

CLARK COUNTY, NEVADA

Business Impact Statement

(NRS 237.090)

Clark County Code Title 4, Chapter 4.08 (Combined Transient Lodging Tax)

Clark County Code Title 6, Chapter 6.12 (Fees and Related Matters)

Clark County Code Title 7, Chapter 7.100 (Short-Term Rental Units)

Clark County Code Title 7, Chapter 7.110 (Accommodations Facilitators)

Clark County Code Title 30, Chapter 30.44 (Uses)

Upon request, a copy of the Business Impact Statement can be obtained from the Clark County Department of Business License and such requests should be sent to:

Clark County Department of Business License
Chapter 5.02
500 S. Grand Central Pky., 3rd Flr
Box 551810
Las Vegas, NV 89155-1810

or a copy may be obtained from the following website:

www.clarkcountynv.gov/businesslicense.

Description of the proposed ordinance or rule:

The proposed amendments to the Clark County Code will:

1. Revise the definition of “transient lodging” in Section 4.08.020 to include “short-term rental unit”.
2. Revise the definition of “vacation homes” to exclude it from the definition of “short-term rental unit”.
3. Create a new Chapter 7.100 for Short-Term Residential Rentals.
4. Add definitions related to “short-term rental units”.
5. Require a person to obtain a license to operate a short-term rental unit.
6. Identify certain types of residential units that are not affected by this chapter.
7. Limit the number of short-term rental units that may be issued.
8. Define “eligible property owner” for the purposes of issuing a license.
9. Establish criteria to determine who may be an ineligible property owner.

10. Establish criteria to determine what residential units may be considered as ineligible for licensure.
11. Set forth application requirements for a short-term rental license.
12. Describe the application procedures for a short-term rental license.
13. Provide for the issuance or denial of a short-term rental license.
14. Establish annual fees for a short-term rental license.
15. Prohibit the transfer of a license or a location of a short-term rental.
16. Prohibit a change in ownership with certain exceptions.
17. Establish certain restrictions on rentals.
18. Set forth the duties of a short-term rental licensee.
19. Identify prohibited conduct concerning short-term rental.
20. Provide for complaint resolution.
21. Describe the powers of the county in regulating short-term rentals, including subpoena powers.
22. Provide for the suspension or revocation of a short-term rental license.
23. Declare operation of a short-term rental unit without a license or in violation of the Chapter to be a public nuisance.
24. Provide for enforcement action in including administrative citations for violations.
25. Provide for an initial review and/or administrative hearing to contest a citation.
26. Create a new Chapter 7.110 for Accommodations Facilitators.
27. Add definitions related to Accommodations Facilitators.
28. Require a person to obtain a license to operate as an Accommodations Facilitator.
29. Set forth application requirements for an Accommodations Facilitator.
30. Provide for the issuance or denial of an Accommodations Facilitator.
31. Establish the annual fees for an Accommodations Facilitator.
32. Set forth the duties of an Accommodations Facilitator licensee.

33. Identify prohibited conduct concerning an Accommodations Facilitator.
34. Describe the process for issuing a subpoena.
35. Provide for the suspension or revocation of an Accommodations Facilitator license.
36. Provide for enforcement action in including administrative citations for violations.
37. Provide for an initial review and/or administrative hearing to contest a citation.
38. Remove the prohibition of transient commercial use of residential developments.

Intent of the proposed ordinance or rule including issues to be resolved or other factors to be considered:

The intent of this proposed ordinance is to regulate the rental of residential units or rooms within residential units for the purposes of transient lodging in the unincorporated areas of the County and to regulate accommodations facilitators as required by Assembly Bill 363 (AB 363) that was approved by the Nevada State Legislature in 2021 (NRS 244.1545; 244.35351 through 244.35359). AB 363 requires that the ordinance adopted by the County without limitation:

- (1) require the rental to meet the definition of “transient lodging” as defined by the County;
- (2) set forth the requirements of an application for a license including identifying a department that will administer the applications;
- (3) establish the amount of the annual fee for a license and the minimum liability coverage for the residential unit;
- (4) prohibit the rental of a residential unit located in an apartment building;
- (5) prohibit the rental of a residential unit for a minimum period of nights;
- (6) establish requirements to ensure a minimum distance between residential units and between a residential unit and a resort hotel;
- (7) establish the maximum number of occupants for a residential unit;
- (8) limit the number of residential units within a multifamily dwelling and prohibit the licensing of a residential unit within a common-interest community unless expressly allowed in the governing documents;
- (9) establish a maximum number of licenses a person may hold;

- (10) establish a maximum number of licenses that may be issued for the rental of rooms within a single residential unit;
- (11) define “party” as the maximum number of occupants allowed in the residential unit and prohibit the use of the residential unit for parties;
- (12) establish specific requirements for noise, trash and security for the residential unit;
- (13) establish a process for a person to report violations; and
- (14) establish a schedule of civil penalties for violations of the ordinance.

Description of the manner in which public comment, data or arguments was solicited from affected businesses and/or community stakeholders:

On April 25, 2022, the County sent a Notification of Proposed Amendments to Clark County Code, Titles 4, 6, 7 and 30, (Notification Letter, Attachment #1) and the Proposed Ordinance to various business associations, chambers of commerce, attorneys, licensed property managers, real estate associations, short-term rental hosting platforms, resort hotels and the Nevada Resort Association, transportation network companies and other interested parties. The Notification was published in the Las Vegas Review-Journal on May 2 and May 9, 2022 (Attachment #2). The Notification and proposed ordinance were also available on the Department of Business License’s website. Recipients of the Notification Letter were encouraged to respond with any comments or concerns regarding the proposed ordinance.

Summary of public comment, data or arguments including the number of public comments received:

Following a comment period that lasted 15 working days, over 130 comments were received. *[County responses are in italics.]*

Comment Summary #1 – In Support or Desiring Stricter Regulations (Attachment #3)

The Department received 14 comments that were either in support of the proposed amendments or desired more restrictive requirements, including an absolute ban on short-term rental units. Some of the reasons stated include disruption to the neighborhood from guests of short-term rental units resulting from parties, excessive noise, accumulation of trash, and improper parking. Some have suggested background checks of all hosts; requiring only owner-occupied units; reducing the maximum number of occupants allowed; and not allowing them to be in condominiums.

[Short-term rental units would only be allowed in condominiums that are common-interest communities if the governing documents expressly authorize that short-term rental units are allowed for transient lodging purposes.]

Comment Summary #2 – Opposed or Desiring Less Restrictive Requirements (Attachment 4)

The Department received 108 comments that were opposed to the proposed amendments and/or desired less restrictive requirements. Many of the comments expressed did not state specific provisions to which they were opposed, but did state that the ordinance is unfairly punishing all of the short-term rental operators for the bad actions of a few operators. The following specific concerns were expressed by this group of commenters:

1. The concern expressed most frequently is the distance restriction of 1,000 feet between short-term rental units. Some felt that there should be no distance restrictions at all or that the initial application period should allow all who apply to be able to obtain a license and then apply the distance restriction on subsequent applications. Some commenters state that distance restrictions for condominiums is not reasonable. *[AB 363 requires the County to adopt an ordinance that must contain certain minimum standards such as short-term rentals have to be at least 660 feet from each other. The distance of 1000 feet is proposed to provide adequate separation between short-term rental units in residential neighborhoods, which is the requirement in the City of Henderson. The minimum distance requirements do not apply to multifamily dwellings such as condominiums which, if allowed, are limited to 10% of total number of units.]*
2. Many stated that the limit of 1 short-term rental license per person is too strict and believe that it should be the same as the minimum of 5 licenses as stated in AB 363. Some stated that the number of short-term rental units currently in operation does not have a significant impact on affordable housing. *[AB 363 limits a person to a maximum of 5 short-term rental licenses, but it does not prevent someone from creating multiple corporations or limited liability companies to acquire more than 5 short-term rental units. By limiting the number of licenses that a person may obtain prevents such accumulation of rental units by the same person or persons and allows for applications from more people.]*
3. Several commenters were opposed to the maximum capacity of occupants set at 2 persons per bedroom and a total of 10 persons per rental unit. Recommendations were made that the capacity should be 4 persons for the first bedroom and 2 persons for additional bedrooms as some master bedrooms can accommodate 4 people, or 2 people and 2 children, as some rental units have 5 or more bedrooms. *[The maximum capacity was set at 2 persons per bedroom with a maximum capacity of 10 persons to discourage large groups that could result in parties and excessive noise.]*
4. Many commenters believe that limiting the number of short-term rental units to 1% of available housing in each unincorporated area of the County (approximately 2,800 units) is unreasonable and too limiting and it will result in driving the majority of existing short-term rental units (estimated at 8,000 – 12,000) underground or out of business with owners having to sell or otherwise lose their property. *[The purpose of limiting the number of short-*

term rental units to 1% of available housing is reduce the potential impact that short-term rental units has on available housing for people that are not transient.]

5. Many commenters were opposed to the random selection of applications after the application period ends. Many suggested that the application period be open to everyone that wants to apply for and obtain a license and then after a certain period begin to implement distance restrictions. This would allow existing rentals units the opportunity to become licensed and operating within the County Code. The County could then go after the bad operators and issue fines or revoke their licenses. *[Section 26.5 of AB 363 requires the County to have an open application period lasting 6 months for any person who owns a residential unit and used an accommodations facilitator before June 1, 2021, to make available for rent a residential unit or a room within a residential unit in violation of the County's ordinance prohibiting short-term rentals. This Section makes it impossible for the County to issue any licenses on a first-come, first-served basis because the available licenses likely would be issued before the expiration of this six-month window. Also, given the number of anticipated applications, granting licenses on a first-come, first-served basis would be very chaotic to implement and likely cause applicants to submit incomplete applications. For these reasons, a six-month application period followed by a random prioritization of eligible applications is the best and fairest process for reviewing license applications.]*
6. The minimum stay of 2 nights was opposed by some as occasionally guests may only need lodging for 1 night and desires the accommodations of a residence over a hotel. *[AB 363 establishes a minimum of 2 nights for non-owner-occupied rental units and 1 night if owner-occupied. The minimum night stay is set at 2 nights for all short-term rental units as it is difficult to verify if a rental unit is actually owner-occupied while the transient guest is renting the property.]*
7. Requiring that all short-term rental units be connected to municipal sewer system will prevent some short-term rental units from qualifying for a license and some have expressed concern that it eliminates their ability to get a license. Some have said that they would like to connect to a sewer system, but the cost is prohibitive. Some have said they would pay the cost, but they have no guarantee that they would be able to obtain a license. *[Due to the severe shortage of water in the County it was determined that short-term rental units need to be connected to a municipal sewer system where the water is reclaimed.]*
8. A few other commenters were concerned about short-term rental units not being allowed in a community that has a Homeowners Association (HOA); the inability to change ownership for a short-term rental unit; and that short-term rental units are prohibited in certain rural areas. *[AB 363 stipulates that short-term rental units are not allowed in common-interest communities, such as HOAs, unless the governing documents of the community expressly authorize the rental of a residential unit for the purposes of transient lodging.]*

Comment Summary #3 – Supportive of the Short-Term Rental Industry (Attachment #5)

There were 14 comments received that did not directly address the proposed amendments but did express support for the short-term rental industry. Most of the comments stated that when they travel to southern Nevada, they prefer short-term rental units over hotels. Many have families and they prefer a residential environment over a commercial setting such as a resort hotel. Some of the families are large in number and a residential location is more convenient and economical. Many have recommended aligning our proposed ordinance with the minimum standards in AB 363.

Comment Summary #4 – Technical Changes to the Proposed Ordinance

There were 4 comments communicated which requested minor technical changes to provide clarity or to comport with AB363 and/or Clark County Code.

1. Section 6.12.982 of the proposed ordinance redefines the term “Vacation Homes,” in pertinent part, “as any residential dwelling in a resort condominium, as defined in Title 30 of this Code, that is utilized for transient lodging.” One comment was received to include “condominium hotels” in the definition of Vacation Homes. [*Title 30 of the Clark County provides that condominium hotels, like resort condominiums, may be “subdivided into individual rooms or suites for separate ownership or time share...” Vacation Home business licenses have been issued to residential units in resort condominiums and condominium hotels. The proposed ordinance, as introduced, was amended to define the term Vacation Homes, in pertinent part, “as any residential dwelling in a condominium hotel or resort condominium, as defined in Title 30 of this Code, that is utilized for transient lodging.”*]
2. Section 7.100.040 of the proposed ordinance excludes the applicability of the ordinance from certain residential units. One commenter stated that the Section did not comply with Section 1.5 of AB363 due to a missing conjunction. [*Section 1.5 of AB363 provides that the legislation “does not apply to residential unit located within a building that is: (a) Located on land not zoned exclusively for residential use; and (b) Owned or operated by a person who holds a nonrestricted license for gaming issued pursuant to NRS 463.170 or an affiliate of a person who holds a nonrestricted license for gaming.” The proposed ordinance lacked the conjunction “and.” Section 7.100.040 of the proposed ordinance, as introduced, was amended to conform to Section 1.5 of AB363.*]
3. Section 7.100.170(o) of the proposed ordinance requires a licensee to “install a functional street-facing security camera capable of recording video surveillance.” One commenter noted that the provision does not require the security camera to be operational. [*The Section included in the proposed ordinance, as introduced, includes a new subsection stating that “[t]he security camera must be in continuous operation while the property is rented.”*]

4. Section 7.100.180(b) of the proposed ordinance prohibits “[p]arties, weddings, events or other gatherings which exceed the maximum occupancy of the residential unit established by this Chapter...” One commenter noted that the provision does not strictly comply with the language contained within AB363. *[Section 7(2)(k) of AB363 requires the County to define the word “party” in the ordinance and to “prohibit the use of the residential unit for parties, weddings, event or other large gatherings.” Section 7.100.180(b) was therefore amended in the proposed ordinance, as introduced, to state that “[p]arties, weddings, and events are prohibited. Gatherings which exceed the maximum occupancy established by this Chapter are also prohibited.”]*

Comment Summary #5 – Accommodations Facilitators (Attachment #6)

The proposed ordinance also creates a new chapter in the County Code to license Accommodations Facilitators. One comment was received from an Accommodations Facilitator. Expedia Group, which represents other brands such as Hotels.com and Vrbo, expressed the following concerns:

1. Section 7.110.080(a) of the proposed ordinance requires facilitators verify short-term rental units have a valid business license. Expedia would like to clarify this section and include a method by which the hosting platforms can share necessary information to make verification possible. Expedia suggests replacing the language in Section 7.110.080(a) with, “Prior to providing booking services, Hosting Platforms shall require operators to include a license number on any listing for a short-term rental unit on the platform. Hosting Platforms shall remove any listings for short-term rentals from the platform if notified by the Department that the license number associated with the listing is invalid or has been revoked or suspended.”
2. Current language in the proposed ordinance requires hosting platforms to deactivate a listing within 48 hours of notice from the County. Expedia recommends revising the time to deactivate a listing to 5 business days to allow hosting platforms sufficient time to process the request. Expedia also requests that the reason for deactivation be included with the deactivation request.
3. Section 7.100.040 exempts certain properties from the requirements of Chapter 7.100, which creates complicates the requirement to deactivate listings that do not have a business license. Expedia recommends a clarification be made to Section 7.100.040 regarding these properties.
4. Section 7.110.080(e) requires certain information to be provided by the hosting platforms that Expedia claims goes well beyond what is required by AB 363 to enforce proposed regulations. Expedia recommends removing any booking level data from Section 7.110.080(e) such as the actual length of stay per address per rental transaction, the booking value pe rental, and “any other information the Department may deem necessary.”

The estimated economic effect of the proposed ordinance or rule on businesses:

1. Adverse effects

Due to the limitations on the number of short-term rental units that will be eligible for a license and the distance restriction contained in the proposed ordinance many existing short-term rental units will be unable to obtain a license. The requirement that accommodations facilitators must remove short-term rental units from their platform if notified by the County that they do not possess a valid business license will result in a reduction of revenue to the accommodations facilitators.

2. Beneficial effects

The licensing of persons operating a short-term rental unit and accommodations facilitators will identify a business activity that has been recognized by the Nevada State Legislature as one that should be regulated and that the State Legislature has mandated that the County regulate. The proposed ordinance also removes the current provision in the county Code that prohibits the operation of a short-term residential rental unit. Transient lodging taxes will be collected that benefit many agencies including the Las Vegas Convention and Visitors Authority, the Clark County School District, State education and the stadium district.

3. Direct effects

The proposed ordinance will require persons wanting to operate a short-term residential rental unit to apply for a business license, pay the appropriate fees and comply with the requirements and regulations of the proposed ordinance. Following a required 6-month licensing period and the processing of the applications received, successful applicants of short-term rental units will be issued a business license and the applicants that are not successful in obtaining a business license shall be required to cease operating a short-term rental unit for transient lodging purposes. The reduction in short-term rental units will reduce the number of janitorial and maintenance workers that many property owners use to clean and maintain the rental units.

4. Indirect effects.

The proposed ordinance would result in identifying licensed short-term rental units and reducing the negative impact that acquisitions of multiple residential units by the same persons or entities have on the availability of affordable housing.

5. Other economic effects to be considered.

No other economic effects were identified.

The estimated cost to the local government for the enforcement of the proposed ordinance or rule:

It is estimated that the fees collected from licensing short-term rental units and accommodations facilitators will be sufficient to enforce the Proposed Ordinance with additional staff.

The estimated cost to the local government for the administration of the proposed ordinance or rule:

It is estimated that the fees collected from licensing short-term rental units and accommodations facilitators will be sufficient to administer the Proposed Ordinance with additional staff.

If applicable, explanation of a new fee or increase to an existing fee including a projection of the annual revenue expected to be collected and the manner in which the revenue will be utilized:

The new fees established by this proposed ordinance are based on: (1) the number of short-term rental units that will be licensed, and (2) the number of residential units on accommodations facilitators' hosting platform that is tiered to increase as the accommodations facilitators' business volume increases. The total amount of license fees would depend on the number of short-term rental units that are available for rent on the hosting platforms and the number of short-term rental units that are licensed. The number of short-term rental units listed on the hosting platforms or licensed by the residential unit owners cannot be determined at this time. Any license fees received would go to the General Fund.

In addition to license fees, transient lodging taxes would be received for the rental of residential units that would be based on the applicable transient lodging tax rates and would be distributed to various government entities. The transient lodging taxes received from the rental of residential units is based the number of residential units rented and the rental rates charged and cannot be determined at this time.

Assessment of provisions of the proposed ordinance or rule, which may duplicate or are more stringent than Federal, State or local standards regulating the same activity:

The proposed amendments do not duplicate Federal, State or local standards, but the following are more stringent:

- (1) AB 363 requires that a short-term rental unit must be at least 660 feet from another short-term rental unit. This is also the standard in the City of Las Vegas and the City of North Las Vegas. This proposed ordinance establishes the minimum distance at 1,000 feet, the same as the City of Henderson.
- (2) The proposed ordinance requires that a residential unit must make available the rental of such unit for no less than two (2) nights, whether or not it is owner-occupied. AB 363 allows residential units that are owner-occupied to make available the rental of such a unit for no less than one (1) night.

- (3) The proposed ordinance limits the number of short-term rental licenses available in the County to no more than the greater of one (1) residential unit per established unincorporated area within the County, or 1% of the total number of available housing units within each unincorporated area within the County.
- (4) AB 363 requires the maximum occupancy of a short-term rental unit be no more than sixteen (16) persons. The proposed ordinance establishes this limit to the lesser of two (2) persons per bedroom for a total of ten (10) persons.
- (5) The proposed ordinance restricts the issuance of a short-term rental business license to natural person, business entities or personal or family trusts. For business entities and personal or family trusts, all of the shareholders, partners, members, managers, officers, principals, settlors, trustees and beneficiaries must be natural person and 18 years of age or older.
- (6) The proposed ordinance prohibits the issuance of a licenses to a natural person, business entity or personal or family trust if it would that cause the natural person or anyone in the business entity or personal or family trust to obtain legal or beneficial ownership of, or a financial interest in, more than one (1) short-term rental unit in the unincorporated areas of Clark County.
- (7) Residential units not intended to be used for permanent lodging, including recreational vehicles, travel trailers, tents, and motor vehicles are ineligible as residential units under this proposed ordinance. Mobile homes and manufactured homes are also not allowed as residential rental units.
- (8) AB 363 requires that residential units be maintained in a safe and hazard-free condition. The proposed ordinance further provides that a residential unit would be ineligible for licensure if it: (a) is imminently dangerous pursuant Chapter 11.08 of the Code; (b) is in violation of the provisions of the housing or health codes concerning the health, safety, sanitation or fitness for habitation of the residential unit; or (c) was constructed, or to which any addition, alteration, or repair was made without first obtaining any permit or other approval required by Section 22.02.165 of the Code, unless the constructions, addition, alteration, or repair was subsequently remediated to the satisfaction of the permitting department or authority.
- (9) A residential rental unit will be ineligible for licensure if a review of Clark County Code Enforcement's case management system reveals multiple substantiated violations of the County Code within the last 36 months that have not been remediated.
- (10) A residential rental unit will be ineligible for licensure if the residential unit has been designated as below market rate or income-restricted, is subject to affordability covenants, or is otherwise subject to housing or rental assistance under local, state or federal law.

- (11) The proposed ordinance prohibits the issuance of a short-term rental license for property within the unincorporated areas of the Town of Mt. Charleston and Townships of Moapa, Moapa Valley, Mesquite and Bunkerville.
- (12) The proposed ordinance requires eligible residential units to be connected to a municipal sewer system.
- (13) The proposed ordinance prohibits any change of ownership of a short-term rental unit, with certain exceptions.

If applicable, explanation of why the duplicative or more stringent provisions are necessary:

The proposed amendments that are more stringent are necessary for the following reasons:

- (1) The distance of 1000 feet between short-term rental units is proposed to reduce the number of residential units within a neighborhood that will have transient lodging activity further apart from each other.
- (2) The minimum number of nights stay is proposed to be two (2) nights as it is difficult to determine whether a residential unit is actually owner-occupied.
- (3) The limitation on the number of short-term rental unit licenses available is so that the amount of available housing is not greatly reduced by the number of short-term rental units.
- (4) The reduction in the number of occupancy of a residential unit is to reduce the amount of traffic, noise and parties that may occur at a residential unit.
- (5) The requirement that the licensee of a short-term rental unit be a natural person or a business entity or personal or family trust that is comprised of entirely of natural persons is to prevent multiple layers of corporations or business entities owning multiple residential rental units.
- (6) The requirement that no person may have legal or financial interest in more than 1 short-term rental unit is to prevent a person to acquiring multiple licenses for short-term rental units and reducing the number of licenses available for others.
- (7) Housing that is not intended to be used for permanent lodging is deemed unsuitable as a short-term rental unit.
- (8) A residential unit that is imminently dangerous, in violation of housing or health codes or that was constructed or to which any addition, alteration, or repair was made without the necessary permits is deemed unsafe and unsuitable as a residential rental unit.
- (9) A residential unit that has had multiple substantiated violations of the County Code that have not been remediated to the satisfaction of Code Enforcement is deemed unsuitable as a residential rental unit.

- (10) A residential unit that is has been designated as below market rate or income-restricted, is subject to affordability covenants, or is otherwise subject to housing or rental assistance under local, state or federal law, is deemed inappropriate and ineligible as a residential rental unit.
- (11) Certain rural areas of the County have been deemed unsuitable for short-term rental units.
- (12) Due to the severe water shortage in the County, it has been determined that short-term rental units must be connected to a municipal sewer system that reclaims the wastewater.
- (13) Change in ownership is prohibited, except in certain circumstances, to prevent transfers of ownership to circumvent the requirement that no person may have interest in more than one (1) short-term rental unit.

Description of the methods that local government considered to modify the proposed ordinance or rule; or otherwise reduce the impact of the proposed rule on businesses, the parties involved, and a statement of the methods used:

After reviewing the comments from the respondents, identifying the mandated requirements of AB 363, and analyzing potential impacts on businesses and residential neighborhoods it was determined that the proposed amendments are necessary and, therefore, no changes were made except as noted above.

The reasons for the conclusions regarding the impact of the proposed rule on businesses:

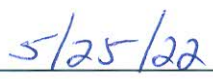
In order to the comply with the State requirement that the County regulate the rental of residential units or rooms within residential units for the purposes of transient lodging in the unincorporated areas of the County and to regulate accommodations facilitators as required by Assembly Bill 363 (AB 363) and to provide fair and equitable treatment of similar business activities we feel that the provisions in the Proposed Ordinance are necessary and are in compliance with state law.

Certification of Business Impact Statement

I certify that, to the best of my knowledge or belief, the information contained in this Business Impact Statement was prepared properly and is accurate.



Yolanda King
County Manager



Date