



# CITY OF BIG BEAR LAKE *California*

## URGENCY ORDINANCE NO. 2021-488

### URGENCY ORDINANCE OF THE CITY OF BIG BEAR LAKE APPROVING DEVELOPMENT CODE AMENDMENT 2020-103 RELATED TO TRANSIENT PRIVATE HOME RENTALS, ADDING TITLE 4, SECTION 1, TO THE MUNICIPAL CODE RELATED TO VACATION RENTALS, AND FINDING THE ACTION TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

**WHEREAS**, the City of Big Bear Lake, California (the “City”) is a municipal corporation and Charter City, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, the City of Big Bear Lake is a four-season resort community where tourists visit to escape everyday urban life in order to enjoy a unique mountain experience, including recreation activities, rest and relaxation; and

**WHEREAS**, the City of Big Bear Lake desires to preserve the residential character of neighborhoods that enhance the quality of life for our residents and provide a peaceful retreat for our visitors; and

**WHEREAS**, according to the Big Bear Lake General Plan, the local economy is primarily based on tourism, therefore, a guiding principle of the City of Big Bear Lake is to encourage a year-round, well-balanced economic base while recognizing the importance of tourism in the local economy; and

**WHEREAS**, due to Big Bear Lake’s status as a resort community that offers unique vacation opportunities for large families, the City desires to maintain the ability for visitors to rent family homes for their vacation accommodations; and

**WHEREAS**, the City Council adopted Ordinance No. 99-300 on August 9, 1999 establishing regulations for Transient Private Home Rentals (vacation rentals); and

**WHEREAS**, the City Council adopted Ordinance No. 2007-375 on December 10, 2007 amending the Development Code to include provisions for enforcing regulations on Transient Private Home Rentals (vacation rentals); and

**WHEREAS**, the protection of public health, safety and welfare is a primary objective of the Big Bear Lake General Plan; and

**WHEREAS**, on March 3, 2020, Governor Newsom declared the existence of a state of emergency for the State of California; and on March 11, 2020, the Director-General for the World Health Organization declared that COVID-19 can be characterized as a “pandemic.” On March 13, 2020, the President of the United States declared that the outbreak of COVID-19 in the United States constitutes a national emergency; and

**WHEREAS**, on March 17, 2020, City Manager Frank A. Rush, Jr. issued a proclamation declaring a local state of emergency due to the outbreak of COVID-19; and on March 23, 2020, City Council adopted Resolution No. 2020-05 ratifying and declaring the existence of a local emergency regarding COVID-19 pursuant to Government Code Section 8630; and

**WHEREAS**, tourism has increased dramatically during the COVID-19 pandemic resulting in extraordinary occupancy rates of vacation rentals and a record high number of complaints associated with the behavior of vacation rental guests; and

**WHEREAS**, during the past several months there has been a dramatic increase in the number of complaints relating to noise, parties, over-occupancy, and parking issues at vacation rentals; and

**WHEREAS**, on December 7, 2020, the Governor's Regional Stay-at-Home Order went into effect for Big Bear Lake due to a rising number of COVID-19 case and low capacity in the region's intensive care units; and

**WHEREAS**, on January 11, 2021, the number of available beds in the regional intensive care units remain below 15 percent due to rising cases of COVID-19; and

**WHEREAS**, the project is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3), the general rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This Municipal Code Amendment does not have the potential to cause a significant effect on the environment; and

**WHEREAS**, Government Code Sections 36934 and 36937 expressly authorize the City Council to enact urgency ordinances, which take effect immediately upon introduction, for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency, and which must be passed by a four-fifths (4/5) vote of the City Council; and

**WHEREAS**, based on the foregoing, it is urgent the City adopt regulations in order to minimize (i) the adverse impacts vacation rentals may have on surrounding residential properties and the City's limited law enforcement resources, and (ii) dense social gatherings that pose an immediate threat of COVID-19 transmission, and as a result, the City desires to establish, on an urgency basis, an ordinance to repeal existing regulations for transient private home rentals and add new Municipal Code Title 4 establishing a licensing and regulatory program for vacation rentals; and

**WHEREAS**, all legal prerequisites to the adoption of this ordinance have occurred.

**NOW, THEREFORE**, the City Council does ordain as follows:

**Section 1.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**Section 2.** The City Council hereby finds that, based on the public testimony and substantial evidence in the record, the application is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the "common sense" rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This Municipal Code Amendment does not have potential to cause a significant effect on the environment.

**Section 3.** This urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety of residents and businesses in the City, as it will facilitate better City oversight and monitoring of vacation rental operations that pose (i) adverse impacts on surrounding residential properties and the City's limited law enforcement resources, and (ii) the immediate threat of increased COVID-19 transmission through dense social gatherings that are non-compliant with State-recognized measures for minimizing disease exposure.

**Section 4.** Based on the evidence presented to the City Council, including oral and written agenda reports and public testimony, the City Council finds as follows with respect to the Municipal Code Amendment and Development Code Amendment 2020-103:

1. The Municipal Code amendment is consistent with all other related provisions thereof because the amendment does not conflict with other standards and provisions of the Municipal Code and adding provisions to regulate vacation rentals elsewhere in the Municipal Code is in the City's best interest.
2. The Development Code amendment is reasonable and beneficial at this time because it will remove any potential conflict arising from existing regulations pertaining to Transient Private Home Rentals and the new regulations pertaining to Vacation Rentals.

**Section 5.** Based on the findings and conclusions set forth in Sections 1 and 2, above, the City Council hereby adopts the amendments identified in Exhibit A to this ordinance, which is attached hereto and incorporated herein by reference.

**Section 6.** The City Clerk shall certify to the adoption of this ordinance. The Clerk shall timely file a notice of exemption under CEQA.


**Section 7.** This urgency ordinance takes effect immediately upon its adoption.

**Section 8.** If any section, sentence, clause or phrase of this ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED THIS 11<sup>th</sup> day of January, 2021.

  
David Caretto, Mayor

ATTEST:

  
Erica Stephenson, City Clerk

STATE OF CALIFORNIA            )  
COUNTY OF SAN BERNARDINO )  
CITY OF BIG BEAR LAKE        )


I, Erica Stephenson, City Clerk of the City of Big Bear Lake, California, do hereby certify that the whole number of the City Council of the said City is five; that the foregoing Urgency Ordinance No. 2021-488 is a full, true and correct original of Urgency Ordinance No. 2021-488 of the City of Big Bear Lake entitled:

**URGENCY ORDINANCE OF THE CITY OF BIG BEAR LAKE  
APPROVING DEVELOPMENT CODE AMENDMENT 2020-103  
RELATED TO TRANSIENT PRIVATE HOME RENTALS, ADDING  
TITLE 4, SECTION 1 TO THE MUNICIPAL CODE RELATED TO  
VACATION RENTALS, AND FINDING THE ACTION TO BE EXEMPT  
FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

was duly passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the Clerk of Said City, all at a regular meeting of the said Council on the 11<sup>th</sup> day of January 2021, and that the same was so passed and adopted by the following vote:

AYES:           Mote, Putz, Herrick, Lee, Caretto  
NOES:           None  
ABSTAIN:       None  
ABSENT:        None

I do hereby further certify that pursuant to the provisions of Section 36933 of the Government Code of the State of California that the foregoing Urgency Ordinance No. 2021-488 was duly and regularly published according to law and the order of the City Council and circulated within the said City.

  
Erica Stephenson, City Clerk

## ORDINANCE EXHIBIT A

Section 17.03.310 and Section 17.03.315 of the Development Code are hereby repealed in their entirety.

Table 17.25.040.A of the Development Code is hereby amended as follows:

- Under the heading that reads *Accessory Commercial Uses*, “Vacation home rental” is changed to “Vacation rental,” and the corresponding references to “TPHR” in the R-L, R-1, and R-3 zone district columns are changed to “VR.”
- The footnote to the table that defines “TPHR” is replaced with the following:

“VR = permitted subject to approval of a vacation-rental license in accordance with Chapter 4.01 of this code.”

Section 17.25.070, subsection E, is hereby amended to add a new paragraph 3, to read in its entirety as follows:

“3. The off-street parking requirement for a vacation rental is one parking space per bedroom. The parking space or spaces shall be located in the garage or on a legally established driveway.”

The former paragraph 3 is renumbered as paragraph 4.

Table 17.35.030.A is hereby amended as follows: Under the heading that reads *Lodging, commercial, including the following and similar services*, “Rental agency for transient private home (TPHR) rentals” is changed to “Rental agency for vacation rentals (VR).”

Municipal Code Title 4, Section 1, is hereby added to the Municipal Code to read in its entirety as follows:

### **Title 4 Visitor-serving uses and tourism**

#### **Chapter 4.01 Vacation Rentals**

##### **Section 4.01.010. Purpose**

This chapter is intended to provide a procedure to allow the rental of private homes to visitors on a short-term basis as vacation rentals. The city seeks to promote vacation rentals, promote responsible visitor behavior, and protect the residential character of its neighborhoods.

##### **Section 4.01.020. Definitions**

For purposes of this chapter, the following words and phrases are defined as follows:

- A. “Agent” means a person or entity with authority to act on behalf of the owner.

- B. “Bedroom” means a room designed primarily for sleeping that meets the definition of the California Building Codes currently adopted by the city.
- C. “Business entity” means a corporation, partnership, or other legal entity that is not one of the following: a natural person; the trustee or beneficiary of a personal or family trust if the trustee or beneficiary is a natural person; a limited liability company or a limited liability partnership if the LLC or LLP consists solely of natural persons.
- D. “Check in” means the arrival of a guest at a vacation-rental property or agent’s office.
- E. “Hosting platform” means a person or entity who participates in home-sharing or vacation rentals by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation. Examples include, but are not limited to, VRBO.com, Airbnb.com, homestay.com and other internet and non-internet based services that facilitate bookings for a fee.
- F. “Owner” means a person who holds record fee title to the property, except that “owner” does not include a business entity or the holder of a leasehold interest in the property.
- G. “Responsible party” means the lessee of a vacation-rental property.
- H. “Vacation rental” or “vacation-rental property” means a residential dwelling unit that is leased for a term of 30 or fewer consecutive days.

**Section 4.01.030. License Required**

A current, valid annual license issued by the city to the owner is required for each property prior to advertising, offering to lease, or leasing the property as a vacation-rental property. The license number shall be included in all advertisements for the vacation-rental property. The license shall be posted inside of the vacation-rental property.

**Section 4.01.040. Licensing Procedure**

An owner shall apply to the city for a license annually for each vacation-rental property and pay a fee established by resolution of the city council. The city shall provide an application form and list of application requirements.

**Section 4.01.050. Transient Occupancy Tax**

The owner is responsible for collecting and remitting transient occupancy tax to the city and shall comply with all provisions of Chapter 3.20 of this code concerning transient occupancy taxes.

**Section 4.01.060. Operational Requirements**

- A. The owner and owner’s agent shall ensure that the vacation-rental property

complies with all applicable codes regarding fire, building and safety, health and safety, and all other laws and regulations.

- B. All guest check-ins must be performed in person by the owner or the owner's agent. The responsible party must be present in person at the check-in.
- C. Occupancy of the vacation-rental property shall always be limited to the limit stated on the license. Such occupancy shall not exceed two adults per bedroom, plus children; but the total number of persons may not exceed one person per 200 square feet of living space or 16 persons, whichever is less.
- D. No party, wedding, or other gathering exceeding occupancy limits is permitted without prior written approval by the city manager or the city manager's designee at least 30 days in advance. City approval is discretionary and may be subject to reasonable conditions.
- E. Off-street parking spaces shall be provided on the vacation-rental property sufficient for all vehicles and trailers associated with the vacation-rental property or its occupants. All vehicles and trailers associated with the vacation-rental property or its occupants shall be parked off the street and shall not be parked on a city street at any time. A lack of off-street parking spaces will reduce allowable occupancy.
- F. Upon the request of the city, the owner or the owner's agent shall respond in person at the vacation-rental property within 30 minutes of dispatch of notice by the city to correct a violation of this chapter or any other provision of this code.
- G. No radio receiver, musical instrument, phonograph, loudspeaker, sound amplifier, or other any machine or device for the producing or reproducing of any sound may be operated on the vacation-rental property unless it is within a fully enclosed structure and is not audible at the property line of the vacation-rental property.
- H. The use of an outdoor spa or any other activity that disturbs the peace is prohibited between the hours of 10:00 p.m. and 7:00 a.m.
- I. Each transient private home rental shall be equipped with no more than one identification sign, not to exceed two square feet in area. No other advertising signs promoting or identifying the unit shall be permitted anywhere in residential zone districts. The required identification sign shall be permitted anywhere in residential zone districts. The required identification sign shall be attached to the transient private home rental in a location, which is clearly visible from the street, and shall clearly display all of the following information in lettering of sufficient size to be easily legible:
  - 1. the name of the managing agency, agent, property manager, or owner of the unit, and a telephone number at which that party may be reached on a twenty-four (24) hour basis;
  - 2. the maximum number of occupants permitted to stay in the unit;

3. the maximum number of vehicles allowed to be parked on the property; and
  4. the telephone number of the City's Code Compliance Division.
- J. The owner shall include notice to lessee of the requirements of this section in all leases and post a visible notice at the entrance to the vacation-rental property as well as near any space that is on the vacation-rental property.

**Section 4.01.070. Agency and Certification**

An owner may grant authority to an agent to act on behalf of the owner for purposes of fulfilling some or all the requirements of this chapter. The owner shall give prior written notice to the city of any grant of authority to a notice, including the identity and contact information for the agent. The owner shall promptly give the city written notice of any change to any such grant of authority of making such change. The use of an agent shall not excuse the owner from the owner's obligations of this chapter. Agents and owners fulfilling any of the requirements of this chapter shall be annually certified by the city.

**Section 4.01.080. Inspection and Audit.**

Each owner and owner's agent shall provide the city with access to the vacation-rental property and to such related records, documents, tax returns, and bank accounts at any time during normal business hours as the city may determine are necessary for the purpose of inspection or audit to determine that the objectives and conditions of this chapter are being fulfilled.

**Section 4.01.090. Hosting Platform Responsibilities.**

- A. Subject to applicable laws, hosting platforms shall, upon written request by the city, promptly disclose to the city each vacation-rental property listing located in the city, the host ID, listing ID, and 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.
- B. A host platform shall promptly remove any listing upon receipt of a take-down notice from the city indicating that a listing violates applicable legal requirements.

**Section 4.01.100. Violations and Penalties**

- A. The city may issue an administrative citation to any person who operates a vacation-rental property without a license. The administrative fine for the first citation shall be in the amount of \$5,000.00. Any person operating an unlicensed vacation-rental property shall be permanently ineligible to operate a vacation-rental property in the city, and any property that is operated as a vacation property without the required license shall be ineligible for vacation-rental property license for a period of one year from the most recent citation issued for operating without a license. If the person continues to operate a vacation-rental property without a license, the city may issue an additional administrative citation, with an administrative fine in the amount of \$10,000.00. Any additional violation shall be subject to additional citations with escalating fines provided in a schedule established by the city council



by resolution. A person operating an unlicensed vacation-rental property is liable to the city for the payment of transient occupancy tax in accordance with the provisions of Chapter 3.20 of this code, including without limitation penalties and interest.

- B. For any violation of this chapter that is not subject to subsection A above, the city may impose an administrative fine for the first violation in the amount of \$500.00. The fine for each subsequent violation shall be \$1,000.00.
- C. Each administrative citation for a violation of any provision of this chapter may be levied or assessed against one or more of: the owner, the owner's agent, a hosting platform, and the responsible party. The city may initiate revocation of a license after one violation. Each day that a violation occurs is a separate violation, for which the city may issue a separate administrative citation and fine.
- D. Any person who advertises a vacation-rental property without including the license number in the advertisement shall pay a fine in the amount of \$2,500.00, and the owner's license shall be revoked. However, if the violation is a first offense, the city manager may elect to merely suspend the owner's license for six months and impose a fine in the amount of \$5,000.00. The owner's license shall be revoked for a second offense, if not revoked already.
- E. The failure of an owner or the owner's agent to comply with an order of any police officer shall result in the revocation of the license.
- F. The appeal and hearing provisions of Section 1.17.070 of this code apply to any revocation or suspension of a license.
- G. In addition to, and not in lieu of, any other remedy allowed by law, all remedies prescribed under this chapter are cumulative, and the election of one or more remedies does not bar the city from pursuing any other remedy, whether criminal, civil, or administrative, through which the city may enforce this chapter or address any violation of this code or to remedy any other public nuisance.