding Title 4, Section 1, to the Municipal Code Related to Vacation Rentals, and Finding the Action to be Exempt from the California Environmental Quality Act

BACKGROUND

Vacation rentals (transient private home rentals) have a long history in the City. The City was among the first municipalities in the State to adopt an ordinance regulating vacation rentals in 1999. This original ordinance, Ordinance No. 99-300, provided a means by which second homeowners could help cover the cost of ownership, maintenance, and repairs. In 2007, the City Council adopted Ordinance No. 2007-375 that specified the provisions for enforcing the regulatory rules surrounding vacation rentals. Combined, these two ordinances established Sections 17.03.310 and 17.03.315 of the Development Code.

The current state of the vacation rental market, a dramatic rise in the number of complaints about the behavior of vacation rental guests, and a need to improve enforcement is the impetus for adopting an urgency ordinance regulating vacation rentals. On March 12, 2020, there were 2,183 permitted vacation rentals in the City of Big Bear Lake. As of January 4, 2021, there are 2,304 permitted vacation rentals. While the number of vacation rentals has not risen dramatically this year (+5.5%), vacation rental occupancy rates have increased significantly, with more frequent use of vacation rentals in our community. During the ongoing COVID-19 pandemic, regionally based visitors have escaped their homes and locked-down communities to find retreat in vacation homes in the Big Bear Valley. With higher occupancy rates come more complaints, and over the summer and through the early winter, we experienced 4-5 times the number of complaints over the same period in 2019.

The City's current ordinance regulating vacation rentals intentionally places primary enforcement responsibility on vacation rental owners / managers, provides a one-hour response window for the owner / manager, and requires warnings for the initial offense. Overall, the enforcement protocols in the current ordinance rely on the ability of the owner / manager to resolve the concern, rarely result in punitive action against irresponsible owners / managers / guests, and do not promote consistent enforcement. Most importantly, these protocols have not been effective in preventing and resolving noise, parking, and other poor behavior issues by certain guests in recent months as the City has experienced higher occupancy rates.

DISCUSSION

The proposed urgency ordinance is presented primarily to implement an immediate change in the City's vacation rental ordinance enforcement protocols during our busiest season, but is also presented to a) intentionally simplify the City's ordinance regulating vacation rentals, b) provide a fresh starting point for discussion of any additional desired provisions to be included in a comprehensive new vacation rental ordinance to be discussed and adopted later this spring, and c) intentionally direct the City's focus on the guest behavior issues that generate the most frustration in our community.

Establishment of New Title 4 in Code of Ordinances, and Repeal of Existing Provisions in Development Code

The proposed ordinance would completely repeal the vacation rental sections of the Development Code, and would create a new Title 4 of the Code of Ordinances with new provisions to regulate vacation rentals. The provisions included in the new Title 4 are aimed at achieving the goals outlined above, and intentionally focus on regulating behavior rather than land use. Additionally, another reason for this change is to eliminate any confusion or claim that a land use entitlement is granted by the City with the issuance of a Vacation Rental Permit. Applicants would now be issued a "license" instead of a "permit".

While the restructuring of the proposed urgency ordinance does contain significant changes, they relate mainly to sharpening our focus on the key behavior issues, clarifying existing rules, and enhancing enforcement protocols. The urgency ordinance should not result in significant changes in operating procedures for current rule-abiding owners and agents, and City staff's intent for the urgency ordinance is not to harm any existing permit holders. Put simply, the proposed ordinance clearly defines our expectations and repeals the conflicting verbiage and ambiguity found in the existing ordinance.

Enforcement Protocols

As noted, the key provision of the proposed urgency ordinance is the way enforcement is administered. City staff will begin operating the complaint line and dispatching Code Compliance Officers to validate all complaints. By answering the complaint line, we can educate residents on the ordinance and what actions are in violation of the ordinance. This will help ensure that staff is only responding to actual violations and help residents understand what behavior constitutes a violation.

Starting on January 14, 2021, the city will terminate the outsourcing of the complaint line 866-CODE and begin answering the calls with City personnel. A team of three Code Compliance Officers will be on duty during periods of high call volume, including nights, holidays, and weekends. The County Sheriff's Office will be used during times that staff is not available. In the coming months, we will be launching a mobile application and online complaint reporting service that will allow residents to file complaints and track the progress as staff works to gain compliance. Additionally, online licensing and transient occupancy tax payments will be available to our owners and agents.

Code Compliance Officers will be immediately dispatched to all complaints received, and will be able to quickly assess if a violation exists and take the appropriate enforcement action. There will be no need for the cat and mouse games that currently result from ambiguous rules and prescribed warnings found in the current ordinance. Staff believes that strict enforcement and significant

penalties will entice agents and owners to be more proactive in their check-in and monitoring activities to prevent violations from occurring.

Many owners and agents have called for a more proactive enforcement protocol to create a level playing field for all. Most owners spend significant time and resources monitoring their properties to avoid violations, while others do nothing until they receive a call from the complaint line knowing that a warning is required prior to a citation being issued. This system has inadvertently placed the neighbors in charge of monitoring the vacation rentals around them. This is unacceptable. We hope to create a system that incentivizes those owners who monitor their own properties and punish those who rely on neighbors and the complaint line. At the same time, residents have rightfully complained about ineffective enforcement of vacation rental regulations, and this new approach should greatly enhance the City's effectiveness.

Importantly, the proposed ordinance levels significant fines for those owners who are operating without a license and not paying transient occupancy taxes. Staff estimates that there are 200 +/- properties being used as vacation rentals without approval. There is no excuse for this blatant disregard of the regulations in place. Fines for operating without a license will be \$5,000 (1st offense) and \$10,000 (2nd offense). Additionally, the owner and property will be banned from the vacation rental program. People who believe the rules do not apply to them, knowingly operate in violation of the law, and avoid paying taxes that help offset the community costs of their operation are not the types of owners we want in our program.

Ordinance Clearly Addresses Issues of Noise and Parking

The proposed urgency ordinance clearly defines a noise violation as amplified music being heard at the property line. This is a clear and simple method of determining if a violation exists. Additionally, the ordinance requires that outdoor activity that creates noise cease at 10:00 p.m. The use of decks and outdoor spas at night generates numerous complaints. Even a seemingly quiet conversation carries through our forest and canyons and throughout our neighborhoods. We believe that by clearly defining what actions constitute a violation, our guests will better understand our expectations and our staff will have clear direction when enforcing the rules.

The ordinance requires all vehicles associated with vacation rentals to always be parked on the property. This clarifies some conflicting interpretations in the existing ordinance that seems to allow an unlimited number of cars to be parked on the street until 11:00 p.m. The proposed ordinance clearly limits vacation rental occupancy even during the daytime and requires that daytime guests also park on the property. The daytime occupancy issue is another source of confusion that exists in our current ordinance that will be clarified under the new rules.

“Brick and Mortar” Management Requirement Not Included at This Time

The proposed urgency ordinance does not require owners to hire a local full-service agency as proposed in the draft ordinance presented to Council on November 9, 2020. This provision would be a significant change to the current ordinance and was opposed by many self-managed vacation rental owners. Adopting this provision requires additional public input and a more deliberate process, and will be discussed over the next few months as the City Council finalizes a comprehensive new vacation rental ordinance.

COVID-19 Stay-at-Home Order Restrictions

Since the city became subject to the Governor's Regional Stay-at-Home Order on December 7, 2020, the city has focused enforcement on vacation rentals that operate outside of the following parameters:

1. One household per unit,
2. Two cars per unit,
3. No loud noise, music, or parties,
4. Guests practice appropriate social distancing and other COVID-19 safety protocols,
5. Owners remit timely payments of TOT.

Enforcement of these restrictions has led to 7 evictions and 16 citations totaling \$8,500 in fines. These restrictions will remain in place until the Regional Stay-at-Home Order has been lifted. The urgency ordinance being considered will go into effect immediately upon passage by the City Council. However, the stricter provisions listed above apply until the Governor modifies his order.

As outlined above, the urgency ordinance strengthens and clarifies parts of the vacation rental regulations beyond the five areas covered by the Stay-at-Home restrictions, such as providing a measurement for noise violations and clarifying parking restrictions. Combined, the COVID-19 restrictions and urgency ordinance provide a clear and simple regulatory framework that can be more easily understood by owners and guests and more effectively enforced by staff.

Conclusion

The dramatic rise in occupancy rates in vacation rentals during the COVID-19 crisis has led to a dramatic increase in complaints from residents. While following up on these complaints, staff has identified several issues in the existing ordinance that make it difficult to resolve complaints and hold violators accountable. The winter season has historically brought the City heavy amounts of tourism. For staff to adequately address the concerns from residents and to preserve the integrity of our residential neighborhoods, staff recommends approval of the proposed urgency ordinance regulating vacation rentals. The proposed urgency ordinance will remove ambiguity in the code, set clear expectations for behavior, and provide staff with the tools needed to enforce the regulations fairly and consistently.

It is important to note that, while this ordinance will serve the community well during our busy season, the City will proceed with the development of a new vacation rental ordinance with an inclusive process as soon as it is safe to do so. The envisioned process will include public hearings at Planning Commission and City Council, special meeting(s) specifically for public input, as well as the receipt of public comments via email. The approval of the proposed urgency ordinance is not meant to circumvent a rigorous public debate and discussion around the operation of vacation rentals in our community, and we will be making special efforts to ensure significant public input on the ultimately adopted new vacation rental ordinance in the coming months. This process will begin as soon as the COVID-19 situation allows us to host public meetings safely, hopefully within the next month, and it is anticipated that the ultimately adopted new vacation rental ordinance will be adopted by City Council later this spring.

ENVIRONMENTAL CONSIDERATIONS

The proposed urgency ordinance is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3), the general rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed urgency ordinance does not have the potential to cause a significant effect on the environment.

FISCAL IMPACT

There is no fiscal impact associated with the adoption of the proposed urgency ordinance. The City will continue to incur currently budgeted expenses for City staff involved in managing and enforcing the City's vacation rental program.

The total FY 2020-21 budget for the management and enforcement of the vacation rental program is approximately \$1.1 million, and is primarily supported by vacation rental permit fees. In the future, City Council will be asked to increase the vacation rental license fee from \$279 per unit to approximately \$500 per unit to enable permit fees to cover 100% of program expenses.

ATTACHMENT

1. Ordinance No. 2021-xxx
2. Current Ordinance – Municipal Code Section 17.03.310

ATTACHMENT 1



CITY OF BIG BEAR LAKE *California*

URGENCY ORDINANCE NO. 2021-xxx

URGENCY ORDINANCE OF THE CITY OF BIG BEAR LAKE APPROVING DEVELOPMENT CODE AMENDMENT 2020-103 RELATED TO TRANSIENT PRIVATE HOME RENTALS, ADDING TITLE 4, SECTION 1, TO THE MUNICIPAL CODE RELATED TO VACATION RENTALS, AND FINDING THE ACTION TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Big Bear Lake, California (the “City”) is a municipal corporation and Charter City, duly organized under the constitution and laws of the State of California; and

WHEREAS, the City of Big Bear Lake is a four-season resort community where tourists visit to escape everyday urban life in order to enjoy a unique mountain experience, including recreation activities, rest and relaxation; and

WHEREAS, the City of Big Bear Lake desires to preserve the residential character of neighborhoods that enhance the quality of life for our residents and provide a peaceful retreat for our visitors; and

WHEREAS, according to the Big Bear Lake General Plan, the local economy is primarily based on tourism, therefore, a guiding principle of the City of Big Bear Lake is to encourage a year-round, well-balanced economic base while recognizing the importance of tourism in the local economy; and

WHEREAS, due to Big Bear Lake’s status as a resort community that offers unique vacation opportunities for large families, the City desires to maintain the ability for visitors to rent family homes for their vacation accommodations; and

WHEREAS, the City Council adopted Ordinance No. 99-300 on August 9, 1999 establishing regulations for Transient Private Home Rentals (vacation rentals); and

WHEREAS, the City Council adopted Ordinance No. 2007-375 on December 10, 2007 amending the Development Code to include provisions for enforcing regulations on Transient Private Home Rentals (vacation rentals); and

WHEREAS, the protection of public health, safety and welfare is a primary objective of the Big Bear Lake General Plan; and

WHEREAS, on March 3, 2020, Governor Newsom declared the existence of a state of emergency for the State of California; and on March 11, 2020, the Director-General for the World Health Organization declared that COVID-19 can be characterized as a “pandemic.” On March 13, 2020, the President of the United States declared that the outbreak of COVID-19 in the United States constitutes a national emergency; and

WHEREAS, on March 17, 2020, City Manager Frank A. Rush, Jr. issued a proclamation declaring

a local state of emergency due to the outbreak of COVID-19; and on March 23, 2020, City Council adopted Resolution No. 2020-05 ratifying and declaring the existence of a local emergency regarding COVID-19 pursuant to Government Code Section 8630; and

WHEREAS, tourism has increased dramatically during the COVID-19 pandemic resulting in extraordinary occupancy rates of vacation rentals and a record high number of complaints associated with the behavior of vacation rental guests; and

WHEREAS, during the past several months there has been a dramatic increase in the number of complaints relating to noise, parties, over-occupancy, and parking issues at vacation rentals; and

WHEREAS, on December 7, 2020, the Governor's Regional Stay-at-Home Order went into effect for Big Bear Lake due to a rising number of COVID-19 case and low capacity in the region's intensive care units; and

WHEREAS, on January 11, 2021, the number of available beds in the regional intensive care units remain below 15 percent due to rising cases of COVID-19; and

WHEREAS, the project is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3), the general rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This Municipal Code Amendment does not have the potential to cause a significant effect on the environment; and

WHEREAS, Government Code Sections 36934 and 36937 expressly authorize the City Council to enact urgency ordinances, which take effect immediately upon introduction, for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency, and which must be passed by a four-fifths (4/5) vote of the City Council; and

WHEREAS, based on the foregoing, it is urgent the City adopt regulations in order to minimize (i) the adverse impacts vacation rentals may have on surrounding residential properties and the City's limited law enforcement resources, and (ii) dense social gatherings that pose an immediate threat of COVID-19 transmission, and as a result, the City desires to establish, on an urgency basis, an ordinance to repeal existing regulations for transient private home rentals and add new Municipal Code Title 4 establishing a licensing and regulatory program for vacation rentals; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, the City Council does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. The City Council hereby finds that, based on the public testimony and substantial evidence in the record, the application is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the "common sense" rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This Municipal Code Amendment does not have potential to cause a significant effect on the environment.

Section 3. This urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety of residents and businesses in the City, as it will facilitate better City oversight

and monitoring of vacation rental operations that pose (i) adverse impacts on surrounding residential properties and the City's limited law enforcement resources, and (ii) the immediate threat of increased COVID-19 transmission through dense social gatherings that are non-compliant with State-recognized measures for minimizing disease exposure.

Section 4. Based on the evidence presented to the City Council, including oral and written agenda reports and public testimony, the City Council finds as follows with respect to the Municipal Code Amendment and Development Code Amendment 2020-103:

1. The Municipal Code amendment is consistent with all other related provisions thereof because the amendment does not conflict with other standards and provisions of the Municipal Code and adding provisions to regulate vacation rentals elsewhere in the Municipal Code is in the City's best interest.
2. The Development Code amendment is reasonable and beneficial at this time because it will remove any potential conflict arising from existing regulations pertaining to Transient Private Home Rentals and the new regulations pertaining to Vacation Rentals.

Section 5. Based on the findings and conclusions set forth in Sections 1 and 2, above, the City Council hereby adopts the amendments identified in Exhibit A to this ordinance, which is attached hereto and incorporated herein by reference.

Section 6. The City Clerk shall certify to the adoption of this ordinance. The Clerk shall timely file a notice of exemption under CEQA.

Section 7. This urgency ordinance takes effect immediately upon its adoption.

Section 8. If any section, sentence, clause or phrase of this ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED THIS 11th day of January, 2021.

David Caretto, Mayor

ATTEST:

Erica Stephenson, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF BIG BEAR LAKE)

I, Erica Stephenson, City Clerk of the City of Big Bear Lake, California, do hereby certify that the whole number of the City Council of the said City is five; that the foregoing Ordinance No. 2021-xxx is a full, true and correct original of Ordinance No. 2021-xxx of the City of Big Bear Lake entitled:

**URGENCY ORDINANCE OF THE CITY OF BIG BEAR LAKE
APPROVING DEVELOPMENT CODE AMENDMENT 2020-103
RELATED TO TRANSIENT PRIVATE HOME RENTALS, ADDING
TITLE 4, SECTION 1 TO THE MUNICIPAL CODE RELATED TO
VACATION RENTALS, AND FINDING THE ACTION TO BE EXEMPT
FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the Clerk of Said City, all at a regular meeting of the said Council on the 11th day of January 2021, and that the same was so passed and adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California that the foregoing Ordinance No. 2021-xxx was duly and regularly published according to law and the order of the City Council and circulated within the said City.

Erica Stephenson, City Clerk

ORDINANCE EXHIBIT A

Section 17.03.310 and Section 17.03.315 of the Development Code are hereby repealed in their entirety.

Table 17.25.040.A of the Development Code is hereby amended as follows:

- Under the heading that reads *Accessory Commercial Uses*, “Vacation home rental” is changed to “Vacation rental,” and the corresponding references to “TPHR” in the R-L, R-1, and R-3 zone district columns are changed to “VR.”
- The footnote to the table that defines “TPHR” is replaced with the following:

“VR = permitted subject to approval of a vacation-rental license in accordance with Chapter 4.01 of this code.”

Section 17.25.070, subsection E, is hereby amended to add a new paragraph 3, to read in its entirety as follows:

“3. The off-street parking requirement for a vacation rental is one parking space per bedroom. The parking space or spaces shall be located in the garage or on a legally established driveway.”

The former paragraph 3 is renumbered as paragraph 4.

Table 17.35.030.A is hereby amended as follows: Under the heading that reads *Lodging, commercial, including the following and similar services*, “Rental agency for transient private home (TPHR) rentals” is changed to “Rental agency for vacation rentals (VR).”

Municipal Code Title 4, Section 1, is hereby added to the Municipal Code to read in its entirety as follows:

Title 4 Visitor-serving uses and tourism

Chapter 4.01 Vacation Rentals

Section 4.01.010. Purpose

This chapter is intended to provide a procedure to allow the rental of private homes to visitors on a short-term basis as vacation rentals. The city seeks to promote vacation rentals, promote responsible visitor behavior, and protect the residential character of its neighborhoods.

Section 4.01.020. Definitions

For purposes of this chapter, the following words and phrases are defined as follows:

- A. “Agent” means a person or entity with authority to act on behalf of the owner.

- B. “Bedroom” means a room designed primarily for sleeping that meets the definition of the California Building Codes currently adopted by the city.
- C. “Business entity” means a corporation, partnership, or other legal entity that is not one of the following: a natural person; the trustee or beneficiary of a personal or family trust if the trustee or beneficiary is a natural person; a limited liability company or a limited liability partnership if the LLC or LLP consists solely of natural persons.
- D. “Check in” means the arrival of a guest at a vacation-rental property or agent’s office.
- E. “Hosting platform” means a person or entity who participates in home-sharing or vacation rentals by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation. Examples include, but are not limited to, VRBO.com, Airbnb.com, homestay.com and other internet and non-internet based services that facilitate bookings for a fee.
- F. “Owner” means a person who holds record fee title to the property, except that “owner” does not include a business entity or the holder of a leasehold interest in the property.
- G. “Responsible party” means the lessee of a vacation-rental property.
- H. “Vacation rental” or “vacation-rental property” means a residential dwelling unit that is leased for a term of 30 or fewer consecutive days.

Section 4.01.030. License Required

A current, valid annual license issued by the city to the owner is required for each property prior to advertising, offering to lease, or leasing the property as a vacation-rental property. The license number shall be included in all advertisements for the vacation-rental property. The license shall be posted inside of the vacation-rental property.

Section 4.01.040. Licensing Procedure

An owner shall apply to the city for a license annually for each vacation-rental property and pay a fee established by resolution of the city council. The city shall provide an application form and list of application requirements.

Section 4.01.050. Transient Occupancy Tax

The owner is responsible for collecting and remitting transient occupancy tax to the city and shall comply with all provisions of Chapter 3.20 of this code concerning transient occupancy taxes.

Section 4.01.060. Operational Requirements

- A. The owner and owner’s agent shall ensure that the vacation-rental property

complies with all applicable codes regarding fire, building and safety, health and safety, and all other laws and regulations.

- B. All guest check-ins must be performed in person by the owner or the owner's agent. The responsible party must be present in person at the check-in.
- C. Occupancy of the vacation-rental property shall always be limited to the limit stated on the license. Such occupancy shall not exceed two adults per bedroom, plus children; but the total number of persons may not exceed one person per 300 square feet of living space or 16 persons, whichever is less.
- D. No party, wedding, or other gathering exceeding occupancy limits is permitted without prior written approval by the city manager or the city manager's designee at least 30 days in advance. City approval is discretionary and may be subject to reasonable conditions.
- E. Off-street parking spaces shall be provided on the vacation-rental property sufficient for all vehicles and trailers associated with the vacation-rental property or its occupants. All vehicles and trailers associated with the vacation-rental property or its occupants shall be parked off the street and shall not be parked on a city street at any time. A lack of off-street parking spaces will reduce allowable occupancy.
- F. Upon the request of the city, the owner or the owner's agent shall respond in person at the vacation-rental property within 30 minutes of dispatch of notice by the city to correct a violation of this chapter or any other provision of this code.
- G. No radio receiver, musical instrument, phonograph, loudspeaker, sound amplifier, or other any machine or device for the producing or reproducing of any sound may be operated on the vacation-rental property unless it is within a fully enclosed structure and is not audible at the property line of the vacation-rental property.
- H. The use of an outdoor spa or any other activity that disturbs the peace is prohibited between the hours of 10:00 p.m. and 7:00 a.m.
- I. The owner shall include notice to lessee of the requirements of this section in all leases and post a visible notice at the entrance to the vacation-rental property as well as near any spa that is on the vacation-rental property.

Section 4.01.070. Agency and Certification

An owner may grant authority to an agent to act on behalf of the owner for purposes of fulfilling some or all the requirements of this chapter. The owner shall give prior written notice to the city of any grant of authority to a notice, including the identity and contact information for the agent. The owner shall promptly give the city written notice of any change to any such grant of authority of making such change. The use of an agent shall not excuse the owner from the owner's obligations of this chapter. Agents and owners fulfilling any of the requirements of this chapter shall be annually certified by the city.

Section 4.01.080. Inspection and Audit.

Each owner and owner's agent shall provide the city with access to the vacation-rental property and to such related records, documents, tax returns, and bank accounts at any time during normal business hours as the city may determine are necessary for the purpose of inspection or audit to determine that the objectives and conditions of this chapter are being fulfilled.

Section 4.01.090. Hosting Platform Responsibilities.

- A. Subject to applicable laws, hosting platforms shall, upon written request by the city, promptly disclose to the city each vacation-rental property listing located in the city, the host ID, listing ID, and names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each stay.
- B. A host platform shall promptly remove any listing upon receipt of a take-down notice from the city indicating that a listing violates applicable legal requirements.

Section 4.01.100. Violations and Penalties

- A. The city may issue an administrative citation to any person who operates a vacation-rental property without a license. The administrative fine for the first citation shall be in the amount of \$5,000.00. Any person operating an unlicensed vacation-rental property shall be permanently ineligible to operate a vacation-rental property in the city, and any property that is operated as a vacation property without the required license shall be ineligible for vacation-rental property license for a period of one year from the most recent citation issued for operating without a license. If the person continues to operate a vacation-rental property without a license, the city may issue an additional administrative citation, with an administrative fine in the amount of \$10,000.00. Any additional violation shall be subject to additional citations with escalating fines provided in a schedule established by the city council by resolution. A person operating an unlicensed vacation-rental property is liable to the city for the payment of transient occupancy tax in accordance with the provisions of Chapter 3.20 of this code, including without limitation penalties and interest.
- B. For any violation of this chapter that is not subject to subsection A above, the city may impose an administrative fine for the first violation in the amount of \$500.00. The fine for each subsequent violation shall be \$1,000.00.
- C. Each administrative citation for a violation of any provision of this chapter may be levied or assessed against one or more of: the owner, the owner's agent, a hosting platform, and the responsible party. The city may initiate revocation of a license after one violation. Each day that a violation occurs is a separate violation, for which the city may issue a separate administrative citation and fine.
- D. Any person who advertises a vacation-rental property without including the license number in the advertisement shall pay a fine in the amount of \$2,500.00, and the

owner's license shall be revoked. However, if the violation is a first offense, the city manager may elect to merely suspend the owner's license for six months and impose a fine in the amount of \$5,000.00. The owner's license shall be revoked for a second offense, if not revoked already.

- E. The failure of an owner or the owner's agent to comply with an order of any police officer shall result in the revocation of the license.
- F. The appeal and hearing provisions of Section 1.17.070 of this code apply to any revocation or suspension of a license.
- G. The filing with the city of any knowingly false or frivolous claim against a vacation-rental property owner or owner's agent or against occupants or daytime guests staying in a vacation-rental property is prohibited and is punishable by an administrative fine of \$250.00 as provided in Chapter 1.17 of this code.
- H. In addition to, and not in lieu of, any other remedy allowed by law, all remedies prescribed under this chapter are cumulative, and the election of one or more remedies does not bar the city from pursuing any other remedy, whether criminal, civil, or administrative, through which the city may enforce this chapter or address any violation of this code or to remedy any other public nuisance.

ATTACHMENT 2

17.03.310 - Transient private home rentals.

A. Purpose and Application.

1. Purpose. This section is intended to provide a procedure to allow the rental of private homes to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure or cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions.
2. Application. No primary dwelling unit may be used as a Transient Private Home Rental if the primary dwelling unit is on a lot that contains an ADU or JADU. Nor may any ADU or JADU itself be used as a Transient Private Home Rental (see Section 17.25.210(e)(3)).

B. For purposes of this section, the following terms shall be defined as follows:

1. A transient private home rental shall mean a dwelling unit (including either a single-family detached or multiple family attached unit) rented for the purpose of overnight lodging for a period of not less than one night and not more than thirty (30) days.
2. Managing agency or agent shall mean a person, firm, or agency representing the owner of the transient private home rental, or a person, firm, or agency owning or operating more than one transient private home rental.

C. Registration and Licensing Requirements.

1. Any managing agency, agent, owner or property manager who rents one or more transient home rentals shall be required to obtain a city business license.
2. Rental of transient private home rentals shall be subject to collection of transient occupancy tax as required by the city.
3. The managing agency, agent, owner or property manager of each unit to be used as a transient private home rental shall register each such unit with the city prior to commencing the use. A fee established by resolution of the city council may be collected to cover the reasonable cost of processing the registration.

D. Inspection Requirements. Each dwelling unit used as a transient private home rental unit within the city is subject to the following inspection requirements.

1. Any new transient private home rental unit shall be inspected, prior to commencement of the use, by a qualified inspector authorized and approved by the city to conduct such inspections. The actual cost of such inspection, plus any administrative charges, shall be paid by the owner pursuant to the city's adopted fee schedule.
2. After the initial inspection of a transient private home rental, said rental unit shall be re-inspected not less than once within each year following the original registration date, for as

long as the unit is used as a transient private home rental. Completion of the annual inspection will be verified at the time of business license renewal.

E. Sign and Notification Requirements.

1. Each transient private home rental shall be equipped with no more than one identification sign, not to exceed two square feet in area. No other advertising signs promoting or identifying the unit shall be permitted anywhere in residential zone districts. The required identification sign shall be attached to the transient private home rental in a location, which is clearly visible from the street, and shall clearly display all of the following information in lettering of sufficient size to be easily legible:
 - a. The name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be reached on a twenty-four (24) hour basis;
 - b. The maximum number of occupants permitted to stay in the unit;
 - c. The maximum number of vehicles allowed to be parked on the property; and
 - d. The telephone number of the city's code compliance division.
2. Each transient private home rental unit shall have a clearly visible and legible notice posted within the unit in a clearly visible location, containing all of the following information:
 - a. The maximum number of occupants permitted to stay in the unit;
 - b. The maximum number of vehicles allowed to be parked on the lot;
 - c. Notification that trash and refuse shall not be left or stored on the property but may be deposited at the city's Clean Bear sites, along with the locations of these sites;
 - d. The twenty-four (24) hour telephone number of the managing agency, agent, property manager, or owner of the unit; and
 - e. Notification that failure to conform to the parking and occupancy requirements for the structure is a violation of the city's Municipal Code.
3. Information on the permitted occupancy and parking capacity for each unit, and trash disposal requirements, shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit.

F. Standards and Conditions of Operation.

1. The managing agency, owner, agent and property manager shall be responsible for compliance with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.
2. The managing agency, owner, agent or property manager shall be personally available by telephone on a twenty-four (24) hour basis to respond to calls regarding the condition and/or operation of the unit. Failure to respond to calls in a timely and appropriate manner may result in revocation of the business license authorizing the use. For purposes of this section, responding in a timely and appropriate manner shall mean that a response to an initial call

shall be made within two hours of the time the call was made, and within twenty-four (24) hours of the initial call, corrective action shall be commenced to address any violation of this section.

3. The maximum occupancy of a transient private home rental shall be one person per two hundred (200) square feet of building area, excluding garages or other accessory buildings; provided, however, that in no case may the occupancy of a transient private home rental unit exceed sixteen (16) people.
4. The following requirements for transient private home rentals will be evaluated upon inspection of each unit, and shall constitute minimum requirements. The unit must be brought into conformance with these requirements and any other applicable codes and ordinances in order for the use to be allowed.
 - a. Required sign and notice must be posted, and address of each unit must be legible from the street.
 - b. Smoke detectors shall be installed within each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping room. Battery-operated smoke detectors are acceptable provided that they are maintained in good working order at all times, except as required by other applicable codes.
 - c. The transient private home rental shall be equipped with a minimum of one 2A:10B:C type extinguisher with seventy-five (75) feet of travel distance to all portions of the structure; at least one such extinguisher is required per floor. Fire extinguishers(s) shall be mounted in visible locations with the tops of the fire extinguishers mounted between three and five feet above the floor, and shall be accessible to occupants at all times. California State Fire Marshal annual certification tags must be provided and be current on all extinguishers.
 - d. No tree limbs are allowed within ten (10) feet of chimneystack openings.
 - e. Spark arresters of a minimum opening size of three-eighths inch and maximum opening size of one-half inch shall be required on all fireplace flue openings.
 - f. If there is a fireplace or solid fuel barbeque, the transient private home rental shall be equipped with a minimum five gallon metal container with a tight fitting lid for ash disposal, which is clearly labeled. Instructions on storage or placement of ashes shall be stated in the rental agreement and on the notice posted within each unit (i.e., do not place can on or near any furniture or other combustible material; ashes must be wet down thoroughly with water; ash can must be stored outside with a minimum of three feet clearance from building, porch, trees, or combustible vegetation; lid must remain on ash can when used for storage).
 - g. Furniture and other combustible material shall be kept a minimum of fifty-four (54) inches from fireplace openings and a minimum of thirty (30) inches from the front of wall or floor

- heaters, or as required by the manufacturer.
- h. Flammable liquid storage is prohibited except in garages where up to five gallons of fuel may be stored in approved containers for maintenance purposes. This requirement excludes fuel tanks in vehicles.
 - i. The roof and grounds of the transient private home rental shall be kept clear of accumulations of pine needles, weeds, or other combustible materials.
 - j. Any locking mechanism on exterior doors must be operable from inside the unit without the use of a key or special knowledge or effort. If the dwelling unit is greater than three thousand (3,000) square feet in area, two exit doors shall be required, each of which shall conform to this requirement.
 - k. Transient private home rentals shall be maintained in a clean and sanitary condition and free from hazards.
 - l. There shall be no exposed wiring or overloaded electrical circuits.
 - m. There shall be no permanent use of extension cords for appliances, heaters, lamps or other fixtures.
 - n. There shall be no leaking fixtures, or clogged or leaking wastewater lines.
 - o. Faucets and fixtures shall be maintained in working condition.
 - p. Showers, sinks and bathing facilities shall be clean and shall drain properly.
 - q. There shall be no evidence of pest infestations.
 - r. Bedroom windows shall be operable to allow for emergency egress.
 - s. There shall be at least one screened window per room, to allow for adequate interior ventilation.
 - t. There shall be no accumulation or storage of trash and/or debris on the site or within the unit; trash shall be removed from the premises after each occupancy.
 - u. All steps, stairways, decks, and railings shall be stable and structurally sound.
 - v. Fireplaces shall be equipped with screens that are adequate to prevent sparks or rolling logs from escaping the fireplace opening.
 - w. All appliances, including but not limited to kitchen appliances, furnaces and water heaters, shall be operational.
 - x. Any hot tubs, pools, and spas shall be fenced or equipped with an approved cover with approved locking mechanisms as required by state law, and shall be maintained in a safe and sanitary condition.
 - y. Any lofts or attic conversions shall be provided with acceptable exiting and head clearance; stairs providing access to these areas shall be safe and structurally sound, and no ladders shall be allowed.
 - z. Emergency exit routes shall be illuminated with a battery-operated emergency light, so as

to provide for safe exiting in the event of electrical failure.

- aa. Exits shall remain clear of storage, debris, or impedance at all times.
- bb. The main entrance to the unit shall be illuminated when the unit is occupied, provided, however, that any exterior lighting shall be designed and located so as not to produce excessive light or glare which may create a nuisance to adjacent property owners.
- cc. Parking shall be provided on-site to meet the occupancy of each transient private home rental at a ratio of not less than one parking space per bedroom. Parking spaces may include garage, carport and driveway spaces, and may allow for tandem parking. For units which do not have paved driveways or covered parking spaces, the portion of the lot to be used for parking should be clearly delineated by signs or other means to prevent parking on-street or within yard areas. No overnight on-street parking shall be permitted.
- dd. Snow removal from driveways and off-street parking areas is required to be performed prior to each occupancy period.

G. Non-compliance by an owner, managing agency, property owner, or agent of the requirements for registration, inspection and operation of transient private home rental units may result in the revocation of the business license authorizing the use, and no new business license may be issued to the same licensee for a period of twelve (12) months following such revocation.

(Ord. 2003-333 § 4 (Exh. A (part), 2003))

(Ord. No. 2011-417, § 4(Exh. A), 12-12-2011; Ord. No. 2020-484, § 4(Exh. 2), 9-14-2020)

17.03.315 - Enforcement of transient private home rental provisions.

- A. The purpose of this section is to provide for the full and complete enforcement of Section 17.03.310. For purposes of this section, the following terms shall have the following meanings:
 - 1. The term "city manager" shall mean the city manager of the City of Big Bear Lake, or his or her designee.
 - 2. The term "TPHR Regulations" shall mean Section 17.03.310, this section, as well as the written regulations promulgated pursuant to paragraph B of this section.
 - 3. The term "managing agent" shall mean the managing agency," "property manager" or "agent" referred to in Section 17.03.310.
- B. Implementing Regulations. The city manager shall have the authority to promulgate, from time to time, written implementing regulations governing the enforcement and interpretation of this section, provided that such written regulations shall not be inconsistent with the provisions of this section or Section 17.03.310.
- C. On-Call Service. In order to provide twenty-four (24) hour, on-call service for the receipt and transmission of complaints regarding violations of Section 17.03.310 or this section, the city shall, in compliance with all applicable laws, procure the services of one or more on-call service

provider(s). Any such provider shall be required to maintain an office with employees physically present within the boundaries of the City of Big Bear Lake. In addition, any such provider shall have sufficient qualifications as may be deemed necessary by the city manager, as set forth in written regulations promulgated by the city manager.

- D. Response/Response Time. Following the receipt by any owner or managing agent of any complaint (whether in writing, verbally or by any other tangible means) alleging a violation of Section 17.03.310 or this section, such owner or managing agent shall provide a response within one hour of receipt of such complaint. For purposes of this paragraph, a "response" shall mean a physical presence at the subject property by the owner or managing agent in which the occupant in charge of the transient private home rental is advised of the nature of the complaint and a correction of any violation is made, or if contact with such occupant is not required, the subject of the complaint is resolved, including the correction of any violation of Section 17.03.310 or this section. If the nature of the violation involves an action that would take more than an hour, the violation shall be deemed resolved (but only for purposes of computing the response time required by this paragraph) if the owner or managing agent notifies the city manager of the nature of the complaint and thereafter diligently pursues to completion the correction of the violation. Each owner or managing agent shall keep a written log of the times and nature of complaints received, which written log shall be made available to the city, upon request by the city. Occupants or visitors violating the provisions of Section 17.03.310 or this section and refusing to comply with the instructions of the owner or managing agent shall be ordered to vacate the premises by the owner or managing agent in accordance with provisions contained within the rental agreement.
- E. In-Person Registration. The owner or managing agent shall, prior to entering into any agreement for the occupancy of a transient private home rental, provide an in-person registration, which shall include the review with at least one adult occupant of the transient private home rental of all TPHR Regulations. At the time of such registration, the occupant shall be provided a complete, written copy of all TPHR Regulations, including the penalties associated with their violation, as well as any other occupancy rules associated with the transient private home rental. The registration material shall advise the registrant that the transient private home rental unit shall not be used for any use that is not permitted by applicable law, including, without limitation, the use of such unit for weddings, wedding receptions, business conferences and meetings, scrap booking and other uses that violate the city's Development Code. Such written copy shall be provided in at least twelve (12) point, type-faced font, and shall contain a space for acknowledgement, and be acknowledged, by the occupant as having read, understood and agreed-to such provisions.
- F. Registration Information. Registration documentation for every transient private home rental shall include, at a minimum, the following information, as well as such other information as may be promulgated by the city manager in implementing regulations:

1. Number of vehicles to be parked at each transient private home rental unit.
 2. The number of persons staying overnight (past eleven p.m.) at the transient private home rental unit.
 3. Financially responsible occupant(s), including the California driver's license number or California identification number.
- G. Local Management. In order to ensure timely responses, unless the owner resides within fifteen (15) miles from the city's boundaries and provides property management services to such owner's transient private home rental unit(s) (in which case, all obligations of a managing agent contained in the TPHR Regulations shall be that of such owner), such owner shall engage the services of a managing agent that maintains a physical presence within fifteen (15) miles from the city's boundaries.
- H. Parking. No person shall stop, park or leave standing any vehicle on any transient private home rental property, between the hours of eleven p.m. and seven a.m. of the following day, unless such vehicle properly displays a valid parking pass, as set forth herein. No person renting or occupying any transient private home rental unit shall park or leave standing within three hundred (300) feet of such transient private home rental unit, between the hours of eleven p.m. and seven a.m. of the following day, any vehicle that is listed within the registration information required by paragraph F. The owner or managing agent shall provide dated parking passes, in a form approved by the city manager, for use with registered vehicles. Such pass(es) shall indicate the number of vehicles that are authorized to be parked on-site at the transient private home rental property, which number shall not exceed the number of lawful parking spaces actually provided at such property. Failure to properly display such pass shall constitute a violation of this paragraph by the owner or user of such vehicle.
- I. Occupancy Standards. Each occupant and visitor to a transient private home rental shall comply with all applicable provisions of this Code, including, without limitation, noise standards, anti-littering laws, occupancy limits, parking, and trespassing provisions. No occupant or visitor to a transient private home rental shall cause or permit a public nuisance to be maintained on such property.
- J. Signage.
1. The signage required by Section 17.03.310 shall remain in place at all times that the transient private home rental unit is registered in the transient private home rental program. The signage required by Section 17.03.310.E may be provided by a freestanding exterior sign, but shall not be nailed, attached or otherwise affixed to a tree or other plant. Lettering for the signage required by Section 17.03.310.E.1 shall be a minimum of three inches in height (and a corresponding width), of a color that contrasts with the background upon which it is placed, and made of night reflective material or paint. The city may, but shall not be obligated to,

provide a standard sign complying with the provisions of Section 17.03.310 and this section. The city may charge for such signage a cost not exceeding the reasonably estimated cost of such sign to the city.

2. Each transient private home rental unit shall contain property address lettering that is plainly visible (including around earthen or snow berms) from the street or public right-of-way that fronts the transient private home rental unit. In addition to the requirements of the TPHR Regulations, such lettering shall be a minimum of four inches in height (and a corresponding width), conform to the latest edition of the California Building Code, and shall be of a color that contrasts with the background upon which it is placed. Address numbers shall be either: (1) illuminated with an internally lit, low-voltage light; (2) internally lit with a solar-powered light, which shall be approved by the city manager in advance; or (3) self illuminated, as approved by the city manager. Any internally lit lettering shall be illuminated by a non-switched light source that is controlled by a photocell. Solar panels shall be located in a location that receives sun rays during daylight hours, and maintained by the owner or managing agent free of any leaves, snow or other debris that would tend to cause the photo cells to not receive charging rays. When the transient private home rental unit is located more than one hundred (100) feet from the street or public right-of-way that fronts the unit, additional property address lettering shall be required in a manner so as to comply with the provisions set forth in this subparagraph.
- K. Advertising Regulations. No owner or managing agent shall advertise any transient private home rental in such a manner as to promote such unit for a use that is not permitted by applicable law, including, without limitation, the use of such unit for weddings, wedding receptions, business conferences and meetings, scrap booking and other uses that violate the city's Development Code. The penalty for violation of this paragraph shall be as follows. Following a written notification by the city manager, each owner and managing agent shall actively cease all advertising that is not in compliance with this paragraph within the following timeframes: seven days for any and all signs and internet-based ads, by the next publication date for printed media advertising provided by a bona fide third party publisher, prior to next media release for all other media advertisements. The city manager's written notification shall be sent to the owner of the transient private home rental unit, as well as any managing agent for such unit. If such written advertising is not corrected within the above-referenced time, the penalty for each and every day following such time frame shall be an infraction with a penalty of two hundred fifty dollars (\$250.00); provided, however, that for purposes of this section, one publication or media release lasting no longer than the above-referenced time frame shall constitute a single violation. For any violation of the same provisions within the same twelve (12) month period, the penalty for each and every day in which any violation of this paragraph exists shall be an infraction with a penalty of five hundred dollars (\$500.00). Every owner and managing agent shall be responsible for

compliance with this paragraph, provided however, that the city manager's implementing regulations may contain a policy providing that the managing agent shall be the entity primarily responsible for compliance with this paragraph.

- L. Enforcement Provisions—Ownership/Management. The following penalties shall apply to the following persons, who shall be legally responsible for violations of Section 17.03.310 or this section.
1. For the first violation, the owner or managing agent shall be provided a verbal warning by the city manager, which verbal warning shall be notated in writing by the city manager.
 2. Any owner and the managing agent causing or permitting to be caused a second violation of the same provision, at the same property, within a twelve (12) month period shall be punished with an infraction penalty, with a two hundred fifty dollar (\$250.00) fine. Written notice of such second violation shall be provided by the city manager to the owner.
 3. Any owner and the managing agent causing or permitting to be caused a third violation of the same provision, at the same property, within a twelve (12) month period shall be punished with an infraction penalty, with a five hundred dollar (\$500.00) fine. In addition, for any such third violation during such twelve (12) month period, the unit(s) subject to such violations shall, as a penalty, be removed from the transient private home rental program for a twelve (12) consecutive month period, commencing as of the date of conviction or entry of a plea.
 4. Any managing agent causing or permitting to be caused more than three violations of Section 17.03.310 or this section (exclusive of the verbal warnings pursuant to paragraph L.1), or any combination thereof, irrespective of whether such violations occur on the same or multiple properties, within a twelve (12) month period shall be punished with an infraction penalty, with a five hundred dollar (\$500.00) fine for each such violation.
 5. In addition to the penalties herein provided, for any additional violation beyond the first three violations during any twelve (12) month period (exclusive of the verbal warnings pursuant to paragraph L.1), irrespective of whether such violation(s) occur on the same or multiple properties, the managing agent shall not thereafter be permitted to manage, or represent the owner with respect to, the property(ies) at which the subject violations occurred.
 6. Any managing agent causing or permitting to be caused more than five violations of Section 17.03.310 or this section, or any combination thereof (exclusive of the verbal warnings pursuant to paragraph L.1), irrespective of whether such violations occur on the same or multiple properties, within a twelve (12) month period shall be punished with an infraction penalty, with a five hundred dollar (\$500.00) fine, and shall constitute grounds for revocation of the managing agent's business license of the management agency for a period of twelve (12) months pursuant to Section 5.02.180 of this Code.
- M. Enforcement Provisions—Occupants/Visitors. The following penalties shall apply to any occupant or visitor of a transient private home rental unit, each of whom shall be responsible for

compliance with Section 17.03.315.I.

1. For the first violation, the owner, managing agent, or the city shall provide a verbal warning to the occupant or visitor, which verbal warning shall be notated in writing by such owner, managing agent, or the city manager, as applicable. In addition, the owner shall be notified (verbally or in writing) of such violation, which notification shall include the nature of the violation, and which notification shall, if made verbally, be notated in writing by the managing agent, or the city, as applicable.
 2. Any occupant or visitor of a transient private home rental unit causing or permitting to be caused a second violation of the same provision, at the same property, within a twelve (12) month period shall be punished with an infraction penalty, with a two hundred fifty dollar (\$250.00) fine.
 3. Any occupant or visitor of a transient private home rental unit causing or permitting to be caused a third or additional violations of the same provision, at the same property, within a twelve (12) month period shall be punished with an infraction penalty, with five hundred dollar (\$500.00) fine.
- N. Unregistered or Otherwise Non-Compliant Units. In the event any owner or management agent unlawfully causes or permits the rental or occupancy of a transient private home rental without first registering such unit in compliance with Section 17.03.310 or this section, or if such transient private home rental is otherwise in violation of Section 17.03.310 or this section, such owner or management agent shall be deemed to be in violation of this section. In such event, following a verbal warning described in subparagraph L.1, such owner and, as applicable, management company shall either: (1) cause the renter and any and all occupants of such non-registered unit to vacate the unit immediately and provide an alternative rental location to such tenant and occupant(s), at no additional cost or expense to such tenant or occupant(s); or (2) if the violation of Section 17.03.310 or this section can be corrected, correct the violation immediately. In the event such owner, and as applicable management agent, fails to do so, such owner, and as applicable management agent, shall, in addition to any other remedies available to the city, be subject to the penalties provided in subparagraph L.1 through L.5, inclusive, as applicable.
- O. Enforcement Provisions—General.
1. Every act prohibited or declared unlawful and every failure to perform an act made mandatory by Section 17.03.310 or this section is punishable as an infraction, provided, that where the city attorney or citing officer determines that such action would be in the interests of justice, the city attorney or citing officer may specify in the accusatory pleadings that the offense shall be a misdemeanor. Every person who causes, aids, abets or conceals a violation of Section 17.03.310 or this section is guilty of violating Section 17.03.310 or this section, respectively. Each person, firm or corporation shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of any provision of Section 17.03.310 or this section is committed, continued or permitted by such person, firm or

corporation. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury and shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he or she is arrested and not released on his or her written promise to appear, his own recognizance, or a deposit of bail.

2. Violations of Section 17.03.310 or this section shall be treated as a strict liability offense regardless of intent. However, in either a civil, criminal or administrative action or proceeding, when determining whether or not to prosecute any owner or managing agent for violations caused by an occupant, or the extent to which such owner or managing agent shall be prosecuted for a violation caused by an occupant, the city shall consider the good faith efforts of the respective owner or property manager to reduce the likelihood of such violation(s).
3. In addition to the remedies provided by Section 17.03.310 or this section or elsewhere by law, any condition caused or permitted to exist in violation of any of the provisions of Section 17.03.310 or this section shall be deemed a public nuisance and may be enjoined or abated by the city by means of a civil action or administrative abatement pursuant to Chapter 8.80 of this Code, and each day such condition continues shall be regarded as a new and separate offense.
4. In any civil, criminal or administrative action or proceeding commenced by the city to abate a nuisance, to enjoin a violation of any provision of Section 17.03.310 or this section, or to collect a civil penalty imposed by this section, the city shall, if it is the prevailing party, be entitled to recover from the defendant in any such action reasonable attorneys' fees and costs of suit.
5. Any person, firm or corporation who violates any provision or fails to comply with any requirement or provision of Section 17.03.310 or this section shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each violation. Each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct the length of time over which the conduct occurred, the assets, liabilities and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant. The civil penalty prescribed by this subsection shall be assessed and recovered and a civil action brought by the city attorney in any court of competent jurisdiction. The civil penalty prescribed by this section may be sought in addition to injunctive relief, specific performance or any other remedy; provided, however, that a civil penalty shall not be sought for any violation for which a criminal prosecution has been commenced.

(Ord. 2007-375 § 5, 2007)

(Ord. No. 2011-417, § 4(Exh. A), 12-12-2011)