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ORDINANCE NO.

An ordinance of the County of San Bernardino, State of California, to amend Section 11.0206(a)(1) and Section 11.0208(e)(1) of Chapter 2 of Division 1 of Title 1 of the San Bernardino County Code, relating to increased fines and penalties for short-term residential rental units.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of the County of San Bernardino finds that:

(a) At just over 20,000 square miles, San Bernardino County (County) is the largest county in the nation which includes world renowned tourist destinations within its mountain and desert communities. Due to the unique landscape and prestige of the area, the County’s mountain and desert communities offer unique living and vacation opportunities.

(b) According to the 2016 American Community Survey, the population in San Bernardino County was 2,035,210, with 85.4 percent of residents living in cities and towns and 14.6 percent of county residents living in unincorporated areas. Moreover, according to the California Department of Finance as of 2016, 18.8 percent of San Bernardino County housing units are in unincorporated areas (111,073 out of 506,601). The same survey concluded that the vacancy rate of the unincorporated area was 27.4 percent, with the highest vacancy rates in the mountain and desert regions where there are numerous second homes, seasonal rentals, and short-term residential rentals.

(c) On October 9, 2019, Governor Newsom signed into law Senate Bill (SB) 330, entitled the Housing Crisis Act of 2019. As part of the legislative findings of this bill, the Legislature declared, among other things, that California is experiencing a housing supply crisis, with housing demand far outstripping supply. The Legislature declared that California needs an estimated 180,000 additional homes annually to keep

1 up with population growth. As part of SB 330, the Legislature also enumerated many
2 reasons as to why the housing crisis harms families across California, severely impacts
3 the state's economy and harms the environment. As such, the Legislature declared a
4 statewide housing emergency, to be in effect until January 1, 2025.

5 (d) On March 3, 2020, Governor Newsom declared the existence of a state of
6 emergency for the State of California in response to the novel coronavirus (COVID-19);
7 on March 10, 2020, the Chairman of the Board of Supervisors issued a proclamation
8 declaring a local state of emergency due to the outbreak of COVID-19; and on March
9 13, 2020, the President of the United States declared that the outbreak of COVID-19 in
10 the United States constitutes a national emergency.

11 (e) Tourism has increased dramatically during the COVID-19 pandemic in the
12 mountain and desert regions of the County, resulting in a surge of new short-term
13 residential rental listings and extraordinary short-term occupancy rates in
14 unincorporated areas of these regions. The increase in short-term residential rentals
15 has further increased the housing shortage for long-term occupancy demands in the
16 mountain and desert regions of the County. Further, with the high increase in short-
17 term occupancy rates, the County has received a record high number of complaints
18 associated with the behavior of short-term residential rental guests, ranging from such
19 things as noise, parties, events, over-occupancy and parking issues. Limited public
20 resources are severely taxed by the proliferation of illegal short-term residential rental
21 units, which impacts the health and safety of the surrounding communities where that
22 illicit activity occurs. Conditions have worsened so quickly for these communities that
23 immediate action is urgently needed.

24 (f) In order to enhance the quality of life for our residents and protect the
25 public health, safety and welfare, the County desires to preserve the residential
26 character of neighborhoods in the mountain and desert communities where short-term
27 residential rental units have increased, as well as preserve the availability of housing to
28 fulfill the growing demand for long-term housing needs required by current and future

1 residents. However, existing enforcement mechanisms, such as fines and penalties, do
2 not adequately penalize offenders that are either operating a short-term residential
3 rental unit without a valid permit, or operating in a manner inconsistent with regulations
4 that are designed to achieve the desires above. This ordinance provides for increased
5 fines and penalties to deter violators and make enforcement actions more impactful in
6 eradicating the illegal activity. Absent this ordinance, new and existing short-term
7 residential rental units will continue to operate illegally and further degrade the
8 residential character of neighborhoods and continue to contribute to the loss of available
9 long-term housing.

10 (g) This ordinance is not subject to review under the California Environmental
11 Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations,
12 sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably
13 foreseeable indirect physical change in the environment) and 15061, subdivision (b)(3)
14 (there is no possibility the activity in question may have a significant effect on the
15 environment). In addition to the foregoing general exemptions, the Board of
16 Supervisors further finds that the ordinance is categorically exempt from review under
17 CEQA under the Class 8 Categorical Exemption, 14 California Code of Regulations
18 section 15308 (regulatory activity to assure protection of the environment). There are
19 no unusual circumstances under CEQA Guidelines 15300.2, subdivision (c) that would
20 render either of these exemptions inappropriate. Each exemption stands as a separate
21 and independent basis for determining that this ordinance is not subject to CEQA.

22
23 SECTION 2. Section 11.0206(a)(1) of the San Bernardino County Code is
24 amended to read:

25 **11.0206 Criminal Actions.**

26 (a) Criminal Penalties for Violations. It is unlawful for any person to violate
27 any provision of this Code, or to violate any provision of any permit issued pursuant to
28 this Code, or the conditions of approval for such permit granted pursuant to this Code.

1 Unless otherwise specified in another part of this Code, any person committing such
2 violation shall be deemed guilty of a misdemeanor.

3 (1) Misdemeanor Violations. Except as indicated below, Upon
4 conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called “no
5 contest”), the penalty shall be a base fine of not less than \$500.00 and not more than
6 \$1,000.00, or by imprisonment in the County jail for a period of not more than six
7 months, or by both such base fine and imprisonment. Any court costs that the court
8 may otherwise be required to impose pursuant to applicable State law or local
9 ordinance shall be imposed in addition to the base fine. The court, or judge thereof, in
10 the order granting probation, may suspend the imposing or the execution of the
11 sentence and may direct that the suspension may continue for a period of time not
12 exceeding three years, and upon those terms and conditions as it shall determine. The
13 court, or judge thereof, in the order granting probation and as a condition thereof, may
14 imprison the defendant in a county jail for a period not exceeding the maximum time
15 fixed by law in the case.

16 (A) Violations of Chapter 84.28. Any person violating any
17 provision of Chapter 84.28 is guilty of a misdemeanor. Notwithstanding the foregoing, a
18 misdemeanor violation may be cited, charged, and prosecuted as an infraction. Upon
19 conviction of a misdemeanor, or upon a plea of nolo contendere (commonly called “no
20 contest”) involving misdemeanor violations of Chapter 84.28, the penalty shall be as
21 follows:

22 (I) Any person convicted of a misdemeanor for operating
23 a short-term residential rental unit without a valid permit in violation of Chapter 84.28
24 shall be punished by a base fine of up to \$1,000.00 upon a first conviction, by a base
25 fine of up to \$2,000.00 for a second conviction, by a base fine of up to \$5,000.00 upon a
26 third or subsequent conviction, or by imprisonment in the County jail for a period of not
27 more than six months, or by both such base fine and imprisonment;

28 (II) Any person convicted of a misdemeanor for operating

1 a permitted short-term residential rental unit in violation of Chapter 84.28 shall be
2 punished by a base fine of up \$1,000.00 upon a first conviction, by a base fine of up to
3 \$2,000.00 upon a second conviction for violations occurring within a twelve-month
4 period, by a base fine of up to \$5,000.00 upon a third or subsequent conviction for
5 violations occurring within a twelve-month period, or by imprisonment in the County jail
6 for a period of not more than six months, or by both such base fine and imprisonment.

7
8 SECTION 3. Section 11.0208(e)(1) of the San Bernardino County Code is
9 amended to read:

10 **11.0208 Administrative Citation Actions.**

11 ...

12 (e) Administrative Penalties and Costs.

13 (1) Unless otherwise provided in this Code or indicated in subsection
14 (e)(1)(A) below, the amount of penalty to be imposed for a violation of this Code and
15 assessed by means of an administrative citation shall be \$100.00 for the first
16 occurrence of a violation; \$200.00 for the second occurrence of the same violation
17 within one year; and \$500.00 for the third and each subsequent occurrence of the same
18 violation within one year. The maximum fines imposed in this Section are based upon
19 the provisions of Government Code section 25132 and will be increased automatically
20 and without amendment to this Section upon any amendment to Government Code
21 section 25132 increasing the amount of fines permitted.

22 (A) If the violation concerns a short-term residential rental
23 subject to Chapter 84.28, the following fines shall apply:

24 (I) Any person operating a short-term residential rental
25 without a valid permit in violation of Chapter 84.28, the citation fine amount shall be
26 \$1,000.00 per violation per day accruing until the violator indicates and Code
27 Enforcement confirms the violation has been abated;

28 (II) Any person operating a permitted short-term

1 residential rental in violation of Chapter 84.28, the citation fine amount shall be
2 \$1,000.00 for a first citation, \$2,000.00 for a second citation for violations occurring
3 within a twelve-month period, and \$5,000.00 upon a third or subsequent citation for
4 violations occurring within a twelve-month period.;

5
6 SECTION 4. The Board of Supervisors declares that it would have adopted this
7 ordinance and each section, sentence, clause, phrase, or portion of it, irrespective of
8 the fact that any one or more sections, subsections, clauses, phrases or portions of it be
9 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
10 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
11 enforceable.

12
13 SECTION 5. This ordinance shall take effect thirty (30) days for the date of
14 adoption.

15
16 _____
CURT HAGMAN, Chairman
Board of Supervisors

17
18 SIGNED AND CERTIFIED THAT A COPY
19 OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

20 LYNNA MONELL, Clerk of the
21 Board of Supervisors

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, LYNNA MONELL, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the _____ day of _____, 2021, at which meeting were present Supervisors: _____

and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES: SUPERVISORS:
NOES: SUPERVISORS:
ABSENT: SUPERVISORS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this ____ day of _____, 2021.

LYNNA MONELL, Clerk of the Board of Supervisors of the County of San Bernardino, State of California

Deputy

Approved as to Form:
MICHELLE D. BLAKEMORE
County Counsel

By: _____
JOLENA E. GRIDER
Deputy County Counsel

Date: _____