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ORDINANCE NO. CS-272

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, TO AMEND THE CARLSBAD MUNICIPAL CODE BY ADDING CHAPTER 5.60 SHORT-TERM VACATION RENTALS, ESTABLISHING REGULATIONS GOVERNING SHORT-TERM VACATION RENTALS.

CASE NAME: SHORT-TERM VACATION RENTALS

WHEREAS, short-term vacation rentals (STVRs) are not explicitly addressed in the Carlsbad Municipal Code; and

WHEREAS, over 400 STVRs are known to exist throughout the city; and

WHEREAS, there are inconsistencies in the city's land use, business license, transient occupancy taxes/Carlsbad Tourism & Business Improvement District (CTBID) assessments, and code enforcement polices related to STVRs; and

WHEREAS, the City Council desires to protect neighborhoods from any adverse effects resulting from the operation of STVRs and ensure that the city collects transient occupancy taxes/Carlsbad Tourism & Business Improvement District (CTBID) assessments from STVRs; and

WHEREAS, on June 10, 2014, the City Council directed staff to develop recommendations to expressly allow STVRs and establish consistent and enforceable STVR operating permit policies and procedures for regulating STVRs; and

WHEREAS, on March 17, 2015, the City Council reviewed a draft ordinance, received public comment, and provided direction to staff to revise the draft ordinance; and

WHEREAS, on April 21, 2015, the City Council introduced the ordinance and directed staff to return to City Council in early 2016 to assess its effectiveness and determine

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purposes or have other city imposed conditions of approval or restrictions which prohibit the use of said dwelling unit as a short-term vacation rental as defined herein.

5.60.020 Definitions.

“Broker” means any entity or person, including but not limited to, on-line websites, on-line travel agencies, and on-line booking agents, that offers, lists, advertises, accepts reservations and/or collects whole or partial payment for a short-term vacation rental unit.

“Owner” means the person(s) or entity(ies) that hold(s) legal and/or equitable title to the subject short-term vacation rental.

“Short-term vacation rental” is defined as the rental of any legally permitted dwelling unit as that term is defined in Chapter 21.04, Section 21.04.120 of this code, or any portion of any legally permitted dwelling unit for occupancy for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive calendar days. Short-term vacation rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive days and which was subsequently amended, either orally or in writing to permit the occupant(s) of the owner’s short-term vacation rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive days.

5.60.030 Short-term vacation rentals.

Short-term vacation rentals which comply with the requirements of this Chapter are permitted only in the coastal zone.

5.60.040 Authorized agent.

- A. An owner may in writing authorize an agent to comply with the requirements of this chapter on behalf of the owner. The authorized agent shall submit a copy of the authorization to the city during the initial permit and all renewal permit process(es).
- B. Notwithstanding subsection A, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term vacation rental unit, regardless of whether such noncompliance was committed by the owner’s authorized agent or the occupants of the owner’s short-term vacation rental unit or their guests.

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1 **5.60.050 Permit required.**

- 2 A. The owner or owner's authorized agent is required to obtain a short-term
3 vacation rental permit and a business license from the city before renting or
4 advertising the availability of a short-term vacation rental unit.
- 5 B. A short-term vacation rental permit shall be valid for one calendar year from
6 the date of issuance and must be renewed annually thereafter.
- 7 C. Every broker shall ensure that each short-term vacation rental is registered
8 with the City prior to listing or advertising said property for rent.
- 9 D. The requirement for a short-term vacation rental permit shall be based on the
10 actual duration of the rental period and not the stated time period of the
reservation, rental, or lease agreement.

11 **5.60.060 Obtaining and renewing a short-term vacation rental permit.**

- 12 A. The owner or owner's authorized agent must submit the following information
13 on a short-term vacation rental permit application form provided by the city:
- 14 1. The name, address and telephone number of the owner of the short-term
15 vacation rental unit.
 - 16 2. If applicable, the name, address and telephone number of the authorized
17 agent of the owner of the short-term vacation rental unit.
 - 18 3. The name, address and telephone number of a local contact person who
19 shall be available twenty-four hours per day, seven days per week for the
20 purpose of responding within forty-five minutes to complaints regarding the
condition, operation, or conduct of occupants of the short-term vacation
rental unit or their guests.
 - 21 4. The address of the proposed short-term vacation rental unit, all internet
22 listing sites for the short-term vacation rental unit and all listing numbers.
 - 23 5. The number of bedrooms in the short-term vacation rental unit.
 - 24 6. Acknowledgement of receipt of the city's "Good Neighbor" brochure.
 - 25 7. Such other information as the city manager or designee deems reasonably
26 necessary to administer this chapter.
- 27 B. Any fee for a short-term vacation rental permit shall be established by
28 resolution of the City Council.
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- C. Any false statements or false information provided in the application for a short-term vacation rental permit are grounds for denial of a permit(s), permit revocation and/or imposition of penalties as outlined in this chapter.
- D. A short-term vacation rental permit application may be denied if the owner has had a prior short-term vacation rental permit revoked within the past twelve calendar months for the same or other short-term vacation rental units.
- E. Short-term vacation rental permit holders must comply with the provisions of Carlsbad Municipal Code Chapter 3.12 regarding the collection and remittance of transient occupancy taxes and the collection and remittance of Chapter 3.37 regarding Carlsbad Tourism and Business Improvement District assessments. Failure to comply with these provisions may result in revocation of a short-term vacation rental permit. A broker that collects any revenue from arranging or listing a short-term rental unit shall have primary responsibility for collecting, paying and transmitting all revenues due to the City pursuant to this section.

5.60.070 Operational requirements.

- A. The owner and/or owner's authorized agent shall use reasonably prudent business practices to ensure that the short-term vacation rental unit is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term vacation rental unit.
- B. While a short-term vacation rental unit is rented, a local contact person shall be available twenty-four hours per day, seven days per week for the purpose of responding within forty-five minutes to complaints regarding the condition, operation, or conduct of occupants of the short-term vacation rental unit or their guests.
- C. The owner or owner's authorized agent shall post the short-term vacation rental permit on the exterior of the unit within plain view for the general public with the 24 hour, seven day local contact phone number for complaints. The permit shall be displayed at all times the unit is used as a short-term vacation rental.
- D. The owner or the owner's authorized agent shall, upon notification that any occupant or guest of the short-term vacation rental unit has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the short-term vacation rental unit, respond in a timely and appropriate manner to immediately halt or prevent a recurrence of such conduct. Failure of the owner or the owner's authorized agent to respond to such calls or complaints regarding the condition, operation, or conduct of the occupants and/or guests of the short-term vacation rental in a timely and

1 appropriate manner shall subject the owner to all administrative, legal and
2 equitable remedies available to the city.

3 E. The owner and/or the owner's authorized agent shall use reasonably prudent
4 business practices to ensure that the occupants and/or guests of the short-term
5 vacation rental unit do not create unreasonable noise or disturbances, engage
6 in disorderly conduct, or violate any applicable law, rule or regulation pertaining
7 to the use and occupancy of the subject short-term vacation rental unit.

8 F. No amplified or reproduced sound shall be used outside or audible from the
9 property line of any short-term vacation rental unit between the hours of ten
10 p.m. and ten a.m.

11 G. The owner and/or owner's authorized agent shall use reasonably prudent
12 business practices to ensure that the short-term vacation rental unit is used for
13 residential purposes only.

14 H. Prior to occupancy of a short-term vacation rental unit, the owner or the
15 owner's authorized agent shall:

- 16 1. Obtain the contact information of the renter.
- 17 2. Provide a copy of the "Good Neighbor" brochure containing these
18 requirements to the renter.
- 19 3. Require the renter to execute a formal acknowledgment that he or she
20 is legally responsible for compliance by all occupants of the short-term
21 vacation rental unit and their guests with all applicable laws, rules and
22 regulations pertaining to the use and occupancy of the short-term
23 vacation rental unit.
- 24 4. The information required in items 1 and 3 above shall be maintained by
25 the owner or the owner's authorized agent for a period of three years
26 and be made available upon request to any officer of the city responsible
27 for the enforcement of any provision of the municipal code or any other
28 applicable law, rule or regulation pertaining to the use and occupancy of
the short-term vacation rental unit.

I. Trash and refuse shall not be left stored within public view, except in proper
containers for the purpose of collection by the city's authorized waste hauler on
scheduled trash collection days.

J. On-site parking shall be allowed on approved driveway, garage, and/or carport
areas only. Parking of over-sized vehicles must comply with the provisions of
Carlsbad Municipal Code section 10.40.180.

K. The number of occupants allowed to occupy any given short-term vacation
rental unit shall be limited to two people per bedroom or studio plus one person
per unit.

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L. The city manager, or designee, shall have the authority to impose additional conditions on the use of any given short-term vacation rental unit to ensure that any potential secondary effects unique to the subject short-term vacation rental unit are avoided or adequately mitigated.

M. The owner or owner's authorized agent shall post the current short-term vacation rental permit number on or in any advertisement appearing in any written publication or on any website that promotes the availability or existence of a short-term vacation rental unit.

5.60.080 Penalties and enforcement.

A. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor punishable pursuant to Chapter 1.08 or Chapter 1.10 of this code.

B. In addition to any penalties imposed pursuant to Chapters 1.08 and 1.10 of this code, the City manager, or designee may impose additional conditions on the use of any short-term vacation rental permit pursuant to section 5.60.060(K) above; or suspend or revoke any short-term vacation rental permit commensurate with the severity of the violation(s).

C. Except as otherwise provided, enforcement of this chapter is at the sole discretion of the persons authorized to enforce this chapter. Nothing in this chapter shall create a right of action in any person against the city or its agents for damages or to compel public enforcement of this chapter against private parties.

D. Pursuant to Subsection 1.08.010(c) of this code, each and every day during any portion of which any violation of this code or any other ordinance of the city is committed, continued or permitted shall be a separate offense.

E. In accordance with the provisions of Carlsbad municipal code Chapter 3.36, section 3.36.040, the owner of a short-term vacation rental may be billed for law enforcement services when a second or subsequent police response is required at the short-term vacation rental unit due to a party when the police officer determines that continued activity is a threat to the peace, health, safety or general welfare of the public.

5.60.090 - Interpretation

This chapter shall be construed liberally in favor of regulation as determined if necessary and appropriate by the city manager for the public protection and welfare and in order to accomplish its purpose and intent.

1 **5.60.100 - Constitutionality**

2 If any section, subsection, sentence, clause or phrase of this chapter is for any reason
3 held to be invalid, such decision shall not affect the validity of the remaining portions
4 of this chapter. The city council declares that it would have adopted the chapter and
5 each section, subsection, sentence, clause or phrase thereof, irrespective of the fact
6 that any one or more sections, subsections, sentences, clauses or phrases be
7 declared invalid.

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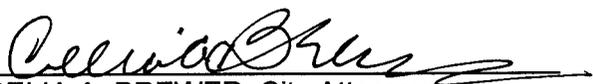
EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption, and the City Clerk shall certify to the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 21st day of April 2015, and thereafter.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 5th day of May 2015, by the following vote to wit:

- AYES: Council Members Hall, Blackburn, Schumacher, Wood, Packard.
- NOES: None.
- ABSENT: None.
- ABSTAIN: None.

APPROVED AS TO FORM AND LEGALITY


CELIA A. BREWER, City Attorney


MATT HALL, Mayor

ATTEST:

BARBRA ENGLERSON, City Clerk

(SEAL)



CERTIFICATION OF POSTING AND PUBLICATION OF

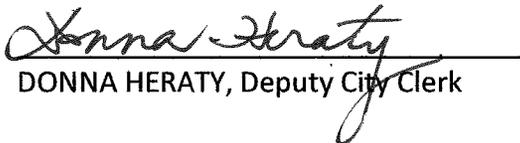
ORDINANCE NO. CS-272

Section 36933 (c) of the Government Code provides that a summary of an Ordinance may be published in lieu of the full text, providing the summary is published and a certified copy of the full text is posted in the Office of the City Clerk at least five days prior to the Council Meeting at which the Ordinance is adopted.

Section 36933 (c) also requires that, within 15 days of the adoption of the Ordinance, a summary be published, showing the vote for and against the Ordinance, and a certified copy of the Ordinance be posted in the Office of the City Clerk.

Therefore, in accordance with Section 36933 (c) of the Government Code, I do hereby certify as follows:

- 1.) That the adoption of Ordinance No. CS- 272 is to be considered at the City Council Meeting to be held on the 5th day of May, 2015.
- 2.) That a certified copy of the full text of Ordinance No. CS-272 was posted in the City Clerk's Office on the 30th day of April, 2015.
- 3.) That a summary of the Ordinance was published in the Union Tribune, on the 30th day of April, 2015.


DONNA HERATY, Deputy City Clerk

Dated: April 30, 2015

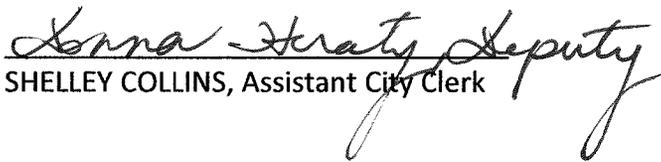
(Seal)



Certification of Posting and Publication of Ordinance No. CS-272

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- 4.) That Ordinance No. CS-272 was adopted on the 5th day of May, 2015
- 5.) That a certified copy of the full text of Ordinance No. CS-272, showing the names of those who voted in favor and against the Ordinance was posted in the City Clerk's Office on the 8th day of May, 2015.
- 6.) That a summary of the Ordinance, showing the names of those who voted in favor of and against the Ordinance was published in the Union Tribune, on the 13th day of May, 2015.


SHELLEY COLLINS, Assistant City Clerk

Dated: May 8, 2014

(Seal)

