

## Chapter 20.71 SHORT-TERM RENTALS

### 20.71.010 Intent and Purpose

- A. The purpose of this chapter is to establish a short-term rental pilot program containing regulations for the use of privately-owned residential dwellings as Short-Term Rentals (STR), minimize the secondary impacts of such uses on surrounding residential neighborhoods, and to ensure the collection and payment of applicable transient occupancy taxes.
- B. This chapter does not provide any owner of a residential property with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.
- C. The City reserves the right to change the regulations provided in this chapter at any time, including discontinuing the issuance of short-term rental unit permits, notwithstanding any impacts to existing or future short-term permit holders. Anyone accepting a short-term rental permit pursuant to this chapter acknowledges and accepts that possibility.
- D. The program shall commence following the effective date of the short-term rental ordinance and shall expire on December 31, 2029, unless otherwise extended and/or modified by the City Council by amending this ordinance.

### 20.71.020 DEFINITIONS

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates a different meaning or construction.

**APPLICANT.** The property owner applying for a new or renewal short-term rental permit.

**ACCESSORY DWELLING UNIT.** Same definitions specified in [Section 20.00.070.B](#).

**ACCESSORY DWELLING UNIT, JUNIOR.** Also referred to as "Junior Accessory Dwelling Unit" in this chapter. Same definitions specified in [Section 20.00.070.B](#).

**CONTRACT.** An agreement or evidence of any tenancy that allows or provides for the short-term rental of a property.

**GOOD NEIGHBOR POLICY.** 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 short-term rentals.

**HOSTING PLATFORM.** An individual or entity that facilitates short-term rental bookings in exchange for a fee or other compensation, either directly or indirectly, by

conducting transactions through various means. Examples include, but not limited to, Airbnb and VRBO.

**LOCAL CONTACT PERSON.** A person designated by the owner or the owner's authorized agent or representative who is a resident of Brea and is available twenty-four (24) hours per day, seven days per week for the purpose of: (1) responding in person within thirty (30) minutes to complaints regarding the condition, operation or conduct of occupants of the short-term rental unit; and (2) taking remedial action to resolve any such complaints. A designated local contact person must obtain a business license required by Sections [5.00.030](#) and [5.04.010](#) of the Brea City Code.

**MANAGING AGENCY OR AGENT.** A person, firm, or agency representing the owner of the short-term rental unit, or a person, firm, or agency owning or operating more than one (1) short-term rental.

**MULTI-FAMILY RENTAL HOUSING.** A complex, structure, or a portion of a structure zoned, used, and/or designated as rental dwellings that includes two (2) or more independent dwelling units. This includes, but is not limited to duplexes, triplexes, apartments, and townhouses.

**OCCUPANT.** Any person(s) occupying the short-term rental unit at any time.

**OWNER.** A person(s), corporation(s) or other legal entity(ies) that hold(s) record legal and/or equitable title to the property used as a short-term rental.

**PROPERTY.** A residential legal lot of record on which a short-term rental unit is located.

**RESIDENTIAL DWELLING UNIT.** A residential unit , such as a single-family unit, multi-family rental housing, including a duplex, triplex, or condominium.

**RESPONSIBLE PERSON.** An occupant of a short-term rental who is at least twenty-five (25) years of age and who is legally responsible for compliance of all occupants of the unit and/or their guests with all provisions of this Chapter and the Brea City Code.

**SHORT-TERM RENTAL.** A privately-owned residential dwelling unit, or portion thereof unless otherwise prohibited, that is offered or provided to a guest by an owner for thirty consecutive nights or less. The term, "short-term rental", shall not include hotels, motels, inns, timeshares, or bed and breakfasts.

**SHORT-TERM RENTAL PERMIT or PERMIT.** A permit, with a permit number, issued by the City to allow short-term rental units.

**TRANSIENT OCCUPANCY TAX.** The tax levied by the City pursuant to [Chapter 3.16](#) of the Brea City Code.

## 20.71.030 AUTHORIZED AGENT OR REPRESENTATIVE

- A. An Owner may authorize an agent or representative to comply with the requirements of this chapter on behalf of the owner ("owner's Agent"), unless the requirement is to be fulfilled solely by the owner. Notwithstanding, the owner shall

not be relieved from any personal liability for noncompliance with any provisions of this Chapter or with any applicable laws, rule and regulation pertaining to the use and occupancy of the subject short-term rental, regardless of whether such noncompliance was committed by the owner's agent or the occupants of the owner's short-term rental or their guests. Failure of an owner's agent to comply with this Chapter shall be deemed non-compliance by the owner.

#### 20.71.040 PERMIT REQUIREMENT

- A. No person shall operate a short-term rental unless a permit has been obtained in accordance with this chapter.
- B. A permit obtained under this chapter does not constitute a vested right, shall not run with the land, and shall be personal and limited to the owner listed on the application.
- C. Any permit issued pursuant to this chapter shall be valid for a period of one (1) year from the date of issuance and shall be subject to annual renewal for the duration of the pilot program, which requires submittal of a renewal permit to the City.
- D. The short-term rental permit application and annual renewal application shall be accompanied by an application fee in the amount established by resolution of the City Council.
- E. Eligibility Requirements. The following requirements must be met at the time of short-term rental application submittal:
  1. The applicant shall not be a lessee or a sub-lessee. All applications submitted shall be submitted by the owner of the residential dwelling unit or the owner's agent.
  2. The following types of dwelling units are prohibited to be used as a short-term rental unit:
    - i. Accessory dwelling units and junior accessory dwelling units
    - ii. Mobile home, house trailer on a residential lot, or within a mobile home
    - iii. Recreational vehicles
    - iv. Housing units within the affordable housing program
  3. No owner shall be granted a permit for more than one short-term rental within the City.
  4. There shall only be one short-term rental permit issued per property except in multi-family single lot subdivisions (i.e. apartments, condominiums or townhomes) the number of short-term rental permits allowed shall be as follows in Table 20.71.040.C.1:

Table 20.71.040.C.1 SHORT-TERM RENTAL PERMIT ISSUANCE	
Number of Units Per Property	Maximum Number of Short-Term Rental Permits
Up to 3	1
4 or more	3

5. The dwelling unit or property used as a short-term rental property shall not be the subject of any active or pending code enforcement actions or violations pursuant to the City's Municipal Code, including, but not limited to, zoning, building, and fire codes.

F. Application for Permit. The owner shall submit the following information and/or documents as part of their application or renewal application for a short-term rental:

1. The name, address, and telephone number of the owner of the short-term rental and the local contact person.
2. A copy of the owner's current state issued driver's license or identification card.
3. The address of the short-term rental property, including a diagram identifying the location of the short-term rental structure and the location of the required parking.
4. The number of bedrooms and the applicable occupancy limit of the short-term rental.
5. A photo of the short-term rental structure to allow the City to visually identify the unit.
6. Signed acknowledgment form confirming that City staff shall conduct building, fire, and safety inspection to verify compliance with the operational requirements of this chapter. Permit approval shall be contingent upon passing the inspection.
7. The uniform resource locator (URL) (i.e. website address) for any and all anticipated advertisements of the short-term rental of the property.
8. An executed document, approved as to form by the City Attorney, by which the Applicant agrees to indemnify and hold harmless the City, its officers, employees and agents from any claim, demand, or judgment in favor of any person, arising out of activities or inactivity of the Applicant with respect to the operations of the short-term rental.
9. A completed and approved Business License application.
10. A completed Transient Occupancy Tax registration form.

11. Proof of general liability insurance that covers the rental of the property as a short-term rental in the aggregate sum of not less than one million dollars (\$1,000,000). Alternatively, the owner can provide evidence that each rental occurs through a platform that provides equal or greater insurance coverage. Proof of insurance shall be provided at the time of both initial permit and renewal permit issuance and shall remain in effect for the duration of the annual permit. Failure to maintain liability insurance shall result in the revocation of the permit.
12. If a short-term rental is located on a property in any area governed by a homeowners' association or community association and subject to Covenants, Conditions, and Restrictions ("CC&Rs"), the Applicant shall submit a letter from the associations' governing board stating that the CC&Rs and the rules and regulations of the association do not prohibit short-term rentals from operating, including the short-term rental proposed by the Applicant.
13. The short-term rental permit application shall be accompanied by a consent to inspection form signed by the owner of the property by which the owner agrees and consents to a building, fire, and health and safety inspection as further described under Section 20.71.050 of this chapter, in addition to the payment of inspection fee in the amount established by resolution of the City Council.

**G. Maximum Number of Short-Term Rental Permits.**

1. The total number of short-term rental permits issued in the City shall not exceed one hundred (100).
2. Short-term rental permits shall be issued on a first-come, first-served basis. A permitted short-term business that ceases operation shall notify City staff within thirty (30) days of ceasing operation.
3. Each property owner shall not operate more than one (1) short-term rental in the City.
4. When the maximum number of short-term rental permits has been issued, the City shall establish and maintain a waitlist from which permits may be issued as they become available.

**H. Short-Term Rental Permit Waitlist.**

1. All short-term rental permit applications, which have been deemed complete, shall be placed on the short-term rental waitlist in the order of the application's filing date. Placement on the waitlist does not guarantee that a permit will be issued during the pilot program.
2. The City shall notify applicants of permit availability in the order of the application's filing date.

**21.71.050 INSPECTIONS**

- A. Prior to the issuance of a new short-term rental permit or a renewal short-term rental permit, the City shall conduct a building, fire, and health and safety inspection of the short-term rental for compliance with this Chapter.
- B. Such inspection shall be conducted within thirty (30) days of receipt of a completed application.
- C. No permit shall be issued if the inspection finds that any of the following conditions exist:
  - 1. The dwelling unit does not have functioning smoke and carbon monoxide detectors, electricity, or plumbing.
  - 2. The structure has been modified in a way that required a building permit from the City, but such building permit was not obtained.
  - 3. The City determines that there are conditions present on the property that would present a danger to the health, safety, or welfare of the occupants and/or the public.

#### 20.71.060 OPERATIONAL REQUIREMENTS

- A. Compliance by owner, agents, and occupants. The owner and/or owner's agent shall ensure the property used as a short-term rental is used in a manner that complies with all applicable laws, rules, and regulations pertaining to its use and occupancy, including applicable codes regarding fire, building and safety, and shall further ensure the occupants of the short-term rental do not create noise in violation of [Chapter 8.20](#) of the Brea Municipal Code or other disturbances, engage in disorderly conduct, or violate any applicable laws, rule, or regulation pertaining to the use and occupancy of the subject short-term rental.
- B. Overnight maximum occupancy limits
  - 1. The owner shall limit overnight occupancy of the short-term rental to a specific number of occupants as set forth in Table 20.71.050. C.1 below.
  - 2. Children twelve (12) years of age or younger are not counted towards the occupant maximum.
  - 3. As used in this section, overnight occupancy shall mean during the hours of 10:00 p.m. through 8:00 a.m. of the following day.

Table 20.71.050. C.1  
OVERNIGHT MAXIMUM OCCUPANCY LIMITS

Bedrooms	Occupancy
0	2
1	4
2	6
3	8
4	10

5 or more	12
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- C. Minimum age of the responsible person. The owner shall not rent a short-term rental to a person that is under the age of 25.
- D. Minimum stay. The minimum stay duration shall be no less than two nights.
- E. Maintenance of rental contracts. Owners shall maintain all short-term rental contracts (in electronic or paper form) for a period of three years from the date of occupancy. The exact number of occupants shall be included in the contract as well as all City municipal code requirements regulating occupancy limits, noise, outdoor amplified music prohibition, public nuisance, parking trash, no commercial activities, and other code requirements related to the use and occupancy of the short-term rental. The owner shall share all contracts upon the City's request.
- F. Prior to occupancy. Prior to occupancy of a short-term rental by occupants, the owner or owner's agent or representative shall advise of or require the following from the responsible person:
  - 1. Provide the responsible person with the local contact person's contact information. The local contact person is required to be available 24 hours.
  - 2. Obtain from the responsible person an "informational form," in the form provided by the City, which contains, but not limited to, the following:
    - i. Name
    - ii. Address
    - iii. Telephone number
    - iv. Copy of the valid governmental identification of responsible person
    - v. List of all the names of all occupants of the short-term rental
    - vi. List of all vehicle information and license plate numbers of the responsible person, occupants, and guests
    - vii. Signed copy of the City's Good Neighbor Policy prior to or during check-in.
    - viii. Signed acknowledgment statement, in which the responsible person understands that he or she is legally responsible for compliance by all occupants of the short-term rental and their guests.
  - 3. Applicants for the short-term rental permit shall review and acknowledge receipt of a copy of the good neighbor policy. In addition, the applicant shall provide a brochure or document intended to remind occupants of short-term regulations.
- G. The owner of the short-term rental shall ensure that the property complies with all applicable codes regarding fire, building, health and safety, zoning and all other laws and regulations.

H. 24-Hour Availability.

1. During the period of a short-term rental, the owner, owner's agent, and/or owner's local contact person shall be available twenty-four (24) hours per day, seven (7) days per week to respond to complaints regarding the condition, operation, or conduct of the occupants, including responding in person at the location of the short-term rental.
  2. The local contact person's response to complaints may be made by telephone, text message and/or in person, however, in no event shall the response time exceed fifteen (15) minutes if responding by telephone or text or forty-five (45) minutes if an in-person response is required because of the severity of the complaint.
  3. In all circumstances, complaints that the occupants of these short-term rental has created unreasonable or unlawful noise or disturbances in violation of [Chapter 8.20](#) of the Municipal Code or provisions of this Chapter or is engaging in disorderly conduct, requires an in-person response by the local contact person.
- I. Outdoor Activities. Occupants of the short-term rental shall be prohibited from using all outdoor amenities (i.e. pool/spa) and/or engaging in outdoor games or any outdoor activities that create noise between the hours of 10:00 p.m. to 7:00 a.m. all days of the week. A sign stating these restrictions must be clearly visible near any such outdoor amenities and posted on all interior doors leading to the outdoor amenities.
- J. Trash Containers. Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the City's authorized waste hauler on scheduled trash collection days. The owner of the short-term rental shall provide sufficient trash collection containers and service to meet the demand of the occupants.
- K. The short-term rental permit license number assigned by the City shall be displayed on any hosting platform's website where said short-term rental is advertised. Each short-term rental shall have a unique permit number.
- L. Retention of Residential Character. The owner of a short-term rental shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting or/and advertising mechanism.
- M. Parking. On-site parking shall be on an approved driveway, garage, and/or approved parking structure.
- N. Required Information for advertisements.
1. The owner shall include the current permit registration number on or in any advertisement appearing in any newspaper, magazine, brochure, television, internet website, etc., that promotes the availability or the existence of the short-term rental in a place or location deemed acceptable by the permit administrator in the following format:
    - i. "City of Brea – Short-term Rental Permit No. \_\_\_\_"

- ii. In the case of the audio-only advertising of the same, the permit number shall be read as part of the advertising.
- 2. The following shall be clearly identified in any advertisement:
  - a. Maximum Occupancy
  - b. The number of bedrooms
  - c. Maximum number of vehicles allowed
  - d. Photo of the front of the short-term rental
- O. Transient Occupancy Tax. The owner and/or the owner's agent shall comply with all provisions of [Chapter 3.16](#) of the Municipal Code concerning transient occupancy taxes including, but not limited to, submission of a return in accordance with [§ 3.16.070](#), which shall be filed even if the short-term rental unit was not rented during each such reporting period.

#### 20.71.70 HOSTING PLATFORM REQUIREMENTS

Subject to applicable laws, Hosting Platforms shall disclose to the City on a quarterly basis each short-term rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each stay.

- A. Hosting platforms shall require owners to include the City-issued permit registration number in their listing(s), in a format designated by the City. Hosting platforms shall not complete any booking transaction unpermitted short-term rentals in the City.
- B. Prior to an owner listing a short-term rental location within the City through a hosting platform, the hosting platform shall provide a notice to such owner with the following information:
  - 1. "Chapter 20.71 of the City of Brea's Municipal Code prohibits the short-term rental of residential property within the City of Brea unless the City has issued both a business license and a short-term rental permit, and the owner pays the transient occupancy tax."
- C. The provisions of this section shall be interpreted in accordance with otherwise applicable state and federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, and such law(s).

#### 20.71.080 PROHIBITED ACTIVITIES

- A. A person who is renting a short-term rental is prohibited from subleasing such dwelling unit, or any portion thereof, to any other person or entity.
- B. Commercial activities and special events, including but not limited to, weddings, receptions, large parties and sales events are prohibited on the property used as a short-term rental.
- C. Hosting Platforms are prohibited from facilitating the short-term vacation rental of unlicensed, unpermitted, and illegal businesses. Hosting Platforms shall not process transactions for properties that are not licensed and permitted by the

- City. Hosting Platforms shall not facilitate the evading of relevant taxes and regulations required of any short-term rental.
- D. Hosting Platforms are prohibited from advertising a short-term rental located within the City that is not licensed and permitted pursuant to this Chapter.
  - E. Owners and/or owner's agent of an unlicensed short-term rental are prohibited from operating in the City and are prohibited from being marketed as short-term rentals available within the City. Any owner and/or owner's agent found to be operating a short-term rental without a valid permit shall be subject to all applicable fines and penalties.

#### 20.71.090 PERMIT NONTRANSFERABLE/NO PROPERTY RIGHTS

A permit granted pursuant to this Chapter shall not be transferable to another person, entity, assessor's parcel number or to another property owner. In addition, the issuance of a permit or renewal permit does not give the owner any vested property rights and any such permit shall not run with the land or property to which it applies. All new property owners shall obtain a new permit to continue with short-term rental operations.

#### 20.71.100 PERMIT APPROVAL, DENIAL, AND REVOCATION

- A. Decision Authority.
  - 1. The Director has the authority to approve, deny, or revoke a short-term rental permit.
  - 2. The Director's decision on short-term rental permits shall take effect immediately, unless timely appeal is filed pursuant to Section 20.71.110 of this chapter.
- B. Permit Approval. If, as a result of the investigation conducted by the City, the applicant is found to satisfy all of the requirements of this chapter and no grounds for denial exist, the associated short-term permit application shall be approved, and a permit (or a renewal permit) shall be issued to the applicant unless the maximum number of permits as specified in Section 20.71.040 have been issued.
- C. Permit Denial
  - 1. The applicant shall be denied the short-term rental permit, including a renewal permit, if any of the following findings are made:
    - i. The information contained in the application or supplemental information requested is false or misleading in any material detail.
    - ii. The owner failed to provide a complete application, after having been notified of the requirement to produce documents or additional information within ten (10) calendar days.
    - iii. The owner is delinquent in payment of any city taxes, fees, assessments, fines, or penalties.
    - iv. If the owner has had a prior short-term rental permit revoked or has been cited for violating any provision of the Municipal Code related to short-term rentals in the City within the past twelve (12) months.

- v. The owner has failed to pay any previous administrative fines, remediate any other violations, and/or complete any other alternative disposition associated with a previous violation of this chapter related to the operation of a short-term rental.
  - vi. If, at the time the permit application is being submitted, the City has commenced any enforcement proceedings against the owner with respect to the property for which the owner seeks a permit or a renewal of a permit.
  - vii. The property does not comply with all applicable codes regarding zoning, fire, building and safety as specified under Section 20.71.050 of this chapter, and other relevant laws, ordinances, or regulations including any conditions placed on the permit by the City.
  - viii. The permit cap has been reached.
2. Applicants who are denied a permit solely based on the permit cap shall have an option to join the waitlist.
- D. Permit Revocation
1. A short-term rental permit shall be revoked if any of the following findings are made:
    - a. If any of the applicable conditions listed under subsection B.1 of this section exist.
    - b. Any violation of Sections 20.71.050, 20.71.060, and/or 20.71.080 is found.
    - c. Any violation of any other law exists on the premises of the short-term rental, for the conditions as may be shown to be injurious to the public health and safety.
  2. An owner whose permit is revoked is prohibited from applying for a new short-term rental permit for the duration of the pilot program.

#### 20.71.110 APPEAL PROCEDURE

- A. Decision Authority. The Director's decision to deny or revoke short-term rental permit is appealable to the Hearing Officer.
  1. No appeal may be filed if the ground of the permit denial is due to the permit cap.
- B. Appellants. The applicant of the short-term rental permit may file an appeal.
- C. Time for Filing of Appeal. An appeal must be filed within ten (10) calendar days after the date of action by the Director.
- D. Filing of Appeal.
  1. Appeals must be filed with the City Clerk together with the required appeal fee as set forth in the current schedule of fees adopted.

2. If the information included with an appeal is found by the City Clerk to be deficient, the City Clerk shall notify the appellant as to the particulars of the deficiencies. If such deficiencies are not corrected within ten (10) calendar days of such notice, the appeal shall be deemed withdrawn.
- E. Effect of Timely Appeal.
  1. The filing of a timely appeal shall suspend the decision of the Director until the final determination on the appeal or dismissal thereof.
  2. No person shall commence operation or continue to operate a short-term rental until the final determination is made on the appeal.
- F. Notice of Hearing. A notice of such hearing shall be given to the applicant of the short-term rental permit, in writing and mailed at least ten (10) calendar days prior to the date of the hearing addressed to the address listed on the short-term rental application. The notice shall state the grounds for denial or revocation, and the time and place where such hearing will be held.
- G. Public Hearing.
  1. At the time and place set for public hearing, the Hearing Officer shall hear and determine all the facts and evidence relevant to the applicant and the contents of the application.
  2. At the conclusion of the hearing, the Hearing Officer may affirm, modify, or reverse the Director's decision. The Hearing Officer shall render a written decision within ten (10) calendar days from the date of the hearing where the decision on the appeal was made.
  3. The action of the Hearing Officer shall be final and conclusive.

#### 20.71.120 VIOLATIONS AND PENALTIES

- A. Fees. The City Council shall establish fees, fines, penalties, and other charges for violation of this Chapter by resolution, which may be amended from time to time.
- B. Operating a short-term rental without a valid permit is prohibited. Advertising shall be understood as evidence of operation. Additional evidence of operation may include, but not limited to guest testimony, online reviews, rental agreements or any other information deemed relevant by the City.
- C. Violation(s) of any provision of this chapter shall constitute a misdemeanor and shall be punishable by a fine not-to-exceed one thousand dollars (\$1,000) or by imprisonment for a period not-to-exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this chapter.
- D. In addition to the foregoing, a violation of any provision of this chapter shall constitute a public nuisance pursuant to [Chapter 15.212](#) and shall be subject to abatement by the city by means of a civil action or administrative abatement

pursuant to this code, and each day such condition continues it shall be regarded as a new and separate offense.

E. The remedies provided for in this section are in addition to, and not in lieu of, all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this chapter.

#### 20.71.130 RECORDKEEPING

Each owner shall maintain all written records related to the use and occupancy of the short-term rental, including, but not limited to compliance with the operation requirements and standards set forth in section 21.070.060, for a period of three (3) years for the purpose of inspection or audit to determine that the objective and conditions of this Chapter are being fulfilled.

#### 20.71.140 REQUIREMENTS NOT EXCLUSIVE

The requirements of this Chapter shall be in addition to any license, permit or fee required under any other provision of the Brea Municipal Code. The issuance of any permit pursuant to this Chapter shall not relieve any person of the obligation to comply with all other provisions of the Brea Municipal Code pertaining to the use and occupancy of the Short-Term Rental or the property on which it is located.