

ORDINANCE NO. 2009-004

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN BUENAVENTURA AMENDING CHAPTER 6.455 OF THE SAN BUENAVENTURA MUNICIPAL CODE TO ESTABLISH PERFORMANCE STANDARDS FOR SHORT-TERM VACATION RENTALS AND RELATED MATTERS

The Council of the City of San Buenaventura does ordain as follows:

SECTION 1. Chapter 6.455 is amended in its entirety to read as follows:

Sec. 6.455.010. Authority and purpose.

This chapter is adopted pursuant to the municipal affairs provisions of the city charter for the purpose of requiring the owner or owners of a residential dwelling unit that is used as a short-term vacation rental, as defined herein, to apply for and secure a permit authorizing such use in the manner provided for by this chapter.

Sec. 6.455.020. Definitions.

The definitions set forth in this section shall govern the meaning and construction of the words and phrases used in this chapter, except where the context of such words and phrases clearly indicates a different meaning or construction.

1. Short-term vacation rental shall mean a "dwelling unit" other than a dwelling unit located in a "hotel," as those terms are defined in division 24 of this code, that is rented to a tenant for a period of not more than 30 consecutive days.

2. Owner of a short-term vacation rental shall mean the person or persons holding fee title to a dwelling unit operated and used as a short-term vacation rental, or a person or persons holding the lease estate to a dwelling unit and operating and using the leased dwelling unit as short-term vacation rental, or the agents of any such persons.

Sec. 6.455.030. Administration.

The provisions of this chapter shall be administered by the city employee acting as the city treasurer or such other city employee as may be designated by the city manager, hereinafter referred to as the "permit administrator." The permit administrator shall have the authority to make interpretations and to promulgate guidelines in order to facilitate orderly administration of this chapter.

Sec. 6.455.040. Permit requirements.

No owner or owners of a short-term vacation rental shall rent, offer to rent, or advertise for rent the short-term vacation rental to another person without a permit approved and issued in the manner provided for by this chapter.

Sec. 6.455.045. Advertising Shall Include Permit Number.

No person shall offer to rent or advertise for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Ventura Permit No. _____." If the offer to rent or advertisement contains different sizes of type or fonts, the permit number shall be printed in the same size type as the large type used in the main body of the offer or advertisement.

Sec. 6.455.050. Permit applications.

Applications for a permit required by this chapter shall be in a form and contain the information required by the permit administrator, and shall be accompanied by the following:

1. A nuisance response plan containing the information required by this chapter;
2. A transient occupancy registration certificate and a business tax certificate issued by the city tax collector pursuant to sections 4.115.030 and 4.155.210, respectively;
3. A surety bond in the amount of \$1,500.00 issued by a responsible surety company and in the form required by this chapter, unless waived pursuant to section 6.455.125; and
4. A permit application fee in an amount established in the manner provided for by this chapter.

Sec. 6.455.060. Content of nuisance response plans.

Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the permit administrator.

1. The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a short-term vacation rental pursuant to the permit;

2. The name, address and telephone number of the person or persons who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the short term rental(s) by tenants, their visitors and/or their guests. For the purposes of this chapter, a return telephone call to a complainant within forty-five (45) minutes of the initial complaint shall be deemed "prompt."

- (a) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and,
- (b) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, and/or different weeks of the year.

3. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

4. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this chapter, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within thirty (30) minutes of the initial nuisance complaint.

5. The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any, that support a request for occupancy greater than two persons plus two persons per bedroom.

6. The number of off-street parking spaces and number of bedrooms available at the short-term vacation rental.

Sec. 6.455.070. Amendment of response plans.

At any time following the issuance of a permit required by this chapter, the owner or owners of the short-term vacation rental being operated pursuant to such permit may change the content of the nuisance response plan approved incident to the issuance of the permit by filing an amended response plan with the permit administrator. Such amended response plan shall contain all of the information and be in the form required by section 6.455.060 of this chapter, and shall be accompanied by an amended response plan fee in an amount established in the manner provided for by this chapter.

Sec. 6.455.080. Surety bonds.

Each surety bond accompanying an application for a permit required by this chapter shall be issued by a surety licensed to do business in the State of California that has an A.M. Best Financial Strength Rating of at least "A-," shall name the city as the bond obligee, and shall be conditioned on the payment of any civil penalty assessed in the manner provided for by Chapter 1.050 of this Code within the time provided for therein if:

1. The civil penalty was assessed either against the permittee or against any tenant or other person occupying or using the short-term vacation rental operated pursuant to such permit; and
2. Arose out of a violation of this chapter, or the occupancy or use of such short-term vacation rental in a manner that violated any provision of this Code.

Sec. 6.455.090. Substitution of surety bonds.

At any time following the issuance of a permit required by this chapter, the permittee may file a substitute surety bond with the permit administrator issued by a surety that meets the requirements of Section 6.500.080 of this chapter. Upon determining that such substitute bond conforms to such requirements, the permit administrator shall return the bond being replaced by the substitute surety bond to the permittee.

Sec. 6.455.100. Permit approval and issuance.

1. Upon receipt of an application for a permit required by this chapter, the permit administrator will review the application and supporting documents, and will approve and issue a permit to the owner or owners of the property or properties that are the subject(s) of the application that authorizes the use and occupancy of such property as a short-term vacation rental if the permit administrator finds that the required application fee has been paid, and that the nuisance response plan and surety bond submitted with the application conforms to the requirements of this chapter.

2. In the event that the permit administrator determines that an application for increased overnight occupancy greater than the standard of two (2) persons within each short-term vacation rental plus a number that will not exceed two (2) persons per bedroom, as established by section 6.455.125 5., may be warranted, the permit administrator shall before approving the application cause a "notice of intention to approve increased occupancy" to be delivered to the persons and in the manner described for notice of nuisance response plans in section 6.455.110. The notice of intention shall invite written comments on the application from interested parties.

3. Before making a final determination on an application for increased occupancy, the permit administrator shall consider any written comments received within thirty (30) days of the date the notice is mailed. In addition to considering any written comments received on the application for increased overnight occupancy, the permit administrator may request an interior and/or exterior site visit in order to verify the facts stated in the application and/or may request additional written or photographic documentation from the owner. The owner shall be present during any site visit.

4. The permit administrator's determination on an application for increased occupancy shall be final. No hearing shall be required or conducted. The permit administrator shall be afforded broad discretion with respect to applications for increased occupancy. This chapter shall not be interpreted to create a property interest in potential increased occupancy.

Sec. 6.455.110. Notice of nuisance response plans.

Promptly following the approval and issuance of a permit required by this chapter, or the approval of an amended nuisance response plan in the manner provided for by this chapter, the permit administrator shall cause notice of the availability of the nuisance response plan provided to the City by the permittee to be:

1. Mailed by first class mail addressed to the owner or occupant of every property, any part of which is located within a 300-foot radius of the property that is to be used and occupied as a short-term vacation rental, pursuant to such permit; and,

2. Delivered to the City Manager's office with the request that the response plan be posted in the place designated on the City's internet website for short-term rental nuisance response plans, so that all such plans are available to all members of the public on the City's website.

Sec. 6.455.120. Annual review of response plans.

In January of each year following the effective date of this chapter, the permit administrator will conduct an audit of the response plans filed by all permittees in the manner provided for by this chapter to verify the name, address and telephone numbers of the person or persons identified in each permittee's response plan as being responsible for responding to a nuisance complaint. In the event there has been a change, the permittee shall be required by the permit administrator to promptly file an amended response plan in the manner provided for by this chapter.

Sec. 6.455.125. Performance Standards Established.

Each owner, and each tenant or occupant of a short-term vacation rental, shall at all times comply with or cause compliance with the performance standards applicable to short-term vacation rentals they own, lease or occupy, as established by this section.

1. The owner shall ensure that the short-term vacation rental complies with all applicable codes regarding fire, building and safety, and all other relevant laws and ordinances.

2. The owner shall require the primary overnight and daytime occupant of the short-term vacation rental to be an adult eighteen (18) years of age or older. This adult shall provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.

3. Prior to occupancy, the owner shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the short-term vacation rental. The owner shall require that adult to sign a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the short-term vacation rental or their guests with all provisions of this chapter. This information shall be readily available upon request of any police officer or employee of the city authorized to enforce this chapter or state law.

4. The owner shall require all occupants to agree to a minimum stay of no less than seven (7) nights for tenancies during the period beginning on the second Friday in June and continuing to the last Friday in August of each year. At all other times the owner may rent or lease the short-term vacation rental no more than once in any consecutive seven (7) day period and shall require a minimum stay of two (2) nights.

5. The owner shall limit overnight occupancy of the short-term vacation rental to a specific number of occupants, with the maximum number of overnight occupants being two (2) persons within each short-term vacation rental plus a number that will not exceed two (2) persons per bedroom within each short-term vacation rental. The permit administrator may, when unusual size, interior layout, parking or other physical characteristics are shown, approve a greater maximum number of overnight occupants.

6. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection and between the hours of 4:00 p.m. the day before and 8:00 p.m. of scheduled trash collection days as provided in SBMC section 6.500.150 and 6.500.160. The owner of the short-term vacation rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.

7. Each lease or rental agreement for a short-term vacation rental shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the unit:

- (a) The maximum number of overnight occupants and day use visitors that are permitted.
- (b) The number of off-street parking spaces that are provided.

- (c) Notification that on-street parking is extremely limited in some areas of the city.
- (d) The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.
- (e) Notification that the occupant may be cited or fined by the city and/or immediately evicted by the owner pursuant to state law, in addition to any other remedies available at law, for violating any other provisions of this chapter.
- (f) Notification that failure to conform to the occupancy requirements of the short-term vacation rental is a violation of this chapter.
- (g) Notification that amplified sound, including radios, televisions and other electronic devices are subject to the City's Noise Ordinance as set forth in San Buenaventura Municipal Code sections 10.650.110, *et seq.*
- (h) A prohibition on illegal loud parties, along with notification of the City's right to recover the costs of special enforcement needed to address certain loud parties under the circumstances described in San Buenaventura Municipal Code sections 10.650.210, *et seq.*
- (i) A recommendation that the occupant participate voluntarily in neighborhood quiet hours by avoiding parties and loud social events between the hours of 10:00 p.m. and 7:00 a.m.; provided that if the owner forbids parties and loud social events between the hours of 10:00 p.m. and 7:00 a.m. the surety bond required by section 6.455.050 shall be waived.
- (j) The name of the managing agency, agent, rental manager, local contact person, or owner of the unit, and a telephone number at which that party may be reached at all times.
- (k) A copy of the "Good Neighbor Guidelines" which may from time to time be prepared by the permit administrator. These guidelines may include location-specific information, such as local speed limits and the prohibition of fires and fireworks in beach areas.
- (l) Notification that the property is part of the City of San Buenaventura's Short-Term Vacation Rental Program.
- (m) A copy of this chapter of the San Buenaventura Municipal Code, as it may be amended from time to time.

8. Upon receipt of a nuisance complaint or upon notification that any occupant and/or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the San Buenaventura Municipal Code or any state law, the owner shall promptly respond and take timely corrective action to prevent a recurrence of such conduct by those occupants or guests. Failure of the owner to respond promptly and/or to take timely corrective action regarding the condition, operation, or conduct of occupants of the short-term vacation rental shall be a violation of this chapter. An owner is not required or authorized to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner, or his or her agent, shall maintain records of the name, violation, date, and time of each complaint, disturbance, response and corrective action.

9. The owner shall keep written records documenting compliance with all elements of the performance standards and the approved nuisance response plan.

10. The performance standards may be modified by the permit administrator upon request of the owner based upon site-specific circumstances for the purpose of allowing reasonable accommodation of a short-term vacation rental occupant as may be required by state or federal disability laws. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to a property such that, if the requirement is not modified, reasonable use of the property for a short-term vacation rental would not be allowed.

Sec. 6.455.130. Terminating the use of a property as short-term rental.

Where the owner of property used and occupied as a short-term vacation rental pursuant to a permit approved and issued in the manner provided for by this chapter determines to terminate such use and restore the property either to an owner-occupied residence or a long-term rental, the property owner shall promptly cause a notice of such determination to be filed with the permit administrator so that the permit administrator can:

1. Advise each owner or occupant of surrounding properties previously provided with a copy of the nuisance response plan for the property formerly used as a short-term vacation rental pursuant to such permit that such property will no longer be used for that purpose;

2. Cause the removal of the nuisance response plan from the City's website;
and

3. Return the surety bond provided to the city incident to the issuance of the permit required by this chapter to the permittee.

Sec. 6.455.140. Permit fees.

All permit application fees and the fees charged incident to the amendment of a nuisance response plan shall be established by the City Council based on the administrative cost of processing a permit application or an amendment to a nuisance response plan, plus the additional costs of duplicating and mailing a nuisance response plan to the owners and occupants of properties surrounding a property operated as a short-term vacation rental pursuant to a permit.

Sec. 6.455.150. Violations.

Any of the following acts or omissions arising out of the operation and use of a short-term vacation rental are unlawful and constitute a misdemeanor punishable in the manner provided for by division 1 of this Code:

1. Rental, offering for rental, or advertising for rental of a dwelling unit located on any property within the City by the owner of the property as a short-term vacation rental without a permit authorizing such use that has been approved and issued in the manner required by this chapter;

2. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter or the owner's designated agent to respond to a nuisance complaint arising out of the occupancy and use of the short-term rental by a tenant, or the tenant's visitors or guests in the manner and within the time required by a nuisance response plan approved by the permit administrator incident to the issuance of such permit; or

3. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a response plan required by the chapter on file with the permit administrator containing the name of the current person or persons responsible for responding to a nuisance complaint within the time required by this chapter.

4. Failure of the owner of a short-term vacation rental issued a permit in the manner required by this chapter to keep a valid surety bond required by this chapter on file with the permit administrator at all times such permit remains in effect.

5. Offering to rent or advertising for rent a short-term vacation rental without including in the offer or advertisement the city permit number applicable to the property in the form "Ventura Permit No. _____" with the permit number printed in the same size type as the largest type used in the offer or advertisement.

6. Failure to comply with or cause compliance with any performance standard listed in section 6.455.125.

Sec. 6.455.160. Permit Suspension, Modification or Revocation.

In addition to any other remedy provided by this chapter, a permit issued pursuant to this chapter may be suspended, modified or revoked for violations of this chapter, for violation of any other law on the premises of the short-term vacation rental, or for the maintenance of such other conditions as may be shown to be injurious to the public health and safety. Revocation proceedings may be initiated by the City Manager or City Attorney and shall be conducted pursuant to the procedures set forth in division 1 of article 4 of this Code commencing with Section 1.050.410.

SECTION 2. With 12 months of the effective date of this ordinance, the City Manager shall present the City Council with a report on implementation of the Short-Term Vacation Rental Program, including but not limited to any recommended changes needed to improve enforceability and efficiency.

SECTION 3. CEQA Findings.

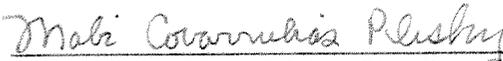
EXEMPTION FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT: The City Council further finds that the enactment of this Ordinance is determined to be exempt under Section 15061(b)3 of the of Title 14 of the California Code of Regulations (the "State CEQA Guidelines") in that the adoption of this Ordinance merely implements a regulatory process that will not foreseeably result in construction activities or other physical activities, either directly or indirectly. It can therefore be foreseen that the enactment of this Ordinance does not have the potential to result in significant effects on the environment.

SECTION 4. Effective Date. This Ordinance shall be effective on the 31st day following its passage and adoption.

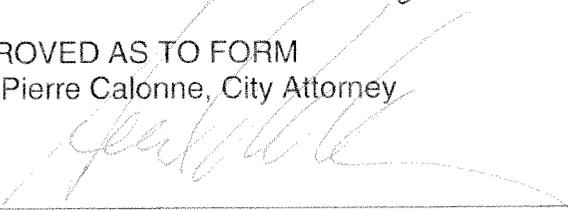
PASSED and ADOPTED this 9 day of February 2009.


Christy Weir, Mayor

ATTEST:


Mabi Covarrubias Plisky, City Clerk

APPROVED AS TO FORM
Ariel Pierre Calonne, City Attorney

By: 
Ariel Pierre Calonne

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss
CITY OF SAN BUENAVENTURA)

I, Fidela Garcia, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Ordinance was passed and adopted by the Council of the City of San Buenaventura, at a regular meeting on February 9, 2009, by the following vote:

AYES: Councilmembers Brennan, Summers, Morehouse, Andrews,
 Monahan, Deputy Mayor Fulton, and Mayor Weir.

NOES: None.

ABSENT: None.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on February 19, 2009.



Deputy City Clerk

