

ORDINANCE NO. 3591  
(ZOA-2018002018 – Development Code Update - Amend Henderson  
Municipal Code Section 19.5.3.G – Short-Term Vacation Rental; 19.11 -  
Enforcement and 19.12 – Defined Terms)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON,  
NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE  
– HENDERSON DEVELOPMENT CODE - BY AMENDING A PORTION OF  
SECTION 19.5.3.G – SHORT-TERM VACATION RENTAL, SECTION 19.11  
– ENFORCEMENT AND SECTION 19.12.4 – DEFINED TERMS, TO ALLOW  
RESIDENTIAL PROPERTIES TO BE USED FOR SHORT-TERM VACATION  
RENTALS, AND TO MAKE OTHER RELATED AND CLARIFYING  
CHANGES TO THE ENFORCEMENT SECTION AND DEFINITIONS  
SECTION.

- WHEREAS, the City Council of the City of Henderson (the “City Council”) has statutory authority pursuant to NRS to 278.020 to regulate and restrict the improvement of land and to control the location and soundness of structures within its jurisdiction for the purpose of promoting health, safety, morals and the general welfare of the community; and
- WHEREAS, pursuant to this authority, on January 19, 2010, the City Council adopted City of Henderson Municipal Code Title 19 – Henderson Development Code (as the same may be amended from time-to-time by the City Council, the “Development Code”); and
- WHEREAS, the City Council considers the Development Code a “living document,” which will invariably need amending for corrections, revisions and necessary updates; and
- WHEREAS, the City Council of the City of Henderson wishes to allow the use of residential properties as short-term vacation rentals, subject to regulations and an annual registration fee and to adopt a new enforcement and fine structure to address short-term vacation rentals, and;
- WHEREAS, the adopted short-term vacation rental ordinance will become effective on October 14, 2019. The city will allow a 30-day grace period beginning on October 14, 2019, for short-term rentals to register, and after the grace period, if the short-term vacation rental is operating without approved registration, the property owner will be subject to enforcement set forth through this Ordinance and;
- WHEREAS, this ordinance shall be brought back to City Council one year from effective date (October 14, 2019), to provide update to City Council on the status of implementation and determine if any changes are necessary.

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

- SECTION 1. Section 19.5.3.G – Short-Term Vacation Rental, 19.11 – Enforcement, and 19.12.4 – Defined Terms are hereby amended as represented in Exhibit A, hereto attached.
- SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.
- SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.
- SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Las Vegas Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the City Council of the City of Henderson, Nevada by majority vote so orders) together with the names of the Councilpersons voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on July 19, 2019, 2019, in the Review Journal and will be effective on October 14, 2019.

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PASSED, ADOPTED, AND APPROVED THIS 16<sup>TH</sup> DAY OF JULY, 2019.



*Debra March*

Debra March, Mayor

ATTEST:

*Sabrina Mercadante*

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on July 2, 2019, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on July 16, 2019, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held July 16, 2019, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

- Debra March, Mayor  
Councilmembers:  
John F. Marz  
Michelle Romero  
Dan K. Shaw  
Dan H. Stewart

Those voting nay: None

Those abstaining: None

Those absent: None



*Debra March*

Debra March, Mayor

ATTEST:

*Sabrina Mercadante*

Sabrina Mercadante, MMC, City Clerk

Editor's Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

19.5.3.G – Short Term Vacation Rental

**G. SHORT-TERM VACATION RENTAL**

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>			
COMMERCIAL					INDUSTRIAL			MIXED-USE				
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
				<del>C</del> <u>S</u>					<u>S</u>		<u>S</u>	

**1. Definition**

~~[The commercial use, by any person, of any residential development for lodging, where any individual guest occupies the property for 30 consecutive calendar days or less. This use type does not include a dwelling or room used as a primary residence.]~~

A permanent residential dwelling unit or any portion of such dwelling unit, rented for occupancy for a period of less than thirty (30) consecutive calendar days, counting portions of calendar days as full days, regardless of whether a permanent resident is also present during the period of occupancy, excepting February.

**2. Standards**

The following short-term vacation rental standards are not waivable.

- (a) Unless mapped for individual ownership, multi-family dwelling units shall not be utilized as short-term vacation rentals.
- (b) Any property owner wishing to operate a short-term vacation rental must register its property with the City of Henderson.
- (c) Only the property owner of record as listed in the Clark County Assessor’s records at the time of registration may register a short-term vacation rental. The property owner must be at least 18 years of age. The owner shall be deemed the “operator” for the purposes of HMC Chapter 4.48. The property owner may also be referred to in this Section as the “applicant” or “registrant”.
- (d) Mobile homes, RVs, travel trailers, tents, vehicles and similar non-permanent structures may not serve as short-term vacation rentals.
- (e) Short-term vacation rentals are considered “transient lodging” for the purposes of HMC 4.48.
- (f) A short-term vacation rental shall not generate more traffic or different types of vehicle traffic than a home occupied by a permanent resident.
- (g) A short-term vacation rental may only be used for overnight accommodations and shall not be used for a cultural event, wedding, private event, special or sales event, bachelor or bachelorette party or other similar party or activity.
- (h) A short-term vacation rental shall comply with all residential property requirements of the Henderson Municipal Code, including but not limited to Chapter 5.17 (Solid Waste Management), Chapter 8.84 (Noise Control), and Section 19.7.8.G (Development and Design Standards, Noise). The property owner shall include trash/recycling containers, the trash services collection schedule and instructions for proper trash disposal within the rental rules provided to each renter.

### 19.5.3.G – Short Term Vacation Rental

- (i) Complaints regarding short-term vacation rentals shall be directed to the City of Henderson complaint hotline. The registered local contact identified in the short-term vacation rental registration (see Section 19.5.3.G.3.f) shall be available by phone 24 hours a day during all times when the property is rented. Should a problem arise, and be reported to the City's complaint hotline, the hotline operator shall contact the registered local contact who shall be responsible for contacting the occupant to address the complaint within 45 minutes, including visiting the site if necessary, to ensure that the complaint has been resolved. Any complaint that has been reported shall be resolved within two hours from when the complaint was initiated. The registered local contact shall provide a detailed report of any such complaints and their resolution or attempted resolution(s) to the Community Development and Services Department within 48 hours of the occurrence. Failure to respond to complaints or report them to the Community Development and Services Department shall be considered a violation of this Section and shall be cause for the issuance of administrative fines and potential termination of registration pursuant to Section 19.11.6.E.
- (j) A change in record ownership of a short-term vacation rental shall require registration in the name of the new owner, with an updated registered local contact as required by Section 19.5.3.G.3.f, within 30 days of the change in property ownership. A short-term vacation rental registration shall automatically terminate 30 days after a change in property ownership if the property has not been registered in the name of the new owner within 30 days.
- (k) Occupancy (17 years old or older) of a short-term vacation rental is limited to four occupants for the first bedroom and two occupants per each additional bedroom as listed with the Clark County Assessor's Office. The number of people on the premises may increase by 50 percent over the per bedroom occupancy maximum between the hours of 7a.m. and 10 p.m. Children 16 years of age and under do not count toward the bedroom occupancy maximum. All short-term vacation rentals must have a minimum of 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant, up to a maximum of 20 occupants.
- (l) The registration permit number shall be listed within the property description on any advertisement for the short-term vacation rental and posted inside the property in a conspicuous location. The on-site posting shall include the maximum number of occupants permitted per the registration, and the issue date and expiration date of the registration.
- (m) The number of short-term vacation rentals within a multi-unit dwelling structure or mixed-use development is limited to 1 unit or 25 percent of the total number of units within a structure, whichever is greater. Each short-term vacation rental shall require a separate registration. Where more applications are submitted to operate a short-term vacation rental than are allowed within the same multi-unit dwelling structure or mixed-use development, the first applicant(s) to complete the registration process, as measured by the date and time of final approval of registration, shall be entitled to operate a short-term vacation rental.
- (n) Only one short-term vacation rental booking is allowed per registered property at any given time.
- (o) Exterior signs identifying the property as a short-term vacation rental are prohibited.
- (p) Short-term vacation rental shall be booked for a minimum of two nights per booking.
- ~~(a) All unit/property owners within a multifamily development must agree to allow for short-term vacation rentals.~~

## 19.5.3.G – Short Term Vacation Rental

~~(b) Property owners offering short-term vacation rental properties are subject to the following requirements:~~

~~(1) Units may be rented for no less than seven days and no more than 30 days.~~

~~(2) Each vacation rental unit is permitted a maximum of three guest vehicles on site.~~

~~(3) A vacation rental unit may not be rented, leased, or furnished to more than one party subject to limitations of two guests per bedroom plus two individuals, with a maximum of eight guests.~~

~~(c) One hundred percent of a multifamily development located within a CT zoning district may be short-term vacation rental units.]~~

### 3. Registration Requirements

Operation of a short-term vacation rental requires annual registration with the City of Henderson. Registration requires the following:

- (a) Advance payment of the then-current annual registration fee for the year following the date of registration.
- (b) Evidence that the registrant is at least 18 years of age.
- (c) A listing of the number of bedrooms that are available for rent at the property as listed with the Clark County Assessor's Office.
- (d) A certificate of insurance indicating that the property is used as a short-term vacation rental and carries general liability coverage with limits of not less than five hundred thousand dollars per occurrence. Insurance shall be maintained for the duration of the short-term vacation rental registration.
- (e) A notarized statement from the registrant:
  - i. certifying that operation of the short-term vacation rental would not violate any homeowners' association agreement or bylaws, condominium agreement, covenants, conditions and restrictions, or any other private agreement governing and limiting the use of the proposed short-term vacation rental;
  - ii. acknowledging that registration with the City will not supersede any such private agreements;
  - iii. acknowledging that the registrant has reviewed this Section and understands its requirements and consents to abide by the same;
  - iv. certifying that the property is fully compliant with all applicable laws, including, but not limited to, providing the following: a smoke alarm in each bedroom, a carbon monoxide detector on each floor of the registered property, an illuminated street address number visible from the street, one fire extinguisher per floor, and an evacuation map;
  - v. acknowledging that the registrant is responsible for each and every occupant's compliance with the Henderson Municipal Code while they are on the property;
  - vi. certifying that there are no delinquent room tax liabilities or liens regarding the property;
  - vii. acknowledging that the registrant agrees to indemnify and defend the City against any third-party claims based upon the veracity of the foregoing statements; and
  - viii. certifying that a noise management plan as required in Section 19.5.3.G.3.i will be in place prior to first rental after registration approval.
  - ix. acknowledging that the property does not receive affordable housing incentives and is not located in any subsidized housing, public housing or other unit subject to income restrictions.
- (f) Designation by the owner of a registered local contact who shall be available twenty-four hours per day, seven days per week with the ability to respond to any complaint within forty-five (45) minutes for the purpose of:

### 19.5.3.G – Short Term Vacation Rental

- i. responding to complaints regarding the condition, operation, or conduct of occupants of the short-term vacation rental unit; and
  - ii. taking immediate action to resolve any such complaints.
- (g) Dissemination of registered local contact information to all properties located within a 200-foot radius of the short-term vacation rental parcel within 10 days of registration approval. Information shall be mailed to each address and to each owner of property as listed with the Clark County Assessor's office and to any City of Henderson registered homeowner's association within the 200-foot radius. Proof of mailing and a copy of the information sent to residents and homeowners associations shall be provided to Community Development and Services Department within 14 days of mailing.
- (h) If the registered local contact changes, the owner shall provide its updated registration information to the Community Development and Services Department and to all properties within a 200-foot radius of the short-term vacation rental parcel within five business days.
- (i) A Noise Management Plan

In order to reduce the potential for adverse impacts of noise violations, all short-term vacation applicants shall submit a noise management plan as part of the short-term vacation rental registration.

The Noise Management Plan must include:

  1. Continuous operation of noise monitoring device(s) while the registered property is rented;
  2. Conspicuous posting on-site of established quiet hours and penalties for violations of the Henderson Municipal Code;
  3. A commitment by the short-term vacation rental owner and registered local contact, upon notification that the short-term vacation rental occupants and/or their guests have created unreasonable noise or disturbances or violated provisions of the Henderson Municipal Code or state law pertaining to noise or disorderly conduct, that the short-term vacation rental owner or its registered local contact will promptly act within 45 minutes to prevent continuation and/or a recurrence of such conduct by those short-term vacation rental occupants or their guests. The short-term vacation rental owner or its registered local contact is not expected to act as a peace officer and shall not place himself, herself or others in harm's way in order to address such violations or disturbances.
  4. Noise level data records shall be maintained by the property owner for a minimum of two months. Noise level data from the property shall be made available to the City upon request.
  5. Noise monitoring equipment shall be located both indoors and outdoors, in common areas.
- (j) The registrant shall provide a copy of the City's "Good Neighbor" pamphlet and its registered local contact information with booking. A copy of the pamphlet shall be on site at all times.
- (k) The registrant shall conduct a self-inspection utilizing the City of Henderson short-term vacation rental checklist and shall provide the City a signed copy of the completed checklist as part of the registration process.

## 19.5.3.G – Short Term Vacation Rental

- (l) The property owner and registered local contact shall complete and provide proof of completion of a short-term vacation rental certification program for short-term rental best practices provided by a college or university or offered through a professional organization, prior to issuance of registration. The course must be approved by Community Development and Services. If the registered local contact changes after issuance of registration, the new registered local contact must complete and submit proof of completion of the program within 10 days of notice to the City of the change.

Completion of a certification program is not required for a property manager licensed under NRS 645. A copy of such State license shall be provided at the time of registration.

- (m) Once the applicant has submitted a complete application and all required materials and registration fees, the Community Development and Services Department will review the application and materials and determine whether the short-term vacation rental property meets all of the City's requirements for registration. If deemed to meet all of the requirements, the Community Development and Services Director or designee will issue the registration.

### 4. Transient Lodging Tax

- (a) The registrant shall comply with HMC Chapter 4.48 – Transient Lodging and Gaming Taxes regulations.

- (b) The registrant shall maintain rental records in accordance with HMC Chapter 4.48.070.

### 5. Enforcement Process

Section 19.11.6.E shall govern the enforcement of this Section. All violations of this Section 19.5.3.G are deemed a nuisance and are therefore subject to all enforcement actions and remedies available to the City for prevention and correction of nuisances.

### ~~[3.]~~ **6. Off-Street Parking Requirement**

As required by the use classification of Chapter 19.5. ~~[Based upon type of housing unit being rented. See that use type for parking requirements.]~~

### ~~[4.]~~ **7. Off-Street Loading Group**

None.

# CHAPTER 19.11: ENFORCEMENT

## 19.11.1. PURPOSE

This chapter establishes procedures through which the City seeks to ensure compliance with the provisions of this Code and obtain corrections for violations. It also sets forth the remedies and penalties that apply to violations of this Code.

## 19.11.2. VIOLATIONS

Any of the following shall be a violation of this Code and shall be subject to the remedies and penalties provided for in this Code.

### A. ESTABLISH USE, STRUCTURE, OR SIGN WITHOUT ~~[PERMIT OR]~~ APPROVAL

To establish or place any use, structure, or sign upon land that is subject to this Code without all of the approvals required by this Code.

### B. DEVELOPMENT OR SUBDIVISION WITHOUT ~~[PERMIT OR]~~ APPROVAL

To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this Code without all of the approvals required by this Code.

### C. DEVELOPMENT, SUBDIVISION, USE, OR SIGN INCONSISTENT WITH ~~[PERMIT]~~ APPROVAL

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any approval ~~[permit, approval, certificate, or other form of authorization]~~ required in order to engage in such activity.

### D. DEVELOPMENT, SUBDIVISION, USE, OR SIGN INCONSISTENT WITH CONDITIONS OF APPROVAL

To violate, by act or omission, any term, condition or qualification placed by a City decision-making body upon any approval ~~[permit or other form of authorization]~~.

### E. DEVELOPMENT, SUBDIVISION, OR SIGN INCONSISTENT WITH DEVELOPMENT CODE

To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in violation of any zoning, subdivision, sign, or other regulation of this Code.

### F. MAKING LOTS OR SETBACKS NONCONFORMING

To reduce or diminish any lot area so that the lot size, setbacks, or common open spaces shall be smaller than prescribed by this Code.

### G. INCREASING INTENSITY OR DENSITY OF USE

To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Code.

### H. REMOVING OR DEFACING REQUIRED NOTICE

To remove, deface, obscure, or otherwise interfere with any notice required by this Code.

**I. FAILURE TO REMOVE SIGNS**

To fail to remove any sign installed, created, erected, or maintained in violation of this Code or for which the sign permit has lapsed.

**J. OTHER VIOLATIONS OF CODE**

Any other action or inaction contrary to the requirements of this Code.

**19.11.3. CONTINUING VIOLATIONS**

After receiving notice of the violation from the City, each day that a violation remains uncorrected after any applicable cure period may ~~shall~~ constitute a separate violation of this Code.

**19.11.4. RESPONSIBLE PERSONS**

Any person who violates this Code shall be subject to the remedies and penalties set forth in this ~~C~~ehapter. In addition, where the person violating this Code is not the owner of the property that is the subject of the violation, the property owner and the subject property shall also be subject to the remedies and penalties set forth in this Chapter.

**19.11.5. RESPONSIBILITY FOR ENFORCEMENT**

**A. BUILDING OFFICIAL ~~[DIRECTOR OF BUILDING AND SAFETY]~~**

The ~~[Director of Building and Safety]~~ Building Official or his or her designee shall have primary responsibility for enforcing provisions of this Code pertaining to the erection, construction, reconstruction, moving, conversion, or alteration of any building or structure.

**B. PUBLIC WORKS ~~[PARKS AND RECREATION]~~ DIRECTOR**

The Public Works, ~~[Parks and Recreation]~~ Director or his or her designee shall have primary responsibility for enforcing provisions of this Code related to subdivision, including all standards in Chapter 19.9: *Subdivision Design and Improvements*.

**C. COMMUNITY DEVELOPMENT AND SERVICES DIRECTOR**

The Community Development and Services Director or his or her designee shall have primary responsibility for enforcing all other provisions of this Code not listed in subsections A or B above. Other officers of the City as authorized by the Community Development and Services Director shall share responsibility for enforcing provisions of this Code.

**19.11.6. ENFORCEMENT PROCEDURES**

**A. NON-EMERGENCY MATTERS**

In the case of a violation[s] of this Code that does not constitute an emergency, ~~[or]~~ does not require immediate attention, or is not subject to a different enforcement procedure or penalty set forth in this chapter or other applicable chapter of Title 19, the official responsible for enforcement shall give written notice of the nature of the violation to the property owner, tenant, occupant, ~~[or to]~~ any other person who is a party to the relevant agreement, or to any applicant for any relevant approval ~~[permit]~~ in the manner hereafter stated, after which the persons receiving notice shall have ten days to correct the violation, unless another time period is prescribed in the notice, before further enforcement action shall be taken. Subsequent violations within a 12-month period at the same property address may

~~[shall]~~ constitute a failure to correct the violation for purposes of further enforcement action. Notice shall be given ~~[in]~~ by personal service, by United States certified mail or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

## **B. EMERGENCY MATTERS AND OTHER MATTERS REQUIRING IMMEDIATE ATTENTION**

In the case of violations of this Code that constitute an emergency as a result of safety~~[,]~~ or public health concerns, or violations that will create increased problems or costs if not remedied immediately, the City may use the enforcement powers available under this ~~[e]~~Chapter without prior notice, but the official responsible for enforcement shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, tenant, occupant, ~~[to]~~ any other person who is party to the relevant agreement, ~~[and]~~ or to applicants for any relevant approval ~~[permit]~~.

## **C. COMPLAINTS REGARDING APPROVED CONDITIONAL USE PERMITS, TEMPORARY USE PERMITS, VARIANCES, AND HOME OCCUPATION [PERMITS]**

Conditional use permits, temporary use permits, variances, and home occupations ~~[permits]~~ shall be subject to immediate review upon complaint from any member of the public, whether received from a nearby property owner~~[,]~~ or other members of the general public, or city enforcement personnel. The review process may be implemented as follows:

1. The Community Development and Services Director or his or her designee shall notify the property owner and the holder of any relevant approval of each complaint.
2. The property owner shall:
  - (a) Propose and initiate a remedy, or
  - (b) Dispute the validity of the complaint.
- ~~3.~~ If the Community Development and Services Director or his or her designee determines the complaint is not valid, the complaint shall be dismissed. A notice of dismissal shall be sent to the complainant, the property owner, and the holder of any relevant approval.
- ~~[3-]~~4. If the Community Development and Services Director or his or her designee determines the complaint is valid, the Community Development and Services Director or his or her designee shall monitor the effectiveness of the initiated remedy, if any is proposed and initiated by the property owner or approval holder. If the proposed and initiated remedy ~~[appears to resolve]~~ resolves the complaint, no further action shall be required.
- ~~[4-]~~5. If the Community Development and Services Director or his or her designee determines the complaint is valid but ~~[if]~~ the remedy is ineffective, ~~[or]~~ if the property owner or approval holder fails to propose and initiate a remedy, or if the property owner or approval holder further disputes the validity of the complaint, the Community Development and Services Director or his or her designee shall initiate revocation proceedings in accordance with ~~[this]~~ ~~[s]~~Section 19.11.6.D.
- ~~[5-]~~6. The permits, approvals, and variances listed in this subsection (C) are subject to all other enforcement and compliance procedures described in this ~~[e]~~Chapter and other remedies prescribed by applicable law, in addition to revocation under ~~[part]~~ Subsection D below ~~[, or where no remedial action is proposed and initiated by the property owner].~~

## **D. REVOCATION**

1. Applicability

This section shall apply to the process of revocation for any approval granted under this Code other than an approved short-term vacation rental registration, which shall be governed by Section 19.11.6.E.

**[1-]2. Duties of Enforcement Official**

The revocation process shall be initiated by the official responsible for enforcement of the subject provision pursuant to Section 19.11.5 or his or her designee upon a determination by that official or his or her designee that revocation is appropriate pursuant to Section 19.11.6.C.4 or that there are other reasonable grounds for revocation of the subject ~~[permit or development approval]~~ approval.

**[2-]3. Authority to Revoke**

The decision-making body or person that ~~[approved the permit or development]~~ granted the approval shall be authorized to revoke the ~~[permit or development]~~ approval.

**[3-]4. Notices and ~~[Public]~~ Hearing**

**(a) Notice**

Notice of a revocation hearing shall be given in the same manner as required for the ~~[public]~~ hearing at which the approval was granted, if any. If no public notice was required for approval, none shall be required for the revocation hearing, provided that notice shall be mailed to the ~~[owner of the use or structure]~~ property owner and [for which the permit] approval holder [was granted] at least ten days prior to the hearing.

**(b) Hearing**

If no hearing was required by the provisions of this Code or by NRS for a given approval, none shall be required for revocation. At the ~~[public]~~ hearing, the decision-making body or person shall hear testimony of City staff, the ~~[owner of the use or structure for]~~ party to which the ~~[permit]~~ approval was granted, the property owner, if present, and any other interested person.

**(c) Appeals**

Any revocation decision ~~[rendered at a revocation hearing]~~ is subject to the appeal procedures set forth in Section 19.6.9.E, Appeals.

**[4-]5. Required Findings**

The decision-making body or person shall revoke the approval ~~[permit]~~ upon making one or more of the following findings:

**(d)** The approval ~~[permit]~~ was issued on the basis of false, erroneous or misleading information or misrepresentation.

**(e)** The terms or conditions of approval ~~[of the permit]~~ have been violated, the required plans, conditions or specifications have not been followed, or other laws or regulations, including the provisions of this Code, have been violated.

**(f)** There has been a discontinuance of the exercise of the approval ~~[granted by the permit]~~ for 180 consecutive days.

**[5-]6. Decision and Notice**

(a) Matters Subject to ~~[Public]~~ Hearing

Within ten working days of the conclusion of the hearing, the decision-making body or person shall render a decision and shall mail notice of the decision to the ~~[owner-of-the use-or-structure-for]~~ party holding the approval ~~[the-permit] [was-revoked]~~, to the property owner, and to any other person who has filed a written request for such notice.

(b) Matters Not Subject to ~~[Public]~~ Hearing

Within three working days of a decision on a revocation matter that is not the subject of a ~~[public]~~ hearing, the decision-making body or person shall mail notice of the decision to the owner of the use or structure for which the approval ~~[permit]~~ was revoked and to any other person who has filed a written request for such notice.

~~[6.]~~**Z. Effective Date**

A decision to revoke an approval ~~[permit]~~ shall become final ten days after the date of the decision unless an appeal is filed in accordance with the procedures set forth in Section 19.6.9.E, *Appeals*. In such cases, the decision shall become final ten days after the date of the appellate body's decision. No property that is the location of any ~~[permit-or-variance]~~ approval revoked pursuant to the procedures of this ~~[e]~~ Chapter can be the subject of an application for the same ~~[permit-or-variance]~~ approval within two years following revocation.

**E. ENFORCEMENT PROCESS FOR SHORT-TERM VACATION RENTALS**

This Section shall apply only to properties being operated as short-term vacation rentals as defined in Section 19.5.3.G. The City officials responsible for enforcement of this section shall be referred to herein as "enforcement official(s)".

**1. Unregistered Properties**

(a) Where a property is being operated as a short-term vacation rental without the required registration of Section 19.5.3.G, the enforcement official shall issue a written notice and order to cease operation to the property owner, via personal service or certified mail sent to the owner's mailing address as listed in the records of the Clark County Assessor's Office. If the owner's mailing address is different from the property address, the notice shall also be delivered to the subject property address via personal service, certified mail, or posting on the premises.

(b) The notice shall order the property to immediately cease operating as a short-term vacation rental. If the property is in a zoning district where short-term vacation rentals are permitted pursuant to Section 19.5.3.G, the notice and order shall inform the property owner that operation of the short term vacation rental may not resume until registration with the City is completed and approved. If the property is in a zoning district where short-term vacation rentals are not permitted by this Code or in a PC-zoned district where short-term vacation rentals are not permitted, the notice and order shall include a statement of that prohibition.

If the unapproved operation as a short-term vacation continues after issuance of the notice and order, the enforcement official shall issue an administrative citation to the property owner, via personal service or certified mail sent to the owner's mailing address as listed in the records of the Clark County Assessor's Office, and to the subject property address, via personal service, certified mail or posting on the premises, if the owner's address is different from the property address. The citation shall assess a corresponding daily fine for each day the property continues to operate in violation

of Section 19.5.3.G, according to the fine and fee schedule set forth in Section 19.11.6.E.3.

- (c) The City Attorney may also petition a court of competent jurisdiction for injunctive relief or any other appropriate remedy to prevent the continued unapproved operation of the short-term vacation rental.
- (d) Administrative citations and accompanying fines issued to unregistered properties may be appealed pursuant to the provisions of Section 19.11.6.E.2(b) herein.

## **2. Other Violations**

All notices and administrative citations to be issued under Sections 19.11.6.E.2 shall be in writing and delivered to both the property owner and the subject property address, if the subject property address is different from the owner's mailing address as provided by the owner on its registration application or most recent annual renewal. Delivery shall be made via personal service or certified mail to the address provided by the owner in the owner's registration application or most recent annual renewal, or, if the owner has consented in writing to receive notifications under these Sections by email, to the email address provided by the owner in its registration application or most recent annual renewal. If applicable, delivery to the subject property address shall be made via personal service, certified mail or by posting on the premises. The date of delivery of the notice shall be the date of mailing, emailing or posting, as applicable.

### **(a) Violation Notices and Citations**

- (1) Where a property is in violation of any of the provisions of Section 19.5.3.G other than the failure to complete registration, the enforcement official shall issue a written notice of violation. The notice shall clearly state the nature of the violation, the required action to correct the violation, and the time period in which the violation must be corrected.
- (2) Pursuant to Section 19.11.6.B, the City may take immediate action when necessary to address emergencies or other urgent complaints regarding a property operating as short-term vacation rental, without first issuing a notice under this section.
- (3) If the violation has not been cured by the deadline stated in the notice of violation, or if the City is required to take immediate action to address any complaints regarding the short-term vacation rental and incurs costs as a result, the enforcement official shall issue an administrative citation. If the violation is ongoing, the citation shall assess a corresponding daily fine for each day the violation continues according to the fine and fee schedule set forth in Section 19.11.6.E.3. If the violation was corrected by the City, the citation may include any applicable fees and costs incurred by the City. The citation shall enclose a copy of the initial violation notice or shall re-state the nature of the violation and the required action to correct the violation.

### **(b) Appeals**

- (1) Property owners or other persons issued an administrative citation pursuant to Section 19.11.6.E.2(a) may appeal the citation, fine and/or fee by submitting a written request for hearing to the Community Development and Services Director.

- (2) The request for hearing must 1) identify the enforcement action that the person is contesting, 2) set forth the facts supporting the appeal, 3) identify the requested relief, and 4) be delivered to and received by the Community Development and Services Director personally or by mail no later than the 14<sup>th</sup> day following the date of the administrative citation. A timely request for hearing shall toll the deadline for compliance, accrual of fines, and payment of fines and fees. An untimely request for appeal shall not be considered and instead shall be dismissed.
- (3) The Community Development and Services Director or his or her designee shall set a hearing and shall issue notice of the hearing date no later than 15 days prior to the date set for the hearing, unless a shorter time period is agreed to in writing by the appellant. The notice shall state the date, time and location of the hearing, and shall include a short explanation of the hearing process.
- (4) The Community Development and Services Director or his or her designee shall conduct and preside over the hearing. At the hearing, that person, referred to herein as the "presiding officer", shall direct the order of the proceedings and shall hear all evidence presented relevant to the subject violation(s), fines and/or fees. This may include the presentation of written evidence as well as testimony by City employees, the property owner or other cited person, and any witnesses called by the City, the property owner, or other cited person. The hearing shall be conducted informally and shall not be constrained by evidentiary or procedural rules applicable to public hearings or judicial proceedings. The hearing shall provide a fair opportunity for the City and the property owner or other cited person to present evidence regarding the subject violation and the issuance of the subject citation, fines and/or fees. The presiding officer shall have the discretion to question witnesses, to allow rebuttal testimony, to limit the time of the hearing to a reasonable length, and to limit the presentation of immaterial or unduly repetitious evidence.
- (5) After the conclusion of the hearing, the presiding officer shall consider all evidence presented and shall issue a decision to uphold or reverse the disputed enforcement action. Notice of the decision shall be issued no later than 30 days following the conclusion of the hearing. The decision shall clearly state one of the following:
- i. That the administrative citation(s), fine(s) and/or fee(s) are upheld, including a short statement of findings explaining the basis for the decision, and providing a deadline for curing the subject violation(s) and payment of any fines and fees, with a notification that fines will resume accruing daily until the subject violation(s) is corrected;
  - ii. That the administrative citation(s), fine(s), and/or fee(s) are reversed, including a short statement of findings explaining the basis for the decision; or
  - iii. That the administrative citation(s), fine(s), and/or fee(s) are modified, including a short statement of findings explaining the basis for the decision, and providing a deadline for any modified compliance obligations and payment of fines and/or fees, with a notification that fines will resume accruing daily until the subject violation(s) is corrected, if applicable.

(6) The presiding officer's decision shall be the final administrative action on the appeal.

**(c) Delinquent Transient Lodging Tax**

Where any approved short-term vacation rental is deemed significantly delinquent on the payment of transient lodging tax more than two times in any 12-month period pursuant to HMC 4.48.062 and the property owner fails to remit the funds as required by that Section, the short-term vacation rental registration shall be automatically suspended upon written notice from the Community Development and Services Director or his or her designee, and operation of the short-term vacation rental must cease until such time as all outstanding transient lodging taxes and penalties are paid and the other requirements of HMC 4.48.062 have been satisfied. If the property owner fails to comply with a notice issued pursuant to this section 19.11.6.E.2.c, the enforcement official shall issue an administrative citation and fine in compliance with the procedures set forth in Section 19.11.6.E.2.a.3 and 19.11.6.E.2.b.

**(d) Termination of Registration**

(1) Where any of the following has occurred, the enforcement official shall initiate the process to terminate the registration of the short-term vacation rental:

- i. The approved short-term vacation rental has been the subject of 3 or more distinct violations of Section 19.5.3.G in any consecutive 12-month period.
- ii. The approved short-term vacation rental has been the subject of 3 or more distinct violations of HMC Chapter 15.12 or other applicable laws or regulations related to the prevention of nuisance in any consecutive 12-month period.
- iii. The short-term vacation rental registration application or supporting information supplied by the owner contains false, misleading or erroneous statements concerning issues material to the approval of the application.

For the purposes of this subsection, "distinct" violation shall mean a violation that is not continuous with respect to time but is rather a separate violation committed after a prior violation is no longer occurring.

(2) The termination process shall be initiated by service of a written notice stating that the registration will automatically terminate if the property owner does not request an administrative hearing to contest the termination within 20 days of the date of the notice. Only the property owner shall have standing to request a hearing to contest a termination of registration.

(3) The request for hearing to contest a termination of registration shall be made in writing and shall set forth in detail the facts supporting the request. The request for hearing must be delivered personally or by mail to the Community Development and Services Director and must be received no later than the 20<sup>th</sup> day following the date of the notice of initiation of the termination process. A timely request for hearing shall stay the termination date pending the outcome of the hearing.

(4) If a timely request for hearing is not received, the registration shall terminate, and the Community Development and Services Director shall issue a written

notice of termination and order to cease operation of the short-term vacation rental. The notice and order shall indicate any further action the City may take to enforce the termination if necessary.

(5) If a hearing request is timely made, the Community Development and Services Director or his or her designee shall set an administrative hearing for a date no later than 30 days following receipt of the request for hearing. The notice shall state the date, time and location of the hearing, shall include a short explanation of the hearing process, and shall be served no later than 15 days prior to the date set for the hearing unless a shorter time period is agreed to in writing by the property owner.

(6) Where a property owner requests a hearing to dispute both a termination of registration and the issuance of a third administrative citation, the hearings shall be consolidated, and the decision may be issued as a single consolidated decision.

**(7) Administrative Hearing: Termination of Registration**

i. The Community Development and Services Director or his or her designee shall conduct and preside over the hearing.

ii. At the hearing, the Community Development and Services Director or his or her designee, referred to herein as the "presiding officer", shall direct the order of the proceedings and shall hear all evidence presented relevant to the basis for the termination of registration. This may include the presentation of written evidence as well as testimony by City employees, the property owner and any witnesses called by the City or the property owner. The hearing shall be conducted informally, shall not be constrained by evidentiary or procedural rules applicable to public hearings or judicial proceedings and shall provide a fair opportunity for the City and the property owner to present evidence regarding the basis for terminating the short-term vacation rental. The presiding officer shall have the discretion to question witnesses, to allow rebuttal testimony, to limit the time of the hearing to a reasonable length and to limit the presentation of immaterial or unduly repetitious evidence.

iii. After the conclusion of the hearing, the presiding officer shall consider all evidence presented and shall issue a decision to 1) affirm the termination of the registration, 2) reverse the termination of the registration, or 3) reverse the termination of the registration upon the completion of certain conditions to be imposed upon the continuance of the registration. The decision shall be made in writing, shall clearly state the basis for the decision and any applicable deadlines for compliance with the decision, and shall be served no later than 30 days following the conclusion of the hearing. If the decision results in the termination of registration, it shall provide an effective date of termination and include an order to cease operation of the short-term vacation rental as of the effective date.

iv. The decision of the presiding officer shall be the final administrative action on the termination of registration of the subject short-term vacation rental.

v. If a short-term vacation rental registration is terminated, the subject property may not be used for a short-term vacation rental for a period of two years following the date of termination. This two-year prohibition shall not apply to a property whose registration is automatically terminated following a change in ownership pursuant to Section 19.5.3.G.2.i.

### 3. Fine and Fee Schedule

#### (a) Fines

- (1) Operation of a short-term vacation rental without registration: \$500 per day
- (2) Use of short-term vacation rental for events listed in 19.5.3.G.2.g: \$500 per day
- (3) Operation of short-term vacation rental after registration is suspended or terminated: \$500 per day
- (4) All other violations of Section 19.5.3.G: \$100 per day for the first violation, \$300 per day for the second violation and \$500 per day for the third violation

#### (b) Fees

- (1) City code enforcement or other official inspection hourly rate: \$50
- (2) Re-inspection fee: \$122

#### (c) Collection

- (1) If administrative fines, fees or actual expenses incurred by the City in addressing a violation are not paid by the deadlines stated in any decision of the Community Development and Services Director or his or her designee, or, if not appealed, by the deadline stated in the applicable notice, the unpaid amounts are deemed to be immediately due and owed to the City by the property owner.
- (2) The City may take any lawful collection action deemed necessary and appropriate to recover the amounts owed, including but not limited to the City Attorney filing a petition in a court of competent jurisdiction for the entry of a civil judgment against the property owner in an amount equal to the unpaid fine and/or fee amounts owed, or referral of the unpaid amounts to a collection agency for recovery. In addition to the fines assessed pursuant to this chapter, the person responsible for any violation shall be liable for an additional collection fee where the collection of the fines provided for herein is referred for collection. The amount of such fee shall be 25 percent of the outstanding indebtedness or \$250, whichever is less. The amount of any such collection fee shall accrue and become due and payable at the time the indebtedness is referred for collection to the collection agency, and that amount may be added by the collection agency to the amount sought to be collected. Any judgment or amended judgment entered under this chapter may include the amount of the collection fee authorized herein.
- (3) Pursuant to Section 19.5.3.G.5, violations of Section 19.5.3.G have been deemed a nuisance, and the City may therefore elect to make unpaid fines, fees and costs a special assessment against the subject property in accordance

with the requirements and limitations of NRS 268.4122. Pursuant to the provisions of NRS 5.050, the City Attorney may file an action in Henderson Municipal Court for the collection of unpaid fines, fees, costs and assessment amounts and/or to foreclose liens in the name of the City for the nonpayment of those assessments.

#### 4. Other Remedies

Nothing in this Section 19.11.6.E shall be deemed to limit the City's right to exercise any other enforcement options and remedies authorized by NRS, HMC Title 15 or the general remedies and enforcement powers under Section 19.11.7, including the imposition of criminal penalties. Pursuant to NRS 5.050, the City may file an action in Henderson Municipal Court for the prevention or abatement of any nuisance caused by a short-term vacation rental.

### **19.11.7. REMEDIES AND ENFORCEMENT POWERS**

The City shall have the following remedies and enforcement powers:

#### **A. WITHHOLD ~~(PERMIT)~~ APPROVALS/BUILDING PERMITS**

1. The City may deny or withhold ~~[all permits, certificates, or other forms of authorization]~~ any approval, building permit, or any other right granted under the City's building code on any land or structure or improvements upon a determination that there is an uncorrected violation of a provision of this Code or of a condition or qualification of ~~[a permit, certificate, approval, or other authorization]~~ an approval previously granted by the City. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
2. The City may deny or withhold ~~[all permits, certificates, or other forms of authorization]~~ any approval, building permit, or any other right granted under the City's building code on any land or structure or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a provision of this Code or of ~~[a condition or qualification of a permit, certificate, approval, or other authorization]~~ an approval previously granted by the City. This provision shall apply regardless of whether the property for which the ~~[permit or other approval]~~ approval is sought is the property in violation.

#### **B. ~~(PERMITS APPROVED)~~ GRANT APPROVALS WITH CONDITIONS**

Instead of withholding or denying ~~[a permit or other authorization]~~ an approval pursuant to Section 19.11.7.A, the City may grant such authorization subject to the condition that the violation be corrected.

#### **C. REVOKE PERMITS**

Any development permit or other form of authorization approval required under this Development Code may be revoked pursuant to the provisions of Section 19.11.6.D. ~~when the Community Development Director determines that:~~

1. ~~There is departure from the plans, specifications, or conditions as required under terms of the permit approval;~~
2. ~~The development permit approval was procured by false representation or was issued in error;~~  
~~or~~
3. ~~Any of the provisions of this Code are being violated;]~~

**D. STOP WORK**

With or without revoking ~~[permits]~~ an approval or building permit, the City may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Code or of an ~~an [permit or other form of authorization issued]~~ approval issued hereunder or a building permit, in accordance with its power to stop work under ~~[its]~~ the City's building code~~[s]~~.

**E. INJUNCTIVE RELIEF**

The City may seek an injunction or other equitable relief in court to stop any violation of this Code or of an ~~an [permit, certificate, or other form of authorization granted]~~ approval granted hereunder.

**F. ABATEMENT**

The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

**G. PENALTIES**

Any violation of the provisions of this Code constitutes a misdemeanor pursuant to NRS 278.818 and is subject to the punishment provided by law in such cases, as amended from time to time. The City may also seek such civil penalties as are provided by applicable law.

**H. OTHER REMEDIES**

The City shall have such other remedies as are and as may be from time-to-time provided by law for the violation of zoning, subdivision, sign, or related Code provisions.

**I. OTHER POWERS**

In addition to the enforcement powers specified in this chapter, the City may exercise any and all enforcement powers granted by applicable law.

**J. CONTINUATION**

Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to previous and valid, applicable ordinances and laws.

**19.11.8. REMEDIES CUMULATIVE**

The remedies and enforcement powers established in this chapter shall be cumulative, and the City may exercise them in any order or combination, at any time in addition to any remedies and enforcement powers prescribed by applicable law.

## 19.12.4 – Defined Terms

### 19.12.4 – DEFINED TERMS

\* Note: These defined terms will be published in Section 19.12.4 alphabetically upon approval of this zoning ordinance amendment.

#### **NOISE MONITORING DEVICE**

A device capable of all of the following (i) monitoring noise levels (ii) detecting exposure to noise levels that exceed an acceptable level for more than a continuous five-minute period (iii) sending real-time alerts to the subject property owners, property managers or registered local contact, and (iv) being programmed to receive real-time alerts if noise levels continuously exceed the acceptable level under this code for the five-minute period. The noise monitoring device must comply with all laws, rules and regulations regarding privacy.

#### **SHORT TERM VACATION RENTAL - ADVERTISEMENT**

Any and all means, whether verbal or written, through any media whatsoever, whether in use prior to, at the time of, or after the enactment of this ordinance, used for conveying to any member or members of the public the ability or availability to rent a short-term vacation rental unit as defined in Section 19.5.3.G, or used for conveying to any member or members of the public a notice of an intention to rent a short-term vacation rental unit as defined in Section 19.5.3.G. For purposes of this definition, the following media are listed as examples, which are not and shall not be construed as exhaustive: Verbal or written announcements by proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed or poster display, billboard display, e-mail or other electronic/digital messaging platform, electronic commerce/commercial internet web sites, and any and all other electronic media, television, radio, satellite-based, or internet web site.

#### **SHORT TERM VACATION RENTAL - GOOD NEIGHBOR PAMPHLET**

A document prepared by the City that summarizes the general rules of conduct, consideration, and respect, including, without limitation, provisions of this Code and other applicable laws, rules, or regulations, pertaining to the use and occupancy of short-term vacation rental units. Short-term vacation rental operators may supplement this pamphlet, but the pamphlet must contain the minimum City of Henderson information.

#### **SHORT TERM VACATION RENTAL - REGISTERED LOCAL CONTACT**

A person or persons designated by the short-term vacation rental property owner in its City registration to respond to all complaints regarding a short-term vacation rental.

#### **SHORT TERM VACATION RENTAL - NOISE MANAGEMENT PLAN**

A plan that incorporates noise monitoring devices or alternate means of monitoring and responding to noise levels that exceed acceptable levels at and/or around the short-term vacation rental property.

#### **SHORT TERM VACATION RENTAL - OCCUPANCY**

The use or possession of, or the right to use or possess, any residential dwelling unit, or portion thereof, in transient lodging for dwelling, lodging, or sleeping purposes.

#### **SHORT TERM VACATION RENTAL - OCCUPANT**

Any person who, for rent, uses, possesses or has the right to possess any residential dwelling unit, or portion thereof, in transient lodging for dwelling, lodging, or sleeping purposes.

#### **SHORT TERM VACATION RENTAL - PERMANENT RESIDENT**

## 19.12.4 – Defined Terms

Any person who has or shall have the right to use or possession of the same residential dwelling unit, or portion thereof, for dwelling, lodging, or sleeping purposes for 31 consecutive days or more.

### **SHORT TERM VACATION RENTAL - RENT**

The amount charged for occupancy at a short-term vacation rental, valued in money, barter or trade, but does not include the amount charged for any food or beverage service or for personal services rendered to the occupant, such as but not limited to concierge services, clothes cleaning services, massage, or physician services.