

ORDINANCE NO. O2009 --

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NAPA, STATE OF CALIFORNIA, AMENDING NAPA
MUNICIPAL CODE SECTION 17.52.515 "VACATION
RENTAL PERMITS"

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Napa as follows:

SECTION 1. Findings. In enacting this Ordinance, the City Council finds as follows:

A. In 2003, City staff became aware of an increase in the number of illegal conversions of non-historic single-family homes to "vacation rentals." In response, the Finance Department and the Planning Division began issuing "conditional" business licenses to those persons requesting to operate vacation rentals in residentially-zoned districts of the City. This was a temporary administrative decision that was made with the expectation that the issue would promptly be brought before the Council for a policy determination whether to change the existing Municipal Code or to begin enforcement action on the illegal units.

B. For a variety of reasons, however, staff did not promptly bring the matter to the Council for discussion and decision. Over the next four years some 49 conditional Business Licenses were issued for vacation rentals in residential districts without accompanying planning approvals as required by the Zoning Ordinance.

C. In November of 2007, the Planning Division began researching this issue anew. The Planning Division determined at that time (based on the zoning restrictions summarized above) that staff did not have the authority to issue clearances for the vacation rental business licenses.

D. In January of 2008, the City Manager directed staff to suspend the practice of issuing "conditional" business licenses for vacation rentals in residentially-zoned districts until the legal and policy issues could be resolved. The City Manager further determined that license applications that had already been received prior to January 9, 2008 for processing by the Finance Department would be allowed to receive the Conditional Business License, while "new" requests filed after January 9, 2008 would be denied.

E. The City Council held two public workshops to discuss these issues on March 18, 2008, and May 20, 2008. These workshops were broadly attended by property owners and the real estate industry. Following public testimony, the Council provided general policy direction to staff with respect to the preparation of this Ordinance.

F. As of January 9, 2008 the City had issued 50 business licenses for vacation rentals in residentially zoned districts.

G. Concerns of fairness, finality and order led to the conclusion that those who had obtained business licenses from the City as of January 9, 2008 to operate a vacation rental in a residentially-zoned district ("Existing" business licenses) should be allowed to continue to operate their vacation rental businesses, subject to their compliance with certain conditions, including without limitation mitigation of impacts on neighboring uses and a restriction on the transfer of the business license upon sale of the property, and to other properties and subsequent owners.

H. The same concerns that led to concluding that property owners with "Existing" business licenses should be conditionally allowed to continue operation of a vacation rental, also led to concluding that property owners in the "Pipeline" for a vacation rental business license should be allowed (subject to the same conditions) to continue operations provided that the property owners could demonstrate either that they made a substantial investment in their property in anticipation of applying for a vacation rental business license, or that they recently purchased the property for the express purpose of operating a vacation rental. The Council directed staff to implement a process for processing applications for existing and "pipeline" vacation rental properties, to establish an application period from May 21 through June 12, 2008, and to return on July 1, 2008, with an urgency ordinance for the Council's consideration intended to govern the issuance of interim vacation permits until such time as the Council could adopt a permanent set of regulations governing the operation of vacation rentals.

I. On July 1st, 2008, the City adopted an Urgency Ordinance adding a new Napa Municipal Code section 17.52.515 to authorize issuance of interim Vacation Rental Permits and amending the definition of "Transient Occupancy" in Municipal Code section 17.06.030. Pursuant to the terms of the interim ordinance, staff approved 24 Interim Vacation Rental Permits, in addition to the existing 50, for a total of 74 Interim Vacation Rental Permits. The interim ordinance was not intended as a permanent legalization of vacation rental units as a use, but rather, the ordinance specifically contemplated the preparation of superseding regulations that would set forth rules and requirements for the operation of vacation rental units. The Council directed staff to return as soon as possible with a permanent ordinance establishing conditions to regulate parking standards, noise, occupancy limits, property management services and other conditions which would be appropriate for these businesses in residential districts, and thereby mitigate impacts that might otherwise result from the vacation rentals. Staff has held additional workshops with interim vacation rental permit owners and affected neighboring property owners and the general public. The regulations set forth in this Ordinance (as documented in Exhibit "A") are intended to provide a set of regulations to govern the issuance of vacation rental permits and to set forth rules and regulations regarding their operation.

J. It has been determined that this Ordinance will in no manner limit or have an impact on the development or availability of residential units or very low, low and moderate ("affordable") housing in the City, Napa County or beyond. This Ordinance

thus also is consistent with the provisions, goals, objectives, policies and programs contained in the City's General Plan, including, without limitation, Policies H-1.2, H-1.8, H-2.7, H-2.8, H-3.10, H-3.12, and H-3.13 of the General Plan's Housing Element, and Policies LU-1.1, LU-1.2, LU-3.4, LU-3.7 and LU-3.8 of the General Plan's Land Use Element. The total number of owners issued Interim Vacation Rental permits is 72, which is thus also the highest number of potential vacation rental permits to be issued under this Ordinance. The latest data from the State's Department of Finance show that the City currently has 17,943 single family homes and 29,433 total dwelling units. The maximum number of vacation rental units under the ordinance would thus comprise 0.0040 of the City's single family housing stock, or less than ½ of 1% of all single family homes. The number of residential units that will be subject to this Ordinance is thus *de minimis* relative to the City's overall housing stock. Moreover, vacation rental units in single family homes are typically above moderate income properties. The City's General Plan as adopted provides the City with more than sufficient land to accommodate the City's fair share of above moderate housing needs. In both 2001 and 2005, the California Department of Housing and Community Development certified that the City's Housing Element met state standards, including the requirement that Napa designate enough land to satisfy the City's fair share of regional housing needs for all income brackets, and the City has exceeded allocations for above-moderate income housing for both of those housing element review cycles. Many of the units subject to this Ordinance were already in use as vacation rentals at or about the time the General Plan and Housing Element policies were enacted.

K. This Ordinance in no manner constitutes, allows or is intended as an ad-hoc exception to zoning. The City Council takes legislative and administrative notice of the cases that establish that principal only applies where a city approves a land use that violates existing zoning without either granting a Variance or Use Permit, or amending the Zoning Ordinance to allow the use. (Compare *Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal. App. 4th 997.) The principle does not apply where, by contrast as here, the City legislatively amends its applicable ordinances to allow the subject use for defined properties citywide. Moreover, the Council also takes legislative and administrative notice that the *County of Tuolumne* decision was predicated on what is known as the "uniformity requirement" set forth under Government Code § 65852, a provision that does not apply to Charter cities such as Napa, pursuant to Government Code § 65803.

L. Similarly, the City Council takes legislative and administrative notice of the cases that establish that adoption of this Ordinance does not constitute so-called "spot zoning." Invalid spot zoning occurs where one small parcel is restricted and given less rights than surrounding properties, as where a lot in the center of a business or commercial district is limited to uses for residential purposes thereby creating an "island" in the middle of a larger area devoted to other uses. Usually spot zoning involves a small parcel of land, the larger or more numerous the property(ies) the more difficult it is to find spot zoning. Likewise, where the "spot" is not an island but is connected on some sides to a like zone the spot zoning is more difficult to establish since lines must be drawn at some point. Even where a small island is created in the midst of less restrictive zoning, the zoning may be upheld where rational reason in the public benefit exists for such a classification. (See, e.g., *Consaul v. City of San Diego* (1992) 6 Cal. App. 4th 1781.) There is no spot zoning here since this Ordinance applies

legislative changes to a class of property owners citywide.

M. The City Council takes legislative and administrative notice of the many cases that establish that the adoption of this Ordinance in no manner constitutes a recognized or compensable "taking" of any property owned by neighbors or nearby property owners. Those cases establish that the aim of the takings clause of the Fifth Amendment to the federal Constitution, which provides "[N]or shall private property be taken for public use, without just compensation," is to prevent the government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. (See, e.g., *Echevarrieta v. City of Rancho Palos Verdes* (2001) 86 Cal. App. 4th 472, 480-481, citing *Armstrong v. United States* (1960) 364 U.S. 40, 49 and *Eastern Enterprises v. Apfel* (1998) 524 U.S. 498, 522.) Similarly, the California Constitution at article I, section 19, provides that "[p]rivate property may be taken or damaged for public use only when just compensation . . . has first been paid" A party challenging a governmental action as an unconstitutional taking bears a substantial burden. (*Echevarrieta v. City of Rancho Palos Verdes*, supra.) Not every destruction or injury to property by the government has been held to be a taking. (*Id.*) Traditional land-use regulations have long been held to be valid exercises of the city's traditional police power, and do not amount to a taking merely because they might incidentally restrict a use, diminish the value, or impose a cost in connection with the property. (*Id.*, citing *Ehrlich v. City of Culver City* (1996) 12 Cal. 4th 854, 886; *HFH, Ltd. v. Superior Court* (1975) 15 Cal. 3d 508, 518 ("A zoning action which merely decreases the market value of property does not violate the constitutional provisions forbidding uncompensated taking or damaging . . .").) Even where there is a very substantial diminution in the value of land, there is no taking. (*Id.*, citing *Long Beach Equities, Inc. v. County of Ventura* (1991) 231 Cal. App. 3d 1016, 1036.) Guided by these principles, the Council also finds that it is in any event far from certain that this Ordinance will have any adverse economic impact on any neighbors' properties.

N. The City Council hereby determines that there is no substantial evidence, in light of the whole record before the City Council, that the adoption of this ordinance as analyzed in the Initial Study of the Vacation Rentals Permit dated February 11th, 2009, will have a significant effect on the environment; and that this conclusion reflects the City Council's independent judgment and analysis. Based on the findings of the Initial Study, a Mitigated Negative Declaration has been prepared and has been recommended for certification to the City Council (pursuant to CEQA Guidelines Section 15074).

O. While the City Council intends in adopting this Ordinance to provide relief for those property owners who have relied in good faith on representations from the City and others with respect to their ability to use properties for vacation rentals, the City Council otherwise intends to maintain and enforce the existing provisions of the Zoning Ordinance allowing any single family home in residentially-zoned districts to be considered for transient occupancy only if it meets the definition of a "Bed & Breakfast" under the Zoning Ordinance, namely, where located in a building of historic significance and granted a Use Permit satisfying other specified requirements, including without limitation that the property has an owner/manager living on-site.

P. On March 3, 2009, the City Council conducted a duly noticed public hearing to consider the introduction and first reading of this Ordinance. After opening the public hearing, approximately 48 members of the public provided testimony to the City Council regarding the Ordinance. After hearing the public testimony, the City Council closed the public hearing, deliberated on the comments provided during the public hearing, and provided direction to City staff to revise the Ordinance to address comments received during the public hearing. City staff has incorporated the direction from City Council in this Ordinance.

Q. Pursuant to Section 62 of the Napa City Charter, this Ordinance is intended to and shall be effective 30 days after its Second Reading.

SECTION 3: Amendment. Napa Municipal Code Section 17.52.515 is hereby amended to read as follows:

Section 17.52.515, "Vacation Rental Permits," is hereby revised in the Napa Municipal Code, to read as set forth on Exhibit "A," attached hereto and incorporated herein by reference. The City Clerk is hereby authorized and directed to insert the number of this ordinance in Subsection 17.52.515(A)(1) of Exhibit "A."

SECTION 4: Title, Chapter, and Section Headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 5: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6: Effective Date. This Ordinance shall become effective 30 days after its second reading and adoption.

City of Napa, a municipal corporation

MAYOR: _____

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA)
COUNTY OF NAPA) SS:
CITY OF NAPA)

I, -----, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the regular meeting of the City Council on _____, and had its second reading and was adopted and passed during the regular meeting of the City Council on ----- by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

Approved as to Form:

Michael W. Barrett
City Attorney

EXHIBIT "A"

REPLACING NAPA MUNICIPAL CODE SECTION 17.52.515

"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-__ by which the City Council adopted this Section 17.52.515. 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 17.52.515(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 thirty 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: (a) 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 (b) 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 17.52.515(l) 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 17.52.515(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 Subsection 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 17.52.515 (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 17.52.515(F) through 17.52.515(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 17.52.515(K)(1).
- E. Under Subsection 17.52.515 (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 17.52.515(F) through 17.52.515(H); or (2) the permit is earlier revoked pursuant to Subsection 17.52.515(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 17.52.515(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 17.52.515(D)(1) through 17.52.515(D)(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 17.52.515(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 17.52.515(F) and 17.52.515(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 17.52.515(D)), the Director shall make a determination pursuant to this Subsection 17.52.515(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 17.52.515(D).
 3. The owner provides evidence of ability to comply, and agreement to comply, with the rules set forth in Subsection 17.52.515(K). This shall include evidence of steps taken by the owner to adequately mitigate any past noncompliance with the requirements of Subsection 17.52.515(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 17.52.515(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 17.52.515(F) through 17.52.515(H). The revocation date is as described in Subsection 17.52.515(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 17.52.515(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 Ordinance (Chapter 5.04 of this Code) and the Transient Occupancy Tax Ordinance (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 17.52.515(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 ten (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 sixty 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 17.52.515 (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 onsite 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 9pm-7am Sunday through Thursday evenings and 10pm-7am 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 17.52.515 (K)(4)(f).
- h. Exterior lighting shall also be adequately shielded from adjacent properties to minimize light pollution impacts in accordance with Subsection 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 onsite 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 17.52.515(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 Subsection 17.68.070(A)(3) of this Title) of the rental unit the following information:
 - 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;
 - The City of Napa Code Enforcement telephone number which will normally be answered between the hours of Thursday through Sunday evenings between the hours of 8pm and midnight.
 - The maximum number of occupants permitted to stay in the unit.
 - 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 Subsection 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 17.52.515(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 Subsection 17.68.070(A)(3) of this Title) of the vacation rental property at least ten 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 N. 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 ten (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 N. 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 N, 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 N 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.