



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: August 8, 2019

AGENDA ITEM #2

Project Description

Applicant: County of San Bernardino Land Use Services Department
Community: Desert and Mountain Communities
Locations: Desert and Mountain Regions
Project No.: P201900058
Staff: Suzanne Peterson
Proposal: Development Code Amendment to revise the regulations relating to Short-Term Residential Rentals in Chapter 84.28.

Newspaper Publication Date: July 28, 2019

Report Prepared By: Suzanne Peterson

PROJECT DESCRIPTION:

This proposal is a San Bernardino County Development Code (Development Code) Amendment revising the regulations for Short-Term Residential Rentals in Chapter 84.28 (Project). As Short-Term Residential Rentals are currently only allowed in the Mountain Region, the proposed amendment will expand the area where Short-Term Residential Rentals to include the Desert Region. The proposed amendment will also add new definitions, provide clarification and address permit requirements, conditions of operation, enforcement and hosting platform requirements.

BACKGROUND:

The Land Use Services Department has been working with property owners in the Mountain and Desert Regions for many months to address their concerns regarding the County's existing Short-Term Residential Rental Ordinance, including registration requirements, parking standards, and occupancy limits. The proposed amendment addresses these recurring issues as well as expands the applicability of this section to include the Desert Region of the County.

ANALYSIS OF PROPOSAL:

Content of the Proposed Ordinance: The proposed Ordinance amends Chapter 84.28 of the Development Code, titled "Short-Term Residential Rentals". The proposal clarifies multiple sections within Chapter 84.28, which includes changes to the permit requirements and application process, and the permit renewal process. The proposed amendments also expand the range of allowable Short-Term Residential Rentals to include the Desert Region.

The table below shows some of the major differences between the current and proposed ordinances for Short-Term Residential Rentals.

	CURRENT ORDINANCE	PROPOSED ORDINANCE
PURPOSE AND APPLICABILITY		
Applicability	Short-Term Residential Rentals only allowed in the Mountain Region, prohibited elsewhere.	Short-Term Residential Rentals allowed in the Mountain and Desert Regions.
DEFINITIONS		
Hosting Platform	Silent – terms not defined	Defined [§84.28.030 (a)]
Booking transaction	Silent – terms not defined	Defined [§84.28.030 (b)]
Inspections – Renewal	The property <i>may</i> be re-inspected	Clarifies that the residential dwelling unit and other structures or improvements on the property <i>shall</i> be re-inspected [§84.28.030 (d)]
Short-term residential rental unit	Prohibits Short-Term Residential Rentals from being used for weddings, receptions, business meetings, conferences, fraternity parties, or similar gatherings	Clarifies that all other commercial activities are also prohibited unless regulated under an approved County issued permit [§84.28.030 (i)]
PERMIT REQUIREMENTS		
Accessory Dwelling Units	Silent – No prohibitions or requirements.	Accessory dwelling units may not be used or permitted as a Short-Term Residential Rental [§84.28.040]
APPLICATION PROCESS		
Permit Renewal Process	Silent – No prohibitions or requirements.	Short-Term Residential Rental unit permit shall be renewed biennially. Specifies requirements for approval and expiration of permits [§84.28.050]
OCCUPANCY STANDARDS		
Maximum Occupancy Limits	Three categories for determining maximum occupancy	Seven categories for determining maximum occupancy [§84.28.060 (c)]
Parking	On-site parking standards provided	Clarification provided and requirements added including a requirement that a parking pass(es) be provided to the renter for use of parking on the site. [§84.28.060 (d)]

		CURRENT ORDINANCE	PROPOSED ORDINANCE
CONDITIONS OF OPERATION			
Record Keeping	Silent – No requirements.	Requirement added to keep records of rental occupants and vehicle descriptions. These records must be preserved for during the term of the permit and provided to the County if requested. [§84.28.070 (b)]	
Registration	Silent – No requirements.	Requirement added for rental unit owner to administer registration with the renter in order to review regulations. Registration materials and acknowledgement must be signed by renter and kept on file during the term of the permit. [§84.28.060 (c)]	
Safety	Silent – No specific prohibitions or requirements.	Requirements added to (1) prohibit outdoor fires in the Mountain region, (2) require the interior and exterior to be kept free of hazardous materials, and (3) cover and lock spas/hot tubs when not in use. [§84.28.070 (i)]	
Sanitation	Short-Term Residential Rental units are required to be cleaned after each occupancy, including laundered linens if provided.	Language added to require that (1) exterior of the unit be maintained, and (2) spas and hot tubs be maintained and cleaned [§84.28.070 (j)]	
Trash/Refuse	Trash collection and removal requirements specific for the Mountain Region	Clarification and additional requirements added, with separate requirements included for the Mountain and Desert Regions. [§84.28.070 (k)]	
ENFORCEMENT			
Administrative Subpoena	Silent – No prohibitions or requirements.	The County may issue and serve an administrative subpoena as necessary to obtain specific information regarding Short-Term Residential Rental units in unincorporated San Bernardino County [§84.28.080 (c)]	
HOSTING PLATFORM REQUIREMENTS			
Hosting Platform Requirements	Silent – No such prohibitions or requirements.	Hosting platform is responsible for collecting transit occupancy tax if it collects payment for rentals. Additionally, when requested by the County, hosting platforms shall provide information on each short term rental in the unincorporated county. [§84.28.110]	

ENVIRONMENTAL DETERMINATION:

The proposed Ordinance qualifies under the “common sense” CEQA exemption pursuant to CEQA Guidelines Section 15060(c)(2) and 15061(b)(3), which provides that, where it can be seen with certainty that there is no possibility that a project may have a significant effect on the environment, the project is not subject to CEQA. CEQA only applies to projects that have the potential for causing a significant effect on the environment – either through direct impact or reasonably foreseeable indirect impact. The proposed Ordinance does not have that possibility.

Direct impact of the proposed Ordinance on the environment will be minor. It is not expected to prompt any new development or direct physical effects. Instead, the expected result of the proposed Ordinance is fewer intensive short-term rental operations compared to what currently exists in the County, along with better regulations governing the use of short-term rentals within the County. Accordingly, the County believes the “common sense” exemption is most appropriate for this project and is consistent with prior amendments and adoption of the County’s short-term residential rental regulations.

FINDINGS:

The following findings and the evidence to support such findings must be made by the Planning Commission in its recommendation to the Board of Supervisors to approve the proposed Development Code Amendment:

1. The proposed Ordinance amending the Development Code is consistent with the General Plan and any applicable community plan or specific plan because the proposed Ordinance will enhance existing permit procedures and operational standards for the use of residential structures in the Desert and Mountain Regions as transient occupancies, thereby ensuring the health and safety of occupants, guests and surrounding residential neighborhoods and minimizing negative effects associated with such uses. The proposed Ordinance will enhance tourism and visitor’s experiences in the Desert and Mountain Regions and will continue to protect public health and safety, consistent with the following excerpts from the Countywide Vision and the General Plan:

- | | |
|----------------|---|
| Goal LU 1: | The County will have a compatible and harmonious arrangement of land uses by providing a type and mix of functionally well-integrated land uses that are fiscally viable and meet general social and economic needs of the residents. |
| Goal ED 9: | The County will promote increased capacity to serve tourists within the County’s established tourist attractions to bring more destination spending into San Bernardino County. |
| Policy ED 9.2: | Build on the Gateway to the Mountains and Deserts theme to attract overnight visitors. |

2. The proposed Ordinance amending the Development Code would not be detrimental to the public interest, health, safety, convenience or welfare of the County because the proposed regulations enhance existing permit procedures and operational standards for the use of residential structures in the Desert and Mountain Regions as transient occupancies, thereby ensuring the health and safety of occupants, guests and surrounding residential neighborhoods and minimizing negative effects associated with such uses;
3. The proposed Ordinance amending the Development Code is internally consistent with other applicable provisions of the Development Code. The proposed Ordinance adds new definitions, regulations, expands the area to which permits can be applied and provides clarification to existing sections.
4. The proposed Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines §15061(b)(3) because it can be determined that implementation of the proposed Ordinance would not have a significant effect on the environment.

RECOMMENDATION: That the Planning Commission recommend that the Board of Supervisors:

- A. **ADOPT** the findings as contained in the staff report;
- B. **ADOPT** the proposed Ordinance amending Title 8 of the County Code (Development Code) to revise the regulations relating to Short-Term Residential Rentals in Chapter 84.28;
- C. **DIRECT** the Clerk of the Board to file a Notice of Exemption.

ATTACHMENTS:

Exhibit A: Proposed County Development Code Section Changes (Red-lined Version)

EXHIBIT A

Proposed County Development Code Section Changes (Red-lined Version)

CHAPTER 84.28: SHORT-TERM RESIDENTIAL RENTALS

Section

- 84.28.010 Purpose.
- 84.28.020 Applicability.
- 84.28.030 Definitions.
- 84.28.040 Permit Required.
- 84.28.050 Application Process.
- 84.28.060 Occupancy Standards.
- 84.28.070 Conditions of Operation.
- 84.28.080 Enforcement.
- 84.28.090 Suspension of Permit.
- 84.28.100 Revocation of Permit.

§ 84.28.010 Purpose.

The purpose of this Chapter is to establish a permit procedure, and maintenance and operational standards, for the use of legal residential dwelling units ~~or portions thereof~~ located in the Mountain ~~Region~~ and Desert Regions as transient occupancies, to ensure the health and safety of occupants, guests, and the surrounding residential neighborhood, and to minimize negative secondary effects associated with such use.

Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017)

§ 84.28.020 Applicability.

The standards and permit procedures of this Chapter apply to all persons involved and at all times, as more fully set forth herein, in the short-term rental of residential dwelling units or portions thereof as a single housekeeping unit where allowed in the Mountain and Desert Regions in compliance with Division 2 (Land Use Zoning Districts and Allowed Land Uses). "Short-term" means less than 30 days.

(Ord. 4011, passed - -2007; Am. Ord. 4230, passed - -2014; Am. Ord. 4331, passed - -2017)

§ 84.28.030 Definitions.

The definitions in this Section are intended to apply to this Chapter only. Any term which is not specifically defined herein shall have the definition as provided by Division 10 of the Development Code or elsewhere within the County Code.

(a) **BOOKING TRANSACTION.** Any reservation or payment service provided by a person who facilitates a short term rental unit transaction between a prospective short term residential rental unit renter and a short term residential rental unit owner.

(a)(b) **HOSTING PLATFORM.** A marketplace in whatever form or format, which facilitates rental of a short-term residential rental unit through advertising, match-making or any other means, using any medium or facilitation, and from which the operator of the hosting platform derives revenues from providing or maintaining the marketplace.

~~(b)(c)~~ **INSPECTIONS-INITIAL.** Any inspection incident to the review of an application for an initial short-term residential rental unit permit. The responsible department shall inspect ~~the interior and the exterior of~~ the subject property, ~~including any improvements therein, including the exterior and interior of the residential dwelling~~ unit, to determine maximum occupancy and parking capacity for the property, and to verify compliance with the standards of this Chapter and of other applicable County Code provisions.

~~(e)(d)~~ **INSPECTIONS-RENEWAL.** Upon the application for renewal of a short-term residential unit permit, the subject property ~~and the rental unit~~ residential dwelling unit and other structures or improvements on the property shall ~~may~~ be re-inspected, based on standards established by the responsible department, to ensure continued compliance with the standards of this Chapter and of other applicable County Code provisions. Notwithstanding anything to the contrary, an applicant for the renewal of an expiring short-term residential rental unit permit is in the same position as a person seeking a permit in the first place and shall comply with all applicable standards of this Chapter at the time of renewal

(e) POTENTIALLY AFFECTED PROPERTY OWNER. The owner of property that is located within the applicable distance from the short-term residential rental unit as set forth in Table 85-2 of § 85.03.080 of the County Code.

~~(d)~~—

(f) RESPONSIBLE DEPARTMENT. The department or subdivision thereof designated by the Chief Executive Officer of the County of San Bernardino to implement this Chapter.

~~(e)~~—

~~(f)(g)~~ **SHORT-TERM RESIDENTIAL RENTAL UNIT OWNER.** The owner of a property, as defined in § 810.01.170 of the County Code, with a single-family dwelling unit that is being used as a short-term residential rental unit; any individual or organization working on behalf of such property owner; or any individual or organization that has the legal right to rent out, or allow the occupancy of ~~to others~~ a single-family residential dwelling unit as a short-term residential rental unit.

~~(g)(h)~~ **SHORT-TERM RESIDENTIAL UNIT RENTER.** An individual who enters into an agreement or is ~~has been~~ authorized by ~~the~~ with a short-term residential rental unit owner, regardless of remuneration, ~~for~~ the use of property as a short-term residential rental unit. Such renter is not considered a tenant or a person who hires a dwelling unit under Civil Code § 1940.

~~(h)(i)~~ **SHORT-TERM RESIDENTIAL RENTAL UNIT.** A residential dwelling unit or portion thereof rented or otherwise used for residential transient occupancy, as defined in County Code § 14.0203. A short-term residential unit ~~may~~ shall not be used for any commercial activity, which includes but is not limited to weddings, wedding receptions, corporate retreats, business meetings or conferences, filming photography shoots, a fraternity party, or any other similar gathering, unless regulated under an approved County issued Permit. Transient occupancy generally means occupancy for 30 consecutive calendar days or less.

(Ord. 4331, passed - -2017)

§ 84.28.040 Permit Required.

(a) A short-term residential rental unit owner may use a single-family dwelling unit as a short-term residential rental unit only if such owner has a current valid short-term residential unit permit and complies with the requirements of this Chapter and other applicable provisions of the County Code and other laws. ~~If there is more than one dwelling unit on a parcel, A~~ separate permit shall be required for each dwelling unit used as a short-term residential rental unit when there is more than one legal single family dwelling unit or a duplex on the parcel. An accessory dwelling unit shall not be used or permitted as a short-term residential rental unit separately from the primary dwelling unit pursuant to § 84.01.060.-

(b) Short-term residential renters are subject to the uniform transient occupancy tax of County Code § 14.0203.

(c) A short-term residential rental unit permit is transferrable to the new owner of the rental unit in question, provided that the new owner informs the County of its desire to assume the responsibilities of holding the short-term residential unit permit in question within 30 days of taking title to the property. Within 30 days of taking title to the property, the new owner is also responsible to provide the County with the information necessary to satisfy the requirements of County Code § 84.28.050(a)(1) through (7), so that the County may be assured that the new owner understands its duties and responsibilities as the owner of a short-residential rental unit. The County may also charge a fee for changing the permit record, as set forth in the schedule of fees in Division 6 of Title 1 of the County Code.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017)

§ 84.28.050 Application Process.

(a) *Application.* An application for a short-term residential rental unit permit shall be submitted to the responsible department on a pre-approved form. The required content of the form may be revised from time to time, but at a minimum shall require the following:

- (1) Property owner name and contact information.
- (2) Applicant name and contact information, if different from the property owner.
- (3) Address and Assessor's parcel number for the property containing the single-family dwelling unit to be used as a residential rental unit.
- (4) Total square footage ~~of habitable space~~ of the single-family dwelling unit.
- (5) ~~Number and Total~~ square footage of ~~rooms~~ habitable space to be used for overnight sleeping purposes.
- (6) The name of the managing agency, agent, or property manager, if different from the property owner, and a telephone number at which that party may be immediately reached on a 24-hour basis.
- (7) Acknowledgment that the property owner and applicant have read and understand this Chapter.
- (8) A fee amount to cover an initial inspection and one additional inspection, as set forth in the schedule of fees in Division 6 of Title 1 of the County Code. If further additional inspections are required, then the owner or applicant shall be required to pay additional inspection fees.

(b) *Notification Requirements.*

(1) The responsible department shall provide notice of the application to all potentially affected property owners in the following circumstances:

(A) The application is submitted as a result of the issuance of a notice of violation ~~for~~ due to the advertising of a dwelling unit for short-term residential rental use ~~renting~~ or use of a property as a short-term residential rental unit without a short-term residential rental unit permit.

(B) During the processing of the application, the responsible department is made aware of circumstances that would lead it to reasonably believe that the property has been used in violation of this Chapter, including but not limited to that the property was used as a short-term residential rental unit without a short-term residential rental unit permit.

(2) If there are additional costs to the County in providing notice to all potentially affected property owners, the cost of the permit application shall be changed to allow the County to recover those costs. The notice shall provide that comments may be submitted to the responsible department up to 20 calendar days after the date of said notice.

(3) The responsible department shall notify the applicant if the application is approved or denied at the applicant's mailing address as shown on the most recent application or otherwise filed with the responsible department. Within seven calendar days of the issuance or renewal of a short-term residential rental permit, the responsible department shall send notice to all potentially affected property owners that a permit was issued. This notice shall contain, at a minimum, the following information:

(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 immediately reached on a 24-hour basis;

~~(A)(B)~~ The phone number for the County's 24/7 Short-Term Rental complaint line;

~~(B)(C)~~ The maximum number of occupants, including day-use guests, allowed in the unit;

~~(C)(D)~~ The maximum number of vehicles allowed to be parked on the property.

(c) *Operation During Application Process.* Notwithstanding § 84.28.040, while a new application for a short-term residential rental unit permit is pending, a dwelling may be used as a short-term residential rental unit provided that the unit has passed a physical inspection

by the County and otherwise complies with the requirements of §§ 84.28.060 and 84.28.070 and any applicable requirements set forth in Chapter 1 of Division 3 of Title 6 and Chapter 19 of Division 3 of Title 6 of the County Code and other law.

(d) *Application Denial.* An application for a short-term residential rental unit permit or renewal of a permit under this Chapter shall be denied by the responsible department upon one or more of the following grounds:

- (1) The application is incomplete or the applicant has otherwise failed to comply with the requirements of this Chapter.
- (2) The applicant or permittee provided material information that was knowingly incorrect, or provided material information that the applicant should have reasonably known was incorrect, in the application for a permit under this Chapter.
- (3) The short-term residential rental unit or property is not in compliance with the standards of this Chapter or other applicable County Code provisions and has failed to pass the initial or renewal inspection.

(e) *Applicant Appeals.* An applicant may appeal the denial or conditional acceptance of an application for a short-term residential rental permit. Such appeal must be in writing and submitted to the responsible department within ~~105 calendar~~ days of the date of the notice provided pursuant to § 84.28.050(b)(3). When the tenth day is not a County business day, the time frame is extended to the second consecutive County business day following the tenth day. The appeal shall follow the procedure set forth in § 84.28.090(c).

(f) *Affected Property Owner Appeals.* Potentially affected property owners may appeal the granting of a new short-term residential rental unit permit. All such appeals must be submitted to the responsible department within ~~105 calendar~~ days of the date of the notice provided pursuant to § 84.28.050(b)(3). When the tenth day is not a County business day, the time frame is extended to the second consecutive County business day following the tenth day. The ground for such appeal is limited to the claim that past use of the property as a short-term residential rental unit has not complied with one or more requirements of § 84.28.060(b) through (~~de~~), or § 84.28.070, or that, based on competent evidence, any prospective use for such purpose will likely not comply with one or more of such requirements. Such appeal shall be heard in the same manner as specified in § 84.28.090(c). The applicant shall be provided notice of the hearing. If the potentially affected property owner prevails in the appeal, then the applicant's application shall be deemed to be denied and such decision shall be the final decision of the County. No further appeal shall be available at the administrative level.

(g) *Permit Renewal.* The short-term residential rental unit permit shall be renewed biennially. Permit renewal shall be approved if the current Conditions of Operation and other standards in this Chapter have been met, the subject property, residential dwelling unit, and other structures or improvements on the property pass the renewal inspection, and the applicable renewal fee as set forth in the San Bernardino County Code Schedule of Fees is paid. Renewal payments submitted after permit expiration are subject to a delinquent fee pursuant to the Schedule of Fees. Continued use of a short-term residential rental unit use is prohibited following permit expiration until renewal payment, including any delinquent fee, has been received by the County. Failure to submit renewal payment within 45 days of permit expiration, including any delinquent fee, shall result in closure of the short-term residential rental unit permit. The short-term residential rental unit owner shall be required to submit a new application, pay the applicable new permit application fee, and be subject to the application process in subsection (a) above.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017)

§ 84.28.060 Occupancy Standards.

(a) *Compliance with Uniform Codes and Other Laws.* At the time of issuance of a short-term residential rental permit and thereafter, the short-term residential rental unit shall be in compliance with the California Fire Code, California Building Code, the National Fire Protection Association Standards or regulations, and any other applicable uniform codes, as adopted by the County of San Bernardino, and other applicable laws and codes.

(b) *Occupancy Limits.* Occupancy limits per room for all short-term residential rental units shall be determined as follows:

(1) In order for a room to be considered habitable -space for overnight sleeping purposes, it must be a minimum of 70 square feet. A 70 square foot room may sleep one person. Each sleeping room occupied by more than one person shall contain not -less -than 50 square feet of floor area for each additional person.

(2) Kitchens, bathrooms, toilet rooms, halls, closets, storage or utility spaces, and similar areas are not considered habitable -rooms -

for sleeping purposes, thus the square footage represented by these rooms shall not be used in the calculation for determining the maximum number of occupants.

(c) *Maximum Occupancy Limits.* Maximum occupancy limits per short term residential unit shall be determined as follows:

(1) Notwithstanding the allowances per Subdivision (b) above, the maximum occupancy of a short-term residential rental unit shall not exceed six (6) persons if the rental unit is smaller than 800 square feet.

(2) Notwithstanding the allowances per Subdivision (b) above, the maximum occupancy of a short-term residential rental unit shall not exceed eight (8) persons if the rental unit is smaller than 1,200 square feet.

(3) Notwithstanding the allowances per Subdivision (b) above, on parcels smaller than one-quarter acre, the maximum occupancy of a short-term residential rental unit shall not exceed 10 persons.

~~(4)~~(4) Notwithstanding the allowances per Subdivision (b) above, on parcels ~~smaller of less~~ than one-half acre, the maximum occupancy of a short-term residential rental unit, ~~including day-use guests, may~~ shall not exceed ~~12~~6 persons.

(5) Notwithstanding the allowances per Subdivision (b) above, on parcels ~~of more than~~ one-half acre ~~to one acre~~, the maximum occupancy of a short-term residential rental unit, ~~including day-use guests,~~ shall not exceed ~~15~~20 persons.

~~(2)~~(6) Notwithstanding the allowances per Subdivision (b) above, on parcels one acre or greater, the maximum occupancy of a short-term residential rental unit shall not exceed 20 persons.

~~(3)~~(7) Notwithstanding the allowances per Subdivisions (b) and (c)(1) ~~and through~~ (6)2 above, the maximum occupancy of a short-term residential rental unit shall not exceed the occupancies supported by the on-site parking spaces of Subdivision (e) below. For example, if only one on-site parking space is available, the maximum occupancy for that short-term residential rental unit shall be no more than ~~four~~ 4 persons.

~~Day-Use Guests. Day-use guests at short-term residential rental units shall comply with the following:~~

~~Guests of the primary renter or of the user of the short-term residential rental unit may only be on the property from 10:00 a.m. to 8:00 p.m.~~

~~Parking restrictions for the short-term rental property unit may not be exceeded to accommodate day-use guests.~~

~~No more than six day-use guests may be at the short-term residential rental unit at any one time.~~

(d) *Parking.* All vehicles of short-term residential renters must be parked on the short-term residential unit property. No vehicles of renters shall be parked on neighboring properties or within the transportation right-of-way, or in any manner that would create an obstruction. Parking shall be provided on-site at a ratio of not less than one (1) parking space for every four (4) renters-occupants or guests. Short-term residential rental properties with occupancy limits of two (2) renters shall be limited to two (2) vehicles. Parking spaces may include garage, carport, and driveway spaces, and may allow for tandem parking. On-site parking areas shall be kept free from any obstructions, including but not limited to excessive amounts of snow, which would prevent use for vehicle parking. Only the approved parking areas/spaces pursuant to the short-term residential unit permit shall be used for vehicle parking. The property owner shall provide the renter with the appropriate number of dated parking passes, printed on a template provided by the County, for use and display in approved vehicles. The parking passes shall be prominently displayed on the dashboard or hung from the rear view while the vehicle is parked on the short-term residential unit property. Pursuant to §84.28.080(a)(2), violations of the parking requirements of this Chapter may result in vehicles being towed without notice.

(Ord. 4011, passed - -2007; Am. Ord. 4230, passed - -2014; Am. Ord. 4331, passed - -2017)

§ 84.28.070 Conditions of Operation.

The following are minimal requirements for short-term residential rental units. These are in addition to any other applicable requirements of this Chapter, other applicable provisions of the County Code, or other law.

(a) Prohibited Uses of Property. A short-term residential rental unit may not be used for any transient occupancy other than the

purposes described in the definition of short-term residential rental unit set forth in § 84.28.030(g), and in conformity with the requirements of this Chapter.

(b) *Record Keeping.* A record of the short-term residential rental unit occupants and vehicle descriptions (make, model and model year) of all vehicles approved to be parked on the property during short-term occupancies shall be preserved for the term of the short term residential rental unit permit. Records shall be provided to the County, when requested, in order to confirm compliance with this section.

(c) *Registration.* The short-term residential rental unit owner, as defined in § 84.28.030(g), shall administer registration prior to allowing occupancy of the rental unit. The registration shall include review of the short-term residential rental unit regulations with at least one adult renter of the rental unit. At the time of such registration, the renter shall be provided a complete written copy of the rental unit rules and regulations, as well as disclosure of the penalties associated with violations. The registration material shall advise the renter of the occupancy and vehicle/parking limitations, responsibility to avoid nuisance behavior, and that the use of the rental unit for commercial activity, which includes, but is not limited to weddings, wedding receptions, corporate retreats, business meetings or conferences, fraternity parties, or any other similar gatherings shall be prohibited unless authorized by a County-issued permit. The registration material shall contain a space for an acknowledgement to be signed by the renter as having read, understood and agreed to all provisions. Registration materials shall be preserved for the term of the short term residential rental unit permit, and shall be provided to the County, when requested, to confirm compliance with short-term residential rental unit permit conditions of operation and regulations set forth in this chapter. If the owner fails to provide adequate directions to the unit or fails to confirm acknowledgement and understanding of the rental unit rules and regulations, the conditions of operation of the short-term residential rental unit permit may be amended by the County to require in-person registration.

~~(b)~~(d) *Advertising.*

(1) ~~Advertising of Unpermitted Uses.~~ Advertising that promotes a short-term residential rental unit for a use that is not permitted by this Chapter or other law, or any commercial activity including, but not limited to, the use of such unit for a wedding, wedding reception, corporate retreat, business conference or meeting, filming or photography shoot, fraternity party, or any other similar gathering, is prohibited, unless such use has been pre-approved by a County issued permit.

~~(2) *Signage.* Advertisement signs on property being used as short term residential rental unit to promote short term residential rental units are prohibited.~~

~~(2) *Media.* All advertising, including real-estate magazines, fliers, newspapers, television or radio commercials, internet pages, or coupons, that promote the use of a short-term residential rental unit, prior to approval of a short-term residential rental unit permit pursuant to § 84.28.040(a), shall be prohibited. All advertisements forms of print and non-print advertisement, including real estate magazines, fliers, newspapers, television or radio commercials, internet pages, or coupons, featuring a permitted property used as a short-term residential rental unit shall include the valid County issued permit number and specify the maximum permitted number of occupants and vehicles for the rental unit each property or properties.~~

~~(e)~~(e) *Posted Notices within Unit.* The County-issued short-term residential rental unit permit shall be posted on or adjacent to the front door, and an exit/emergency evacuation map shall posted in each sleeping room. In addition, eEach short-term residential rental unit shall have a clearly visible and legible notice posted in a prominent location within the unit, ~~on or adjacent to the front door,~~ containing the following information:

(1) The address of the short-term residential rental unit.

~~(1)(2)~~ (2) The name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be immediately reached on a 24-hour basis.

~~(2) The maximum number of day use occupants, including day use guests, permitted.~~

(3) The maximum number of occupants ~~permitted~~allowed to stay overnight in the unit.

(4) The maximum number of vehicles allowed to be parked on the property.

(5) The contact person or agency, and phone number for snow removal ~~to allow vehicle access to the property.~~

(6) Notification of the arrangements that the owner has made ~~to~~to allow the renter to properly store and dispose of trash or refuse

in accordance with the ~~requirements of this chapter~~terms of the County Code.

(7) Notification that failure to comply with the requirements of this Chapter, including parking and occupancy standards, as well as public and private nuisance standards, is a violation of the County Code, and that such violation may result in enforcement actions to address the violation. These may include actions to abate the nonconformity, the institution of criminal, civil, or administrative actions, or, under certain circumstances, the calling of law enforcement for the removal of guests and their vehicles from the property to the extent authorized by law. The notification shall state in a prominent format that users of the unit are prohibited from disturbing the peace of the surrounding neighborhood and that doing so is a violation of this Chapter and the rental agreement.

(8) Location of utility service connections, including how to access service connections and instructions and any tools necessary to disconnect the residential rental unit from utility services in the event of an emergency.

(9) Phone numbers of local emergency medical and law enforcement services.

(10) Property boundary map for the purpose of ~~exterior property recreational activities and parking to deter~~detering trespassing on other privately owned properties and identification of the approved parking area(s).

~~(e)~~(f) Call Response.

(1) The short-term residential rental unit owner shall be personally available by telephone on a 24-hour basis and maintain the ability to be physically present at the property within one hour in order to respond and remedy calls or complaints regarding the condition or operation of the unit or the behavior of persons on the property in violation of this Chapter or other law.

(2) On a 24 hour basis, within one hour of receiving a call or a complaint, the short-term residential rental unit owner must confirm ~~Responses to such calls or complaints must result in the short term residential rental unit owner confirming~~ whether or not the complaint is valid. If the complaint is valid the short-term residential rental unit owner shall immediately take ~~any and all~~ corrective action within the lawful authority of the owner to abate the violation, or to cause the nuisance behavior that disturbs the peace of the neighboring properties to stop, for the entire duration of the occupancy of the person causing or allowing such violation or nuisance behavior. Such corrective action may necessarily include, under certain circumstances, the contacting of law enforcement, County officials, or other appropriate officials for the removal of guests and their vehicles from the property to the extent authorized by law.

(3) Calls or complaints about physical conditions or circumstances that constitute an immediate threat to the public health and safety shall obligate the owner to immediately contact the appropriate law enforcement, fire, or other authority.

(4) Each owner shall keep a written record of the times and type of complaints received, what response was undertaken by the owner, and when such complaints were resolved. This written record shall be made available to the County upon request, and shall be retained by the owner for ~~24 months~~ the term of the short-term residential rental unit permit.

~~(f)~~(g) *Responsibilities of Owner to Prevent Nuisance Behavior and Maintain Neighborhood Peace and Quiet.* The owner shall take all lawful action necessary to ensure that renters and occupants abide by the terms of this Chapter and other applicable provisions of the County Code. The owner must inform renters and occupants that they are not to violate any noise standards, parking standards, or otherwise create a public or private nuisance.

~~(g)~~(h) Loud and Disturbing Noise.

(1) It is unlawful for any owner, renter, occupant, or guest located at a short-term residential rental unit to make, cause to be made, or allow to be made, either willfully or through failure to exercise control, any loud, excessive, impulsive, or intrusive noise that disturbs the peace or quiet or that causes discomfort or annoyance to any reasonable person of normal sensitivities in the area. Such types of noises or actions causing noises include, but are not limited to, yelling, shouting, hooting, whistling, singing, playing a musical instrument, emitting or transmitting any loud music or noise from any mechanical or electrical sound making or sound amplifying device, and the habitual barking, howling, or crowing of animals.

(2) The standard for enforcement of this Subdivision is the "reasonable person" standard. The inquiry is whether the noise would disturb the peace or quiet or cause discomfort or annoyance to a reasonable person under the same or similar circumstances.

(3) Factors that may be considered in determining whether a violation of this Subdivision has been committed include, but are not limited to, the following:

- (A) The level of noise;
- (B) The level and intensity of the background (ambient) noise, if any;
- (C) The proximity of the noise to the residential unit in question;
- (D) The time of day or night the noise occurs;
- (E) The duration of the noise;
- (F) Whether the noise is constant, recurrent, or intermittent; and
- (G) Whether the noise is produced by a mechanical or electronic device.

(i) Safety.

- (1) Solid fuel burning outdoor fireplaces, chimineas, barbeques, and fire pits are prohibited in Mountain Region.
- (2) The interior and exterior of the short-term residential rental unit shall be kept free of hazardous conditions at all times.
- (3) Spas/hot tubs shall be covered and locked when not in use.

(j) Sanitation.

- (1) Every short-term residential rental unit shall be cleaned after each occupancy change in order to make the unit sanitary. _____
- (2) If linens are provided for use by renters, said linens will be exchanged for clean linens after each occupancy ~~change~~.
- (3) The exterior of the short-term residential rental unit shall be maintained and kept free of debris.
- (4) Spas/hot tubs shall be maintained and cleaned as frequently as needed to preserve sanitary conditions.

~~(h)~~(k) Trash/Refuse. Trash shall be deposited in approved trash collection containers on the short-term residential rental unit property. Trash containers shall be kept closed when not in use, never be permitted to overflow, and kept in a clean condition without excessive build-up of encrusted wastes in or on the container.

- (1) In the Mountain Region, short-term residential rental unit owners shall procure pull-out trash collection service and animal-proof trash containers from the County-approved refuse collection hauler when said service is available. A sufficient number of containers based on occupancy levels of the rental unit shall be procured. ~~With the exception of trash properly deposited in trash collection receptacles, accumulation of trash and debris on the site or within the unit is prohibited.~~
- (2) In the Desert Region, short-term residential rental unit owners shall procure pull-out trash collection service and trash collection containers from the County-approved refuse collection hauler when said service is available. A sufficient number of containers based on occupancy levels of the rental unit shall be procured. ~~Each exterior trash collection receptacle shall be "animal-proofed" as defined in County Code § 810.01.030(pp), shall be secured in an upright condition to prevent the receptacle from falling over, and shall include a lid that can be secured with self-contained locking handles, bungee cords, or other suitable methods designed to keep the contents from being accessed by animals.~~
- (3) Trash shall be removed from the premises after each occupancy unless routine commercial trash collection is provided to the premises.

(Ord. 4011, passed - -2007; Am. Ord. 4331, passed - -2017)

§ 84.28.080 Enforcement.

(a) General.

(1) Owners and renters of short-term residential rental units shall comply with the requirements of this Chapter and all other applicable Sections of the County Code and other law. A hosting platform shall comply with the requirements of Section 84.28.110 of this Chapter and all other applicable Sections of the County Code and other law.

(2) In addition to any enforcement action and remedy authorized by this Chapter, a violation of any requirement of this Chapter may result in remedial action by appropriate members of County staff or any Enforcement Officer as defined in Chapter 2 of Division 1 of Title 1 of the County Code without notice if providing notice is not reasonable considering the need for immediate remedial action, and/or if prior notice to the property owner or the renters, either verbal or written, has not resulted in appropriate remedial action by the property owner. If the violation consists of a violation of any of the parking requirements of this Chapter, then the remedy may include the towing of the vehicle or vehicles causing the violation of the parking requirement. Remedial actions taken under this Section, other than any criminal citations, are subject to appeal pursuant to Chapter 2 of Division 1 of Title 1 of the County Code or other applicable provision, but no request for appeal shall stay the remedial actions taken pursuant to this Section.

(3) In addition to any enforcement action and remedy authorized by this Chapter, a violation of any requirement of this Chapter may be subject to the enforcement and remedy provisions of Chapter 2 of Division 1 of Title 1 of the County Code and any other applicable enforcement and remedy provisions of the County Code or provided under the law.

(b) Uniform Transient Occupancy Tax-Failure to Pay. Failure by the owner, or when applicable, a hosting platform, to collect and remit to the Tax Collector the Uniform Transient Occupancy Tax may result in the Tax Collector pursuing any remedy against the owner or hosting platform, including imposing and collecting said tax from the owner or hosting platform, authorized under Chapter 2 of Division 4 of Title 1 of the County Code or other applicable law. Notwithstanding the duty imposed by Subsection 84.28.110(a), the use of a hosting platform to facilitate the rental of a short-term residential rental unit shall not relieve an owner of liability for violations of this subsection.

~~(b)(c)~~ Administrative Subpoena. The county may issue and serve an administrative subpoena as necessary to obtain specific information regarding short-term residential rental unit listings located in the unincorporated San Bernardino County, including, but not limited to, the information identified in Section 84.28.110. Any subpoena issued pursuant to this subsection shall not require the production of information sooner than 30 days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that 30-day period.

(Ord. 4331, passed - -2017)

§ 84.28.090 Suspension of Permit.

(a) *Suspension of Permit.* A short-term residential unit rental permit may be suspended for the following reasons:

(1) Substandard building or property or unsafe building or structure. Any violation of the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code that results in the issuance of a Notice of Defect or Notice and Order to Repair. Notice of such suspension shall be provided pursuant to the requirements of Chapter 1 of Division 3 of Title 6 of the County Code.

(2) *General Violations.* Any failure to comply with, or respond to, any notice of violation or other notice from the County requiring compliance with one or more requirements of this Chapter or other applicable provision of the County Code or other law. Property owners shall be informed of such suspension in a written notice mailed using both certified mail with return receipt and First Class service. In addition, although not required, the notice may also be posted on the property and/or mailed to any additional individuals or companies listed on the permit application.

(b) *Use of Property During Suspension and Stays.*

(1) When a short-term residential unit rental permit is suspended, the property or properties affected by the suspension shall not be used as a short-term residential rental until such time as the suspension is stayed or lifted.

(2) Permits suspended pursuant to § 84.28.090(a)(1) will remain suspended until such time as the Building Official or his or her

designee confirms that all violations have been corrected or the Building Appeals Board has ruled in favor of the appellant.

(3) Permits suspended for general violations, i.e., those under § 84.28.090(a)(2), will remain suspended until such time as the violations are abated, or the property owner can reasonably demonstrate substantive changes in the property management practices that would mitigate or correct these violations, or a hearing officer has ruled in favor of the appellant. If an appeal hearing for a general violation cannot be scheduled within 14 calendar days after an appeal was filed or if the hearing is scheduled but, through no fault of the appellant, not held within 30 days after the appeal was filed, the suspension must be stayed through the date a ruling on the appeal is issued.

(c) *Appeals of Suspensions.* An appeal must be filed no later than ~~1020-calendar~~ days of the date the notice of suspension is issued. When the tenth day is not a County business day the time frame is extended to the second consecutive County business day following the tenth day.

(1) The suspension of a permit pursuant to § 84.28.090(a)(1) may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107 of the County Code. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be available.

(2) The suspension of a permit for a general violation may be appealed to a County-designated hearing officer. The decision by the hearing officer shall be final and no further appeal within the County shall be available. The hearing procedure shall include the following:

(A) At least ten days written notice of the hearing shall be given to the permit holder prior to the hearing date. The hearing date may be postponed or continued by stipulation of the parties. If the permit holder does not respond or appear, no further hearing procedure shall be required.

(B) Witnesses shall swear or affirm to tell the truth. The oath or affirmation shall be taken by the hearing officer. The County shall present its case first, with oral testimony and documentary evidence or other evidence. The County shall have the right of cross-examination. The permit holder shall have the right to be represented and shall have the right of cross-examination. The permit holder may present his or her response after the County has presented its case. Both parties may thereafter present argument.

(C) No determination or order shall be based solely on hearsay evidence. The hearing officer shall make his or her determination within five working days of the end of the hearing, unless a party requests a greater period of time. The determination shall be in writing, and shall state the findings upon which the determination is made. The decision by the hearing officer shall be final and no further appeal within the County shall be available.

(3) The failure to appeal a suspension in a timely manner shall render the action to suspend final and no further appeal within the County shall be available.

(Ord. 4331, passed - -2017)

§ 84.28.100 Revocation of Permit.

(a) *Revocation of Permit.* A short-term residential rental unit permit may be revoked for the following reasons:

(1) The severity of a violation of a requirement of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code necessitated the immediate vacation of the property.

(2) The conditions or actions that resulted in the suspension of the permit have not been abated, or addressed by a demonstrable change in the business practices associated with the short-term residential rental unit, within 60 days of the suspension being upheld on appeal or otherwise deemed final.

(3) The condition or the business practice that resulted in the suspension of the permit re-occurs within 12 months of the date the suspension was upheld on appeal or otherwise deemed final.

(4) A permit is suspended two times in a consecutive 24-month period, where said suspensions are either upheld on appeal or otherwise deemed final.

(5) The permit was obtained through fraud or deceit.

(6) The permit was issued in error.

(b) *Appeals of Revocation of Permit.*

(1) The revocation of a permit pursuant to § 84.28.100(a)(1) may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107 of the County Code. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be available.

(2) The revocation of a permit pursuant to § 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violation or violations are based on a failure to comply with the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code, may be appealed for a hearing before the Building Appeals Board. The format and process of the appeal shall be as required by § 63.0107 of the County Code. A decision by the Building Appeals Board shall be final and no further appeal within the County shall be available.

(3) The revocation of a permit pursuant to § 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violation or violations are general violations, or pursuant to § 84.28.100(a)(5) or (a)(6), may be appealed for a hearing before a County appointed hearing officer as defined by §§ 12.2701, 12.2702, 12.2703, and 12.2705 of the County Code. The procedure for such hearing is set forth in Subdivisions 84.28.090(c)(2)(A) through (C) and (c)(3). A decision by the hearing officer shall be final and no further appeal within the County shall be available.

(4) The revocation of a permit pursuant to § 84.28.100(a)(2), (a)(3), or (a)(4), where the underlying violations include a general violation or violations and a violation or violations based on a failure to comply with the requirements of Chapter 1 of Division 3 of Title 6 or Chapter 19 of Division 3 of Title 6 of the County Code, shall be heard by the Building Appeals Board in the form and manner defined by § 63.0107 of the County Code. A decision by such body shall be final and no further appeal within the County shall be available.

(c) *New Application After Revocation of Permit.* No application for a permit shall be permitted within 12 months after a revocation is made final.

(d) *Suspensions or Revocations of Permits for Multiple Properties.* If it is determined that the conditions or the business or management practices cause violations of this Chapter to occur on multiple properties of the same owner, the short-term residential unit permits for all of those properties may be suspended and/or revoked at the same time. In such circumstance all affected parties must be provided notice and the opportunity to appeal the suspension and/or revocation of the permit for every affected property.

(Ord. 4331, passed - -2017)

§84.28.110 Hosting Platform Requirements.

- (a) For purposes of this Chapter a hosting platform shall be responsible for collecting all applicable uniform transient occupancy tax required by County Code § 14.0203 and remitting the same to the County. The hosting platform shall be considered an agent of the short-term residential rental owner for purposes of transient occupancy tax collections and remittance, as set forth in County Code § 14.0203, if the hosting platform collects payment for the rental. If a hosting platform does not collect payment for rentals, the short-term residential rental owner is solely responsible for the collection of all applicable transient occupancy taxes.**
- (b) Subject to applicable laws and procedures provided in Subsection 84.28.080(c), when requested by the County a hosting platform shall disclose, in a commonly used electronic format, the address of each short term residential rental unit within the unincorporated San Bernardino County listed on the hosting platform, the 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.**
- (c) A hosting platform operating exclusively on the internet, which operates in compliance with subsection (a) and (b) above, shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this Chapter.**
- (d) The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the County to be in violation of, or preempted by, any such law(s).**



Interoffice Memo

DATE: August 8, 2019

PHONE: 387-4739

FROM: **SUZANNE PETERSON**, Planner
Land Use Services Department

TO: **HONORABLE PLANNING COMMISSION**

SUBJECT: **AGENDA ITEM 2: AMENDMENT TO SHORT TERM RENTALS PROJECT NO. P201900058
- ADDITIONAL COMMENTS**

Staff has received additional comments regarding the above-referenced project. The correspondences are attached for your consideration.

Linda Berry from Lake Arrowhead – received on August 5, 2019:

Please enter my opinion regarding SHORT TERM RENTALS in Lake Arrowhead at the upcoming Planning Commission meeting Thursday, August 8th at 9am. I am unable to attend.

August 2, 2019

As a full time resident of Lake Arrowhead for the last 25 years I am deeply concerned about the proliferation of SHORT TERM RENTALS in our area. Having worked for many years in the winter at Snow Valley in HR and Ski School... I feel like I have a handle on the make-up of the people who live in our mountain communities.

And it concerns me greatly when someone says they are having a hard time finding year round rental housing and they work in our community. Not everyone can afford to purchase a home. Just recently I heard of a single mother with children who lost her rental home because the owner was turning it into a Short Term Rental. This woman has worked in our area for many years and now can't find housing.....this situation is going to get worse...not better, at the rate that Short Term Rentals are popping up. We have businesses up here that depend on such employees to stay in business...dishwashers, plumbers helpers, construction labors, even our hospital. These people need housing. This lack of housing is affecting our schools enrollment... some are closing and some are suffering from lack of funds.

I'm all for property rights and I believe if Lake Arrowhead's culture and quality of living is to be preserved for future generations we need to start now by controlling the density of Short Terms Rentals...we are saturated. We cannot ignore this problem.

Last August when I originally proposed having a density restriction of 1000 ft between Short Term Rentals, I figured it was an appropriate distance that the Planning and Land Use Dept would approve... as this distance had already been approved for Bed & Breakfast residences and no more than two per block. This proposal has lead us to many other code restriction discussions.

Please move forward ,,,INCLUDE AN ORDINANCE RESTRICTING

LuAnna L. Dobson from Orange County – received on August 6, 2019:

To whom it may concern, I am a resident of Orange County, in process of buying a Joshua Tree property for short term rental (STR) use. I intend to be a sensitive steward of California's precious desert ecosystem, and a contributing member of Joshua Tree's precious community and economy. I am writing to comment on 84.28.070 Conditions of Operation, d) Call Response, (1) - (4). I feel that instances of "owner" should be expanded to include "owner, operator, property manager, or other agent of the owner or operator". I support the stated need for 24-hour availability by phone and 1-hour in-person response time requirement in this section, because it is critical that any problems be resolved rapidly if STRs can coexist with local residents and avoid disrupting the desert community. However I feel that it is not reasonable to limit that responsibility solely to the property owner. It would be far more reasonable and appropriate if call response requirements can be met by parties made formally responsible for management of the property by the property owner. This change would be consistent with section 84.28.050 Application Process (2), (6), and (7) which already differentiate between "owner", "applicant" (which may be different from owner), "managing agency", and "property manager". These parties are all appropriate persons to respond to calls of emergent need. In particular, I am most concerned d) Call Response "(1) The short-term residential rental unit owner shall be personally available by telephone on a 24-hour basis and maintain the ability to be physically present at the property within one hour..." If the owner must personally be available and can not deputize other parties to respond to emergencies, this means the owner may never schedule long meetings, vacations, may never suffer illness or undergo surgery, may never go out of town for any reason. In my case, I intend to maintain my own primary residence in Orange County which is more than a 1-hours drive, so to fulfill this requirement I would have to uproot my life, my job, my family to move within a 1-hr radius of Joshua Tree. It would be much more reasonable to rely on a trustworthy local property manager. Further, I am aware of instances where an STR operator is a lessee of the property containing the rental unit. As long as the lessee has permission of the property owner (as described in the Application Process section, no less), holds the necessary permits, and is otherwise following the letter of the law, it is absurd to expect the property owner to respond to calls of emergency when they are not even involved in the operation of the STR their lessee is operating. Clearly in this instance it would be the operator or operator's agent, not the owner, who should be expected to be available by phone on a 24-hr basis and in-person within the hour. Naturally I agree 100% that it is the owner or operator's responsibility to ensure SOMEONE can respond emergencies rapidly at all times, but that person need not be the owner themselves. More broadly, I would suggest every instance of "owner" in the draft be expanded to "owner or operator" where appropriate in the context of my above comments. Thank you for your consideration of my thoughts, and for taking on the herculean task of regulating STRs in the Morongo Basin. I don't envy the task, but am glad someone is doing it. Warm regards, LuAnna L Dobson, PhD Dept. of Ecology and Evolutionary Biology University of California, Irvine

Michael Tierney from Joshua Tree – received on August 7, 2019:

In regards to the short term residential ordinance hearing coming up on Thursday August 8th 2019. I am strongly in favor of NOT permitting auxiliary units.

I am a permanent resident of Joshua Tree and have lived here full time for 3 years with my long term girlfriend who is a public school teacher in the Morongo Unified School District. We live in what is known as the Panorama Heights or Whitefeather neighborhood just south of the hospital.

Auxiliary units in general, especially trailers, are very small and have very limited interior space. They often do not have the modern conveniences that are found in a single family dwelling and this inevitably pushes the tenants to the outside spaces, often until late in the evening. This also pushes all activities of daily living outside, cooking, consumption of alcohol, talking, fires for heating, radios, musical instruments, grooming.... This raises issues of sanitation, fire safety, noise violations and a host of other public nuisance issues.

The lots in our neighborhood are 5 acre parcels and we have 4 AirBNB units within 100 yards of our house. All have been acceptable and tolerable except for the one auxiliary unit (AirStream) which sits just to the west side of our property line.

We (other neighbors and I) have logged multiple complaints with the County over public nuisance issues we continue to experience with the aforementioned auxiliary unit (Airstream). These official complaints can be viewed in case number C201704113 with the County of San Bernardino Code Enforcement.

On the very first day of operation of this auxiliary unit, the fire department was called by a neighbor due to an out of control bonfire that was set by the guests of the Airstream. This presented a serious risk because at the time there was a county burn ban (Summer with temperatures exceeding 100 degrees). The fire department spent a great deal of time driving around the neighborhood looking for the locale of the fire because there is no address associated with trailer. The trailer sits on the opposite end of the 5 acre plot with an unmarked entrance on a different road than the primary structure.

Having this auxiliary unit used as a short term rental has proven a public nuisance and a safety hazard for the whole neighborhood. With repeated calls and complaints to the owner of the property who resides in Hancock Park, Los Angeles we historically received little to no resolution to the continuing problems, which have included guests from the auxiliary AirBNB unit...

- Walking across our property within 20 feet of our house
- Knocking on our front door at 10:00PM demanding tools for a broken AC unit
- Knocking on our front door due to booking issues
- Photo shoots with more than 40 people and 20 cars which blocked public roads
- Outside loud music, outside drunkenness and loud talking
- Fires
- Drones being flown in what is prohibited airspace due to the helicopter pads for the Sheriff and Hospital
- People climbing atop the Airstream on more than one occasion
- Extremely loud exterior AC unit atop the trailer that would run 24 hours a day 7 days a week

This Auxiliary unit has been tantamount to having an unsupervised campsite sitting 50 yards away from your house. When I spoke to the owner and asked if he would like to have this same situation next to his house in the affluent neighborhood of Hancock Park his answer was a resounding no.

Continued-Michael Tierney from Joshua Tree:

(It is important to note that the owner of the auxiliary unit runs and operates several other short term rentals and is a conscientious and professional host who has made efforts to mitigate these aforementioned nuisances. However the situation with a trailer rental is so fraught with potential problems from the outset, as it is not appurtenant to a house, that even a conscientious host is destined to fail at avoiding public nuisance issues.)

Regarding the issue of long term residents being dependant on making their living from these units

It is my experience and understanding that many of these units are owned by wealthy individuals (some of which have multiple short term rental properties), many of whom do not live anywhere near Joshua Tree but are simply opportunists taking advantage of an unsupervised opportunity at the expense of the neighboring residents, as is the case with the owner of the auxiliary unit that sits next to me.

Regarding the issue of these auxiliary units contributing to the local economy and filling a need

It is my understanding that the Joshua Tree Area is saturated with AirBNB units, many of which sit empty. A quick search for a place to stay tonight in Joshua Tree on airbnb yielded 338 vacant openings for the same day. Shutting down auxiliary units would simply shift visitors into more appropriate and safer single family dwellings which are sitting empty and therefore would have no negative impact on the local economy at all.

Patty Hume – received on August 7, 2019:

I am a short term rental owner in Joshua Tree (that has been dutifully paying my TOT even before it was enforced). I think regulation is good and I'm glad to see this ordinance moving forward. That being said, I am writing to express concern over some of the language in the proposed short term rental regulations (desert region).

- **ADU** — My husband and I bought a 5 acre property in Joshua Tree several years ago specifically because it had a home and an ADU and we saw it as a good opportunity for us to have a retirement home and be able to airbnb our ADU. But the language of this documents seems to say that is not allowed. I'm honestly very puzzled by it because I would think that is the type of situation that the county would want to encourage. If we were not able to use it as a short term rental it would be a big burden to us. This ADU usually sleeps 2-4 people, but most of the time just one couple books it. We can't long term rent it because we need the flexibility to use it as a guest house when we have family visiting intermittently during the year. Under the proposed language, our ADU is mostly going to sit empty benefiting no one, if we can't rent it out short term. **SUGGESTION** — I would strongly encourage you to allow ADU's to be used for vacation rentals. A lot of people depend on the income, and most of the time it means that the owners are nearby monitoring the guests so it is a win-win for everyone. Or if you have concerns about noise or proximity to other dwellings — make it dependent on lot size. Say perhaps properties over an acre should be able to use ADU's as separate vacation rentals.
- **PARKING** — I live in Joshua Tree on a 5 acre property. We have absolutely no parking problem. My driveway can probably hold 25+ cars, although there are rarely more than 5 or 6. Noone parks in our street because it is a narrow 1 lane dirt road, far from the house. While we do have vehicles for short term rental guests parked at our home most days, we **ALSO** always have vehicles unrelated to short term rentals in our driveway — our own family vehicles are always at our home, our housekeepers/handyman/contractors stop by daily, we have friends and family over daily. We have our own parties that have nothing to do with our vacation rental. How do you expect to keep track of all these other people (non-vacation rental related) coming and going from my house? Why is it necessary? **SUGGESTION:** Do away with this requirement because it is not needed in the desert region. At the very least, larger properties like mine should be exempt from this rule because it is just not necessary. I think any property over say an acre could be exempt from this, because these parcels are large enough to be able to accommodate their own parking.
- **REGISTRATION** — From a practical matter I don't know how you go about getting guests to sign documents before they come outside of a vacation rental platform like Airbnb. Many of our guests are traveling, booking from their phone, sometimes the same day they are arriving. What if you send them something to sign and they don't send it back? Is there reservation cancelled? How do you do that without be penalized by Airbnb? We have guest who speak many languages and airbnb automatically translates text - how would we deal with people who don't speak English well? Logistically it seems super messy and time consuming. I've traveled as a guest to many other Airbnb's in other cities and states and never been asked to sign something like that. This is not a common thing to do. **SUGGESTION** — There could be a large poster with all this county info that everyone has to hang inside their vacation rental home. And/or the county could write language that needs to be included in everyone's House Rules which are posted on Airbnb (or other platforms). By booking guests are agreeing to those house rules. This would be a much more elegant solution and I think achieve the same impact.

I appreciate all your time listening to my thoughts on these issues. If you want to discuss anything further please feel free to contact me.

Sam Gipson – received on August 7, 2019:

Hi, my name is Sam Gipson. I purchased a 20-acre parcel in Joshua Tree in September of 2016. Since then, I've been planning to start construction on a large ranch once I'm financially ready, which was nearing. I've read the staff report with the new proposed ordinances and I'd love to comment as a future short-term rental owner.

One of the reasons Joshua Tree has become such a special place is the creativity of some of these properties and dwellings that make the experience special. The unique thought, nature and quality of some of these dwellings have helped make Joshua Tree a worldwide, must-see destination quickly. Alas, with such fast growth comes growing pains. I'm sure updated and relevant regulation was overdo but as an avid traveler, I have never stayed in a short-term rental with the kind of harsh regulations as the ones proposed in the staff report. The parking permits, permit in view and county papers to sign sterilize the experience. I feel strongly that such overarching regulations over such a wide swath of the county does a disservice to a community like Joshua Tree.

Housing is changing fast and for the better. Houses are getting smaller, technology is smarter and less is needed to sustain even in an extreme environment as the desert in Joshua Tree. Lithium batteries with inverters are powering Air Conditioners, structures are becoming stronger by design. In my plans, I had a dome dwelling with AC and a kitchen so that guests can enjoy nature and witness Joshua Tree, even during the summer. I planned to build this unit in addition to my main dwelling. This was a major part of the ranch design. (See image attached)

"Zoning issues vary from city to city and county to county. Our domes are far from a conventional home. We can provide a structural analysis document that will show that our domes meet county requirements for seismic, wind load, and snow load. This usually satisfies the building departments for rural areas. We have put up many small domes within city limits in back yards with no problems. A large dome for a primary residence within city limits will require approval from the local Building Department."

– Pacific Domes

Pacific Domes is one of the leading dome dwelling manufacturers on the west coast. According to the new proposed regulations, this unit would be off-limits to any of my guests unless I packaged it with my own, primary dwelling unit. I had this unit picked out before I even bought the property. I'm sure I could have done more homework as I'm not sure how far back these new regulation conversations have been going on. Regardless, something so vetted, proven and widely used should be considered for RL-20 short term rentals. This is where the overarching regulation does a disservice. Banning all accessory dwellings everywhere is too much.

The study says the proposed regulations and goals will bring more destination spending into San Bernardino County. Though I like the optimism, why not tax the short-term rentals more? The county could even have a special tax for accessory dwelling units that require their own common-sense laws and permits to help finance the governing of such specific circumstances. To prohibit accessory dwelling units for short term rentals is not only shortchanging the guests of Joshua Tree, it's a missed opportunity.

Continued-Sam Gipson:



Capri Pinto from Joshua Tree – received on August 7, 2019:

As I will not be able to attend tomorrow's meeting, I have the following questions and comments I would like to submit:

In regards to 84.28.040:

Would a Homesteader cabin (192 sq. ft) on a 5 acre parcel in rural San Bernardino County be eligible to be classified as a dwelling unit, if it is the sole improvement (dwelling unit) on the parcel, as long as safety requirements and sanitation requirements are met? If so, where would the property owner access the conditions for safety and sanitation before the inspection process? Would the Homestead Cabin be required to have electrical service and a standard flushing toilet or would a maintained port-a-potty meet requirements?

In regards to 84.28.070:

"Registration Materials shall be preserved for the term of the short term residential rental unit permit, and shall be provided to the County, when requested....."

Does this mean if the property owner renews his/her permit biennially for consecutive terms, that all of the records must be kept indefinitely during the course of the lifetime of a continuous permit? If so, this would pose an excessive record keeping burden on the permit holder. A time limit would be more reasonable (up to 2 years, 3 years, etc....)

84.28.070 (f) 1

Call response: ".....maintain the ability to be physically present at the property within one hour in order to respond and remedy calls or complaints...."

I believe 1 hour is insufficient, especially in the remote desert regions. 2-4 hours would be more reasonable.

Rainier Spencer – received on August 7, 2019:

Thank you for the opportunity to provide input on this proposed ordinance. My only comment concerns the issue of parking passes, which I question the need for in rural areas. For instance, my property is zoned RL-5, with many lots larger than 5 acres. While I can understand the benefit of parking passes in a regular residential area, I don't see what they would accomplish in a rural area where you can barely see the next house, much less what cars might be parked there.

I do have one question if you have the time. I see that the ordinance defines a rental unit as a "residential dwelling unit or portion thereof" that has to be inspected. I also see that it disallows ADUs for short-term rental. May I infer from this definition that yurts, trailers, and renting space for people to camp on private property (such as Hipcamp) will be disallowed?

Kevin Duffy from Morongo Basin area – received on August 7, 2019:

As a homeowner and tax payer in the Morongo Basin for 14 years, I'd like to thank you and your staff for all your hard work on regulating Airbnbs in the Joshua Tree area.

However, I feel strongly the regulations should be fair and reasonable and that every effort should be taken to avoid unnecessary or burdensome regulations.

Permitting one vacation rental per parcel is reasonable, however some of the proposed regulations, i.e. issuing a parking permit to each individual guest, or personally registering and checking ID's for each guest is excessive.

As I'm sure you are aware, Airbnb currently collects and submits TOT to the county. I was, in fact, a host who advocated to Airbnb that they do so. Airbnb already has the option to require that guests' government ID's be submitted to them in order to use the platform. I already require that guests have supplied their government ID's to rent from me.

I suggest that the county and hosts work together, as we successfully did to get Airbnb to collect TOT, to have Airbnb, and their extensive databases, require government ID's for guest rentals in SB county, rather than burdening the county administration or individual hosts.

Thank you for your time and consideration.

Lee McElhaney – received on August 7, 2019:

I am unable to attend the Planning Commission meeting tomorrow which will consider revisions to the County Ordinance governing short terms rentals. Nonetheless, I would like to share the following thoughts and concerns about short term rentals in our community.

I recently served on the Lake Arrowhead MAC subcommittee which considered and made recommendations to the MAC committee regarding problems associated with the proliferation of short term rentals in our community. At the MAC committee meeting where the committee considered this issue and formulated its recommendations to the County, the consensus of the MAC committee was that the proliferation of short terms rentals in our community is a serious problem that needs to be studied further by the County.

The number of short terms rentals in our community have proliferated and increased dramatically in the last several years. I and others in the community are convinced that, if unchecked, the continued proliferation of short terms rentals will destroy the very fabric of our community. It exacerbates the declining school population in our community. It likely will have a negative impact on property values in certain areas. It can further exacerbate the decline in certain business activity in our mountain community. In many cases it destroys the peaceful and tranquil environment many residents moved to our mountain community to enjoy.

Many full time residents moved to Lake Arrowhead and invested in “residential” property with the reasonable expectation that the house next door would not be operated essentially as a hotel, or other commercial operation. Increased revenue from transient occupancy taxes is no justification for destroying the fabric of our community.

The County has a responsibility to preserve the property values and the tranquil environment in our mountain communities.

Attached please find a more detailed statement of some of my concerns about the proliferation of short terms rentals.

Other communities in Southern California have been responsive enough to their constituents interests and needs to place significant restrictions on the number and spacing of short term rentals. The County of San Bernardino should do the same.

Proposed revisions to the applicable County Ordinance will be presented to the Planning Commission tomorrow. Unfortunately, it fails to address or place any restrictions on the growth or spacing of short term rentals in our community. The Ordinance should not be revised until this issue is properly addressed and resolved.

Thank you for considering my comments on this important issue.

Continued-Lee McElhaney:

At present, no limitation or restriction exists as to either the total number of STRs in the San Bernardino mountain communities or their density (i.e., the distance between STRs). The unchecked growth in the number and density of STRs will exacerbate the many problems associated with STR use of single family residences.

A. Unrestricted growth in number of STRs

In just 12 years, the number of STR permits in the unincorporated mountain communities of San Bernardino County mushroomed from only 74 in 2006 to 1934 in 2018. So in just 12 years, the number of STRs is now more than 26 times the number it was in 2006.

In the last 3 years, new permits have averaged approximately 500 per year. At this growth rate, in next three years number of STRs could easily increase to more than 3,000 STRs in the unincorporated mountain communities of San Bernardino County.

We also know some property owners operate STRs without permits and “under the radar.” Therefore, the actual number of STRs is greater than indicated by the number of active STR permits.

Because of the profitability of STR use, more corporations are looking to invest in properties to be operated as short term rentals. As a result, the composition of ownership of STRs is changing from individuals to corporations (e.g., Marriott). This could lead to even greater growth of STR use of residential properties in our community.

At the present time, from Crestline to Green Valley Lake there are a total of 838 active STR permits. At present growth rates, in three years that number could increase to as many as 1,500 or more in the same limited area.

B. Problems with unchecked growth in number of STRs

- California has a critical housing shortage. This situation is exacerbated by conversion of single family residence to short term rental properties.

- Communities deteriorate because with the growth of STRs: there are fewer full time residents who focus more in the care and maintenance of properties owned by them; school populations decline; etc.

- Business activity in the community may actually be negatively impacted, i.e., while there may be some increase in weekend business during fair weather seasons, there will be a corresponding and perhaps greater decrease in business during week days and during less favorable weather seasons.

- And, unfortunately, there will be a substantial increase in the already

troublesome noise and parking problems associated with STRs.

C. Solutions

An obvious way to slow the growth of STRs is to either put a cap on the total number of permits issued for STR use, or limit the density of STRs by imposing a distance restriction of at least 1,000 between STRs -- or both.

Approaches taken by other communities include: (a) limiting STRs to properties other than single family residences (i.e., condos or apartments); (b) limiting STRs to primary residences only (renters must be full time residents and be absent no more than 90 days per year); (c) Santa Monica bans any rental shorter than 30 days where the owner of the property is not present during the rental period; (d) Manhattan Beach is considering limiting STRs to a minimum of 7 days; (e) San Diego prohibits short term rentals altogether; (f) large cities and tourist destinations tend to have strict rules, such as placing limits on the number of short-term rentals in certain zones; (f) limit number of permits issued to a single owner (e.g., permits cannot be issued for more than two properties owned by the same person); etc

Our mountain communities need some reasonable regulation of the number, density or use of short term rentals. I recommend the following restrictions:

- a. A short term rental property must be located at least 1,000 feet from the nearest other short term rental property. This will prevent a resident from being “surrounded” by short-terms rentals and plagued by the noise and other problems associated with that use.
- b. Short-terms rental permits should be limited to 1,000 in the zone to be created for this purpose between Crestline and Green Valley Lake; and
- c. Issue no more than 2 STR permits to a single property owner.

Regards,

Claire Kocek – received on August 7, 2019:

Short term vacation rentals in the high desert area have demonstrated a positive economic impact to the area by providing income from additional tax revenues and increased tourism and tourism spending year-round. Year-round tourism in the high desert is crucial to supporting small businesses that cater to both long-term residents and tourists. In addition, responsible property owners increase property values by updating homes that are in desperate need of attention. Although some regulation may be necessary to protect the privacy, security and peace of the surrounding neighbors, it should not be so restrictive as to restrict responsible property owners to use their properties as short-term rentals. The high desert is a beautiful area even in the hottest months and deserves to be seen by tourists that can relax in a comfortable home-like environment.

Responsible homeowners already have rules restricting the use of their property to only the bed-capacity and do not allow parties or other noisy events at their properties. This is not only a restriction to minimize any negative neighborhood impact, but to protect their own properties.

Gail DeMartis from Yucca Valley – received on August 7, 2019:

My husband and I own a home in Yucca Valley, CA that we sometimes rent out on airbnb. We have already registered our home as a STVR in Yucca Valley and have been paying transient occupancy taxes for the entire 5 years that we have been renting it out. Approximately 4 years of that was a voluntary TOT payment as there was no formal platform nor clear requirement. Now I am seeing that there may be a new certification process and perhaps additional fees. We barely profit from this venture. We do it to pay our household bills and not have our home vacant, and thus vulnerable when we are not using it for ourselves.

I am concerned that if these fees apply to us that we will not be able to continue to afford to rent out our home and the city will also lose out on our taxes. A lose lose situation.

Please clarify this process and if we will need to begin all over again.

Robert Brada – received on August 7, 2019:

We manage 24 vacation rental properties in the Joshua Tree National Park gateway communities. We strongly support the concept of the County adopting an ordinance to regulate the short-term rental market, having seen how beneficial to the industry a similar ordinance passed by the Town of Yucca Valley has been.

In reviewing the proposed regulations, however, we find two provisions that are not operationally feasible in the desert communities. These appear to be tailored towards the mountain communities where lodgings are closer together and we believe should be amended or removed from the desert application (as the trash collection and outdoor fire regulations have been separated).

Those specific provisions are:

1. 84.28.060 (d). Parking. Because properties in the desert area are often remote, it is not feasible to check each car as it comes in and provide a parking pass. Unlike in the mountain regions, all of the properties in the desert region are single-family residences where parking is provided on the rented property. In this environment, hanging tags in autos would serve no benefit because there is no need to sort out who cars belong to.
2. 84.28.070 (f). Call Response. While we already maintain a 24-hour hotline, properties in this region are often more remote than those in the mountains, so having someone on site at every property within one hour of receiving a call is often not possible. A window of three to four hours would be more appropriate.

Amanda Bhymer – received on August 7, 2019:

Thank you for the opportunity to review the 'Proposed County Development Code Section Changes (Red-lined Version)' Chapter 84.28.

Below are comments, questions and concerns:

84.28.050 Application Process (b)(B): How does this section accommodate operating hosts currently paying TOT via an SBC issued Use Certificate?

- Many SBC unincorporated area STR hosts have already been identified by the county either through voluntary or coerced compliance with TOT regulations and by previous, county conducted, online STR compliance searches which, by default, identifies them as operating a *"property (that) was used as a short-term residential rental unit without a short-term rental permit."*
- This section seems to automatically place existing hosts in violation. Please be reminded and aware that there are many hosts that have been working with and asking the county for several years to clarify code requirements, permit guidelines and etc. In addition, and as will be stated again later in this email, established hosts in our mountain and desert regions commonly maintain contracted bookings up to 12 months in advance.
- Without exact ordinance enactment dates, permit application access dates, initial inspection time-frames and parking permit forms, it is difficult to understand how responsible hosts will manage their existing business contracts (rental agreements) in tandem county application guidelines.

84.28.050 Application Process (c): What is the exact time-frame an applicant can expect a physical inspection of the property? As stated within the line as *"a dwelling may be used as a short-term residential rental unit provided that the unit has passed a physical inspection by the county"*. How does this section accommodate operating hosts currently paying TOT via an SBC issued Use Certificate?

- This section seems to automatically place existing hosts in violation. Please be reminded and aware that there are many responsible hosts that have been working with and asking the county for several years to clarify code requirements, permit guidelines and etc. Established hosts in our mountain and desert regions commonly maintain contracted bookings up to 12 months in advance.
- Without exact ordinance enactment dates, permit application access dates, initial inspection time-frames and parking permit forms, it is difficult to understand how responsible hosts will manage their existing business contracts (rental agreements) in tandem county application guidelines.

84.28.060 Occupancy Standards (d): When and where will the forms referenced in the following line be available? *"The property owner shall provide the renter with the appropriate number of dated parking passes, printed on a template provided by the county, for use and display in approved vehicles."*

84.28.050 Application Process (c) states the applicant must *"{comply} with requirements of 84.28.060"*.

This section seems to automatically place existing hosts in violation. Please be reminded and aware that there are many hosts that have been working with and asking the county for several years to clarify code requirements, permit guidelines and etc. In addition, and as will be stated again later in this email, established hosts in our mountain and desert regions commonly maintain contracted bookings up to 12 months in advance.

Continued-Amanda Bhymer:

- Without exact ordinance enactment dates, permit application access dates, initial inspection time-frames and parking permit forms, it is difficult to understand how responsible hosts will manage their existing business contracts (rental agreements) in tandem county application guidelines.

84.28.070 Conditions of Operation (d)(2): How does this section accommodate operating hosts currently paying TOT via an SBC issued Use Certificate?

- Many SBC unincorporated area STR hosts have already been identified by the county either through voluntary or coerced compliance with TOT regulations and by previous, county conducted, online STR compliance searches which, by default, identifies them as operating a property that falls into one effected by the line: *"All advertising, including real-estate magazines, fliers, newspapers, television or radio commercials, internet pages, or coupons that promote the use of a short-term rental unit, prior to approval of a short-term residential rental unit permit pursuant to 84.28.040(a) shall be prohibited."*
- This section seems to automatically place existing hosts in violation. Please be reminded and aware that there are many responsible hosts that have been working with and asking the county for several years to clarify code requirements, permit guidelines and etc. Established hosts in our mountain and desert regions commonly maintain contracted bookings up to 12 months in advance.
- Without exact ordinance enactment dates, permit application access dates, initial inspection time-frames and parking permit forms, it is difficult to understand how responsible hosts will manage their existing business contracts (rental agreements) in tandem county application guidelines.

Thank you for your time and thoughtful responses and considerations.

Katie Callan – received on August 8, 2019:

I am writing to you regarding the proposal for STR application and requirements for short-term rentals in the Morongo Basin, which is unfairly compiled with the Mountain regions of San Bernardino County.

This proposal is completely contrary to the statement in Goal ED9 to "promote increased capacity to serve tourists", as this proposal is extremely prohibitive to a large majority of property owners in this region who provide unique accommodations to the ever increasing number of tourists to the high desert. Most of which choose to stay in these types of dwellings for both their charm and the unique experience they provide.

As most of the safety requirements are completely understandable and necessary for guests, some are completely draconian or simply unfair to property owners of homestead cabins built in the 1960s. Property owners who have preserved the history of the region's Homestead Act and provide a safe living environment (compliant with Fire Code) should not be punished if their house or cabin is not 100% up to California Building Code. The impossibility to comply with these building codes would render hundreds of property owners unpermissible under the current proposal, and therefore San Bernardino County would DECREASE the capacity to serve tourists; SB County would lose out on hundreds of thousands of dollars in TOT revenue, as well as tourism dollars in general with the decrease in the number of overnight guests.

In regards to:

1. Overall permitting requirements- Excessively high for small occupancy properties.

-For example, our house is a 1 room, 534 sqft structure, on 5 acres, located in North Landers, with very few neighbors. We only allow a maximum of 2 people on the property at any given time. We have never had a complaint, as 1 or 2 people are not a party. The possibility for being a nuisance is practically nil. People come to our property for the authenticity it provides, the calm of the area, the views. We do not have a pool. We do not have a hot tub. Nor will we ever. Being thrown in with properties with 4 bedrooms, with 8-10 people occupancy, with pools and hot tubs, is simply unfair. We are not the same STR, nor do we attract the same type of guests.

Solution: REDUCE FEES AND REQUIREMENTS for SMALL OCCUPANCY properties (1-2 maximum guests on property).

2. 84.28.060 (d)- Printed parking passes for guests parked on a STR property.

-Our property, as well as hundreds in the Morongo Basin, is situated on 5 acres of land, with room for several vehicles. It makes no sense to have to print for each guest a parking pass for a vehicle that will be parked on PRIVATE property and that has NO IMPACT on neighborhood parking.

Solution: In order to focus on the real parking problem in neighborhoods, PLEASE EXEMPT properties situated on at least 1 acre of land with private parking for the amount of vehicles allowed to park there based on occupancy.

3. Application Fee- Excessively high for property owners who rent out their home only occasionally, and who are not STR "businesses".

-As there are hundreds of STR rentals who are owned by individuals for the sole purpose of renting out the home for profit, certain requirements or fee amounts should not be applicable to owners who actually live in the homes that are rented out occasionally on online platforms.

Continued-Katie Callan:

Solution A: Reduce the application fee and raise fees pertaining to actual complaints, non-compliance, etc.

Solution B: Separate the field into 2 categories; 1. Businesses and 2. Individuals (based on the amount of days one can rent out their property for example). Application fees should be different for the 2 categories, as the "Business" properties will have more guests, therefore more possibilities of complaints/problems leading to more resources used to regulate them.

PLEASE CONSIDER these recommendations as amendments to the proposed STR application process for desert communities of SB County.

Kristen Ames from Joshua Tree – received on August 8, 2019:

My name is Kirsten Ames and I just bought a home in JT to rent on Airbnb from time to time. I will also be staying there when it rented.

The one big issue I would like to bring is the proposed parking regulations. They tried them in Palm Springs and keeping track of license plate numbers with rental cars and guests arriving at different times just didn't work so they removed those regulations.

This is something that will be very difficult to uphold especially when guests arrive separately and any last minute reservations.

Amy Wisman from Lake Arrowhead – received on August 8, 2019:

My husband and I have been homeowners in Lake Arrowhead for 18 years. We choose to live here full time, despite our commutes for work and to also raise our children here.

We have made a conscious decision because unlike the other 90% of Californians...we live in an amazingly tight knit neighborhood. Our neighbors are our Family and our children's Grandparents. We talk to each other in person, most days of the week. Who can say that anymore? We care about our street, our town, and each other.

Our neighborhood is being taken over by these Short Term Rentals. Our tranquil way of life, secure docile environment being challenged by droves of people weekly. With 3 large short term rentals within 200 yards has added noise, trash, parked cars, traffic, road and trail breakdown. We have endured this for at least 12 years with a STR directly across the street as well as two others around the corner for the last several years. The rental across the street is consistently rented with at least 4 cars and 8-10 people all summer and a good portion of weekends throughout the rest of the year. The impact this has on our local street IS NOT as minimal as my 4 person family, yet our taxes to maintain public services is the same. Where is the logic there?

What can you do? LIMIT THE DENSITY OF SHORT TERM RENTALS! We are in agreement of spreading these mini hotels out to a minimum of 1,000 yards each effective for all future short term rentals. This will help minimize the impact STR's have to our local neighborhoods.

We encourage responsible use of our beautiful mountains, but must limit the density in order to protect our investments into our own community.

Thomas Fjallstam – received on August 8, 2019:

I would like to submit for the record and Planning Commission reference the attached and linked document with related case law regarding short term rentals and the requirement for hosting platforms to provide data on listings it hosts as written in '84.28.110 Hosting Platform Requirements.'



Residential Rental Regulation Issues

Thursday, May 4, 2017 General Session; 2:15 – 4:30 p.m.

Andrea S. Visveshwara, Assistant City Attorney, Emeryville
Kevin R. Heneghan, Senior Counsel, Policy, Airbnb

DISCLAIMER: *These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.*

Copyright © 2017, League of California Cities®. All rights reserved.

This paper, or parts thereof, may not be reproduced in any form without express written permission from the League of California Cities®. For further information, contact the League of California Cities® at 1400 K Street, 4th Floor, Sacramento, CA 95814. Telephone: (916) 658-8200.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Emerging Issues in the Enforcement of Short-Term Rental Regulations

By

Kevin Heneghan and Andrea Visveshwara¹

League of California Cities
City Attorneys' Spring Conference
May 3-5, 2017

¹ Kevin Heneghan is Senior Policy Counsel with Airbnb. Andrea Visveshwara is Assistant City Attorney with the City of Emeryville. The opinions expressed in this article are solely the opinions of the authors and do not represent the views of their respective employers.

Short-term residential rentals have existed for decades, primarily in popular tourist destinations, such as coastal communities. Although online companies, such as HomeAway, provided a venue to advertise short-term rentals, it was Airbnb's business model of facilitating short-term rentals that has brought short-term rentals to more communities; and in all communities, has allowed more individuals to enjoy the financial benefits of hosting a short-term rental. As cities struggle with the impacts from the growing popularity of short-term rentals, cities are adopting ordinances to regulate or to prohibit short-term rentals. They also are exploring how companies, like Airbnb, HomeAway or VRBO (collectively "Online Platforms"), could or should play a role in facilitating compliance with the applicable short-term regulations. This article provides an overview of the interaction between cities and Online Platforms over issues of enforcement of regulations and collection of transient occupancy tax,² exploring how cities' regulation of a matter that traditionally has been governed by state law may conflict with federal laws, such as the Communications Decency Act and Stored Communications Act, and how Airbnb has created the Voluntary Collection Agreement as a tool to use with cities to work through some of the potential conflicts.

Cities May Regulate Short-Term Rentals as a Land Use

There is well-established case law providing cities with the authority to regulate short term rentals as a land use matter. *Ewing v City of Carmel by the Sea*³ upheld the city's ordinance prohibiting short term rentals in areas zoned for single family residences, which was intended to preserve the residential character of the city's neighborhoods. The owners of a short-term rental challenged the ordinance, arguing that the ordinance was arbitrary and capricious because 1) home occupation uses, which created the same parking and traffic impacts, were allowed in the zone and 2) transient use longer than 30 days i.e., long term rentals, were allowed.

The court rejected plaintiffs' arguments, and instead, focused on the short term rental impact to the residential character of the neighborhood. The court specifically found that the residential character of a neighborhood is threatened when a significant number of homes are occupied by short-term tenants, which could impact the stability of a community.⁴ With respect to the plaintiffs' argument regarding the distinction between home occupations and short term rentals, the court was not persuaded by the fact that the two uses may create similar parking and traffic impacts.⁵ Instead, the court focused

² For general reference, see Rusin, T. and Visveshwara, A. (2015 August). Home Sharing in the New Economy. *Western City*.

³ (1991) 234 Cal.App.3d 1579, 1589.

⁴ *Id.* at 1591.

⁵ *Id.* at 1592-93.

on the impact to the residential character of the neighborhood and found that the distinction was reasonable because home occupations strengthened the community by fostering residents' talents in contrast to short term rentals, which the court already found threatened the stability of a community.⁶ With respect to drawing the line at prohibiting rentals of less than 30 days, the court found that it was reasonable for the Council to discourage short term rentals, but to allow month to month tenancies for longer term tenants who may contribute to the community.⁷

Cities may continue to regulate problematic behavior, but ordinances that regulate solely the conduct of the guests of short term rentals, as opposed to other neighborhood residents, may present challenges. For example, *College Area Renters and Landlord Association v. City of San Diego*⁸ held that the city's zoning ordinance regulating the number of residents age 18 or older in non-owner occupied residences violated the California Constitution's Equal Protection principles because there was no rational basis to distinguish between overcrowded homes that were owner occupied and overcrowded homes filled with tenants – both created the same impacts that the City was attempting to mitigate. The court cautioned: "In general, zoning ordinances are much less suspect when they focus on the use than when they command inquiry into who are the users."⁹

Thus, regulations of short-term rentals should address the land use impacts associated with such use and ensure that regulations governing personal conduct apply equally to guests of short term rentals and the neighborhood's residents. Common impacts include: deterioration of residential character of neighborhood, loss of housing stock, parking, traffic, noise, and safety. However, the impacts, and the ways to mitigate those impacts, differ from jurisdiction to jurisdiction, and therefore, there is no one model ordinance. Attached is a chart which provides links to information regarding regulatory approaches from cities throughout California.

Regulating Online Platforms that Facilitate Short-Term Rentals

Communications Decency Act

Given the challenge and cost of enforcement, and the data that platforms collect on hosts and guests, cities are exploring how such platforms might facilitate their enforcement efforts. In developing ordinances regulating short-term rentals and enforcing regulations, a key decision is whether the city will regulate only the underlying short-term rental activity or will also try to impose liability on platforms that somehow

⁶ *Id.* at 1593.

⁷ *Id.* at 1593.

⁸ (1996) 42 Cal.App.4th 543, 521-22.

⁹ 42 Cal.App.4th at 521.

participate in short-term rental transactions. If a city attempts to impose liability on a platform for short-term rental activity, the city must be mindful of the application of Section 230 of the Communications Decency Act (“CDA”) to Online Platforms. The CDA prohibits “treat[ing]” websites that host or distribute third-party content, like Online Platforms, “as the publisher or speaker of any information provided by another information content provider,” and immunizes them from liability under any “inconsistent” state or local law.¹⁰

A fundamental purpose of Congress in passing the CDA was to shield website operators from compulsory obligations to screen user content, and instead to provide them with the incentive to build innovative online platforms while having the flexibility to experiment with and develop tools to address undesirable content without fear of legal retribution.¹¹ The scope of this immunity is broad, and applies regardless of whether a website may know that third parties are using its services to create or post unlawful content.¹² Since its passage in 1996, the CDA has functioned as the bedrock upon which online services, such as eBay, Amazon, Yelp, and craigslist, have founded and built their operations. Thus, as discussed below, an ordinance which attempts to punish Online Platforms for failing to verify and screen third-party listings, and for publishing unverified listings may conflict with, and be preempted by, the CDA.

Airbnb, Inc. v. City and County of San Francisco

Several California cities recently have adopted ordinances attempting to impose liability on platforms for facilitating listings which might violate local law and these ordinances have been the subject of litigation. Most notably, the City and County of San Francisco adopted an ordinance in June 2016, which attempted to hold platforms criminally and civilly liable for publishing, and for failing to screen and remove their users’ advertisements of rentals that lack City-issued permits.

In June 2016, Airbnb and HomeAway filed suit in federal court seeking to enjoin the enforcement of the ordinance on the grounds that the ordinance violated the CDA, as well as the First Amendment, and the Due Process Clause of the Fourteenth Amendment.¹³ Prior to the hearing on the preliminary injunction, the City requested a stay and the Board of Supervisors amended the ordinance in attempt to overcome the legal challenge. More specifically, the City amended the ordinance to impose penalties

¹⁰ 47 U.S.C. §§ 230(c)(1), (e)(3); *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1102 (9th Cir. 2009).

¹¹ 47 U.S.C. §§ 230(b)(1), (2), (4).

¹² *Goddard v. Google, Inc.*, 640 F. Supp. 2d 1193, 1196 (N.D. Cal. 2009).

¹³ *Airbnb, Inc., v. City and County of San Francisco*, N.D. Cal., Case no. 3:16-CV-03615.

on a platform which provides “booking services” in connection with a short-term rental of a unit lacking a permit rather than merely the advertisement of an unpermitted unit. The City’s position is that the amended ordinance does not violate the CDA because the ordinance no longer imposes liability on a platform based on content provided by third party hosts, but rather imposes liability on platforms for providing booking services for an illegal short-term rental. Airbnb and HomeAway renewed their challenge after the passage of the amendments. In November 2016, the court denied the Online Platforms’ request for an injunction, concluding that the CDA did not preempt the ordinance. The court subsequently issued a temporary restraining order prohibiting the City from enforcing the ordinance against the Online Platforms because the City lacked a mechanism to provide platforms with the information regarding registered units which the platforms needed to comply with the law. The court ordered the parties to mediation and mediation continues.

Airbnb, Inc. v City of Anaheim

Likewise, the City of Anaheim adopted an ordinance in July, 2016, which attempted to hold platforms criminally and civilly liable for publishing, and for failing to screen and remove, their users’ advertisements of rentals that lack City-issued permits or are otherwise not compliant with “any” City law or regulation, including building codes. The ordinance provided the City Attorney with the ability to determine whether the ordinance violated state or federal laws and, if so, to suspend the application of the ordinance. Again, Airbnb and HomeAway filed suit to enjoin the enforcement of the ordinance on similar grounds to the San Francisco case.¹⁴ Shortly after the filing of the lawsuit, the Anaheim City Attorney reviewed the ordinance and concluded, presumably based on the CDA claims made in the case, that the ordinance should not be applied to Airbnb, HomeAway, and other Online Platforms and that no penalties will be issued against Online Platforms under the ordinance.

Airbnb, Inc. v. City of Santa Monica

Lastly, the City of Santa Monica adopted an ordinance in 2015 which attempted to hold platforms liable for publishing advertisements of rentals that lack City-issued permits. Airbnb and HomeAway filed suit in September 2016 seeking to enjoin the enforcement of the ordinance on similar grounds to the San Francisco and Anaheim cases.¹⁵ As in the San Francisco case, Santa Monica requested a stay and amended the ordinance to impose liability on platforms for completing booking transactions. The parties then set a revised briefing schedule for a new motion for preliminary injunction. Shortly before the platforms were to file their motion, Santa Monica proposed that the parties stay proceedings pending the outcome of the San Francisco case, including a potential

¹⁴ *Airbnb, Inc. v. City of Anaheim, C.D. Cal.*, Case no. 8:16-cv-01398.

¹⁵ *Airbnb, Inc. v. City of Santa Monica, C.D. Cal.*, Case no. 2:16-cv-06645.

decision on an appeal to the Ninth Circuit. The City's proposal was agreed to and the ordinance is not being enforced.

The outcome of the San Francisco and Santa Monica cases will likely have a large impact on whether cities in California can impose liability on Online Platforms for third-party listings that do not comply with local laws. The cases, and possible appeals to the Ninth Circuit, will likely be concluded by the end of 2018. A city, which is considering adopting an ordinance which imposes liability on Online Platforms, may want to consider the status of this litigation before moving forward with adopting such an ordinance.

Compelling Online Platforms to Disclose Transaction Data

To enforce short-term regulations, cities also are turning to platforms to obtain evidence of the transaction through their legislative subpoena power. For general law cities, the authority to issue a legislative subpoena within the context of an investigation (i.e., pre-litigation) is found at Government Code sections 37104-37109. For charter cities, the authority to issue legislative subpoenas is derived from California Constitution Article XI, sections 3(a) and 4(e) and the city's charter may also address issuance of subpoenas.¹⁶

Cities may be tempted to impose obligations on platforms to share data. Requiring an Online Platform to share data regarding its customers implicates the Stored Communications Act (SCA), a federal law which was enacted "to update and clarify Federal privacy protections and standards in light of dramatic changes in new computer and telecommunications technologies."¹⁷ Under the SCA, "a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service . . . to any governmental entity," without a subpoena or other legal process.¹⁸ More specifically, the "SCA clearly prohibits communications providers from disclosing to the government basic subscriber information—including a customer's name [and] address ...—without a subpoena."¹⁹ Indeed, "[t]hat Congress intended [the SCA] to

¹⁶ Please see Rusin, T., et al., *supra*, Home Sharing in the New Economy. *Western City* for further information about issuing legislative subpoenas for short term rental enforcement actions.

¹⁷ Senate Report No. 99-541, at 1-2 (1986).

¹⁸ 18 U.S.C. §§ 2702(a)(3), (c)(1); 2703(c).

¹⁹ *Telecomms. Regulatory Board of Puerto Rico v. CTIA*, 752 F.3d 60, 68; see 18 U.S.C. § 2702(a)(3) (ECS "shall not ... divulge a record or other information pertaining to a subscriber to or customer of such service ... to any governmental entity" without legal process).

restrict the ability of a service provider to turn over even a list of customers to a governmental entity” is “abundantly clear.”²⁰

Many Online Platforms probably qualify as a provider of a remote computing services and a provider of an electronic communication service within the meaning of the SCA. Likewise, a city would be considered a “governmental entity” under the SCA. As a result, any ordinance which would purport to require a hosting platform to disclose its customers’ names without a subpoena or other legal process could be preempted by the SCA.

Several cities have adopted ordinances which require platforms to share data without a subpoena or legal process. San Francisco adopted an ordinance in June 2016 which required platforms to turn over user data on a monthly basis. As discussed above, San Francisco amended the law, after Airbnb and HomeAway filed suit, to remove the data sharing provision and instead created a process by which the Office of Short Term Rentals could issue an administrative subpoena to obtain information from platforms. Because the data sharing provision was removed, the court never issued an order regarding whether the data sharing provision violated the SCA. However, in an unrelated case regarding tax obligations, HomeAway attempted to use the SCA as a defense to a request from San Francisco’s Treasurer/Tax Collector for user information.²¹ In this case, the trial court determined that HomeAway did not qualify as a provider of remote computing services or as a provider of an electronic communication services; the case is currently on appeal. More recently, a federal court in Portland enjoined data sharing provisions adopted by the City of Portland after concluding that HomeAway was a provider of a remote computing services and electronic communication services.²²

As with the litigation over platform liability issues described above, the case law regarding the ability of a city to require Online Platforms to share data is evolving. Again, if a city is considering adopting an ordinance, which imposes data sharing obligations on Online Platforms, it should analyze whether the SCA preempts the ordinance and consider the status of the San Francisco and Portland cases.

²⁰ *Id.* At 67.

²¹ *In Re: City and County of San Francisco et. al.*, San Francisco Superior Court, CPF-16-515136.

²² *HomeAway.com, Inc. v. City of Portland*, U.S. District Court, D. Or., Case no. 3:17-cv-00091.

Airbnb's Voluntary Collection Agreements Facilitating TOT Collection

Short-term rentals also have the potential to generate revenue pursuant to a transient occupancy tax ordinance. Revenue and Taxation Code section 7280, et seq., authorizes cities to levy a tax on the “privilege of occupying a room or rooms” including that in a house, provided the period of occupancy is for less than 30 days. Accordingly, many cities have adopted transient occupancy tax (“TOT”) ordinances. In general, a city’s TOT ordinance should apply to a short-term rental in a residence, in addition to short-term rentals in a hotel or motel, but the city’s ordinance should be reviewed carefully to determine applicability.²³ Assuming the TOT ordinance is applicable, cities may want to consider ensuring short-term rental regulations limit stays to less than 30 days to ensure TOT generation.

Although some hosts of short-term rentals are accustomed to collecting and remitting TOT, hosts who offer short-term rentals through Online Platforms without the use of a professional property manager may struggle with remitting TOT. It can be difficult for cities to collect TOT from these hosts.

To address this challenge, Airbnb developed a tool, the Voluntary Collection Agreement (VCA), to ensure that TOT is collected and remitted while relieving hosts of tax filings and cities of the burden of collection and enforcement. When a city signs a VCA with Airbnb, Airbnb collects appropriate local taxes from guests as part of their booking transactions and remits the tax revenue directly to the city on behalf of the short-term rental hosts. A VCA is a legally binding agreement between Airbnb and a taxing authority for the former to contractually assume the tax collection and remittance obligations of hosts for booking transactions completed on the Airbnb platform. Under the VCA, Airbnb registers as a taxpayer, remits the collected tax, and files a single tax return.

In determining whether to enter into the a VCA, cities will need to weigh the benefit of Airbnb’s cooperation in facilitating TOT collection against the concessions made by the city entering into the VCA. One of the first steps is to consider how many short-term rentals are in the city’s market, and how many of those short-term rentals use Airbnb as a platform. A provision of Airbnb’s VCA requires cities to waive and release “any and all actions, causes of action, indebtedness, suits, damages or claims arising out of or relating to payment of and/or collection of TOT or other tax indebtedness, including but not limited to, penalties, fines, interest or other payments relating to TOT on any transaction prior to the effective date of the VCA. The statute of limitations for instituting

²³ See e.g., *In re Transient Occupancy Tax Cases*, 2 Cal. 5th 131 (2016).

an action to collect TOT is 4 years.²⁴ Therefore, cities should consider the fiscal impact of waiving outstanding TOT, prior to entering into the VCA.

In addition, cities should consider the likelihood and frequency of their TOT audits, and how that may interplay with enforcement actions in their jurisdictions. A provision of the VCA requires the city to agree that it will only audit Airbnb once per any consecutive 48-month period (4 years), and that the audit, and any subsequent assessment based on the audit, will be limited to a consecutive 12-month period. The city also agrees that it will not seek personally identifiable information relating to a host or a guest until the city has conducted an audit of Airbnb. The practical effect of these two provisions is to discourage seeking information related to specific hosts from Airbnb.

Conclusion

In sum, there is inherent tension between the state law that cities use to regulate short-term rentals, and the federal laws that Online Platforms rely upon to shield themselves from certain liabilities. How courts will resolve this tension is to be determined. Until there is published appellate case law providing clear guidance, cities should be mindful of short-term regulations that may apply to Online Platforms.

Regulatory Approaches to Short-Term Rentals in Various California Cities

²⁴ See Revenue and Taxation Code, § 7283.51.

Below are links to information regarding regulatory approaches to short-term rentals in various California cities:

City	Link
Aliso Viejo	Ordinance
Anaheim	Ordinance
Arroyo Grande	Ordinance
Berkeley	March Ordinance
Big Bear Lake	Current Code
Buellton	Ordinance
Capitola	Ordinance
Carlsbad	Ordinance
Carmel-by-the-Sea	Ordinance
Carpinteria	City Page
Cathedral City	City Page
Chula Vista	Code
City of Napa	Ordinance
Coronado	Ordinance
Dana Point	Ordinance
Danville	Ordinance
Desert Hot Springs	Ordinance
Encinitas	Ordinance
Eureka	Ordinance
Fort Bragg	Code
Goleta	Ordinance
Hermosa Beach	City Page
Indio	City Page
La Quinta	Ordinance
Laguna Beach	CC Report
Mammoth Lakes	Ordinance
Manhattan Beach	City Page
Mill Valley	Ordinance
City	Link

Monterey	Ordinance
Ojai	City page
Pacific Grove	City page
Palm Desert	Ordinance
Palm Springs	Ordinance
Palos Verdes Estates	Ordinance
Petaluma	City Page
Piedmont	Staff Report
Rancho Mirage	Ordinance
Redding	City Page
Sacramento	City Page
Saint Helena	Code
San Clemente	City Page
San Francisco	City Page
San Jose	San Jose Ordinance
San Juan Capistrano	Ordinance
Santa Barbara City	City Page
Santa Cruz	Ordinance
Santa Monica	City Page
Sausalito	Ordinance
Solana Beach	City Page
Sonoma	Current Code
South Lake Tahoe	Ordinance
Sunnyvale	Ordinance
Temecula	Ordinance
Tiburon	Ordinance
Truckee	City Page
West Hollywood	City Page

Michele and Eric Banas from Joshua Tree – received on August 7, 2019:

Please read our thoughts on the currently proposed Short-term rental regulations. In addition, I am also enclosing letters from local businesses, fellow professionals, and short-term rental hosts who have concerns as well, as proposed regulations would grossly impact our desert communities.

To Whom it May Concern:

We are Eric and Michele Banas, locals of Joshua Tree, California for thirty years. We value the conservation of our desert and the responsible tourism that becoming a National Park initiated. It was twenty years ago that we purchased our desert home, giving love and attention to a badly deteriorated structure & property. What was once an eyesore became our beloved home and a showpiece that exemplifies the careful blending of art, commerce, and nature.

As local artists, we cultivated an environment where we can share the desert uniqueness with others via short-term rentals located on the same 2.5-acre property that we inhabit year round. Our alternative (ADU) short term rentals thrive because they are unique in nature. Having achieved 'super host' status on Airbnb, we have maintained an impeccable reputation with our patrons. We LIVE on the property full time and are able to monitor at all times our rentals, as we are not absentee owners. While our rentals are accessory dwelling units they are on the property in which we live, our sole residence. Being on the premises we DO ensure noise levels are at a minimum and damage is not incurred to our property and the surrounding desert spaces. We personally meet and greet every single guest that stays on our property. We ask that you include ADU's, to be included in any ordinance that is drafted, so that there is a place for such alternative and unique scenarios that are part of the desert culture and Airbnb experience, as a whole.

We have invested many dollars into our property to create a safe and eco friendly environment. As a unique space, our property has become a highly anticipated get-away for our guests. Our guests are required (verbally and in written form) to respect the surrounding environment, our native desert, and county ordinances. We recommend guests to local businesses from shops, to restaurants, and to local events that help bolster local economy and county tax dollars. We support local art and artists year round through the art shared in our home and in our short-term rental spaces.

We invested in solar panels (fully permitted) through a local solar company to improve our property and the efficiency of our energy usage. In addition to aiding in the needs of the three million tourists that visit the National Park each year, we aid local business owners by using only local, licensed electricians and plumbers. Our use of local landscapers, repair technicians, cleaning services, pool and spa maintenance and repair, and so on, helps locals stay local.

We welcome tourism, not just for our own home-based business, but also for other friends, neighbors, citizens, as well as our county that will reap the benefits of short-term rentals in unique spaces.

Local galleries, hair dressers, auto mechanics, massage therapists, bakeries, restaurants, grocery outlets, convenience stores, bars, music venues, festivals, art tours, coffee shops, the National Park, real estate agents, chain and home improvement stores in surrounding Morongo Basin communities are benefitting from Joshua Tree Monument becoming a fully honored National Park.

The boost in economy for local restaurants, galleries, retreat centers, music festivals, and trades and services of varied kinds, have a story much like the evolution of the dilapidated home we bought twenty years ago. Businesses in Joshua Tree that were looking tattered, unkempt, and losing market value, are now generating enough revenue to improve their business, their building, their property, their lives, and their community.

Continued-Michele and Eric Banas:

The village of Joshua Tree is a gem and the National Park is obliging it to grow...but as locals, we value responsible growth. Like most residents, we contest commercial development, but whole-heartedly applaud the development of local, unique structures and accommodations, businesses, and alternative solutions to the certain growth activated by our beloved Joshua Tree National Park.

Yes, San Bernardino County must address the subject of short-term rentals, but our hope is that there is enough structure to safeguard our community, but not so much that the individual members of the community are deterred from the entrepreneurial mindset that can create much needed solutions.

My concern is if we take a subject that was largely "Silent - terms not defined" and try to define it too fast and too hard - with no room for concessions or circumstances. Short-term residential rentals need room to thrive because they are part of the solution, not part of the problem. Too many requirements, restrictions, conditions, and regulations, can turn some people lethargic and others into lawbreakers. Neither is good for the economy, the host/business owner, or the workload of the county official. Heart and humanity are lost on all sides when bureaucracy becomes overbearing.



JOSHUA TREE COFFEE COMPANY

Fresh. Organic. Locally Roasted.

How Our Community Benefits from Unique Short-Term Rentals

To all those who it may concern,

My name is Royce Robertson and I am the founder of Joshua Tree Coffee Company. I'm one of the few members of the community who was born and raised here and have seen the community grow and evolve over the years. I've owned and founded a variety of businesses and consider myself to be, and have been, a very active and contributing member of the community for over 30 years. Among other things, we are currently one of the fastest-growing specialty coffee roasters in the state roasting well in excess of 150,000 pounds of coffee a year for over 100 locations throughout California including, all Erehwon, Mothers, Clarkes, and Jimbo's locations as well as many others. While no one person can solely represent the voice of all the citizens, I can say with a great deal of certainty that I voice the opinion of the majority when I say that short term rentals, and specifically unique, unconventional short term rentals such as Airstreams are a crucial element in our community.

I've heard all of the pro's and con's and positive and negative feedback imaginable as to how short-term rentals have affected the local economy (with the hot topic specifically focusing on Air Bnb's). The two main divisions seem to be those profiting from them directly and those that are opposed to them because they view them as a threat to the peace and quiet that many have come here to enjoy. I'm personally not squarely planted on either end of that spectrum. I don't benefit directly from revenue generated by short term rentals nor do I believe that there is a real concern as to them threatening the sanctity of the desert. I think there are some key points to be considered that illustrate that their benefits to the community far outweighs any drawbacks.

Over three million people visit annually to get a chance to enjoy the breathtaking beauty and majesty of the Joshua Tree National Park. The vast majority of those three million visitors fly and drive to Joshua Tree to enjoy the park, and then have no choice but to leave the same day as there are very limited accommodations available in Joshua Tree. Even if the number of visitors was spread out completely evenly throughout the year, that would average out to over 8,000 people coming to see the park every day. The majority of visitors come during the cooler months when we as local business owners see a peak from October through April. As such, the number per day is likely much higher during peak months. If more of those visitors were able to secure lodging locally, it's very clear that the local economy and the County of San Bernardino would benefit enormously. Encouraging and working with locals that are attempting to provide accommodations to visitors in unique ways that suite the community's style and spirit would be of benefit to community and millions of visitors as it's by far and away the best solution to providing lodging to as many visitors as possible without changing the look, feel, and functioning of the community. I and every member of the community that I've spoken to in decades, vehemently oppose commercial developments, which are the only other option that would remotely address a desperate need for additional lodging.

Joshua Tree Coffee Company

760.799.8210 • 61738B 29 Palms Hwy Joshua Tree CA 92252 • info@jtcoffeeco.com • www.jtcoffeeco.com



JOSHUA TREE COFFEE COMPANY

Fresh. Organic. Locally Roasted.

How Our Community Benefits from Unique Short-Term Rentals (Continued)

The small and I'm sure sometimes vocal minority who might oppose short term rentals should be ashamed of their selfish and absurd attempt to prevent, rather than facilitate and encourage one of our nation's greatest jewels being shared responsibly with as many visitors as possible. I have confidence in the fact that the county, while properly funded by tens or potentially even hundreds of millions of dollars of tax and permit revenue, can ensure that even the most unique structures can be allowed to help generate and keep more revenue from millions of visitors in Joshua Tree, benefitting locals, and the county.

In conclusion, I'd like to ask that all of you attending this meeting (where I'm hoping that this letter is being read aloud) remember that Joshua Tree is an incredibly unique place, and that its uniqueness is a considerable driving force in attracting millions of visitors each year. The community doesn't want massive commercial developments forever changing and scarring our community, but we do want more people to be able to come and not only enjoy the park briefly by car (as so many currently do), but also to be able to stay and experience and contribute to the area as much as possible. Nothing will benefit Joshua Tree more than having all current short-term rentals no matter how unique, not only allowed, but encouraged and fostered.

Warmest Regards,

Royce Robertson

Founder/Roastmaster

Joshua Tree Coffee Company

760-974-4060 (cell)

www.jtcoffeeco.com

royce@jtcoffeeco.com

facebook.com/jtcoffeeco

61738B 29 Palms Hwy, Joshua Tree, CA 92252

Joshua Tree Coffee Company

760.799.8210 • 61738B 29 Palms Hwy Joshua Tree CA 92252 • info@jtcoffeeco.com • www.jtcoffeeco.com

To Whom it May Concern:

+As an art gallery owner, I depend on the business of airbnb guests and hosts. Hosts especially like to buy art to decorate their airbnb listings.

+Airbnbs make it possible for full-time residents to make a living, in an area where there's a shortage of jobs. That in turn puts more money into the local economy.

+Since there's not enough hotels to accommodate the high tourist season, airbnbs are an excellent alternative.

+Airbnb owners go above and beyond to make their property beautiful, which makes the neighborhood more pleasant for everyone.

+There are a few airbnbs in my neighborhood and I've never encountered any problems with noise or disrespectful guests.

Thank you,
Colleena Hake
La Matadora Gallery
Joshua Tree, CA

Supervisor Dawn Rowe:

I am a resident and working professional in the Morongo Basin. I live in Joshua Tree, California. I am writing this letter to express my enthusiasm for the recent boom in tourism in the area. Here is a list of benefits to our community from my perspective:

- A visit to downtown Joshua Tree is more inspiring than ever. When we dine at local restaurants we encounter interesting people from all around the world. Overwhelmingly, these international travelers express amazement at their experience in Joshua Tree Airbnb's and downtown dining and art shopping, as well as hiking in the National Park. Just two days ago on a hike in Black Rock, JTNP, I met two fellow hikers from Paris, France. They said they were amazed at how special this area is and how welcoming the community has been. Tourism makes the high desert an international and multi-cultural hub.
- Local business owners are experiencing a boom. From local restaurant owners to property service businesses such as pool and yard maintenance, the monetary benefit on local proprietorship is clear.
- Local contractors and realtors express an increase in revenue and an inability to "keep up" with all of the opportunities.
- Local citizens who own Airbnb property are facilitating this boom by providing accommodations to our millions of visitors each year. These hosts are also paying taxes, improving property values, and advancing the allure to this area through creative and alternative vacation rentals. There is no question that when individuals thrive, local and state governments thrive as well through property and income tax revenues.
- Friends and relatives of mine are able to supplement income through renovations to their property. Everyone I know who runs an Airbnb whether it is a private residence, an RV, a renovated casita or garage has taken great care in pursuing the proper permits, plumbing, electricity, and the appropriate tax burden for their vacation rental. These community members express pride of ownership and excitement at hosting people from all over the world on their private property. They are providing a valid service with heart and passion. This is a vital improvement to the area, one that should be supported by local leaders.
- County regulators are faced with the challenge of protecting the area, this includes the local environment and local taxpayers. I expect our representatives are up for the challenge of governing with fairness; I expect our representatives are up for the challenge of protecting private property rights while holding property owners accountable for providing safe and sanitary conditions for our millions of tourists. I expect our representatives are up for the challenge of welcoming prosperity to the area.

As a local resident, I am thrilled to be a part of this growing community. I am inspired by the creativity and prosperity of my fellow community members who host vacation rentals on their private property. Please protect the taxpayers and property owners of the high desert community.

Sincerely,

Amanda Mayes
Public School Teacher

Dear sir or madam,

As a local business owner, Airbnb host, and general stakeholder in the Joshua Tree community, I am very disappointed to see the proposed ruling which integrates the Morongo Basin into the mountain communities in regards to restrictions on accessory dwelling units (ADUs). If this is passed, it will have detrimental effects on the long-time local community and its culture, as the many benefits of these units (listed below) far outweigh the costs. Benefits include,

Supplemental income for hosts in a community where the median wage and salary is significantly below that of neighboring towns and cities

An opportunity for the young and grown alike to pursue entrepreneurial ventures and further invest in the community

The cultural benefits that visitors receive in staying on one of the local's property

Greater economic elasticity in the Airbnb community. This in turn increases competition, driving visitor costs down, while increasing the overall collective short term rental income of the community. This in turn increase transient occupancy tax revenue for the county and income tax for the state.

Larger influx of business traffic due to more visitors using extra accessory dwelling units, as well as further employment of contractors, photographers, and other professionals in the area. This creates communal income and wealth and again helps accomplish the revenue goals of the county, state, and federal governments.

Please consider the allowance of ADUs in the Morongo Basin, for the betterment of our entire community.

Ethan Banas, EA
Owner and Tax Expert

Ethan Banas - Personal Accounting Services

(760) 969 9631
ebanas@ebptax.com
2761 Polaris Ave.
Joshua Tree, CA, 92252

--

Ethan Banas, EA
Personal Accountant
(760) 969-9631

To whom it may concern,

I have been an AirBnb host since September of 2016. In that time, the income I have received as a host has provided me with the opportunity to beginning college savings funds for my two children and give my son braces for his teeth, which were terribly misaligned. It has been a wonderful experience and I have enjoyed the opportunity to educate my guests, from all over the world, about the beauty and fragile nature of our wonderful Mojave Desert. The guests I have had have been respectful to my property and have been considerate to the few neighbors I have. I would even now consider a handful of my guest as friends. It has been delightful to see the positive changes I have seen in the community based on the income the tourist have brought in. Businesses appear to be thriving and properties that were once run down shanties are being bought and turned into quaint desert cabins. Should unnecessary restrictions be placed on hosts, it will have a direct negative impact on those of us who have come to rely on the extra income AirBnB and other vacation rental sites provides. Thank you for your time.

Sincerely, Mike Nankervis

Anonymous Thoughts from Fellow Citizens:

Morongo Basin independent campsites and lodging help bring more tourists to the area when JTNP campgrounds are full. JTNP tourists have significantly increased revenue for local businesses over the past few years.

Custom campsites are typically operated by local residents on their own private property and provide safe, 5 star service and accommodations.

Independent vacation rental owner/operators will comply with county regulations as long as they know what they are. Hosts should be given a one-year grace period to comply with any regulations.

If independent Airbnb vacation rental sites are immediately shut down, the county will lose significant revenue based on cancelled reservations and fees not paid to the county through Airbnb.

The home and land sharing cottage industry has helped struggling families in this economically depressed area make a living and contribute to the local economy. Their grassroots efforts to host guests and promote local restaurants, stores and activities have significantly increased the tax revenue for San Bernadino county. If these residents are not allowed to make a living through hospitality in San Bernadino County, they will move and the area will suffer economically (again).