

ORDINANCE O2015-13

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE SECTION 17.08.020 "RESIDENTIAL DISTRICTS", SECTION 17.10.020 COMMERCIAL DISTRICTS, SECTION 17.12.020 "RESIDENTIAL OFFICE AND OFFICE DISTRICTS" AND REPEALING EXISTING SECTION 17.52.515 AND REPLACING IT WITH A NEW SECTION 17.52.515 "VACATION RENTAL PERMITS"

WHEREAS, on April 7, 2009, and September 21, 2010, the City Council adopted Ordinance Nos. O2009-6 and O2010-16, as codified in Napa Municipal Code Section 17.52.515, which established regulations and procedures for the submittal of applications for, and the issuance and implementation of, permits for the operation of vacation rentals within the City; and

WHEREAS, pursuant to the requirements of Napa Municipal Code Section 17.52.515, in 2009, the City issued vacation rental permits to vacation rental businesses, and as of the City Council's consideration of this ordinance there are 41 vacation rental businesses operating under previously issued vacation rental permits (referred to herein as "2009 Permits"); and

WHEREAS, on June 2, 2015, the City Council heard public testimony regarding requested changes to the City's regulations of vacation rentals, and the Council directed City staff to prepare an ordinance to implement specified changes to previously adopted regulations, primarily related to a provision to allow the permitting of up to 60 new "hosted accommodations," and a provision to allow a conditional transfer of previously issued vacation rental permits from one business owner to a new business owner; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff and recommendations by the Planning Commission, and any information provided during public meetings.

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

**SECTION 1:**        Findings. As required by Napa Municipal Code Section 17.66.080, the City Council hereby makes the following findings in support of the amendments to the zoning regulations set forth under this Ordinance:

A. The proposed amendment is consistent in principle with the General Plan.

The proposed amendments are consistent with the General Plan in that the amendments merely extend entitlements already granted which are consistent with the General Plan. Specifically, the proposed amendments are consistent with Land Use Goal LU-4 which seeks to preserve and enhance the residential character of existing neighborhoods. Providing for "Hosted Accommodations" allows the property owner to maintain the home as a residence and limits the non-residential use to a maximum of two rooms.

B. The public health, safety and general welfare are served by the adoption of the proposed amendment.

The proposed amendment is beneficial to the public health, safety and general welfare as it establishes performance standards to ensure the compatibility between vacation rentals and the residential character of neighborhoods in which they may be located. Performance standards include annual property inspections, house rules and quiet times in the evening hours.

C. If a rezoning to a district with a larger minimum lot size is proposed, effectively reducing the planned residential density, the City shall also find that the remaining sites in the Housing Element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to California Government Code section 65584; or if not, that it has identified sufficient additional, adequate and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

This finding is not applicable to this project because the project does not include any proposal to increase a minimum lot size nor does it eliminate any site designated in the Housing Element from future use as a housing site.

**SECTION 2:** Amendment. The Land Use Regulations table set forth in Subsection 17.08.020.B "Public and Quasi-Public Uses" is hereby amended to add "Vacation Rentals" in the appropriate alphabetical location within the table; with conditionally permitted with applicable standards or "CS" in each row under the columns labeled "RS", "RI", "RT" and "RM"; and "See standards Ch. 17.52" under the column labeled as "Added Use Regulations".

**SECTION 3:** Amendment. Table B – Downtown Specific Plan Area set forth in Subsection 17.10.020.C "Visitor Accommodations" is hereby amended to add "Vacation Rentals" in the appropriate alphabetical location within the table; with "CS" in each row under the columns labeled "DMU" and "DN"; and "See standards Ch. 17.52" under the column "Specific Standards Apply".

**SECTION 4:** Amendment. The Land Use Regulations table set forth in Subsection 17.12.020.B "Commercial Uses" is hereby amended to add "Vacation Rentals" in the appropriate alphabetical location within the table; with "CS" under the

column labeled "RO" and "See standards Ch. 17.52" under the column labeled as "Added Use Regulations".

**SECTION 5: Amendment.** Napa Municipal Code Section 17.52.515 is hereby amended by repealing the previous language in its entirety, and by adopting new language as set forth below:

**"17.52.515 Vacation Rental Permits.**

**A. Scope, Purpose and Findings.**

1. The purposes of this Section (which may be referred to as the "Vacation Rental Ordinance") are to:
  - a. Document the procedures and regulations that govern the application for, and the issuance and implementation of, permits for the operation of any vacation rental use within the City.
  - b. Establish that transient occupancy uses are not permitted or conditionally permitted in residential or non-residential zoning districts, unless either: (1) the City has approved a hotel use in a non-residential zoning district pursuant to Title 17, or (2) the City has approved a use permit for a bed and breakfast inn pursuant to section 17.52.060 of this Chapter, or (3) the City has approved a vacation rental permit pursuant to this Section.
2. The City Council hereby finds that unregulated transient occupancy uses in residential and non-residential districts present a threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located, and to the availability of housing stock in compliance with the Housing Element of the General Plan.
3. 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 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, and to impose limitations on the total number and types of permits issued in order to ensure the long term availability of housing stock in compliance with the Housing Element of the City of Napa General Plan.
4. The City Council hereby finds that the provisions of this Section which impose restrictions on commercial speech, pursuant to the restrictions on advertisements set forth in Subsection 17.52.515(E)(5), are necessary in order to advance the City's legitimate interest in preventing rental activity that

violates this Code, and in regulating fraudulent, misleading, or deceptive advertising. These restrictions on advertising are necessary in order to prevent advertisers from engaging in unlawful rental activity and from misleading the general public to think that a particular property in the City of Napa is available for transient occupancy if, in fact, the advertised property is not authorized to be used for transient occupancy purposes in accordance with this Section.

5. The City Council hereby finds that the City's regulation of vacation rental uses in accordance with this Section 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:

"2009 Permit" means each of the 41 vacation rental permits which were in effect prior to July 1, 2015, and which were issued pursuant to City Ordinance Nos. O2009-6 and O2010-16 (former versions of vacation rental regulations). Each 2009 Permit shall be deemed by the City to be "approved" and "issued" "pursuant to this Section," as those phrases are used in this Section, including but not limited to Subsections 17.52.515(A)(1)(b), 17.52.515(D)(1), 17.52.515(E), 17.52.515(F), and 17.52.515(H).

"Advertise" means any communication that induces or encourages any person to rent for transient occupancy purposes, or that provides information (to any person) that promotes the availability to rent for transient occupancy purposes, any building in the City of Napa.

"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 the person specifically authorized by an owner to represent and act on behalf of the owner and to act as an operator, manager and contact person of a non-hosted accommodation, and to provide and receive any notices identified in this section on behalf of the owner, applicant, permittee, or authorized agent.

"Bedroom" is as defined by Section 17.06.030 of this Code.

"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, Fire Marshall, City Code Enforcement Officer, City Department Manager (to the extent

responsible for enforcing provisions of this Code), or any other City employee designated by the Director or City Manager to enforce this section.

"Guest" means an invitee of a renter or other person visiting a renter of a vacation rental unit who does not rent the unit.

"Hosted Accommodation" means a vacation rental business for which the owner resides at the vacation rental unit, and the owner sleeps at the vacation rental unit while it is being rented, and no more than two bedrooms are rented for transient occupancy pursuant to this Section.

"Non-hosted Accommodation" means a vacation rental business for which the authorized agent is not required to reside at the vacation rental unit which is rented for transient occupancy pursuant to this Section.

"Owner" means the person holding fee title to the real property that is the subject of a vacation rental permit.

"Permittee" means the person to whom a vacation rental permit is issued pursuant to this Section. To the extent that this Section identifies requirements of a Permit, or obligations of the Permittee, the owner and any identified authorized agent shall be jointly and severally liable as a "responsible person" (see Section 1.16.010).

"Renter" means a person, not an owner, renting or occupying a vacation rental unit in accordance with the terms of this Section.

"Reside," as used in this section, means the "domicile" of a person, as defined by California Elections Code Section 349, which generally means the place in which the person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.

"Transient Occupancy" is as defined by Section 17.06.030 of this Code.

"Vacation Rental" means any transient occupancy use for which the City has issued a vacation rental permit pursuant to this Section. The term "vacation rental" shall be used to include all vacation rental businesses operating pursuant to a "2009 Permit," all "hosted accommodation" vacation rentals, and all "non-hosted accommodation" vacation rentals.

"Vacation Rental Unit" means the structure in which the vacation rental use is permitted to operate, pursuant to a permit issued in accordance with this Section.

- C. The Director shall invite applications for vacation rental permits pursuant to this Subsection 17.52.515(C).

1. The Director shall issue a written notice inviting applications for vacation rental permits in accordance with this Section. Each written notice pursuant to this Subsection shall be published in accordance with California Government Code Sections 6060 and 6061, and the Director shall endeavor to use other reasonably available means of communications such as the City's internet website.
2. Each written notice inviting applications shall identify the date and time which applications must be received by the Director, not less than thirty days after publication of the notice.
3. Each written notice inviting applications shall refer to the permit requirements of this Section. Each application for a vacation rental permit shall include the following information, signed by the owner (and the authorized agent for non-hosted accommodations), documented in a form acceptable to the Director:
  - a. Identify the owner of the real property on which the vacation rental is proposed (include the name, mailing address, email address, and telephone number).
  - b. Identify whether the application is for a hosted accommodation or a non-hosted accommodation.
    - i. If the vacation rental is proposed as a hosted accommodation, provide adequate documentation that establishes the owner will reside at the vacation rental unit.
    - ii. If the vacation rental is proposed as a non-hosted accommodation, identify the owner's authorized agent (include the name, mailing address, email address, and telephone number). An authorized agent must be identified for each non-hosted accommodation; however, the authorized agent may be the owner, or a person other than the owner.
  - c. Identify the number of bedrooms and approximate square footage in the vacation rental unit, and the maximum number of overnight renters under the limitations imposed under Subsection 17.52.515(E)(4)(b). For hosted accommodations, identify the location of each room to be rented as a vacation rental.
  - d. Document that all designated bedrooms meet all local building and safety code requirements.
  - e. Identify the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants.
  - f. Acknowledge that the owner (and authorized agent for non-hosted accommodations) have read all regulations pertaining to the operation of a vacation rental, including this Section, the City's business license requirements (Chapter 5.04 of this Code), the City's transient occupancy tax requirements (Chapter 3.20 of this

- Code), and any additional administrative regulations promulgated by the Director to implement this Section.
- g. Provide a copy of the form rental agreement, rental rules and regulations and any associated materials as required by Subsection 17.52.515(E)(4).
  - h. Provide any other information as the Director deems reasonably necessary to administer this Section, as identified in the notice inviting applications.
  - i. Acknowledge and agree that claims, requests, objections and arguments not timely raised in the vacation rental permit application are and shall be deemed waived.
  - j. Agree 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(E)(1).
  - k. Agree to hold harmless, indemnify and defend the City against claims and litigation arising from the issuance of the vacation rental permit.
  - l. Certify the accuracy of the information submitted and agree to comply with all conditions of the permit.
- D. The Director shall evaluate permit applications, and process the applications for approval, conditional approval, or denial of vacation rental permits, pursuant to this Subsection 17.52.515(D):
1. The number of vacation rental permits issued pursuant to this Section shall not exceed 41 non-hosted accommodations and 60 hosted accommodations.
  2. For all applications that were received by the Director prior to the date and time on which applications were required to be received (pursuant to Subsection 17.52.515(C)(2)), the Director shall randomly select each application, and sequentially number each application in the order selected (the first selected application will be assigned the lowest application number, and the last selected application will be assigned the highest application number). A separate application list and application evaluation and issuance process will be established for: (a) hosted accommodations, and (b) non-hosted accommodations.
  3. Beginning with the application with the lowest application number, and proceeding sequentially with each application thereafter (subject to the numerical limitation on the number of permits that may be issued, as set forth in Subsection 17.52.515(D)(1)), the Director shall select and evaluate each application to determine if the requirements of this Section have been satisfied. The Director shall provide a written notice to the applicant identified on each selected application, and shall identify the date and time on which the following supplemental submittal must be received by the Director, not

less than thirty (30) days after the date of the notice. Each applicant shall provide the following supplemental submittal in a form acceptable to the Director:

- a. Payment of the application and processing fee established by City Council resolution based on the City's estimated reasonable costs to process and review the application materials.
  - b. A public notice mailing label submittal (to notify neighboring property owners, pursuant to Subsection 17.68.070(A)(3).
  - c. If the property that is the subject of the application is within 500 feet of a bed and breakfast inn (permitted in accordance with Section 17.52.060) or a vacation rental (approved or conditionally approved by the Director pursuant to this Section 17.52.515), the applicant shall submit supplemental information that establishes that the applicant will adequately mitigate potential adverse impacts of a concentration of transient occupancies on the character and livability of adjacent residential properties.
  - d. Provide any other information as the Director deems reasonably necessary to establish that the applicant will comply with all requirements of this Section, as identified in the notice.
4. If the Director determines that an applicant has failed to satisfy the application requirements of Subsections 17.52.515(C) or 17.52.515(D), the Director is authorized to provide written notice to the applicant of the determination of denial.
  5. If the Director determines supplemental evidence at a public hearing is warranted in order to determine whether an applicant adequately mitigated potential adverse impacts to the public health, safety, or welfare (e.g., due to concerns raised by neighbors, or to evaluate the impacts of a concentration of uses, under Subsection 17.52.515(D)(3)(c)), the Director shall notice a public hearing of the Planning Commission pursuant to Sections 17.68.070 through 17.68.100 of this Code. The Planning Commission is authorized to deny, approve, or conditionally approve the permit in accordance with the criteria set forth in this Section, particularly incorporating the requirements of Subsections 17.52.515(D)(6) through 17.52.515(D)(8).
  6. If the Director determines that an applicant has satisfied the application requirements of Subsections 17.52.515(C) and 17.52.515(D), and that the owner has borne the burden of proving that the owner will adequately mitigate potential adverse impacts on the public health, safety, and welfare, the Director shall provide written notice to the applicant that the vacation rental permit is conditionally approved, subject to compliance with the conditions identified by the Director in the notice. The notice shall identify the date and time on which the following supplemental submittal must be received by the Director, not less than ten (10) calendar days after the date of the notice.

- a. The applicant shall pay the annual inspection fee established by City Council resolution based on the City's estimated reasonable costs to perform the annual inspections identified in this Section.
  - b. The applicant shall comply, and provide documentation that the owner (and authorized agent for non-hosted accommodations) agree to comply, with all requirements of this Section and the permit, particularly including the rules set forth in Subsection 17.52.515(E)(4).
- 7. Upon the Director's receipt of the documentation of agreement from the applicant (pursuant to Subsection 17.52.515(D)(6)(b)), the Director shall provide written notice to all property owners within 500 feet of the conditional approval of the vacation rental, to include:
  - a. A concise summary of the terms of the permit, including: (i) the maximum number of occupants permitted to stay in the vacation rental unit, (ii) the maximum number of vehicles which are allowed to be parked on the property, (iii) any special conditions or restrictions applied to the vacation rental permit, and (iv) how to obtain a complete copy of the permit and this Section.
  - b. The name of the owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) of the vacation rental, and the telephone numbers at which the owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) may be reached at all times, 24-hours per day.
  - c. The City of Napa Code Enforcement telephone number which members of the public may report violations of the vacation rental permit (including this Section and any conditions of approval).
  - d. The right of an interested person to file an appeal within ten (10) calendar days of the permit approval (pursuant to Section Chapter 17.70 of this Code), or to identify concerns related to a permit extension pursuant to Subsections 17.52.515(H) and 17.52.515(I).
- 8. Each vacation rental permit issued pursuant to this Section shall be effective on the date determined pursuant to the provisions of Section 17.68.110 of this Code. Each vacation rental permit issued pursuant to this Section shall be subject to the appeal procedures set forth in Chapter 17.70 of this Code.
- E. Each vacation rental permit issued pursuant to this Section shall be subject to all of the following requirements:
  - 1. Each vacation rental permit issued under the authority of this Section shall be valid for one year after the effective date, unless approved by the Director for a longer period under the terms of Subsections 17.52.515(H) and (I). Upon expiration or lapse of any vacation rental permit, it shall be of no further force,

validity or effect, and use of the property for transient occupancy purposes shall cease.

2. 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 shall comply with each of the requirements of this Subsection 17.52.515(E)(3). The owner shall permit the Enforcement Officer to conduct an annual inspection of the vacation rental premises to confirm compliance with this Section, and particularly including this Subsection.
  - 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.
4. Each Vacation Rental Permit will be subject to the house rules set forth in this Subsection 17.52.515(E)(4). The permittee shall provide the Director with a copy of the house rules prior to rental of the vacation rental unit, and shall promptly notify the Director in writing identifying any changes to the house rules. Prior to each rental of a vacation rental unit, a copy of the house rules, the rental agreement, and the vacation rental permit shall be posted in a

prominent location inside the vacation rental unit, including, at a minimum, the following:

- a. As part of the application for rental, the prospective renter shall sign an agreement acknowledging the house rules and promising to comply with them.
- b. The permittee shall 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 vacation rental unit. Each bedroom that is a part of the vacation rental use 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 vacation rental unit.
- c. The permittee 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.
- d. The permittee 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 per this Code.
- e. 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.
- f. The permittee 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 this 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.
- g. Quiet times shall be 9PM to 7AM Sunday through Thursday evenings and 10PM to 7AM Friday and Saturday evenings.
- h. The permittee 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; provided, however, that the City does not intend to authorize, and the City does not authorize, the permittee to act as a peace officer or place himself or herself in harm's way.

- i. The permittee shall, upon notification that renters and/or guests of his or her vacation rental have violated any house rules (including any unreasonable noise or disturbances, disorderly conduct, or violations of this Code or state law) promptly act to stop the violation and prevent a recurrence of the violation.
  - j. 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 Subsection 17.52.515 (E)(4)(g).
  - k. Exterior lighting shall also be adequately shielded from adjacent properties to minimize light pollution impacts in accordance with Subsection 17.08.040(l) of this Code.
  - l. It is prohibited to use the vacation rental unit for any wedding, auction, commercial function, or other similar event that is inconsistent with the use of the property for transient occupancy in a residential neighborhood.
  - m. Pets may be permitted by vacation rental business owner, however the pet must be attended to at all times and must have current vaccinations.
5. Each written advertisement (whether paper or electronic form) for a vacation rental use shall include the "City of Napa Certified Vacation Rental" permit number as part of the rental offering. No person shall advertise the use of a building in a residential or non-residential zoning district of the City for a transient occupancy use unless: (a) the use is a hotel use in a non-residential zoning district approved by the City pursuant to Title 17, or (b) the use has a use permit for a bed and breakfast inn pursuant to Section 17.52.060 of this Chapter, or (c) the City has approved a vacation rental permit pursuant to this Section.
6. For each vacation rental use:
- a. The owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) must be available by telephone at all times when the vacation rental is rented, 24-hours per day.
  - b. The owner (for a hosted accommodation) and the authorized agent (for a non-hosted accommodation) must be on the premises of the vacation rental unit within one hour of being notified (by a renter, or by the Director or Enforcement Officer) that there is a need for the owner (for a hosted accommodation) or the authorized agent (for a non-hosted accommodation) to address an issue of permit compliance or the health, safety, or welfare of the public or the renter.
  - c. Only one rental agreement per vacation rental unit shall be in effect at any one time.

- d. It is a violation of this Section for any accessory second unit (as defined by Section 17.52.020 of this Code) to be used for transient occupancy purposes.
  - 7. For each hosted accommodation:
    - a. The owner must reside at the vacation rental unit, and the owner must sleep at the vacation rental unit while it is being rented.
    - b. The owner must reside and sleep in a bedroom that is not rented to any renter.
    - c. No more than two bedrooms may be rented for transient occupancy uses.
- F. Each vacation rental permit issued in accordance with this Section shall be personal to the owner to whom the permit is issued (hereinafter "Permitted Owner"), and no person shall transfer, or attempt to transfer, the permit to any other person, unless the transfer is made in accordance with this Subsection 17.52.515(F). Any attempt to transfer a vacation rental permit, or use a transferred vacation rental permit, that is not transferred in accordance with this Subsection shall be void, and shall constitute a violation of this Code.
- 1. A Hosted Accommodation Vacation Rental Permit shall not be transferred by any person.
  - 2. A Non-Hosted Accommodation Vacation Rental Permit may be transferred by the permitted owner to a purchaser of the real property on which the permitted vacation rental unit is located, subject to the conditions set forth in this Subsection 17.52.515(F)(2). No purchaser shall operate a vacation rental use under the permitted owner's vacation rental permit until after the Director has approved the transfer of the permit in accordance with this Subsection.
    - a. Prior to the expiration of the permit, the permitted owner shall submit to the Director a written notice of intent to transfer the permit to the purchaser.
    - b. Prior to the expiration of the permit, the purchaser shall submit to the Director all submittals and fee payments required pursuant to Subsections 17.52.515(C)(3) and 17.52.515(D)(3).
    - c. The Director shall evaluate and process the purchaser's application for approval, conditional approval, or denial, in accordance with the criteria set forth in Subsections 17.52.515(D)(4) through 17.52.515(D)(8).
- G. On or before January 1, 2017, and at least once per calendar year thereafter, the Director shall establish and update, in writing, a waiting list of applicants for a vacation rental permit, and a list of available permits (one set for hosted accommodations, and one set for non-hosted accommodations).

1. Applicants included on the waiting list will include each application selected pursuant to Subsection 17.52.515(D)(2) for which: (a) a permit was not issued, and (b) the application was not denied pursuant to Subsection 17.52.515(D)(4). The order of applicants on the initial waiting list shall be as set forth in Subsection 17.52.515(D)(2).
  2. The list of available permits shall identify the number of permits that are unissued or no longer in effect (based on expiration, termination, or lapse).
  3. To the extent there are one or more permits identified on the list of available permits, the Director is authorized to evaluate permit applications, and process the applications for approval, conditional approval, or denial, in accordance with Subsection 17.52.515(D).
  4. If the Director determines that additional applications are warranted (based on a comparison of the number of applicants on the waiting list to the list of available permits), the Director shall issue a written notice inviting applications for vacation rental permits, which shall be published and processed in accordance with Subsections 17.52.515(C) and 17.52.515(D). Any applicants selected by the Director in accordance with this Subsections 17.52.515(G)(4) and 17.52.515(D)(2) shall be added to the waiting list beginning with a number higher than the highest number on the waiting list.
- H. Each vacation rental permit issued pursuant to this Section shall be subject to an annual permit review. No later than one year after the effective date of the permit, and no earlier than 275 days after the effective date of the permit, the owner shall submit to the Director the annual inspection fee along with all of the information set forth in this Subsection 17.52.515(H), documented in a form acceptable to the Director. For the purpose of this Subsection, "effective date" is as defined by Subsections 17.52.515(D)(8) and 17.52.515(I); and the first "effective date" of each 2009 Permit shall be April 1, 2016, unless otherwise specifically documented on the 2009 Permit.
1. The owner shall pay the annual inspection fee established by City Council resolution based on the City's estimated reasonable costs to perform the annual inspections identified in this Section. The owner shall document compliance with the requirements of Subsection 17.52.515(E)(3).
  2. The owner shall document compliance with all requirements of the Business License Ordinance (Chapter 5.04 of this Code).
  3. The owner shall document compliance with all requirements of the Transient Occupancy Tax Ordinance (Chapter 3.20, particularly Section 3.20.060, of this Code). The owner shall also document each date on which the vacation rental was rented during the previous term of the permit. If the owner fails to document rentals of at least ten days during the permit term, the Director may

determine that the permit is inactive and ineligible for approval of an extended term.

4. The owner shall identify any notice of violation or concern (including any compliance order or citation issued by the City, or any concern or complaint identified by a neighbor) issued for the vacation rental use during the permit term, and shall document how the violation or concern has been addressed. If the Director determines that any past violation or concern has not been adequately addressed, or that a history of past violations is detrimental to the public health, safety, or welfare, the Director may determine that the permit is ineligible for approval of an extended term.
  5. The owner shall document that written notice was provided to property owners within 500 feet of the vacation rental unit, with the information required by Subsection 17.52.515(D)(7).
- I. Following an annual permit review (pursuant to Subsection 17.52.515(H)):
1. If the Director determines that the permittee is in compliance with all requirements of this Section and the permit, the Director shall provide written notice to the permittee that the permit term is extended for one year, and the notice shall identify the newly established "effective date" of the permit.
  2. If the Director determines that the permittee has failed to comply with this Section or the permit, the Director shall either: (a) notice a public hearing of the Planning Commission pursuant to the criteria of Subsection 17.52.515(D)(5), or (b) provide written notice to the permittee that the term of the permit is expired.
  3. Upon expiration of any vacation rental permit, it shall be of no further force, validity or effect, and use of the property for transient occupancy purposes shall cease.
- J. At any time during the term of a vacation rental permit, the Director is authorized to initiate proceedings to revoke or modify the permit (or pursue any other remedy set forth in Title 1 of this Code), if the Director determines in his or her discretion that: (i) a vacation rental use is detrimental to the public health, safety, or welfare; (ii) the permittee has provided materially false or misleading information in any submittal required under this Section; or (iii) the permittee is in violation of, or has failed to comply with, any requirements of this Section or the permit. In the event that the Director determines that any of the conditions described above exists, the Director is authorized to issue a compliance order in accordance with the procedures set forth in Section 1.24.040 of this Code. If the permittee fails to cure the violations identified in the order within the time frame specified in the compliance order (which cure may include the Director's approval

of a modification to the terms or conditions of the permit), the Director or the Enforcement Officer may either:

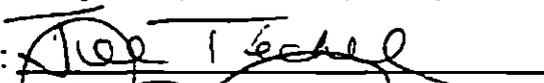
1. Pursue any of the remedies set forth in Chapter 17.72 of this Code; including, but not limited to, issuance of a stop order under Section 17.72.060, or notice a public hearing of the Planning Commission to consider a revocation or modification of the permit under Section 17.72.070.
  2. Pursue any of the remedies set forth in Chapter 1.16 of this Code, including, but not limited to, issuance of an administrative citation in accordance with Chapter 1.24 and Subsection 17.52.515(K).
- K. 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 residential or non-residential zoning district unless: (a) the use is in compliance with a hotel use in a non-residential zoning district approved by the City pursuant to Title 17, or (b) the use is in compliance with a vacation rental permit pursuant to this Section, or (c) the use is in compliance with a use permit for a bed and breakfast inn pursuant to Section 17.52.060 of this Code. In addition to the fines and enforcement costs set forth in Section 1.16.050 of this Code, and notwithstanding the limitations of Section 1.24.060 of this Code, the amount of the fine imposed for each violation of this Section 17.52.515 shall be:
1. \$500 for a first violation,
  2. \$750 for a second violation of the same code section within 12 months, and
  3. \$1,000 for each day of each additional violation of the same code section within 12 months.
- L. Any determination made by the City pursuant to this Section shall be final unless appealed pursuant to the requirements of this Subsection 17.52.515(L).
1. Any determination by the Director or the Planning Commission to: approve, conditionally approve, or deny a permit application (pursuant to Subsection 17.52.515(D)), to transfer a permit to a purchaser (pursuant to Subsection 17.52.515(F), to extend the term of a permit or to determine that a permit has expired following an annual review (pursuant to Subsections 17.52.515(H) and (I)), or to modify or revoke a permit (pursuant to Subsection 17.52.515(J)) may be appealed only in accordance with the requirements of Chapter 17.70 of this Code.
  2. Any enforcement action taken by the Director or the Enforcement Officer pursuant to Subsections 17.52.515(J)(2) or 17.52.515(K) may be appealed only by requesting an administrative hearing in accordance with the requirements of Sections 1.24.070 through 1.24.090 of this Code.
  3. Failure to timely appeal in the manner required by this Subsection 17.52.515(L) shall constitute a waiver of the appeal and a failure to exhaust

administrative remedies, and shall preclude any and all relief and claims arising in connection with the determination by the City pursuant to this Section."

**SECTION 6: 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, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 7: Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

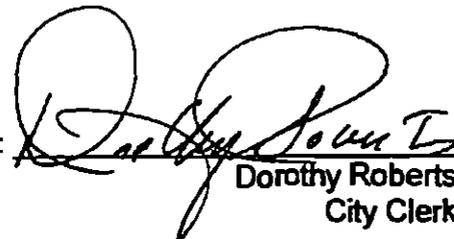
MAYOR: 

ATTEST:   
CITY CLERK OF THE CITY OF NAPA

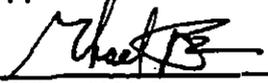
STATE OF CALIFORNIA }  
COUNTY OF NAPA } SS:  
CITY OF NAPA }

I, Dorothy Roberts, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 20th day of October, 2015, and had its second reading and was adopted and passed during the public meeting of the City Council on the 3rd day of November, 2015, by the following vote:

AYES: Sedgley, Techel  
NOES: Luros  
ABSENT: Mott  
RECUSE: Inman  
ABSTAIN: None

ATTEST:   
Dorothy Roberts  
City Clerk

Approved as to Form:

  
Michael W. Barrett  
City Attorney