

**CITY OF OJAI**

**ORDINANCE NO. 862**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF OJAI, CALIFORNIA ADDING A NEW  
CHAPTER 24 TO TITLE 4 OF THE OJAI MUNICIPAL  
CODE PROHIBITING ADVERTISEMENTS FOR  
UNLAWFUL SHORT-TERM, TRANSIENT, AND  
VACATION RENTALS.**

WHEREAS, on January 26, 2016 the City Council of the City of Ojai (the “City Council”) adopted Resolution 16-07 confirming the City’s existing ban on short-term, transient, or vacation rentals, except for lawful hotels, motels, and bed and breakfasts approved and operated in full compliance with all applicable federal, state, and City rules and regulations.

WHEREAS, the Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all residential zones as this land use is not provided for in Ojai Municipal Code Section 10-2.402, Table 2-2 which lists all allowable land uses in residential zones. Ojai Municipal Code Section 10-2.302, subdivision (a) requires that any proposed land use be expressly identified as allowed in the applicable requirements for a zone. Under the principle of permissive zoning, any land use not expressly allowed or permitted via a determination of substantially similar use under Ojai Municipal Code Section 10-2.303 is prohibited. Ojai Municipal Code Section 10-2.303 provides for the City to approve a land use that is substantially similar to a listed land use, but only after finding that the land use is consistent with the General Plan, would not adversely affect the City’s public health, safety, and general welfare, and that the proposed use meets all other requirements of Ojai Municipal Code Section 10-2.303. The City Council previously held that short-term, transient, or vacation rentals are not consistent with the General Plan’s designated land uses for residential zones.

WHEREAS, the Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all commercial and manufacturing zones as this land use is not provided for in Ojai Municipal Code Section 10-2.503, Table 2-4, with the following exceptions:

- (1) lawfully approved hotels, motels, and timeshare facilities operated in full compliance with all applicable federal, state, and local rules and regulations including all required permits from the City, which are a permitted use in the Commercial-1, Business-Professional, and Village Mixed Use zones as stated in Ojai Municipal Code Section 10-2.503, Table 2-4, and

(2) lawfully approved bed and breakfasts operated in full compliance with all applicable federal, state, and local rules and regulations including all required permits from the City, which are a permitted use in the Business-Professional zone and are a conditionally permitted use subject to the approval of a conditional use permit in the Commercial-1 and Village Mixed Use zones as stated in Ojai Municipal Code Section 10-2.503, Table 2-4. A bed and breakfast is not permitted in any single-family or residential zoning district under Ojai Municipal Code Section 10-2.1703, subdivision (a). A lawfully operated bed and breakfast must conform to the standards of Ojai Municipal Code Section 10-2.1703, the definition of bed and breakfast in Ojai Municipal Code Section 10-2.3602, the parking requirements of Ojai Municipal Code Section 10-2.1405, Table 3-5, which requires 1 parking space for each guest room, plus 2 parking spaces for the resident family, and all other applicable rules and regulations.

WHEREAS, the Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all special purpose zoning districts as this land use is not provided for in Ojai Municipal Code Section 10-2.603, Table 2-6, with the following exception:

(1) lawfully approved hotels and motels operated in full compliance with all applicable federal, state, and local rules and regulations including all required permits from the City, which are permitted in the Institutional-Recreational-3 zone as stated in Ojai Municipal Code section 10-2.603, Table 2-6.

WHEREAS, many owners, operators, and facilitators of unlawful short-term rentals, including internet hosting platforms that engage in the short-term rental business, use advertisements to make unlawful short-term rentals available to the general public and rely on advertisements to secure customers, such that prohibiting advertisements for unlawful short-term rentals would reduce the supply of unlawful rentals and reduce the occurrence of this unlawful activity by making it significantly more difficult for prospective renters and owners and operators to connect with each other and to enter into rental agreements.

WHEREAS, the City's Municipal Code does not currently prohibit advertisements for unlawful short-term rentals.

WHEREAS, the City Council intends to use its general police power to regulate businesses and commercial activity within the City and to ensure compliance with the City's zoning code governing permitted and prohibited land uses, to adopt this Ordinance prohibiting advertising for unlawful short-term, transient, and vacation rentals.

WHEREAS, this Ordinance is intended to reduce the amount of illegal activity presently occurring, and prevent new illegal activity from occurring, in the City by prohibiting advertisements by which owners, operator, and facilitators of unlawful short-term rentals seek customers and make unlawful short-term rentals available to the public.

WHEREAS, this Ordinance is a permissible regulation of commercial speech because it is limited to a prohibition on advertisements for unlawful short-term, transient, and vacation rentals of properties with addresses located within the City's incorporated jurisdiction and does not affect advertisements for any lawful short-term, transient, or vacation rentals.

WHEREAS, any person or entity wishing to avoid the impact of this prohibition need only delete or remove any advertisements for unlawful short-term, transient, or vacation rentals in the City of Ojai's limits.

WHEREAS, on August 9, 2016, the City Council conducted a lawfully-noticed public hearing and received public testimony regarding the proposed ban on advertisements for unlawful short-term, transient, or vacation rentals in the City of Ojai's limits.

WHEREAS, the City Council desires to add a new Chapter 24 to Title 4 of the Ojai Municipal Code, prohibiting advertisements for unlawful short-term, transient, or vacation rentals.

WHEREAS, the City Council finds that this amendment to the Municipal Code is consistent with the goals, policies, and actions of the General Plan, particularly the General Plan's provisions stating that the City shall preserve the community's small-town aesthetic and character and dictating land use designations that do not permit short-term rentals other than lawful hotels, motels, and bed and breakfasts, and the provision of the Land Use Element of the General Plan which states "the residents of Ojai share a common goal of ensuring that the existing 'sense of the community' is maintained..." and that Ojai "successfully blends the best of small town lifestyles and a tourist economy."

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

**SECTION 2. Code Amendment.** A new Chapter 24 is hereby added to Title 4 of the Ojai Municipal Code, to read as follows:

## **CHAPTER 24: PROHIBITION ON ADVERTISING FOR UNLAWFUL SHORT-TERM, TRANSIENT, AND VACATION RENTALS**

### **Section 4-24.01. Purpose.**

The purpose of this chapter is to reduce the proliferation of the illegal land use of unlawful short-term, transient, and vacation rentals and the associated negative effects caused by this illegal land use on the City's residents, businesses, and visitors, including excessive traffic, reductions in available parking, unlawful conversions of residential property, unlawful conversions of existing affordable housing units into illegal short term vacation rentals, and inundation of the City's low-density, quiet residential neighborhoods with commercial visitors and activity that adds traffic, noise, and destroys their quiet, low-density residential character. The City intends this prohibition on advertisements for unlawful short-term, transient, and vacation rentals will apply to the extent of, but not beyond, the limit of the City's power, consistent with the First Amendment to the United States Constitution and Article I, Section 2 of the California Constitution, and any preemptive state or federal laws.

This advertising ban applies to advertisements for short-term, transient, and vacation rentals, which are prohibited under the following sections of the Ojai Municipal Code:

- (a) The Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all residential zones as this land use is not provided for in Ojai Municipal Code Section 10-2.402, Table 2-2 which lists all allowable land uses in residential zones. Ojai Municipal Code Section 10-2.302, subdivision (a) requires that any proposed land use be expressly identified as allowed in the applicable requirements for a zone. Under the principle of permissive zoning, any land use not expressly allowed or permitted via a determination of substantially similar use under Ojai Municipal Code Section 10-2.303 is prohibited. Ojai Municipal Code Section 10-2.303 provides for the City to approve a land use that is substantially similar to a listed land use, but only after finding that the land use is consistent with the General Plan, would not adversely affect the City's public health, safety, and general welfare, and that the proposed use meets all other requirements of Ojai Municipal Code Section 10-2.303. Short-term, transient, or vacation rentals are not consistent with the General Plan's designated land uses for residential zones.
- (b) The Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all commercial and manufacturing zones as this land use is not provided for in Ojai Municipal Code Section 10-2.503, Table 2-4, with the following exceptions:
  - (1) lawfully approved hotels, motels, and timeshare facilities operated in full compliance with all applicable federal, state, and local rules and regulations including all required permits from the City, which are a permitted use in the Commercial-1, Business-Professional, and Village Mixed Use zones as stated in Ojai Municipal Code Section 10-2.503, Table 2-4, and
  - (2) lawfully approved bed and breakfasts operated in full compliance with all applicable federal, state, and local rules and regulations including all

required permits from the City, which are a permitted use in the Business-Professional zone and are a conditionally permitted use subject to the approval of a conditional use permit in the Commercial-1 and Village Mixed Use zones as stated in Ojai Municipal Code Section 10-2.503, Table 2-4. A bed and breakfast is not permitted in any single-family or residential zoning district under Ojai Municipal Code Section 10-2.1703, subdivision (a). A lawfully operated bed and breakfast must conform to the standards of Ojai Municipal Code Section 10-2.1703, the definition of bed and breakfast in Ojai Municipal Code Section 10-2.3602, the parking requirements of Ojai Municipal Code Section 10-2.1405, Table 3-5, which requires 1 parking space for each guest room, plus 2 parking spaces for the resident family, and all other applicable rules and regulations.

- (c) The Ojai Municipal Code provides that any short-term, transient, or vacation rentals of property or a portion thereof for less than 30 days in exchange for any form of compensation is prohibited in all special purpose zoning districts as this land use is not provided for in Ojai Municipal Code Section 10-2.603, Table 2-6, with the following exception:
  - (1) lawfully approved hotels and motels operated in full compliance with all applicable federal, state, and local rules and regulations including all required permits from the City, which are permitted in the Institutional-Recreational-3 zone as stated in Ojai Municipal Code section 10-2.603, Table 2-6.

#### **Section 4-24.02. Definitions.**

For purposes of this chapter the following definitions apply:

- (a) “Advertisement” means any writing, picture, video, or other communication in fixed form shown, made available, or presented to the public for the purpose of soliciting a buyer or user of a service, to help sell a product, or to announce the availability of a product or service for purchase or rental by the public.
- (b) “Broker or property manager” means person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind who offers to rent or arranges for persons to rent an unlawful short-term rental or otherwise oversees and facilitates the operation of an unlawful short-term rental.
- (c) “Person” shall mean any person, individual, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind.
- (d) “Property owner” means any person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind with a beneficial ownership interest in a property.
- (e) “Tenant” means any person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind with a leasehold interest in a property.
- (f) “Unlawful short-term rental” means any short-term, transient, or vacation rental of property or a portion thereof located in the City of Ojai for less than 30 days in exchange for any form of compensation except for lawfully approved hotels,

motels, bed and breakfasts, and timeshare facilities operated in full compliance with all applicable federal, state, and local rules and regulations including any and all required permits from the City.

**Section 4-24.03. Prohibition on Advertising for Unlawful Short-Term, Transient, and Vacation Rentals.**

- (a) All persons, including property owners, tenants, and broker or property managers, are prohibited from displaying, transmitting, sending, or posting anywhere, whether online, in a newspaper, or in any other writing, any advertisement or commercial solicitation for an unlawful short-term rental.
- (b) This prohibition does not apply to any advertisement or commercial solicitation for lawfully approved hotels, motels, bed and breakfasts, and timeshare facilities located in the City and operated in full compliance with all applicable federal, state, and local rules and regulations including any and all required permits from the City.

**Section 4-24.04. Penalties and Enforcement.**

- (a) Any person, including property owners, tenants, and broker or property managers, whether as principal, agent, employee or otherwise, violating any provision of this chapter shall be guilty of a misdemeanor as provided in Title 1, Chapter 2, Section 1-2.03 of this Code and, upon conviction thereof, shall be subject to the penalties provided therein. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed, continued or permitted by such person and shall be punishable as provided in this section.
- (b) In addition to the remedies provided in subsection (a) of this section, the City shall have the power to enforce violations of any provision of this chapter by any lawful means permitted by this Code or by applicable law, including, but not limited to, by imposing administrative remedies under Chapter 6 of Title 1 of this Code and by seeking a civil injunction from a court of competent jurisdiction against any unlawful advertisement maintained in violation of any provision of this chapter.

**SECTION 3. Environmental Determination.** The City Council determines that the following findings and conclusions reflect the independent judgment of the City Council. The City Council finds that the adoption of the foregoing amendments to the Ojai Municipal Code is exempt from the California Environmental Quality Act (CEQA) for the following independent reasons:

- (a) Under CEQA Guidelines Section 15301, CEQA review is not required because this ordinance adopts a prohibition on advertisements for an existing, unlawful land use. No new development or construction is authorized by this ordinance. As a result, nothing in this ordinance permits any expansion of use beyond that level of land uses already existing in the City as this ordinance does not directly permit any change in land uses.

(b) Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that these amendments to the provisions of the Ojai Municipal Code prohibiting advertisements for unlawful short-term rentals may have a significant effect upon the environment. Under CEQA Guidelines Section 15061(b)(3), a project is exempt when there is no possibility that it may have a significant effect on the environment. No new development or construction is authorized by this ordinance. The proposed amendments do not directly authorize any new construction or development of new structures.

The adoption of this ordinance is therefore exempt from CEQA review pursuant to Sections 15301 and 15061(b)(3) of the CEQA Guidelines.

**SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

**SECTION 5. Certification.** The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

**SECTION 6. Effective Date.** This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

CITY OF OJAI, CALIFORNIA

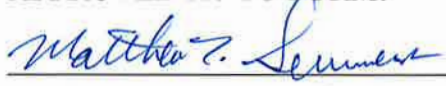
By  \_\_\_\_\_

Paul Blatz, Mayor

ATTEST:

  
\_\_\_\_\_  
Cynthia Burell, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF VENTURA )  
CITY OF OJAI )

I, Cynthia Burell, City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on August 9, 2016 and adopted at a regular meeting held on August 23, 2016 by the following vote:

AYES: BLATZ, CLAPP, HANEY, LARA, WEIRICK  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE



Cynthia Burell  
City Clerk for the City of Ojai