

## Title 5

### BUSINESS TAXES, LICENSES, AND REGULATION

#### Chapter 5.26 *Short-Term Residential Rentals*

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#### **5.26.010 Definitions.**

The following words and phrases, whenever used in this chapter, shall have the meaning defined in this section unless the context clearly requires otherwise:

**“Advertise”** means the act of drawing the public’s attention to a short-term rental in order to promote the availability of the residence for use as a short-term rental. Said advertising may be found in any medium, including, but not limited to, newspaper, magazine, brochure, website, social media, or any other internet application.

**“Booking service”** means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between an owner and a prospective occupant, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction.

**“City”** means the city of La Habra.

**“Code”** means the La Habra Municipal Code.

**“Director”** means the Director of Community and Economic Development, or designee.

**“Good Neighbor Brochure”** means a document prepared by the city, as may be revised from time to time, that summarizes the general rules of conduct, consideration and respect pertaining to the use and occupancy of the short-term rental units.

**“Hosting platform”** means a person or entity that participates in the short-term rental business by providing, and collecting or receiving a fee for, booking services through which an owner may offer premises for an occupant on a short-term basis. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the premises through a website provided by the hosting platform and the hosting platform conducts a transaction by which potential occupants arrange their use and their payment, whether the would-be occupant pays rent directly to the owner or to the hosting platform. Hosting platform also means a marketplace that is created for the primary purpose of facilitating the short-term rental of a residential unit offered for occupancy for tourist or transient use for compensation to the offeror of that unit, and the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining that marketplace. “Facilitating” includes, but is not limited to, the act of allowing the offeror of the residential unit to offer or advertise the residential unit on the Internet website provided or maintained by the operator.

**“Local contact person”** means the person designated by the owner, or owner’s authorized agent, who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (1) responding within one (1) hour to complaints regarding the condition, operation, or conduct of occupants of the short-term residential rental unit; and (2) taking any remedial action necessary to resolve any such complaints.

**“Managing agency or agent”** means a person, firm, or agency representing the owner of the short-term residential rental, or a person, firm, or agency owning or operating more than one (1) short-term residential rental.

**“Multiple rentals”** means the ownership or controlling interest of any number of real properties in excess of one residential property in the city used for purposes of short-term residential rentals as defined in this chapter.

**“Occupant”** means any individual person living, sleeping or possessing a building, or portion thereof. A person is not required to be paying rent, providing in-kind services, or name in any lease, contract or other legal document to be considered an occupant.

**“Operating Permit”** means the permit required by this Chapter 5.26 to operate any short-term residential rental.

**“Owner”** means any person or entity having fee-title ownership and/or appearing on the last equalized assessment roll of Orange County showing controlling interest of the premises.

**“Owner’s authorized agent,” or “manager,” or “managing agency”** means an individual or business

entity, or their representative, appointed by an owner to solicit applications, execute agreements, or otherwise act on owner's behalf in the rental of property as a short-term residential rental.

**"Parties"** means the social gathering of persons in excess what is permitted by the operating permit for the property.

**"Premises"** means the actual single-family house or other residential dwelling unit, including all of its improved real property, which is used as a short-term residential rental.

**"Responsible person"** means the signatory of a short-term rental agreement for the use and occupancy of a short-term rental unit, who shall be an occupant of the subject short-term rental unit, and is legally responsible for ensuring that all occupants of the short-term rental unit, and/or their guests, comply with all applicable laws, rules and regulations pertaining to the use and occupancy of subject short-term rental unit, and who may be held liable for any violation of all applicable laws, rules and regulations set forth in this chapter.

**"Short-term residential rental"** means the rental of a residential dwelling unit by the owner thereof to another party for a continuous period of thirty (30) days or less, in exchange for any form of monetary or non-monetary consideration such as, but not limited to, trade, fee, swap or any other in lieu of cash payment; and also means "hotel" as that term is defined in Section 18.04.030 of the Code.

#### **5.26.020 Operating Permit is Required**

- A. An operating permit is required for the operation of all short-term residential rentals. No person or entity, including, without limitation, the owner of a premises and managing agency or agent, may engage in the business of short-term residential rentals without first obtaining and maintaining an operating permit for each property to be used as a short-term residential rental.
- B. An operating permit is valid for 12 months from the date of the original approval. Renewal shall be subject to the provisions of section 5.26.40.
- C. Failure to obtain and maintain an operating permit or continuing to operate a short-term residential rental business after suspension or revocation of an operating permit, knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring an operating permit for short-term residential rentals shall constitute a violation of this chapter. In addition to all other available remedies, an action against an owner or any permittee of a short-term residential operating permit who is in violation of any of the provisions of this section may be brought pursuant to Section 5.26.150.

#### **5.26.030 Locations and conditions of operations of short-term residential rentals.**

- A. Pursuant to this chapter and any other applicable provisions of this code, short term residential rentals are permitted only in those zones identified in Chapter 18.08.140.

- B. No operating permit shall be issued or renewed if any portion of the parcel upon which the short-term residential unit is proposed to be located is within 300 feet of any portion of a parcel upon which there is an existing short term residential unit.
- C. Multiple rentals under one short-term residential rental permit are prohibited. Each short-term residential rental requires an operating permit and business license.
- D. No operating permit may be issued or renewed if it would violate any otherwise applicable rule. For example, no permit may be issued if it would violate a condition of approval, or an applicable development agreement.
- E. No operating permit may be issued or renewed if the owner has any properties in the city which are currently subject to a suspended operating permit.
- F. No operating permit may be issued or renewed if the owner has any properties in the city for which an operating permit has been revoked in the last 24 months.

#### **5.26.040 Application**

- A. Anyone wishing to receive or renew an operating permit shall apply on the form prepared by the Director, along with a registration and inspection fee in the amount set by resolution of the La Habra City Council; and provide the following information:
  - (1) Full legal name of the owner of the premises. If the owner is a business entity or trust, provide the name of the individual who has responsibility to oversee its ownership of the premises; and
  - (2) Street and mailing addresses of the owner of the premises; and
  - (3) Telephone number of the owner of the premises; and
  - (4) Email address of the owner of the premises; and
  - (5) Full legal name or business name of a managing agency or agent, if any; and
  - (6) Street and mailing addresses of a managing agency or agent, if any; and
  - (7) Telephone number of a managing agency or agent, if any; and
  - (8) Street and mailing addresses of the short-term residential rental premises; and
  - (9) List of all online websites used to advertise premises for short-term residential rental along with all listing numbers; and
  - (10) Full name and telephone number of 24-hour emergency of the local contact person as described in section 5.26.010; and
  - (11) Proof of insurance.
  - (12) Statement that the owner shall consent to inspection by the city upon request to verify compliance with the city's short-term residential rental requirements.
  - (13) Any other contact information the city may reasonably require.

- B. The owner or managing agency or agent shall also provide a copy of their rental agreement which includes language allowing for immediate termination of the rental contract, and immediate eviction upon any violation of this code by any occupant.
- C. The responsible person shall sign a waiver acknowledging their understanding of all La Habra short-term residential rental rules and their liability for any fines incurred by occupants.
- D. If the Director of Community and Economic Development determines that the application complies with all legal requirements, an on-site inspection of the premises will be required for review of compliance with the requirements of this chapter and applicable and all applicable building and safety codes .
- E. If, after the inspection, the City finds the premises to be in compliance with all applicable legal requirements, the city will issue an operating permit to the owner of the premises.

#### **5.26.050 Owner Responsibility/Local Contact Person**

- A. The property owner shall register with the Director, as the point of contact for the short-term residential rental premises and shall be responsible for all requirements of this chapter. However, such registration is deemed satisfied if accomplished by a managing agency or agent on behalf of the property owner. The owner of the premises shall retain primary responsibility for all requirements of this code related to short-term residential rentals, notwithstanding registration by a managing agency or agent. There shall be no subleasing of any premises for short-term residential rental purposes; instead, only a rental agreement executed by the owner shall be permitted for any premises when used for short-term residential rentals. Either the owner of the premises or a managing agency or agent shall provide all of the following information to the city at the time of registration, and shall promptly upon change of any such information update such information to maintain accuracy .
- B. For each short-term residential rental, a local contact person shall be available by telephone on a seven (7) day per week, twenty-four (24) hour per day basis to respond to public safety calls, nuisances, or other complaints regarding the use, condition, operation, or conduct of occupants on the premises. The local contact person shall respond within one (1) hour to satisfactorily correct any alleged nuisance or violation of this chapter by occupants occurring at the premises. If the local contact person does not respond within one (1) hour or does not satisfactorily correct the alleged nuisance or violation pertaining to the call, the owner shall be subject to citation pursuant to Section 5.26.170 of this code.
- C. The local contact person, shall be physically present within the geographical limits of the city during the term of the short-term residential rental or be otherwise physically available to respond by visiting the premises in person, at the request of the city or the city's police authority, within one (1) hour of contact concerning any alleged nuisance or violation of this chapter.

### **5.26.060 Notice to occupants**

- A. The owner or managing agency or agent shall provide the responsible person of a short-term residential rental with the following information prior to occupancy of the premises and shall post such information in a conspicuous place within the dwelling on the premises (such as at eye level on the inside of the door of the main entrance):
- (1) The name of the owner or managing agency or agent and a telephone number at which each may be reached on a seven (7) day per week, twenty-four (24) hour per day basis; and
  - (2) Notification of the maximum number of overnight and daytime occupants permitted on the premises pursuant to this chapter; and
  - (3) Notification of the city's noise standards, as provided in Chapter 9.32 of this code, as may be amended from time to time; and
  - (4) Notification of the parking standards of this chapter and overnight parking restrictions; and
  - (5) Notification of trash pick-up days and street sweeping days; and
  - (6) A copy of this chapter of the Code, as it may be amended from time to time; and
  - (7) Notification that an occupant may be cited or fined by the city, in addition to any other remedies available at law, for violating any provisions of this chapter; and
  - (8) A copy of the "Good Neighbor Brochure;"
- B. The owner or managing agency or agent shall keep on file a signed agreement acknowledging that the responsible person and occupants agree to the general rules summarized in the Good Neighbor Brochure and rental contract, including without limitation, the immediate termination provision in the rental contract for any violation of the municipal code by any occupant.
- C. A Good Neighbor Brochure shall be displayed and/or placed in a conspicuous location within the premises at all times of the short-term residential rental business operation. In addition, each responsible person for the premises shall be provided with a copy of the city's Good Neighbor Brochure by the owner or managing agency or agent.

### **5.26.070 Signs—Advertisement**

- A. No sign, as that term is defined in Section 15.40.010 of this code, shall be posted on the premises to advertise the availability of the short-term residential rental unit to the public. All advertisement, including online advertisement, shall include the following information:
- (1) The assigned short-term residential rental permit number;

- (2) The number of occupants allowed to occupy the short-term residential rental;
- (3) Any sign or advertisement in violation of this chapter shall be subject to a citation pursuant to Section 5.26.150 of this chapter.

- B. No owner, managing agent, person, entity, responsible party, or hosting platform shall advertise a short-term residential rental situated within the city that is not licensed pursuant to this chapter. All hosting platforms shall provide the following information in a notice to any owner listing a short-term rental located within the city of La Habra through the hosting platform's service. The notice shall be provided prior to the owner listing the premises and shall include the following information:

THE "SHORT-TERM RESIDENTIAL RENTALS" CHAPTER OF THE LA HABRA MUNICIPAL CODE PROHIBITS THE SHORT-TERM RENTAL OF RESIDENTIAL PREMISES WITHIN THE CITY OF LA HABRA UNLESS THE CITY HAS ISSUED BOTH A BUSINESS LICENSE AND AN OPERATING PERMIT.

The operating permit license number assigned by the city to a short-term residential rental must be displayed on any hosting platform's website where said short-term rental is advertised. Each short-term residential rental shall have a unique operating permit number.

#### **5.26.080 Noise**

- A. It is unlawful for any owner, occupant, renter, lessee, person present upon, or person having charge or possession of the premises to make or continue or cause to be made or continued any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area, or violates any provision of Chapter 9.32 (Noise) of this code.
- B. No amplified sound which is readily discernable from any neighboring property or from the right of way may be used on the premises between 10p.m. and 8 a.m.

#### **5.26.090 Occupancy**

The maximum occupancy on the premises of the short-term residential rental shall not exceed two (2) persons per bedroom with an exception for children under the age of six (6) who may additionally occupy the premises, and no additional occupants shall be permitted on the premises during such hours. In any advertising concerning the premises for short-term residential rental, the owner or managing agency or agent shall advertise the maximum number of occupants allowed as set forth above.

#### **5.26.100 Maintenance of residential character**

- A. The appearance of the premises shall not conflict with the residential character of the neighborhood, either by the use of colors, materials, lighting, landscaping, window coverings or otherwise. All applicable development, design, and landscaping standards, including, but not limited to, Title 18 of this code, are expressly made applicable to a premise used for short-term residential rentals.

- B. Trash and refuse shall be stored outside of public view, except in proper trash containers for the purpose of collection of the trash haulers during the day the trash is collected.
- C. Occupants shall not utilize any vehicle (or RV), tent, or other portable structure for a dwelling unit on the grounds of the premises.
- D. Premises may only be used for residential lodging and shall not be used for weddings, receptions, commercial functions, advertised conferences, parties, or similar purposes. The condition of the premises shall comply with all applicable fire, building and other health and safety laws, including all required building and fire permits. For example, garages may not be used for sleeping purposes.
- E. Pools and spas may not be utilized between the hours of 10 p.m. and 8 a.m.

#### **5.26.110 Minimum duration of rental**

The duration of any lease or rental of premises as a short-term residential rental shall be for a minimum of one (1) night and two (2) consecutive days during which time there shall be no overlapping leases or rental of the premises. In any advertising concerning the availability of the premises for short-term residential rental, the owner or managing agency or agent shall advertise the minimum number of rental nights and days set forth in this subsection.

#### **5.26.120 Parking**

During the term of any short-term residential rental, a maximum of one (1) vehicle per bedroom in the short-term residential rental shall be permitted for the premises, and no additional vehicles shall be permitted. All vehicles of occupants of the short-term residential rental shall be parked only in an approved driveway or garage on the premises. Overnight on street parking is prohibited.

#### **5.26.130 Violation—Nuisance—Applicability**

It is a public nuisance for any person or entity owning, renting, leasing, occupying, or having charge, control or possession of any real or improved property within the city to cause, permit, maintain, or allow any violation of this chapter to exist thereon. Any violation of this chapter is punishable as a misdemeanor (See Section 1.08.010), as an infraction (See Section 1.08.020), pursuant to Chapter 1.20 (“Administrative Citations”), or as otherwise authorized by the Code. Each and every violation of this chapter that exists constitutes a separate and distinct violation as does each and every day, or portion thereof that any violation exists.

#### **5.26.140 Suspension / Revocation of Operating Permit**

- A. Director Suspension Without Hearing. The director shall immediately suspend the operating permit if the director determines that there have been three or more violations of this chapter pertaining to any combination of premises owned by the owner or managed by the owner’s managing agency or agent within the city within any twelve (12) month period. The premises may not be used as a short-

term residential property if the permit has been suspended. The permit shall be suspended for the shorter to occur of (a) 6 months; (b) the issuance of a final, non-appealable decision of whether to revoke the operating permit; or (c) the director lifts the suspension pursuant to subsection B.4 of this section 5.26.140.

- B. Director Revocation Hearing. Upon the suspension of the operating permit, the director shall set the date of a hearing on whether to revoke the permit.
1. Notice. Notice of the revocation hearing shall be mailed to the owner at least 10 days prior to the hearing. Such notice shall also be placed in the U.S. mail to each owner of property (as shown on the most recent equalized assessment roll) within 300 feet of the subject property. The notice shall state the time, place, and subject matter of the hearing, and the manner in which comments may be provided.
  2. Hearing. The director shall hear all evidence presented and determine whether the licensee or his or her agent or employee has violated, or failed to fulfill, three or more requirements of the Municipal Code, or the same requirement on three or more separate occasions, or a combination thereof (e.g., one violation twice, and a different violation once).
  3. Standard of Review. Thereafter, if the director determines that there have been three or more "separate" violations of the code, the director shall revoke the operating permit. Violations are "separate" for these purposes if either (a) they occurred more than 24 hours apart from a similar violation; or (b) different facts may be used to establish each violation of the code.
  4. Effect of decision to deny. If the director determines that the operating permit should not be revoked, then any applicable suspension of the permit shall be immediately lifted, even if an appeal of the decision is timely filed.
  5. Written decision. The director shall issue a written decision detailing the grounds for the determination of whether the operating permit should be revoked and/or the suspension lifted. Any revocation shall be effective on the 11th day following the director issuing written notice of the decision to the owner, unless the decision is appealed pursuant to section 5.26.150, in which case the date of the revocation, if any, shall be controlled by 5.26.150.

### **5.26.150 Appeals**

- A. Right to appeal. If the director denies an application for an operating permit, or if the director suspends a permit, or issues a decision on revocation pursuant to 5.25.140.B on an operating permit, then the aggrieved party may, within ten (10) days following such decision, appeal such decision to the planning commission and the planning commission shall determine whether to affirm, reverse, or modify the decision. The appeal shall only be heard if the appellant has timely paid the required appeal fee; the city council may set the amount of the appeal fee by resolution. If the director has suspended an operating permit, and has not rescinded the suspension pursuant to section 5.26.140.B.4, then such suspension shall continue in effect until the appeal is decided.
- B. Notice of Planning Commission Hearing. At least ten (10) days prior to the Planning Commission's meeting to consider an appeal, the city shall send, by United States mail, written notice to the appellant and to the applicant or operating permit holder of the time and place at which the planning commission will consider the application, suspension or revocation. Notice of the appeal shall also be placed in the U.S. mail to each owner of property (as shown on the most recent

equalized assessment roll) within 300 feet of the subject property. The notice shall state the time and place of the hearing, and the manner in which comments may be provided.

- C. Planning Commission Hearing. The Planning Commission shall provide the applicant and all interested persons an opportunity to be heard prior to the Planning Commission decision being made. The Planning Commission shall evaluate the appeal de novo. The Planning Commission shall make its determination based upon the same standards that applied to the Director's determination.
- D. Post Planning Commission decision. The Planning Commission shall issue its determination in the form of a resolution. The Planning Commission's determination on the resolution be immediately effective and final. The Planning Commission Secretary shall notify the applicant or licensee, as applicable, in writing of the decision of the Planning Commission.

#### **5.26.150 Hosting Platforms - Unlawful rentals**

Hosting platforms are prohibited from facilitating the short-term residential rental of unlicensed and illegal businesses. Hosting platforms shall not process or facilitate transactions for properties that are not licensed and permitted by the City. Hosting platforms shall not facilitate the evading of relevant taxes and regulations by any short-term residential rental. No person may advertise short-term residential rentals located in the city if such rentals are unlicensed.