

ORDINANCE NO. 794

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS AMENDING CHAPTER 5.44 OF THE DESERT HOT SPRINGS MUNICIPAL CODE REGARDING SHORT TERM VACATION RENTALS.

WHEREAS, the City of Desert Hot Springs ("City") is a charter city organized pursuant to Article XI of the California Constitution; and

WHEREAS, the City currently regulations Short Term Vacation Rentals in Chapter 5.44 of the City's Municipal Code; and

WHEREAS, the City deems it necessary to both clarify and add regulations to same to mitigate any negative secondary effects of Short-Term Vacation Rentals; and

WHEREAS, this proposed Ordinance is best for the public health, safety and welfare to ensure compliance with the General Plan Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS AS FOLLOWS:

Section 1. RECITALS

That the foregoing recitals are true and correct and are herein adopted by this reference.

Section 2. AMENDMENT OF CHAPTER 5.44

5.44.010 Purpose.

The City Council of the City of Desert Hot Springs finds and declares as follows:

A. The use of privately owned residential dwelling units for the purpose of vacation rentals provides a community benefit by expanding the number and type of lodging facilities available in the City, and assists owners of dwelling units used as vacation rentals by providing revenue, which may be used for maintenance upgrades and deferred costs.

B. The purpose of this chapter is to establish regulations for the use of residential property as vacation rentals thereby enabling the City to preserve and protect the public health, safety, and welfare, by minimizing complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic, congestion, illegal vehicle parking and accumulation of refuse.

C. The transitory nature of occupants of vacation rental units makes continued enforcement against the occupants difficult. The provisions of this chapter are therefore necessary to prevent the continued burden on city services and impacts on residential neighborhoods posed by vacation home rentals.

D. The establishment of a regulatory program for vacation rentals will provide an administrative procedure to preserve existing visitor-serving opportunities and increase and enhance public access to areas of the City and other visitor destinations.

E. This chapter is not intended to regulate hotels, motels, inns, time-share units, or non-vacation type rental arrangements including, but not limited to, lodging houses, rooming houses, convalescent homes, rest homes, halfway homes, or rehabilitative homes.

F. This chapter is intended to ensure all vacation rental units are safe for occupancy and comply with applicable safety standards under federal, state and local law.

5.44.020 Definitions.

For purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section, unless the context clearly indicates or requires a different meaning:

“Applicant” means the owner of the vacation rental unit, or the agent of the owner.

“City Manager” means the City Manager of the City of Desert Hot Springs or designee.

“Emergency contact person” means the person designated by the owner or agent or representative of the owner, who is available 24 hours per day, seven days per week for the purpose of responding to complaints regarding the condition, repair, operation or conduct of occupants of the vacation rental unit, and who has access and authority to assume management of the unit and take remedial measures.

“General vacation rental permit” is a type of vacation rental permit that is neither a homeshare vacation rental permit nor a primary residence vacation rental permit.

“Good neighbor brochure” means a document prepared by the City that summarizes the general rules of conduct, consideration, and respect, including without limitation provisions of the Desert Hot Springs Municipal Code and other applicable laws, rules or regulations pertaining to the use and occupancy of vacation rental units.

“Homeshare vacation rental permit” is a type of vacation rental permit whereby the owner hosts visitors in the owner's vacation rental unit, for compensation, for periods of thirty (30) consecutive calendar days or less, while the owner lives on-site and in the unit, throughout the visiting occupant's stay.

“Hosting Platform” means a person or entity that provides a means through which an operator may offer a dwelling unit, or portion thereof, for short term rental use, and from which the person or entity financially benefits.

“Owner” means the owner of record as shown on the last equalized assessment roll of the County of Riverside or as otherwise may be known to the City. If there is more

than one owner, the term includes all of the owners. For purposes of providing notice to an owner as required under this chapter, "owner" includes the actual owner of record, or such owner's agent, employee or other legal representative if such agent, employee or representative is authorized by the owner to receive such notice.

"Primary residence" means a dwelling where an owner spends the majority of the calendar year on the property used as a vacation rental unit, and the property is identified in the Riverside County assessor's record as the owner's primary residence.

"Primary residence vacation rental permit" is a type of vacation rental permit whereby the vacation rental unit is the owner's primary residence, as defined herein in this section.

"Property" means a parcel on which a vacation rental unit is located.

"Responsible person" means an occupant of a vacation rental unit who is at least 18 years of age and who shall be legally responsible for the compliance by all occupants of the unit and their guests with all provisions of this chapter and this code. The responsible person shall be the transient, for purposes of imposing and enforcing the provisions of the City's transient occupancy tax under Chapter 3.20 of this code.

"Transient" shall have the same meaning as set forth in Chapter 3.20 of this code.

"Vacation Rental Permit" means an annual permit, **be it for a general vacation rental permit, homeshare vacation rental permit, and/or primary residence vacation rental permit, which is** awarded by the City to the owner or agent pursuant to this chapter.

"Vacation rental unit" or "unit" means a privately owned residential dwelling, including either a single-family detached or multiple-family attached unit, apartment house, condominium, cooperative apartment, duplex, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of thirty consecutive days or less, other than ongoing month-to-month tenancy granted to the same renter for the same unit, or occupancy on a time-share basis. A vacation rental unit does not include a unit that is rented only occasionally (infrequently) and incidentally to the normal occupancy by the owner or the owner's family. The terms occasionally and infrequently shall mean ten nights or less (either cumulatively or for a continuous period) in a single calendar year.

5.44.030 Vacation rental Permit —Required.

A. No owner or agent of a vacation rental unit shall rent, **advertise, list for booking, book, or otherwise publish information for a vacation rental,** any unit for a period of 30 consecutive days or less without a valid Vacation Rental Permit for each vacation rental unit pursuant to this chapter. No owner or agent of a vacation rental unit shall be permitted to obtain a Vacation Rental Permit without first obtaining a business license pursuant to Chapter 5.04.

B. A Vacation Rental Permit shall contain the following information: (1) the address of the vacation rental unit; (2) the name of the owner, agent, and emergency contact person, and a telephone number at which the emergency contact person may be reached on a 24-hour basis; (3) the expiration date of the Vacation Rental Permit; and (4) such other information as may be necessary to carry out the provisions of this chapter.

5.44.040 Agency.

An owner **shall** may retain an agent or a representative to comply with the requirements of this chapter, including, without limitation, the filing of a complete vacation rental registration application, the management of the vacation rental unit or units, and compliance with the requirements of this chapter if the owner resides or has his/her principal place of business thirty-five (35) driving miles or more distance of the subject property. Notwithstanding any agency relationship between an owner and an agent, the owner of the vacation rental unit shall remain responsible for compliance with all provisions of this chapter and the City's municipal code. Failure of an agent to comply with this chapter and/or the municipal code shall be deemed noncompliance by the owner. Any agent of the owner shall be listed on the Vacation Rental Permit. The owner's agent or representative also must also have a separate business license.

5.44.045 Hosting Platform Requirements

A. All hosting platforms that display short term rental listings for properties in the City shall comply with the following:

- 1. Hosting Platforms shall remove any listings for vacation rentals from the platform within 24 hours of City notification that the vacation-rental permit associated with a short term rental listing is invalid, expired, or has been revoked. The notification must identify the listing(s) to be removed by the listing URL and permit number and state the reason for removal.**
- 2. A Hosting Platform that facilitates booking transactions in the City shall collect in lieu of vacation rental Owners and remit to the City the applicable Transient Occupancy Tax and Tourism Business Improvement District (TBID), as calculated on the amount of consideration the short term rental guest pays to the short term rental owner.**

B. Hosting platforms shall not complete any booking transaction for any residential dwelling or other property purporting to be a vacation rental unit in the city unless the dwelling or property has a current and valid vacation rental permit issued pursuant to this chapter, which is not under suspension, for the dates and times proposed as part of the booking transaction.

- 1. A Hosting Platform shall not accept or publish a listing that does not include a valid current city-issued permit registration number within the listing, show in a format designated by the City.**

The provisions of this subsection shall be interpreted in accordance with otherwise applicable state and federal law(s) and will not apply if determined by the city to be in violation of, or preempted by, any such law(s).

5.44.050 Vacation Rental Permit requirements.

A. Prior to use of a property as a vacation rental unit, the applicant shall submit an application for a Vacation Rental Permit to use the property as a vacation rental unit. The application shall be available at the City Clerk's office and shall be renewed on an annual basis. Each application shall contain the following information:

1. The name, address, email address and telephone number of the owner of the vacation rental unit for which the Vacation rental Permit is to be issued.
2. The name, address, email address and telephone number of the agent of the owner of the unit.
3. The name, address, email address and 24-hour telephone number of the emergency contact person.
4. The address of the residential property proposed to be used as a vacation rental unit.
5. The number of bedrooms and the overnight and daytime occupancy limit of the unit, as set forth in Table 5.44.081.
6. The proposed rental rates for the unit, and when applicable, the owner's prior year revenue for the unit.
7. Evidence of a valid business license issued by the City for the separate business of operating a vacation rental unit, or submission of a certificate that owner is exempt or otherwise not covered by the provisions in Section 5.04.020 of the City's municipal code.
8. Evidence of a valid transient occupancy registration certificate issued by the City for the vacation rental unit, pursuant to the provisions of Chapter 3.20 of the City's municipal code.
9. Acknowledgement of receipt and inspection of a copy of all regulations pertaining to the operation of a vacation rental unit, including the Good Neighbor Brochure.
10. Acknowledgement/attestation that the unit meets all applicable building and safety code requirements.
11. Such other information as the City Manager or designee deems reasonably necessary to administer this chapter.

B. An application for a Vacation rental Permit annual renewal, and amendment shall each be accompanied by a fee established by resolution of the City

Council, provided, however, that no fee shall be greater than necessary to defer the cost incurred by the City in administering the provisions of this chapter.

C. Within **thirty (30)** ~~ten~~ business days of submittal of an application that contains all of the requirements of subsections A and B, the City's Business License Clerk shall issue the Vacation Rental Permit to the applicant.

D. Within 90 days of the effective date of the ordinance codified in this chapter, an application for a Vacation Rental Permit shall be filed with the City's Business License Clerk for property used as a vacation rental unit at the time of the effective date of the ordinance codified in this chapter or during the year immediately preceding the effective date of the ordinance codified in this chapter.

E. The City's Business License Clerk shall provide a copy of the Vacation Rental Permit to the City's Police and Code Enforcement Departments within seven days of issuance.

F. The application for a Vacation rental Permit shall be accompanied by proof of general liability insurance in the amount of \$1,000,000.00 combined single limit and an executed agreement to indemnify, defend and hold the City harmless from any and all claims and liability of any kind whatsoever resulting from or arising from the operation of a City permitted vacation rental. (Ord. 533 5-1-12)

G. The Vacation Rental Permit shall be non-transferable.

H. A Vacation Rental Permit and accompanying business license shall be valid for one (1) year and renewed on an annual basis in order to remain valid.

I. A Vacation Rental Permit and accompanying business license renewal application shall be submitted to the City no earlier than sixty (60) calendar days but no later than thirty (30) calendar days prior to the permit's expiration date. Failure to renew a vacation rental permit as prescribed in this section may result in the vacation rental permit being terminated.

5.44.055 Limitation on Number of Vacation Rentals.

A. The number of vacation rentals shall not exceed four percent (4%) of the total housing parcels containing completed developed housing units. This number shall not include licensed, permitted and/or entitled hotels and motels, in good standing with the City. This number shall be calculated yearly. Such vacation rental permits exceeding this number shall be rejected and not issued.

B. Vacation rental parcels shall not be located within a five hundred (500) foot radius from another vacation rental, measured from property line to property line. Such vacation rental permits shall be rejected and not issued. Notwithstanding, vacation rentals existing and in good standing with the City as of the effective date of this ordinance shall not be denied a Vacation Rental Permit renewal solely on this factor.

C. If the vacation rental exists within an Home Owners Association that prohibits same, such vacation rental permit shall be rejected and not issued.

5.44.060 Denial of a Vacation Rental Permit, appeal and fee.

- A. An owner or agent shall be denied a Vacation rental Permit if:
1. Certificate for any unit that was issued to the same owner or agent has been revoked pursuant to Section 5.44.050, within 12 months of submitting the new application;
 2. **The vacation rental would cause the total housing parcels containing completed developed housing units to exceed four percent (4%).**
 3. **The vacation rental is within a five hundred (500) foot radius from another vacation rental, measured from property line to property line. Notwithstanding, vacation rentals existing and in good standing as of the effective date of this ordinance shall not be denied a Vacation Rental Permit renewal solely on this factor.**
 4. A property owner for a single property has been found in violation of
 - a. Two (2) ~~noise~~ complaints resulting in an administrative citation for the same property shall.
 - b. ~~Two (2) violations of occupancy limits resulting in an administrative citation for the same property; or.~~
 - c. ~~Three (3) complaints, including but not limited to noise complaints, occupancy complaints, trash complaints, etc. resulting in an administrative citation for the same property.~~ **Any violation of federal, state, or local law or regulations.**
 5. The owner has failed to pay the appropriate amount of the Transient Occupancy Tax for any property at any time during its ownership;
 6. The owner has an active code compliance matter.
 7. An applicant has had a prior Vacation Rental Permit for the same or any other unit revoked within the previous 12 calendar months.
 8. **Non-payment of applicable vacation rental fees.**
 9. **The Owner has not taken steps to activate or move forward with the application for a period of 30 days.**
 10. **In addition to any other grounds provided in this chapter, an application (including renewal application) for a vacation rental permit may be denied if use of the vacation rental unit has been, will be, or is apt to become any one (1) or more of the following.**

- a. Prohibited by any local ordinance or by any state or federal law, statute, rule or regulation;
 - b. A public nuisance;
 - c. In any way detrimental to the public interest;
 - d. Prohibited by zoning laws and ordinances.
11. An application (including renewal application) for a vacation rental permit may also be denied on the grounds that the applicant has knowingly made a false statement in a material matter either in his/her/their application or in his/her/their testimony before the city manager or other body hearing such testimony.
12. Failure of a City inspection.

B. A filing fee as established by City Council resolution or any amendments thereto for an appeal of a denial of a Vacation Rental Permit shall be paid to the City at or prior to the time of the filing of such appeal. Provided, however, that no fee shall be greater than necessary to defer the cost incurred by the City in administering the provisions of this chapter. Any appeal of the denial of a Vacation Rental Permit filed without payment of the filing fee shall be deemed incomplete. If the owner appeals the decision, the appeal must be filed within 15 calendar days the City's decision. The hearing procedures shall be in accordance with Chapter 4.36.

5.44.070 Amendments to the Vacation Rental Permit.

A. Within 14 days of a change in property ownership or agency, or other material fact set forth in the annual registration, the owner or agent shall submit to the City an application for a new Vacation Rental Permit. The owner or agent shall also submit the required registration fee and comply with the City's business license requirements.

B. Any change in the emergency contact person, or the individual's telephone number or address shall be furnished to the City within seven days, and the Vacation Rental Permit and all certificates and permits required by this chapter shall be updated within 14 days.

5.44.080 Operational requirements and standard conditions.

A. The owner and agent shall ensure that the vacation rental unit complies with all applicable Federal, State and local laws, rules and regulations regarding fire, building and safety, health and safety, and all other relevant laws.

B. For new Vacation Rental Permits owner and/or agent shall allow the City to conduct an inspection of the entire structure and the exterior premises prior to

issuance of Vacation Rental Permit of the property to ensure compliance with this chapter.

C. For renewed permits, the owner and/or agent shall allow the City to conduct an inspection of the entire structure and the exterior premises prior to issuance of the renewal of a Vacation Rental Permit of the property to ensure compliance with this chapter, not earlier than 60 days prior to the expiration of the Vacation Rental Permit.

D. For B and C above, the inspection shall be conducted to ensure that the vacation rental will not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible with other properties in the vicinity. Evaluation and inspection shall include, but not be limited to: noise monitoring system, landscape, fire hazards, vehicle parking, maintenance of improved surfaces, visual blight, structural hazards, fire/smoke/carbon monoxide alarms, and occupancy. Specifically with respect to pools or spas, such pools and spas must comply with all regulations in the California Swimming Pool Safety Act and state and federal applicable law. In addition, the pool or spa must comply with or be equipped with:

- 1. Legible sign posted at least 9"x 6", "SWIM AT YOUR OWN RISK" visible from all doors leading to the pool area. Sign lettering size must be no less than 1 inch.**
- 2. Telescoping rescue pole (can be a skimmer pole).**
- 3. All doors leading to the pool areas must have an Exit Alarm with audible sound whenever opened and heard throughout the home. An Exit alarm device may not be installed lower than 60 inches from the floor. Exit Alarm means: "devices that make audible, alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building." The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that "the door to the pool is open"**

*** Paragraph 3 not applicable if fencing between the pool / spa and house that meets the provisions of an enclosure, or install a removable mesh fence that complies with the American Society for Testing and Materials ("ASTM") F2286**
- 4. All side gates leading into the pool area must have a working, self-closing spring and a latching device at the height of 54 inches or more**
- 5. Two of the following seven drowning prevention safety features:**

- a. An enclosure that meets the requirements of Government Code Section 115923 and isolates the swimming pool or spa from the private single-family home.
- b. Removable mesh pool fencing that meets (ASTM) Specifications F2286 standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.
- c. An approved safety pool cover that meets all requirements of (ASTM) standard F134691.
- d. A self-closing, self-latching device with a release mechanism placed no lower than 54" above the floor or each door providing direct access to the swimming pool or spa.
- e. An alarm that, when placed in a swimming pool, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 "Standard Specification for Residential Pool Alarms" which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety device.
- f. Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by of the devices set forth above and has been independently verified by an approved testing laboratory as meeting standards for those devices established by the ASTM or the American Society of Mechanical Engineers (ASME).

~~E.D.~~ No outdoor music, radios, musical instruments or other devices that produce or reproduce sound are allowed to be used outdoor at any time. Vacation rentals must comply with the noise regulations as set forth in Chapter 8.12 of this Code.

~~E.~~ No. use of outdoor amenities and/or outdoor games or any outdoor activities that create noise between the hours of 10 p.m. and 8 a.m.

F. The owner and agent shall limit occupancy of the vacation rental unit to a specific number of occupants, as set forth in Table 5.44.081, unless a special event license has been issued by the City in accordance with the provisions of Section 5.44.080(M).

Table 5.44.081

Number of Bedrooms	Total of Overnight Occupants	Additional Daytime Occupants	Total Daytime Occupants
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0-Studio	2	2	4
1	4 2	2	6
2	6 4	3 4	9 8
3	8 6	4	12 10
4	10 8	5 4	15 12
5 or more	12 10	6 4	18 14

* Overnight (10:01 p.m. – 6:59 a.m.)

**Daytime (7:00 a.m. – 10:00 p.m.)

G. The owner and agent shall limit the number of vehicles of overnight occupants at an amount not to exceed the number of designated on-site parking spaces. **All persons shall comply with all applicable City parking regulations, including but not limited to Titles 4 and 10.**

H. The owner shall cause to be installed proper trash bins for the proper removal of trash. **Owner shall comply with all applicable sections of Chapter 8.04 pertaining to trash removal.** ~~Such bins shall be set out no earlier than 7:00pm on the day prior to trash collection day, and shall be retrieved and hid from public view no later than 7:00pm of trash collection day. The owner or agent must be available to take out the trash.~~

I. During the term that each vacation rental unit is rented, the emergency contact person and responsible person shall be available 24 hours per day, seven days per week for the purpose of responding to complaints made to the City regarding the condition, operation, or conduct of occupants of the vacation rental unit.

J. The owner and agent shall ensure that the occupants and guests of the vacation rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the municipal code, or State or Federal law, rule or regulation.

K. Prior to every use of the unit as a vacation rental unit, the owner or the owner's agent shall: (1) obtain from the responsible person, the individual's name, address, telephone number, and a copy of a valid government identification of the responsible person, license plate number, the state in which the vehicle is registered, and year, make and model of all vehicles used by all occupants of the unit, and any other information requested by the City manager; (2) provide a copy of the Good Neighbor Brochure to the responsible person; and (3) require such responsible person to execute a formal acknowledgement that he or she is legally responsible for compliance of all occupants and guests with all provisions of this chapter and the City's municipal code. This signed acknowledgment shall be readily available upon request of any officer of the City responsible for the enforcement of this chapter.

L. Noise Monitoring System. Notwithstanding the regulations in Chapter 8.12, Owners must cause to be installed a noise monitoring system, which shall alert the owner/manager of any loud noises which are more than 70 decibels. Upon notification that any occupant or guest of the vacation rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the municipal code or any State law, the owner, agent or emergency

contact person shall contact the responsible person immediately and provide the individual with a warning, or take action to terminate the occupancy.

M. Complaints. Notwithstanding the regulations in Chapter 8.12, in the event the City receives a complaint related to noise, trash, or other violation of this chapter, owner, agent or emergency contact person shall contact the responsible person immediately and provide the individual with a warning, or take action to terminate the occupancy. In addition, the Owner or agents must **contact the occupant** ~~respond physically to the property~~ within thirty (30) minutes of notice of the complaint. Failure of the owner, agent or responsible person to respond to calls or complaints regarding the condition, operation, or conduct of occupants of the vacation rental unit in accordance with the provisions set forth in this chapter, shall be grounds for imposition of penalties as set forth in this chapter.

N. Prior to rental of a vacation rental unit, the owner of the vacation rental unit, or agent, shall post a framed copy of the Vacation Rental Permit and the following, in a conspicuous place within the unit:

1. The maximum number of overnight occupants and the maximum number of daytime occupants permitted to stay in the unit;

2. The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property;

3. Notification that the amplification of music outside of the dwelling unit is a violation of this chapter;

4. Notification that the occupant shall comply with the City's parking, driveway and loading standards, and the number of vehicles that are permitted for the unit;

5. Notification that the occupant may be cited or fined by the City and that the owner, or owner's agent, may immediately terminate the occupancy for creating a disturbance or for violating other provisions of the City's municipal code;

6. Notification that failure to conform to the occupancy requirements of the vacation rental unit is a violation of this chapter.

O. The use of a vacation rental unit shall not violate any applicable conditions, covenants, or other restrictions on real property.

P. The owner and agent shall comply with all provisions of Chapter 3.20 of the municipal code concerning transient occupancy taxes. The monthly return required by Chapter 3.20 shall be filed each month regardless of whether the unit was rented during that month.

Q. A copy of the Vacation Rental Permit shall be mailed or delivered to all property owners shown on the last equalized county assessment roll and all occupants of each dwelling unit within 300 feet of the vacation rental unit. Such information shall be provided at least annually or within 14 days of any change of information as required pursuant to this chapter.

R. The owner or agent shall comply with all of the following in any and all advertisement in any and all advertising media of the vacation rental unit:

1. Maximum occupancy
2. Requirements for compliance with the City's noise ordinance and outdoor activity standards and regulations
3. Maximum number of cars allowed
4. A statement that the vacation rental occupants shall respect the neighbor's privacy and peaceful enjoyment of their land
5. The applicable rate of the City's transient occupancy tax
6. A photo of the front of the vacation rental
7. The Business License number must be clearly and prominently displayed in the first line of the property description and in the following format "City of Desert Hot Springs Vacation Rental Permit Number"

~~S. The owner must include in the rental or use agreement that two (2) noise complaints shall result in an immediate eviction of the occupants.~~

T. The City Manager shall have the authority to impose additional standard conditions, applicable to all vacation rental units, as necessary, to achieve the objectives of this chapter. A list of all such additional standard conditions shall be maintained and on file in the office of the City Clerk.

5.44.090 Complaints.

Any person may report unreasonable noise, disturbances, disorderly conduct or violations of the municipal code at a rental unit, to the City's Code Compliance Department or Police Department.

5.44.100 Audit.

Each owner, agent and/or emergency contact person shall provide access to each vacation rental unit and any records related to its use and occupancy to the City Manager at any time during normal business hours, for the purpose of inspection and/or audit to determine that the objectives and conditions of this chapter are being fulfilled.

5.44.110 Violations and penalties.

A. Any person who uses, or allows the use of, residential property in violation of the provisions in this chapter may be issued an administrative citation provisions of Chapter 4.24 of the municipal code.

B. Notwithstanding the fines in Chapter 4.24, the following fines shall apply for violations of this Chapter:

1. General violations (Occupancy/Noise/Parking).
 - a. First violation: one thousand dollars (\$1,000.00);
 - b. Second violation: two thousand dollars (\$2,000.00);
 - c. Third violation: three thousand dollars (\$3,000.00).
2. Operating a vacation rental Without a Valid Vacation rental Permit.
 - a. Five thousand dollars (\$5,000.00);
 - b. The City shall collect past Transient Occupancy Tax for a period in accordance with state law.

C. Immediate Summary Suspension of Vacation Rental Permit.

1. Two (2) ~~noise~~ complaints resulting in an administrative citation for the same property shall result in an immediate summary suspension of the Vacation Rental Permit for a period of six (6) months, subject to any hearing requested pursuant to this subsection.

2. Immediate hazardous conditions, including man-made and naturally causing hazardous conditions.

3. Any criminal activity.

~~2. Two (2) violations of occupancy limits resulting in an administrative citation for the same property shall result in an immediate summary suspension of the Vacation Rental Permit for a period of six (6) months, subject to any hearing requested pursuant to this subsection.~~

~~3. Three (3) complaints, including but not limited to noise complaints, occupancy complaints, trash complaints, etc. resulting in an administrative citation for the same shall result in an immediate summary suspension of the Vacation Rental Permit for a period of six (6) months, subject to any hearing requested pursuant to this subsection.~~

4. For summary suspension of Vacation Rental Permit, the City shall
 - a. Prepare and serve the Notice of Suspension. The notice shall substantially include all of the following information:
 - i. The name of the Vacation Rental Permit holder;
 - ii. The street address or definite location where the violation(s) occurred;

- iii. The code section(s) violated;
- iv. A description of the conditions or actions which warrant suspension, modification or revocation of the Vacation Rental Permit;
- v. The action proposed (i.e., summary suspension)
- vi. Instructions to request a hearing, which must be made within ten (10) days of the date of issuance of the summary suspension.

5. Notice to Request a Hearing. Within 10 days of the date of issuance of the summary suspension, the Owner or Agent may request a hearing before the City Manager or his/her designee as Hearing Officer on same. The request must be in writing and must be address to:

City Manager
11999 Palm Drive
Desert Hot Springs, CA 92440

6. If the Owner or Agent does not request a hearing on the summary suspension, the suspension shall be for a period of six (6) months, and the owner or agent shall be deemed to have waived his/her rights to a hearing.

7. If the Owner or Agent does request a hearing, the procedural requirements, as well as the substantive requirements in Subsection D below shall be followed and/or applied.

D. Revocation of Vacation Rental Permit

The City may revoke a vacation rental permit on any of the following grounds:

- 1. **The vacation rental would cause the total housing parcels containing completed developed housing units to exceed four percent (4%).**
- 2. **The vacation rental is within a five hundred (500) foot radius from another vacation rental, measured from property line to property line.**
- 3. **A property owner of a vacation rental unit has been found in violation of any federal, state or local law.**
- 4. **The vacation rental unit has been found in violation of any federal, state or local law.**
- 5. **The vacation rental owner has failed to pay the appropriate amount of application taxes, including Transient Occupancy Tax or TBID for any property at any time during its ownership;**

6. **In addition to any other grounds provided in this chapter, the City may revoke a vacation rental permit if use of the vacation rental unit has been, will be, or is apt to become any one (1) or more of the following.**
 - a. **A public nuisance;**
 - b. **Prohibited by zoning laws and ordinances.**

The City shall use the following procedures to revoke a vacation rental permit.

1. Duty to prepare and serve notice of action recommendation. Upon reaching the determination that a specific violation of this Chapter warrants modification or revocation of the Vacation Rental Permit, the City shall prepare and serve a written notice of action recommendation upon the subject permit or license holder.

2. Contents of notice of action recommendation. The notice of action recommendation should substantially include all of the following information:

- a. The name of the Vacation Rental Permit holder;
- b. The street address or definite location where the violation(s) occurred;
- c. The code section(s) violated;
- d. A description of the conditions or actions which warrant modification or revocation of the Vacation Rental Permit;
- e. The action proposed (i.e., modification or revocation of the Vacation Rental Permit);
- f. If applicable, a description of any prior action taken by the City to gain compliance with the code with regards to the subject violation(s);
- g. A description of the procedures involved in taking the proposed action, including the license or permit holder's right to attend the hearing on the proposed action; and
- h. The name, title and telephone number of the official making the recommendation.

3. Service of notice of action recommendation.

The Code Compliance Officer shall cause a copy of the notice of action recommendation to be provided to the Vacation Rental Permit holder by causing a copy of the notice of action recommendation to be delivered to the Vacation Rental Permit holder personally or by causing a copy to be delivered to the Vacation Rental Permit holder by certified mail, postage prepaid, return receipt requested, and addressed to Vacation Rental Permit holder at the address shown on the permit or license.

4. Proof of service of notice of action recommendation.

Proof of service of the notice of action recommendation shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the notice.

5. City Manager as Administrative Hearing Officer.

The City Manager or his/her designee shall act as the Hearing Officer and conduct all hearings pursuant to the procedures set forth in this chapter, unless otherwise provided under any other applicable provision of the municipal code and/or any applicable statute, rule, code or regulation.

6. Duties of the City Manager, or his/her designee, as Hearing Officer.

The City Manager, or his/her designee, as Hearing Officer shall review all evidence, documents, and written testimony and hear all oral testimony submitted by all interested parties at or before the scheduled administrative hearing and render all decisions and findings in writing to the Vacation Rental Permit holder with a duplicate copy to the issuing official. The City Manager, or his/her designee, as Hearing Officer may accept, modify or reject the findings and determinations supporting the recommendation.

7. Limitations on authority of City Manager, or his/her designee, as Hearing Officer.

The City Manager, or his/her designee, as Hearing Officer's authority to hear and consider the notice of action recommendation shall be limited to only those matters within his or her subject matter jurisdiction. The City Manager, or his/her designee, as Hearing Officer shall consider at the administrative hearing only those issues which are relevant to the issues of the hearing. The City Manager, or his/her designee, as Hearing Officer shall not have the authority to waive any requirements of the municipal code and/or any applicable statutes, rules, codes or regulations.

8. Scheduling of administrative hearing—Notice of administrative hearing.

As soon as practicable, but allowing sufficient time for providing notice of the hearing, the City Manager, or his/her designee, as Hearing Officer shall fix a date, time and place for the hearing of the appeal and shall instruct the issuing official of the same. The Code Compliance Officer shall prepare a notice of administrative hearing (hearing notice), which shall be in substantially the same form as follows:

You are hereby notified that a hearing will be held before the City Manager, or his/her designee, as Hearing Officer at _____ on the ____ day of _____, ____ at the hour of ____ upon the Notice of Action Recommendation served upon you. You may be present at the hearing. You may be, but need not be, represented by an attorney. You may present any relevant evidence at the hearing and you will be given a full opportunity to cross-examine all witnesses testifying against you.

9. Service of hearing notice.

The Code Compliance Officer shall cause a copy of the hearing notice to be provided to the Vacation Rental Permit holder either by causing a copy of the notice to be delivered to such person(s) personally or by causing a copy of the notice to be delivered by certified mail, postage prepaid, return receipt requested, and addressed to the Vacation Rental Permit holder at the address shown on the Vacation Rental Permit.

10. Proof of service of hearing notice.

Proof of service of the hearing notice shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the hearing notice and retained by the Code Compliance Officer.

11. Code Compliance Officer's report.

A. The Code Compliance Officer shall prepare an administrative hearing packet for the City Manager, or his/her designee, as Hearing Officer to review prior to the hearing. The packet shall include a copy of the notice of action recommendation, if applicable, and briefing, which should include a description of the violations and any actions taken by the Vacation Rental Permit holder subsequent to the service of the notice.

12. Admissibility of evidence at hearing.

The City Manager, or his/her designee, as Hearing Officer shall hear any evidence offered in support of or in protest of the proposed action provided such evidence is relevant to the issues of the hearing. The City Manager, or his/her designee, as Hearing Officer has the authority to determine the relevance of any evidence to the hearing and the authority to exclude unduly repetitious and cumulative evidence, regardless of its relevancy. The City Manager, or his/her designee, as Hearing Officer shall not be limited by the technical rules of evidence.

13. Rights of parties at hearing.

Any party with a legal interest in the subject permit who appears at the hearing shall have the following rights:

- A. To call and examine witnesses;
- B. To introduce documentary and physical evidence;
- C. To cross-examine opposing witnesses;
- D. To impeach any witness regardless of which party first called the witness to testify;
- E. To rebut evidence; and
- F. To be represented by anyone who is lawfully permitted to do so.

14. Failure to attend hearing.

If the Vacation Rental Permit holder fails to attend the scheduled hearing, the hearing will proceed without the Vacation Rental Permit holder and he or she will be deemed to have waived his or her rights to be orally heard at the hearing.

15. Duty to prepare and serve notice of decision—Final decision.

The City Manager, or his/her designee, as Hearing Officer shall cause to be prepared and served a written notice of decision upon the Vacation Rental Permit holder following the hearing. The decision of the City Manager, or his/her designee, as Hearing Officer shall be final.

16. Form of notice of decision.

The notice of decision shall contain a brief summary of the evidence considered, findings of fact, a determination of the issues presented, and the effective date of the decision.

17. Time for and method of service of notice of decision.

The notice of decision shall be served upon the Vacation Rental Permit holder within 30 days from the date the hearing is deemed closed. The notice of decision shall be served either by causing a copy of the notice to be delivered to the Vacation Rental Permit holder personally or by causing a copy of the notice to be delivered to Vacation Rental Permit holder via certified mail, postage prepaid, return receipt requested, and addressed to Vacation Rental Permit holder at the address shown on the Vacation Rental Permit.

18. Proof of service.

Proof of service of the notice of decision shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the notice of decision and shall be retained by the Code Compliance Officer.

19. Effective date.

The effective date of the decision and order of the City Manager, or his/her designee, as Hearing Officer shall be as stated therein.

20. Expedited judicial review.

Any appeal of an administrative determination by the City Manager, or his/her designee, as Hearing Officer involving the modification or revocation of a permit, license or other entitlement pertaining to expressive conduct protected by the State or Federal Constitution is eligible for expedited judicial review pursuant to the applicable Code(s) of Civil Procedure.

21. Attorney's fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in any such proceeding. In no proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the proceeding.

E. The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this code or other public nuisance.

F. Public Nuisance. In addition to any and all rights and remedies available to the city, it shall be a public nuisance for any person or entity to commit, cause or maintain a violation of this chapter, which shall be subject to the applicable provisions of this Municipal Code.

G. A separate offense occurs for each day any violation of, or failure to comply with, any provision of this chapter is committed, continued, maintained, or allowed to be continued.

5.44.120 Immediate health and safety threats.

Nothing in this chapter shall limit the City's ability to inspect properties and issue citations for property-related conditions that may constitute an immediate health or safety threat, including, but not limited to, Sections 4.16.010, 4.40.040 and 15.48.010 of the City's code.

5.44.130 Requirements not exclusive.

The requirements of this chapter shall be in addition to any license, permit, or fee required under any other provision of the City's municipal code. The issuance of any Vacation Rental Permit shall not relieve any person or entity of any obligation to comply with any and all other provisions of the City's municipal code.

Section 3. ENVIRONMENTAL FINDINGS.

The adoption of this ordinance is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance in question may have a significant effect on the environment; and

Section 4. SEVERABILITY

That, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of

competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 5. GENERAL PLAN CONSISTENCY FINDINGS

The City Council finds this amendment is consistent and compatible with the General Plan.

Section 6. GENERAL FINDINGS

The City Council finds this Ordinance is not detrimental to the public interest, health, safety, convenience, or welfare of the City.

Section 7. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Desert Hot Springs that are in conflict with the provisions of this ordinance are hereby repealed.

Section 8. AMENDING OF BAIL SCHEDULE

That the City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 9. EFFECTIVE DATE

That this ordinance shall be effective thirty days after the second reading of the ordinance.

Section 10. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.


PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on the 7th day of November 2023, by the following vote:

AYES: 4 – Gardner; Nuñez; Pye; and Mayor Matas.

NOES: 1 – Betts.

ABSTAIN: None.

ABSENT: None.


Scott Matas (Dec 12, 2023 14:57 PST)

Scott Matas, Mayor

ATTEST:



Jeryl Soriano, City Clerk

APPROVED AS TO FORM:



Jennifer Mizrahi (Dec 12, 2023 15:59 PST)

Jennifer A. Mizrahi, City Attorney











Ordinance 794 Amending Short-Term Vacation Rentals

Final Audit Report

2023-12-12

Created:	2023-12-12
By:	City Clerk (cityclerk@cityofdhs.org)
Status:	Signed
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✔ Agreement completed.

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