

17.52.515 Vacation rental permits.

A. Scope, Purpose and Findings.

1. The City Council hereby adopts the findings set forth in Ordinance No. O2008-9, and Ordinance No. O2009-6 by which the City Council adopted this section. The City Council hereby finds that unregulated transient occupancy uses in residential districts present a current threat to the public welfare.
2. The purpose of this section is to establish that transient occupancy uses are not permitted or conditionally permitted in residential districts, unless either: (a) the city has approved a use permit for a bed and breakfast inn pursuant to Section 17.52.060 of this chapter; or (b) the city has approved an interim vacation rental permit (pursuant to Ordinance No. O2008-9) and the owner timely applies for, obtains, and holds a current vacation rental permit pursuant to the procedures and requirements of this section.
3. Certain property owners (defined herein as those authorized to be issued a vacation rental permit) have made good faith efforts to comply with city requirements for the establishment of vacation rental businesses. Despite such good faith efforts, those owners were not in compliance with the requirements of this title prior to obtaining an interim vacation rental permit (pursuant to Ordinance No. O2008-9), which requires compliance with the requirements of this section. The city intends, by this section, to ameliorate the disruption to the community that might otherwise occur if those owners were required to cease operations immediately.
4. The City Council hereby finds that the adoption of a comprehensive ordinance regulating the issuance of and operating conditions attached to vacation rental permits is necessary to protect the public health, safety and welfare. The purpose of this section is to provide a permit system and to impose operational requirements (in implementation of the additional regulations and requirements identified in Ordinance No. O2008-09) in order to minimize the potential adverse impacts of transient uses in residential neighborhoods and zoning districts on traffic, noise and density, to ensure the health, safety and welfare of renters and guests patronizing vacation rentals, to impose limitations on the total number of permits issued in order to ensure the long term availability of housing stock adequate to satisfy regional housing need as determined by the State Department of Housing and Community Development, and to provide for the gradual elimination of these uses through the inclusion of nontransferability provisions (by which permits issued under this section shall be personal to the owner, may not be transferred to another person or another property, and shall not run with the land) limiting the duration of permits issued under this section.
5. The City Council hereby finds that the city's regulation of vacation rental uses in accordance with this section, including the establishment of the nontransferability provisions, is a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this section.

B. Definitions. As used in this section:

“Applicant” means any person, firm, partnership, association, joint venture, corporation, or an entity, combination of entities or consortium who seeks or seek approval of a vacation rental permit under the authority of this section.

“Authorized agent” means any person, firm or agency specifically authorized to represent and act on behalf of an owner and to act as an operator, manager and contact person of a vacation rental.

“Director” means the Director of the Community Development Department of the city, or a designee of the Community Development Director or City Manager.

“Enforcement Officer” means the Director, Chief Building Official, City Code Enforcement Officer, City Department Manager (to the extent responsible for enforcing provisions of this code), or any other city employee or officer designated by the City Manager to enforce this section.

“Guest” means any person (including an invitee) visiting a renter of a vacation rental unit. A guest is not authorized to sleep or stay overnight in the unit.

“Nontransferability provisions” means the provisions of this section by which permits issued under this section shall be personal to the owner, may not be transferred to another person or conveyed to another property, and shall not run with the land. (See subsection (K)(1).)

“Owner” means a person, persons or corporation holding fee title to property that is the subject of a vacation rental permit within the city as shown in the most recent assessor’s roll in the county of Napa.

“Renter” means a person, not an owner, renting or occupying a vacation rental unit in accordance with the terms of this section. A renter is authorized to sleep and stay overnight in the unit.

“Transfer” means a “change of ownership” (as that phrase is used in California Constitution Article XIII A, Section 2; implemented by the State Legislature, including Revenue and Taxation Code Sections 60, et seq.; and interpreted by California courts) of the property that is the subject of a vacation rental permit.

“Transient occupancy” means any person’s use or possession, or right to use or possess, a building (or any portion thereof) for dwelling, lodging, or sleeping purposes, for a period of 30 calendar days or less, counting portions of calendar days as full days.

“Vacation rental” means any transient occupancy use for which the city has issued a vacation rental permit pursuant to this section, but that is not otherwise permitted or conditionally permitted to operate pursuant to this title.

C. The Director is hereby authorized to issue vacation rental permits pursuant to this section. It is a violation of this code, subject to enforcement pursuant to Chapter 1.16 of this code, for any person to establish or operate a transient occupancy use in any zoning district unless: (1) the owner has been issued an interim vacation rental (pursuant to Ordinance No. O2008-9) and the owner timely applies for, obtains, and holds a current vacation rental permit pursuant to this section; or (2) the use is otherwise permitted or conditionally permitted in accordance with this title.

D. Any owner operating a vacation rental under the permission of a duly-issued interim vacation rental permit under the authority of Ordinance No. O2008-9 desiring to continue operation under the requirements of this section shall submit an application for vacation rental permit to the Director no later than July 1, 2009. In the event that the Director determines that an application is incomplete or fails to provide the information and documentation required by this section, the Director shall notify the applicant in writing, and the applicant shall have an additional 30 days (or longer as authorized by the Director) in which to submit needed supplemental information or documentation as specified

by the Director. The city hereby reserves the right to request additional information from applicants regarding applications submitted prior to July 1, 2009, and to accept responses to requests for supplemental information after July 1, 2009. All interim vacation rental permits issued under the authority of Ordinance O2008-09 shall expire on September 1, 2009, unless the holder of a permit has submitted a timely and complete application for a vacation rental permit under the terms of this section. If such a timely and complete application is submitted, the interim vacation rental permit shall be extended until the date a determination is made by the Director pursuant to subsection I to approve or deny a vacation rental permit.

Each applicant shall provide the following information in a form acceptable to the Director:

1. The name, address and telephone number of the owner of the vacation rental for which the permit is to be issued.
2. The name, address and telephone number of the authorized agent for the owner of the vacation rental.
3. The number of bedrooms and approximate square footage in the vacation rental, and the maximum number of overnight renters under the limitations imposed under subsection (K)(4)(c).
4. Documentation establishing that all designated bedrooms meet all local building and safety code requirements.
5. A diagram and/or photograph of the premises showing and indicating the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants.
6. A public notice mailing label submittal (to notify neighboring property owners within a radius of 300 feet or more, pursuant to Section 17.68.070(A)(3) of this title).
7. Evidence of a valid business license issued by the city for the separate business of operating vacation rental, as well as a copy of the interim vacation rental permit issued under the authority of Ordinance No. O2008-9.
8. Acknowledgment by signature that the owner and authorized agent have read all regulations pertaining to the operation of a vacation rental, including this section, the city's business license regulations as contained in Chapter 5.04 of this code, and any additional administrative regulations promulgated by the Director in furtherance of the objectives of this section.
9. Certification of the accuracy of the information submitted and agreement to comply with all conditions of the permit.
10. A copy of the rental agreement, rental rules and regulations and any associated materials as required by subsection (K)(4)(b).
11. Such other information as the Director or designee deems reasonably necessary to administer this section.
12. Payment of the application and processing fee established by City Council resolution based on the estimated reasonable costs incurred by the city for processing and review of the application materials consistent with Sections 1.16.050 and 3.04.040 of this code.
13. Any request for a modification to the nontransferability provisions of this section based upon a determination that the nontransferability provisions violate constitutional or statutory

rights of the owner, including all factual and legal bases for such request as required by subsections F through H.

14. Agreement to hold harmless, indemnify and defend the city against claims and litigation arising from the issuance of the vacation rental permit.

15. Acknowledgement and agreement that claims, requests, objections and arguments not timely raised in the vacation rental permit application are and shall be deemed waived.

16. Agreement that any and all use of the property for vacation rental/transient occupancy purposes shall cease upon the expiration or revocation of the vacation rental permit pursuant to subsection (K)(1).

E. Under subsection (K)(1), vacation rental permits issued by the Director under the authority of this section shall be valid from the date of their approval until the date on which the owner transfers the property that is the subject of the vacation rental permit, unless either: (1) the nontransferability provisions are modified pursuant to subsections F through H; or (2) the permit is earlier revoked pursuant to subsection M.

F. An applicant may submit a request for a modification of the nontransferability provisions of the vacation rental permit. Such request shall be made, if at all, as a part of the application for a vacation rental permit submitted under the procedures set forth in subsection D. No such request shall be made or considered other than as a part of that application submitted prior to the July 1, 2009 deadline for such application. Such request shall be submitted in addition to the materials and information set forth in subsections (D)(1) through (16). In making such request for modification of the transferability provisions, the applicant shall:

1. Bear all costs of the city and the applicant (including administrative, expert, legal and other costs) associated with the additional review required by such request;
2. Provide a detailed statement of the relief requested from the city (including a description of any proposed "transfer") and each and every factual and legal basis and argument upon which the applicant bases the request, including the elements identified in subsection G. Any factual or legal bases and/or arguments not included in the detailed statement supporting the request for modification of the nontransferability provisions shall be deemed waived and shall not be considered by the Director.
3. Bear the burden of proof.

G. The Director shall not approve any modification of the nontransferability provisions of the vacation rental permit unless he or she finds, based on all information and documentation provided by the applicant, and any other information, that the nontransferability provisions violate the constitutional or statutory rights of the owner.

H. If the Director determines that the applicant has met his or her burden of proof (pursuant to subsections F and G), the Director shall issue the permit with an expiration provision allowing the shortest period of time the Director determines is required to allow the city to gradually eliminate the vacation rental use while avoiding the conflict with the identified constitutional or statutory rights of the owner.

I. For each timely and complete application (pursuant to subsection D), the Director shall make a determination pursuant to this subsection I to approve or deny a vacation rental permit. The Director shall not issue a vacation rental permit to any owner for the operation of a transient occupancy use unless he or she finds, based on all information and documentation provided by the applicant and

any other information, and following a public hearing noticed pursuant to Sections 17.68.070 through 17.68.100 of this code, that the applicant has borne the burden of proving each of the following requirements:

1. The property was previously granted an interim vacation rental permit (pursuant to Ordinance No. O2008-9), and the owner has complied with all requirements of the interim vacation rental permit.
2. The complete application provides the information and agreements required by subsection D.
3. The owner provides evidence of ability to comply, and agreement to comply, with the rules set forth in subsection K. This shall include evidence of steps taken by the owner to adequately mitigate any past noncompliance with the requirements of subsection K.
4. The owner adequately mitigates impacts that are potentially detrimental to the public health, safety, or welfare.
5. The owner agrees to comply with all conditions imposed pursuant to subsection J.

J. As a part of the approval of a vacation rental permit, the Director may impose such conditions in connection with the permit as he or she deems necessary in order to fulfill the purposes of this section and may require reasonable guarantees and evidence that such conditions will be complied with.

K. Each vacation rental permit issued pursuant to this section shall be subject to all of the following restrictions:

1. Nontransferability Provisions, Expirations, and Revocations of Permits.
 - a. Vacation rental permits issued under the authority of this section shall be valid from the date of their approval until the first to occur of the expiration date or revocation date. The expiration date is the date on which the owner transfers the property that is the subject of the vacation rental permit, except to the extent that the transferability provisions are modified pursuant to subsections F through H. The revocation date is as described in subsection M.
 - b. Vacation rental permits shall not run with the land. The permission to operate a vacation rental use under this section shall be personal and limited to the owner to whom the city issued the permit.
 - c. No person shall convey or attempt to convey any vacation rental permit from one property to another property. Any attempt to convey a vacation rental permit from one property to another property shall be void, and shall constitute a violation of this code.
 - d. No person shall transfer, or attempt to transfer, any vacation rental permit to any other person. As defined in subsection B, a person may acquire a vacation rental permit from an owner if that person acquires the property that is subject of a vacation rental permit from the owner, by a means that is not a “transfer” (that is, it is not a “change of ownership”). Any attempt to transfer a vacation rental permit in violation of this subsection shall be void, and shall constitute a violation of this code.
 - e. Any attempt to operate a transient occupancy use under a transferred vacation rental permit shall constitute a violation of this code.

- f. Vacation rental permits shall be of no further force, validity or effect, and use of the property for transient occupancy purposes shall cease, upon the first to occur of the expiration date or revocation date of the vacation rental permit.
2. Upon issuance of a vacation rental permit, pursuant to this section, the owner shall comply with all requirements of the business license provisions (Chapter 5.04 of this code) and the transient occupancy tax provisions (Chapter 3.20 of this code) for the vacation rental use.
3. The owner for each vacation rental unit issued a permit pursuant to this section shall permit a representative of the city Fire Department to conduct an annual fire inspection of the unit, addressing each of the items set forth in this subsection (K)(3). Each unit must satisfy the following requirements to the satisfaction of the city Fire Department:
 - a. The property address shall be visible from the street and in contrasting colors for quick identification by emergency responders.
 - b. Smoke detectors shall be installed per the California Building Code.
 - c. No double keyed dead bolts may be installed on exit doors.
 - d. A portable fire extinguisher shall be provided.
 - e. Exit doors may not be obstructed and/ or prohibited from fully opening.
 - f. Clearance from ignition sources such as luminaries, heaters and flame-producing devices shall be maintained in an approved manner.
 - g. Hot ashes or coals shall be disposed in a metal container with a tight-fitting lid and kept a minimum of 10 feet from the building.
 - h. BBQs and open fires must be in an approved appliance or enclosure.
 - i. No electrical wiring may be exposed or open in any outlet, switch or junction boxes.
 - j. The electrical breaker box shall be labeled for distribution to appliances and may not contain any open slots.
 - k. The garage firewall shall not have any penetrations in sheet rock.
 - l. An informational packet of emergency numbers shall be prepared for renters to direct them in the event of an emergency.

The owner shall furnish the Director with a certificate from the Fire Department certifying completion of this requirement within 60 days of the issuance of a permit, and thereafter, within 12 months of the previously submitted inspection certificate. Any vacation rental operating without a current certificate of inspection from the Fire Department shall be subject to revocation proceedings under the terms of subsection M.
4. Rules. Each vacation rental permit will be subject to, and each owner must show evidence that he or she can comply with, the following rules:
 - a. All advertisements for the vacation rental unit shall include the city of Napa Vacation rental permit and business license permit number as part of the rental offering.
 - b. Prior to renting the unit, the owner shall develop and provide renters a list of the house rules which, at a minimum, shall include all the city rules included in this section. As part of the application for rental, the prospective renter shall sign an agreement acknowledging the rules and promising to comply with them. The owner or the

authorized agent shall provide the Director with a copy of the rules prior to rental of the unit, and shall promptly notify the city in writing identifying any changes to the house rules.

c. The owner shall, by written agreement with each renter, limit overnight occupancy of the vacation rental to the specific number of renters designated in the permit, with the number of renters not to exceed two persons per bedroom meeting building and fire code requirements, plus two additional persons per residence. A bedroom is a room that is designed to be used as a sleeping room and for no other primary purpose. Every bedroom shall have an emergency escape or rescue exit and shall comply with all applicable provisions and requirements of Title 15 of this code. In no case may more than 10 persons be allowed to sleep at the property.

d. The owner shall limit the number of vehicles of overnight renters to the maximum number of overnight renters designated in the permit, and shall require overnight renters to utilize designated on-site parking spaces to the maximum extent possible. Owner shall provide access to the garage of the residence if that area has been included in the determination of the number of available on-site spaces.

e. The owner shall ensure that the renters and/or guests of the vacation rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state law pertaining to noise or disorderly conduct by notifying the renters of the rules regarding vacation rentals and responding when notified that renters or guests are creating excessive or unreasonable noise or disturbances or otherwise violating laws regarding their occupancy. It is not intended that the owner or authorized agent act as a peace officer or place himself or herself in harm's way.

f. The owner shall, upon notification that renters and/or guests of his or her vacation rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this code or state law pertaining to noise, or disorderly conduct, promptly act to prevent a recurrence of such conduct by those renters or guests. Quiet times shall be 9:00 p.m. to 7:00 a.m. Sunday through Thursday evenings and 10:00 p.m. to 7:00 a.m. Friday and Saturday evenings.

g. Pool and hot tubs shall be adequately screened from adjacent properties to minimize noise impacts and shall have the hours of operation clearly posted adjacent to the facility. Hours shall comply with quiet times pursuant to subsection (K)(4)(f).

h. Exterior lighting shall also be adequately shielded from adjacent properties to minimize light pollution impacts in accordance with Section 17.08.040(I) of this title.

i. The owner shall provide appropriate refuse and recycling service for the vacation rental business. Property shall be free of debris both on site and in the street. Trash cans shall be maintained in a clean and sanitary manner in conformance with Chapter 5.60 of the Napa Municipal Code. Trash cans shall not be placed on the street prior to 24 hours before pick up day and shall be promptly removed from the street following service.

j. Weddings, auctions, commercial functions, or other similar events that are inconsistent with the use of the property for transient occupancy in a residential neighborhood are prohibited. The total number of persons (renters and guests) occupying a vacation rental property shall not exceed twice the number of authorized renters (as designated in the permit pursuant to subsection (K)(4)(c)).

k. Pets may be permitted by vacation rental business owner, however the pet must be attended to at all times and must have current vaccinations.

l. It is the intent of the city to enforce sections of the Streets and Highways Code related to the provision for emergency vehicle access. Accordingly, no limousine or bus parking, and no stopping without the driver's presence, shall be allowed in any manner that would interfere with emergency vehicle access. In the event of an emergency, the vehicle driver shall immediately move the vehicle from the emergency access area.

m. The owner shall post both a copy of the permit and a copy of the house rules in a prominent location inside the vacation rental unit.

n. Each vacation rental owner must, prior to April 1st annually, provide written notice to the Director and to all neighboring property owners (within a radius of 300 feet or more, pursuant to Section 17.68.070(A)(3) of this title) of the rental unit the following information:

- (1) The name of the authorized agent and owner of the unit, and telephone numbers at which those parties may be reached on a 24-hour basis.
- (2) The city of Napa Code Enforcement telephone number at which members of the public may report violations of the vacation rental program regulations or conditions of approval attached to a specific vacation rental permit.
- (3) The maximum number of occupants permitted to stay in the unit.
- (4) The maximum number of vehicles which are allowed to be parked on the property.

5. The cost of administration of this vacation rental permit shall be borne by the vacation rental owners according to fees established by resolution of the City Council. If the information supplied by the owner on the application for a vacation rental permit is not consistent with city or county records, an inspection can be required prior to or after issuance of the vacation rental permit. An inspection fee established by resolution of the City Council shall be charged for any inspection. An annual renewal fee will be established by resolution of the City Council and shall be based on the estimated reasonable costs incurred by the city for processing and review of the application materials consistent with Section 1.16.050 of this code.

L. The Director or Enforcement Officer may conduct an investigation whenever there is reason to believe that an owner has failed to comply with the provisions of this section. The investigation may include an inspection of the premises. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the Director or Enforcement Officer shall issue written notice of the violation in accordance with Chapter 1.24 of this code. The written notice shall be served on the owner or authorized agent and shall specify the facts which, in the opinion of the Director, constitute substantial evidence to establish grounds for imposition of the penalties. Administrative fines, in accordance with Section 1.16.050 of this code, may be assessed to the vacation rental permit owner as a result of violations of either the permit or this section. An owner may request an administrative hearing to contest any administrative citation issued by the Director or Enforcement Officer in accordance with the procedures set forth in Sections 1.24.070 through 1.24.090 of this code.

M. The Director is authorized to initiate proceedings to revoke or modify the conditions attached to this permit if at any time he or she determines in his or her discretion that: (1) a vacation rental use is detrimental to the public health, safety, or welfare; (2) the owner has provided materially false or misleading information in the application for the permit; or (3) the owner is in violation of any of the rules provided for in subsection (K)(4), or has failed to comply with any permit requirements imposed by the Director under this section. In the event that the Director determines that any of the conditions described above exists, he or she is authorized to issue a compliance order or administrative citation in accordance with the procedures set forth in Section 1.24.040 of this code. If the owner or authorized agent fails to cure the violations identified in a compliance order within the time frame identified in the compliance order, the Director may schedule a revocation or modification hearing. The city shall mail notice of the permit revocation or modification hearing to both the permittee and all neighboring property owners (within a radius of 300 feet or more, pursuant to Section 17.68.070(A)(3) of this title) of the vacation rental property at least 10 days prior to the hearing. The notice shall describe the property, the alleged violation and the time and place for the hearing. The hearing shall be conducted in accordance with the procedures set forth in Section 17.72.070.

N. Any determination made by the Director pursuant to this section shall be final unless appealed pursuant to the requirements of this subsection. Any person aggrieved by a determination of the Director pursuant to this section may appeal by filing a written appeal with the City Clerk. Any such appeal must be received by the City Clerk within 10 calendar days of written determination by the Director. The Director's written determination shall identify the location at which appeals must be filed, and the appellant's obligation to comply with the provisions of this subsection. Each appeal shall be subject to the following:

1. Any such appeal shall state all factual and legal grounds which the appellant wishes the city to consider. Such grounds to be identified by the appellant may include, without limitation, any and all constitutional or statutory claims.
2. Except as otherwise provided in this subsection, the appeal hearing shall be conducted and decisions shall be made in accordance with Chapter 17.70 of this code.
3. Failure to timely appeal a determination made pursuant to this section, and/or to fully state all factual and legal grounds for the appeal, in the manner required by this subsection shall constitute a waiver of the hearing and a failure to exhaust administrative remedies, and shall preclude any and all relief and claims arising in connection with the determination by the Director.

(O2008 9; O2009 6; O2010 16, 9/21/10)