



Interoffice Memo

DATE: August 30, 2019

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Land Use Services Department

SP

TO: HONORABLE PLANNING COMMISSION

SUBJECT: CONTINUED PLANNING COMMISSION HEARING RELATING TO SHORT-TERM RESIDENTIAL RENTALS AND ACCESSORY DWELLING UNITS (AGENDA ITEM #2)

The Planning Commission meeting held on Thursday, August 8, 2019, presented a proposed amendment to the County Development Code (CDC) amending the regulations related to Short-Term Residential Rentals (STR)(Chapter 84.28). Public comments received in response to the proposed amendments revealed a number of concerns from STR owners and from those living in close proximity to STRs. Following public testimony, the Planning Commission asked staff to revisit the proposed amendments and requested additional consideration of clean-up language related to the public concerns on various topics. Subsequently, staff has reviewed all public comments (written and verbal) and is proposing additional changes be made to address a number of the public concerns. Below is a summary of the questions and concerns along with newly proposed changes to the STR regulations.

Accessory Dwelling Units. Currently, Accessory Dwelling Units (ADUs) are not allowed to be used as STRs. (CDC § 84.01.060(c).) Many members of the public felt this restriction was unreasonable because ADUs are typically the least problematic rental units, especially when a property owner or caretaker is an on-site occupant. Staff is recommending that Chapter 84.01: Accessory Uses and Structures be amended to allow ADUs to be permitted as STRs in the Mountain and Desert Regions, provided that one of the units is occupied by the owner or agent. (CDC §§ 84.01.060(c) and 84.28.040(a).)

Advertising. The language originally proposed regarding advertising prohibited STR owners from advertising the STR for any unpermitted use. The revised proposed language provides clarity by specifying that only uses that are permitted or could be permitted are acceptable advertisement. (CDC § 84.28.070(d)(1).)

Pet Restrictions. In order to address concerns regarding pets, the updated proposed amendment includes a section with regulations regarding animals. The proposed regulations would require dogs to have a valid license issued by either the County or other applicable licensing agency, impose restraint and control restrictions for animals, and state noise restrictions. (CDC § 84.28.070(l)(1)-(3).)

Record Keeping. Many STR owners and property managers felt that the proposed record keeping requirements would be too onerous or burdensome. After extensive research of other jurisdictions, staff felt that the proposed record keeping requirements are appropriate. However, to provide further clarification this section was modified and removed the vehicle information requirements (CDC § 84.28.070(b).)

RECOMMENDATION: That the Planning Commission:

1. **DIRECT STAFF TO PREPARE AN ORDINANCE** amending Title 8 of the County Code to make the amendments to the Development Code as recommended in the staff report and attachments.
2. **RECOMMEND** the following actions to 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 and Accessory Dwelling Units in Subsection 84.01.060(c); and
 - C. **DIRECT** the Clerk of the Board to file a Notice of Exemption.

Attachment A: Proposed Development Code Chapter 84.28 (Red-lined with highlights)
Attachment B: Proposed Development Code Section 84.01.060(c) (Red-lined)
Attachment C: Planning Commission Staff Report for August 8, 2019, Agenda Item #2

EXHIBIT A

Proposed Development Code Chapter 84.28 (Red-lined with highlights)

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, primary dwelling unit, guesthouse, casita or other residential accessory structure may be permitted as a short-term residential rental when at least one of the dwelling units (primary dwelling, accessory dwelling unit, or caretaker dwelling) is occupied by the property owner or legal agent.

(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~~~~4~~ 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~~~~2~~ 0 persons.

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

~~(3)~~~~(7)~~ Notwithstanding the allowances per Subdivisions (b) and (c)(1) ~~and through~~ ~~(6)~~ 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 ~~(d)~~ 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. The property owner or property manager shall maintain records sufficient to prove compliance with this Code and other applicable laws. These records shall be maintained so that they can be readily provided to the County, and provided in such a manner that establishes that the property owner or property manager is routinely maintaining such records.

(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 or digital 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.

(a)(d) *Advertising.*

(1) *Advertising of Unpermitted Uses.* Advertising that promotes a short-term residential rental unit for a use that is not permitted or could not be permitted by this Code or other law, is prohibited. 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) *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 be posted in each sleeping room. In addition, each 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.

(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 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 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 or agent 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.

~~(d)~~(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.

~~(e)~~(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.

(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.

(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.

(3) Trash shall be removed from the premises after each occupancy unless routine commercial trash collection is provided to the premises.

(l) Animals.

(1) License. No person shall have, keep, or maintain any dog on the property of a short-term residential rental unit unless he or she is able to provide proof of a current license or license tag issued by the County or other applicable municipal dog licensing agency.

(2) Control of Animals. No person owning or having control of any animal shall permit such animal to stray or run at large upon any unenclosed area on or off the short-term residential unit property. No person may lawfully bring his or her dog off a short-term residential rental property unless the dog is restrained by a leash and is in charge of a person competent to restrain the dog, or is properly restrained and enclosed in a vehicle, cage or similar enclosure.

(4)(3) Noise. It shall be unlawful for any person owning or having control of any animal to be allowed to create excessive noise in violation of subdivision (h) of this section.

(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 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).

EXHIBIT B

Proposed Development Code Section 84.01.060(c) (Red-lined)

DIVISION 4: STANDARDS FOR SPECIFIC LAND USES AND ACTIVITIES

CHAPTER 84.01: ACCESSORY STRUCTURES AND USES

§ 84.01.060 Accessory Dwelling Units.

(a) *General Provision.* Accessory dwelling units shall comply with all provisions of this Chapter as well as the underlying zoning district.

(b) *Location Criteria.* Accessory dwelling units shall be allowed in land use zoning districts on any site that contains a proposed or an existing single-family dwelling. Accessory dwelling units shall not be permitted in those areas where a development moratorium has been imposed, including a moratorium for water or sewer connection, whether imposed by the County or another public agency.

(c) *Common Ownership and Rental Terms.* Accessory dwelling units are not intended for sale separate from the primary residence but may be rented separately from the primary residence **in all regions of the County for a term longer than 30 days, or in the Mountain and Desert Regions for a term less than 30 days provided the short-term rental complies with Chapter 84.28 (Short-Term Residential Rentals).**

(d) *Types of Units.*

(1) An attached accessory dwelling unit may be either attached or located within the living area of the proposed or existing primary dwelling.

(2) A detached accessory dwelling unit shall be smaller than the proposed or an existing single-family dwelling. The accessory dwelling unit shall be considered the primary unit if it is a larger size than the primary dwelling.

(3) An accessory dwelling unit may be permitted if the unit is contained within the existing space of a single-family residence or accessory structure provided that it has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety.

(e) *Development Standards for Accessory Dwelling Units.* The development standards for an accessory dwelling unit shall comply with the following additional requirements:

(1) The accessory dwelling unit shall comply with all development standards of the land use zoning designation in which the lot is located.

(2) A detached accessory dwelling unit shall be located at the rear or the side of the primary dwelling unless an approved Compatibility Determination determines that the accessory dwelling unit may be located in front of the primary dwelling due to special and extraordinary circumstances, such as the existing location of the primary dwelling or physical constraints of the lot.

(3) Written confirmation from the sewer district having jurisdiction of the availability of sewer service for the accessory dwelling unit or written approval from the Division of Environmental Health Services for use on an existing or new septic system shall be obtained. Holding tanks shall not be permitted for accessory dwelling units.

(4) Written confirmation from the water district having jurisdiction of the availability of water service for the accessory dwelling unit or written approval from the Division of Environmental Health Services for use of an existing or new well shall be obtained.

(5) In addition to the requirements of § 84.01.020 (General Development Standards), the minimum accessory dwelling unit size will be determined by the current edition of the California Residential Code or as certified by California Department of Housing and Community Development.

(6) Approval for setbacks from the applicable Fire Department shall be required prior to the issuance of a building permit for an accessory dwelling unit.

(7) Approval for site drainage, egress, and exit requirements from the Building and Safety Division shall be required prior to the issuance of a building permit for an accessory dwelling unit.

(f) *Exemptions.* An accessory dwelling unit is exempt from the following development standards:

(1) No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. Note: due to safety concerns, garage conversions or accessory dwelling unit additions above a garage shall not be exempt from roadway setback requirements in 018)

EXHIBIT C

**Planning Commission Staff Report for August 8, 2019,
Agenda Item #2**



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~~ rental 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~~16 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)~~ (6) 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) 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 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/deterring 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.

~~(k)~~(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).