

CITY OF GARDENA
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STAFF REPORT

RESOLUTION NO. PC 10-23
ZONE TEXT AMENDMENT #3-23
AGENDA ITEM #6.C

DATE: May 16, 2023

TO: Chair Henderson and Members of the Planning and Environmental Quality Commission

FROM: Greg Tsujiuchi, Community Development Director

PREPARED BY: Amanda Acuna, Senior Planner

APPLICANT: City of Gardena

LOCATION: Citywide

REQUEST: Recommendation to the City Council on adoption of an ordinance amending Title 18 and adding Chapter 5.76 to Title 5 of the Gardena Municipal Code relating to regulations for short term home sharing rentals.

BACKGROUND

In recent years the Community Development Department has received numerous inquiries regarding the legality of short term rentals (STRs). An STR is any rental of a dwelling of thirty days or less. On August 9, 2022, the City Council discussed various policy options for short term rentals (STRs) and heard concerns from the public on potential loss of neighborhood character and challenges with enforcement. At the same meeting, the Council directed staff to draft an ordinance prohibiting all STRs within residential zones.

On September 6, 2022, the Planning Commission considered a draft ordinance and made a recommendation to the City Council to adopt the prohibition of short term rentals.

On September 13, 2022, the City Council considered this ordinance at a public hearing where there were more than a dozen speakers who spoke in opposition to a ban on STRs. After hearing comments and discussion among the Council, a motion to adopt the ordinance failed.

On November 8, 2022, staff brought to the City Council further information on potential policies and data collected regarding STRs that currently exist in the City. At that time the

City Council directed staff to draft an ordinance that would allow for short-term home sharing rentals in certain residential zones.

What is being asked of the Planning Commission is to make a recommendation to the City Council on an ordinance allowing short-term home sharing rentals.

ANALYSIS

Short-term home sharing would allow the renting of one or more bedrooms in a residential dwelling unit where the property owner, or “host”, is present during the entirety of the renters’ stay, for periods of thirty consecutive days or less. This type of rental expands the number and type of lodging facilities available in the City while also providing assistance to homeowners by providing revenue which may be used for maintenance and upgrade of residential units.

Zoning Changes

The draft ordinance was written to allow for short-term home sharing rentals only in the R-1 (single-family residential homes) and R-2 (maximum of two dwelling units) zones, as home-sharing is intended for when the dwelling unit is the host’s primary residence. No home sharing rental shall be allowed in any dwelling unit if there is an accessory dwelling unit or junior accessory dwelling unit on the property. Further, except as listed above, the ordinance would prohibit all types of short-term rentals in all residential zones and areas zoned for specific plans. As the City’s current code is silent on these matters, proper definitions will be established for these types of rental uses.

If adopted by the City Council, the ordinance would not go into effect until approximately August 9, 2023. The ordinance includes a provision that would require all those properties with an existing short term rental to be able to continue renting until a certain time. Staff is asking the Planning Commission for direction on what would be considered sufficient time that will allow hosts the ability to cancel reservations and to find alternate locations for guests.

Addition of Chapter 5.76

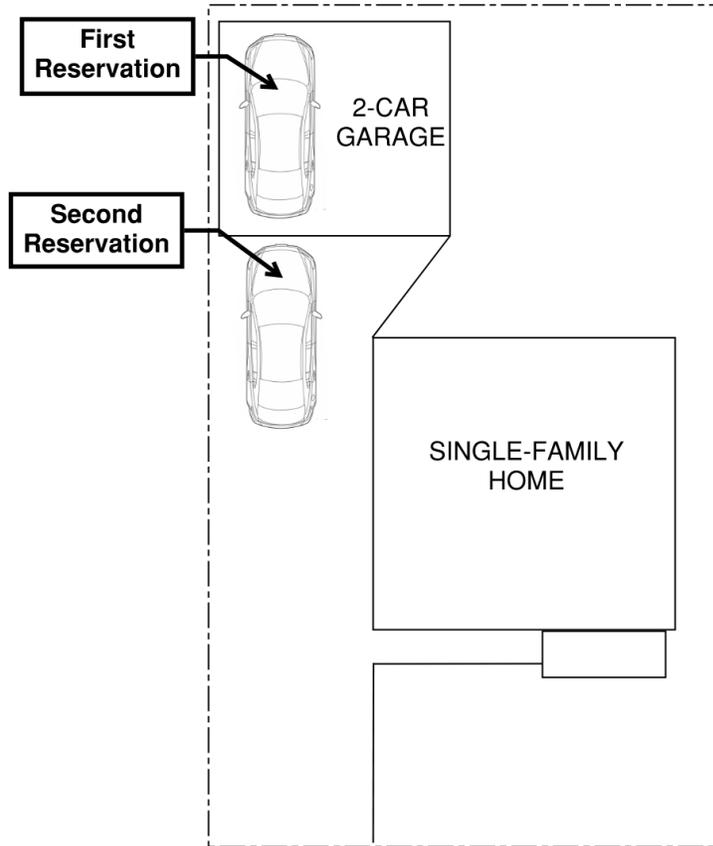
An application procedure and permitting requirements will be established for short-term home sharing rentals. Aside from obtaining proper licensing and registration permits, each host would be required to comply with various provisions, such as the following:

- *Only rooms originally designed as bedrooms may be rented. Occupancy shall be limited to a maximum of 4 people per bedroom.*
- *The Host shall keep records of the vehicle license plate numbers of guests.*

- *The Host shall notify all residents within 75 feet of the property on which the home sharing rental is located that the host is operating a home sharing rental from that location.*
- *The Host shall post contact information on the property on a place that is visible to the public that provides the following information for the host: name, phone number, e-mail address. The notice shall be in a minimum 1-inch size font.*
- *The owner must maintain a transient occupancy registration certificate and must ensure the timely remittance of all transient occupancy taxes due in accordance with 3.16 of this Code.*
- *A home sharing rental is for overnight lodging accommodations only and may not be used for, or advertised for use for weddings, parties of any kind, conferences, or similar events.*

Additionally, the owner must show that the property meets the minimum parking requirements of Gardena Municipal Code Chapter 18.40. For single-family homes in the R-1 zone, the minimum requirement is a two-car garage. In the R-2, the parking requirements is a two-car garage for each dwelling unit, plus ½ space per unit for guest parking. In addition to meeting the minimum parking requirements, the owner must show that the property can also accommodate at least one parking space per reservation that is made available to the renter. Such parking may include the required parking as well as driveway spaces (Figure 1 – Parking Diagram).

Figure 1 – Parking Diagram



Administrative guidelines have been drafted to include application requirements, conditions, reporting requirements, hosting platform safe harbor requirements, enforcement procedures, and disclosure requirements to implement the provisions of the ordinance (Attachment B).

GENERAL PLAN CONSISTENCY

Adoption of this ordinance is consistent with the City's General Plan. Specifically, the ordinance implements Land Use Goal 1 and policies 1.1 and 1.2 by preserving and protecting single-family and low/medium-density residential neighborhoods as it helps create safe neighborhoods and protects the neighborhoods from incompatible uses of areas becoming commercial districts.

The ordinance also promotes policy 1.10 by insuring there will be adequate off-street parking. The ordinance promotes Noise Goal 2 by incorporating noise considerations into land use planning decisions. By preventing entire homes from being rented as short term rentals, the ordinance also promotes Housing Element Goal 1.0 by maintaining and enhancing the stability of the City's housing stock. Lastly, adoption of the ordinance helps

promote and retain the business community by increasing the customer base of people who will make use of City businesses.

ENVIRONMENTAL IMPLICATIONS

Pursuant to the provisions of the California Environmental Quality Act (CEQA), and the CEQA Guidelines, staff has determined that the ordinance does not qualify as a project as there is no potential for the adoption of the ordinance to result in a physical change in the environment and therefore is not subject to CEQA.

Even if the ordinance were subject to CEQA, it would be exempt under the common sense exemption of Guidelines section 15061(b)(3) as there is no possibility that the activity may have a significant effect on the environment. Adoption of the ordinance is also exempt under Guidelines section 15308 as an action to creating a regulatory process to protect the environment.

NOTICING

The public hearing notice for this zoning amendment was published in the Gardena Valley News on May 4, 2023. A copy of Proof of Publication and Affidavit of Mailing are on file in the office of the Community Development Department Room 101, City Hall and are considered part of the administrative record (Attachment C). Additionally, emails were sent to all individuals who previously spoke on this item who provided their email addresses to the City.

On May 11, 2023, a public comment was received regarding this matter and hereto attached as Attachment D.

RECOMMENDATION

Staff recommends the Planning and Environmental Quality Commission to:

- 1) Open the public hearing;
- 2) Receive testimony from the public; and
- 3) Adopt Resolution No. PC 10-23 recommending that the City Council adopt Ordinance No. 1854.

ATTACHMENT

A - Resolution No. PC 10-23 with exhibit
Exhibit A – Draft Ordinance 1854

B – Draft Administrative Guidelines

C – Public Noticing

D – Public Comment Received May 11, 2023

RESOLUTION NO. PC 10-23

A RESOLUTION OF THE PLANNING AND ENVIRONMENTAL QUALITY COMMISSION OF THE CITY OF GARDENA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE ORDINANCE NO. 1854 AMENDING TITLE 18 AND ADDING CHAPTER 5.76 TO TITLE 5 RELATING TO SHORT TERM HOME SHARING RENTALS

THE PLANNING COMMISSION OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. RECITALS.

A. Due to close proximity to entertainment venues such as SoFi Stadium, Los Angeles International airport, Fortune 500 companies, beaches, and other Southern California tourist destinations, the City of Gardena has become a popular location for alternative short term lodging.

B. The City of Gardena has never specifically allowed short term rental lodging as an allowed use.

C. Recent case law calls into question as whether the City's prohibition on short term rentals is valid without the use being specifically prohibited.

D. The City Council wishes to make clear that short terms rentals of an entire home are not permitted in the City.

E. Short term rentals can create concerns in residential areas due to the potential for increased traffic, noise, and a change to the residential community.

F. Short term rentals impact the supply of long-term rental housing available in the City and increase the prices of housing.

G. The renting of rooms in private homes by owners for temporary occupancy while the owner is present can create a community benefit by expanding the number and type of lodging facilities available in the City, can assist homeowners by providing revenue which may be used for maintenance and upgrade of residential units, and can provide companionship for people living alone without taking other rental units off of the market.

H. An effective way to minimize problems that are or could be associated with short term rentals is by allowing a home sharing program through a permitting process with restrictions and operational regulations.

I. On May 16, 2023, the Planning Commission of the City of Gardena held a duly noticed public hearing on the draft Ordinance at which time it considered all evidence, both written and oral.

NOW, THEREFORE, THE PLANNING AND ENVIRONMENTAL QUALITY CONTROL COMMISSION OF THE CITY OF GARDENA DOES HEREBY RESOLVE AS FOLLOWS:

The Planning Commission hereby recommends that the City Council adopt the Ordinance attached hereto as Exhibit A making changes to amend Title 18 and add Chapter 5.76 to Title 5 relating to short term home sharing rentals. For all of the reasons set forth in the reasoning provided by staff, the Planning Commission believes that these changes represent good land use practices which are required by public necessity, convenience and the general welfare.

PASSED, APPROVED, AND ADOPTED this 16th day of May 2023.

DERYL HENDERSON, CHAIR
PLANNING AND ENVIRONMENTAL
QUALITY COMMISSION

ATTEST:

GREG TSUJIUCHI, SECRETARY
PLANNING AND ENVIRONMENTAL QUALITY COMMISSION
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF GARDENA

I, Greg Tsujiuchi, Planning and Environmental Quality Commission Secretary of the City of Gardena, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Environmental Quality Commission of the City of Gardena at a regular meeting thereof, held the 16th day of May 2023, by the following vote:

AYES:
NOES:
ABSENT:

Attachments:

Exhibit A – Draft Ordinance No. 1854

ORDINANCE NO. 1854

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA,
CALIFORNIA AMENDING TITLE 18 AND ADDING CHAPTER 5.76 TO
TITLE 5 RELATING TO SHORT TERM HOME SHARING RENTALS**

The City Council of the City of Gardena does hereby ordain as follows:

SECTION 1: Findings. The City Council does hereby find and declare as follows:

A. Due to close proximity to entertainment venues such as SoFi Stadium, Los Angeles International airport, Fortune 500 companies, beaches, and other Southern California tourist destinations, the City of Gardena has become a popular location for alternative short term lodging.

B. The City of Gardena has never specifically allowed short term rental lodging as an allowed use.

C. Recent case law calls into question as whether the City's prohibition on short term rentals is valid without the use being specifically prohibited.

D. The City Council wishes to make clear that short terms rentals of an entire home are not permitted in the City.

E. Short term rentals can create concerns in residential areas due to the potential for increased traffic, noise, and a change to the residential community.

F. Short term rentals impact the supply of long-term rental housing available in the City and increase the prices of housing.

G. The renting of rooms in private homes by owners for temporary occupancy while the owner is present can create a community benefit by expanding the number and type of lodging facilities available in the City, can assist homeowners by providing revenue which may be used for maintenance and upgrade of residential units, and can provide companionship for people living alone without taking other rental units off of the market.

H. An effective way to minimize problems that are or could be associated with short term rentals is by allowing a home sharing program through a permitting process with restrictions and operational regulations.

I. On May 16, 2023, the Planning Commission of the City of Gardena held a duly noticed public hearing and considered all evidence presented, both written and oral, after which the Planning Commission adopted Resolution No. XXX recommending that the City Council adopt this Ordinance.

J. On XXX, the City Council of the City of Gardena held a duly noticed public hearing and considered all evidence presented, both written, after which it introduced this Ordinance.

K. Adoption of this Ordinance is for public necessity, convenience, and the general welfare as it provides protections to persons living in residential zones and protects the supply of housing in the City.

SECTION 2. Chapter 18.04 of the Gardena Municipal Code is hereby amended by adding the following definitions:

18.04.232 Home sharing rental.

“Home sharing rental” shall have the same meaning as that set forth in Section 5.76.020 of this Code.

18.04.417 Short term rental.

“Short term rental” shall have the same meaning as that set forth in Section 5.76.020 of this Code.

SECTION 3. Chapter 18.06 of the Gardena Municipal Code is hereby amended to read as follows:

Chapter 18.06

NEW AND EXISTING USES/SPECIFIC PLAN PROHIBITIONS

18.06.010 New construction and new uses.

All new construction, including buildings, improvements, alterations or enlargements, undertaken and all new uses or occupancy of premises within the city shall conform with the requirements, character and conditions as to use, height and area laid down for each of the several zones or districts as described in this title. No person shall erect, construct, establish, move into, alter, enlarge, or use or cause or permit to be erected, constructed, established, moved into, altered, enlarged or used, any building, structure, improvement or use of premises located in any zone described in this chapter contrary to the provisions of this title.

18.06.020 Specific Plans – uses prohibited.

- A. Short term rentals and home sharing rentals are hereby prohibited in every Specific Plan zone in the city. This prohibition is in addition to the uses specifically identified as permitted or prohibited in each Specific Plan.

SECTION 4. Section 18.12.020 of the Gardena Municipal Code relating to uses allowed in the R-1 zone is hereby amended by adding a subsection J. to read as follows:

- J. Home sharing rentals. Home sharing rentals shall be allowed in a single-family residence in accordance with Chapter 5.76 of this Code. No home sharing rental shall be allowed in any dwelling unit if there is an accessory dwelling unit or junior accessory dwelling unit on the property.

SECTION 5. Section 18.12.040 of the Gardena Municipal Code is hereby amended to read as follows:

18.12.040 Uses prohibited.

A. All uses not listed in Sections [18.12.020](#) and [18.12.030](#) are deemed to be expressly prohibited in the R-1 zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#); and

B. Short term rentals.

SECTION 6. Section 18.14.020 of the Gardena Municipal Code relating to uses allowed in the R-2 zone is hereby amended by adding a subsection D to read as follows:

D. Home sharing rentals. Home sharing rentals shall be allowed where there are no more than two units on the property in accordance with Chapter 5.76 of this Code. No home sharing rental shall be allowed in any dwelling unit if there is an accessory dwelling unit or junior accessory dwelling unit on the property.

SECTION 7. Section 18.14.040 of the Gardena Municipal Code is hereby amended to read as follows:

18.14.040 Uses prohibited.

A. All uses not listed in Sections [18.14.020](#) and [18.14.030](#) are deemed to be expressly prohibited in the R-2 zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#);

B. Short term rentals; and

C. Home sharing rentals if there are more than two dwelling units on the property.

SECTION 8. Section 18.16.040 of the Gardena Municipal Code is hereby amended to read as follows:

18.16.040 Uses prohibited.

A. All uses not listed in Sections [18.16.020](#) and [18.16.030](#) are deemed to be expressly prohibited in the R-3 zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#);

B. Home sharing rentals; and

C. Short term rentals.

SECTION 9. Section 18.18A.030 of the Gardena Municipal Code is hereby amended to read as follows:

18.18A.030 Uses prohibited.

A. All uses not listed in Sections [18.18A.020](#) are deemed to be expressly prohibited in the R-6 zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#).

B. The following uses are expressly prohibited:

1. Home sharing rentals; and

2. Short term rentals.

SECTION 10. Section 18.19.050 of the Gardena Municipal Code is hereby amended to read as follows:

18.19.050 Uses prohibited.

A. All uses not listed in Sections [18.19.030](#) and [18.19.040](#) are deemed to be expressly prohibited in the MUO zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#);

B. Home sharing rentals; and

C. Short term rentals.

SECTION 11. The opening paragraph of Section 18.19A.050 and subsection A of the Gardena Municipal Code are hereby amended to read as follows; all other sections remain the same:

18.19A.050 Uses prohibited.

All uses not listed in Sections 18.19A.030 and 18.19A.040 are deemed to be expressly prohibited, except those determined to be similar pursuant to the provisions of Section 18.42.040. No similar use determination may be made for the following specific uses, which are deemed to be incompatible with the uses permitted in the C-3 zone and are therefore prohibited:

A. Residential:

1. Any residential units other than live-work north of Main Street;
2. Home sharing rentals; and
3. Short term rentals.

SECTION 12. Section 18.20.040 of the Gardena Municipal Code is hereby amended by adding new subsection L and M to read as follows and relettering existing subsection L.

18.20.040 Uses prohibited.

L. Home sharing rentals;

M. Short term rentals; and

~~N.~~ Any other use not listed in Section 18.20.020, 18.20.025, or 18.20.030, except those determined to be similar pursuant to the provisions of Section [18.42.040](#).

SECTION 13. Section 18.28.040 of the Gardena Municipal Code is hereby amended by adding new subsection L and M to read as follows and relettering existing subsection L.

18.28.040 Uses prohibited.

L. Home sharing rentals;

M. Short term rentals; and

~~N.~~ Uses other than those specifically set forth or provided for in Sections [18.28.020](#) and [18.28.030](#), except those determined to be similar pursuant to the provisions of Section [18.42.040](#).

SECTION 14. Section 18.21.040 of the Gardena Municipal Code is hereby amended to read as follow:

18.21.040 Prohibited uses in housing overlays.

The following uses shall be explicitly prohibited in the housing overlays:

- A. Home sharing rentals; and
- B. Short-term rentals.

SECTION 15. Chapter 5.76 is hereby added to the Gardena Municipal Code to read as follows:

CHAPTER 5.76

HOME SHARING RENTALS

5.76.010 Purpose.

The purpose of this Chapter is to protect residential communities and stabilize the housing market.

5.76.020 Definitions.

For the purpose of this Chapter, the following definitions apply:

ADMINISTRATIVE GUIDELINES: Regulations approved by the City Council that may include, but are not limited to, application requirements, interpretations, conditions, reporting requirements, hosting platform safe harbor requirements, enforcement procedures, and disclosure requirements to implement the provisions of this Chapter.

BOOKING: A reservation for home sharing.

BOOKING TRANSACTION: Any reservation or payment service provided by a person who facilitates a transaction for home sharing, between a prospective transient user and a host.

DIRECTOR: The Director of Community Development or his designee.

DWELLING UNIT: Any building or portion thereof that is used as a complete, independent living facility for one or more persons containing permanent provisions for living, sleeping, eating, cooking, and sanitation, as required by the California Building Code.

HOME SHARING: Renting, for a period of 30 consecutive days or less, of one or more bedrooms in a dwelling unit that is the primary residence of the host, while the host lives on site, in the dwelling unit, throughout the transient user's stay.

HOME SHARING RENTAL: A dwelling unit that is made available for home sharing. A home sharing rental has historically been, and continues to be, included in the definition of "hotel" for purposes of Chapter 3.16 of this Code.

HOST: Any person who is an owner of a residential dwelling unit offered for use as home sharing.

HOSTING PLATFORM: A person or entity that participates in the short-term rental business by providing booking facilitation services through which a host may offer a short-term rental unit. Hosting platforms usually, though not necessarily, provide booking facilitation services through a platform that allows a host to advertise the short-term rental unit through the hosting platform and the hosting platform facilitates a transaction by which potential renters arrange, use and make payment, whether the renter pays rent directly to the operator or to the hosting platform.

LISTING: A webpage or advertisement (online or otherwise) for a home- share or other overnight rented stays located on a Hosting Platform or other online platform(s), including the web URL, metadata and other attributes.

LIVES ON-SITE: Maintains a physical presence in the dwelling unit including, without limitation, all of the following: the storing of one's clothes and other personal effects, sleeping overnight, preparing and eating meals, and engaging in other activities of the type typically engaged in by a person residing in a dwelling unit.

OWNER: The person, persons, or a trustee of a family trust, which holds legal or equitable title to a property used for home sharing.

PERSON: A natural person.

PRIMARY RESIDENCE: The residential unit where an owner resides for at least 183 nights per year. A host can only have one primary residence.

SHORT-TERM RENTAL: Any rental of a dwelling unit or any portion thereof for occupancy, dwelling, lodging or sleeping purposes for a period of 30 consecutive calendar days or less which does not qualify as a home sharing rental.

HOME SHARING RENTAL PERMIT (HSRP) or RENTAL PERMIT: A permit issued in accordance with this Chapter.

5.76.030 License, permits and taxes required.

A. No person may rent, offer to rent, or advertise short-term home sharing rental of a dwelling unit to another person without a valid business license.

B. No person may rent, offer to rent, or advertise short-term home sharing rental of a dwelling unit to another person without a valid rental permit approved and issued in the manner set forth in this Chapter.

C. All home sharing hosts shall be subject to the provisions of Title 5 (Business Licenses and Regulations) and Chapter 3.16, including the requirement to pay the City's Transient Occupancy Tax (TOT). Unless the applicant has the hosting platform they use collect and remit all TOT on their behalf, the applicant must be registered to pay TOT with the City's Business License Division. Regardless of whether a host utilizes a hosting platform that offers to collect and remit TOT on their behalf, the host is ultimately responsible for the, collection and monthly remittance of TOT to the City.

5.76.040 Home sharing rental permit - applications.

A. Rental Permits shall only be granted to applicants who are the owners of the proposed home sharing rental. The rental must be the applicant's primary residence and the applicant must have owned the house for a minimum of 365 days prior to the date of the application.

B. Each Rental Permit shall be valid for the period of January 1st to December 31st of each calendar with year. Notwithstanding this provision, the permit issued for the first year shall be valid through December 31st of the following calendar year.

C. An application for a Rental Permit must meet the following requirements, be made on a form approved by the City, and must contain the following information:

1. The name, address, tax assessor identification number, and telephone number of the owner of the residence for which the permit is to be issued.

2. An acknowledgment that the Rental Permit is for a period of one year and subject to yearly renewal which may be through a lottery system if there are more than the allowed number of users which apply.

3. An affidavit signed by the property owner attesting that the property to be used for short-term home sharing rental is the owner's primary residence as defined in Section 5.76.020 along with documentation verifying the same.

4. An affidavit signed by the property owner attesting that the property to be used for short-term home sharing rental has been owned by the applicant for a minimum of 365 days prior to date of the application.

5. Such other information as required by the Administrative Guidelines or as the Director deems reasonably necessary to administer this Chapter.

6. The application must be signed by the property owner and notarized.

D. An application for a Home Sharing Rental Permit must be accompanied by a fee established by resolution of the City Council.

E. The City shall issue a maximum of 100 Rental Permits per year. The application period shall be September 15th through October 30th for the following year.

1. If there are more than 100 qualified applications submitted during this time, the City shall issue Rental Permits by way of a lottery.

2. If there are less than 100 qualified applicants submitted during this time and additional Rental Permits are available, such permits may be issued on a first-come, first-served basis through the end of the following year.

3. If a lottery is conducted and a qualified applicant is not selected, then the applicant's permit fee shall be refunded.

F. Once an applicant has been notified that they will receive a Rental Permit for the following year, the applicant shall have 45 days to provide the City with the information listed below. Once the information is provided, the Rental Permit shall be issued.

1. Evidence that a City business license has been applied for or obtained for operating a short-term home sharing business.

2. Proof of general liability insurance in the amount of \$1,000,000 combined single limit and an executed acknowledgement to indemnify, defend, and hold the City harmless from any and all claims and liabilities of any kind whatsoever resulting from or arising out of the short-term home sharing rental activity. The insurance requirement may be satisfied if the Host lists only on Hosting Platforms that provide the Host with this level of insurance. In such a case, the Host must provide the City with a copy of the agreement between the Host and the Hosting Platform that evidences the requisite insurance coverage.

G. No Rental Permit shall be issued to a Host who has previously had a Rental Permit revoked.

5.76.050 Regulatory requirements.

Rental Permits are subject to the following regulations and conditions:

A. The Host must reside on-site during the rental period.

B. Home sharing is only allowed in the Single-Family (R-1) and Low-Density Multiple-Family (R-2) zones as further set forth in Title 18.

C. Only rooms originally designed as bedrooms may be rented. Occupancy shall be limited to a maximum of 4 people per bedroom.

D. Parking must meet the requirements of Chapter 18.40 of this Code. At least one parking space per reservation must be made available to guests and such parking

may include the required parking as well as driveway spaces. Tandem parking spaces are acceptable provided each tandem space measures at least 9 feet by 20 feet and does not extend into any sidewalk or other public right-of-way. If any of the required parking is provided in a garage, each garage space must be kept clear of debris and able to accommodate a vehicle at all times.

E. The Host shall keep records of the vehicle license plate numbers of guests.

F. The Host shall notify all residents within 75 feet of the property on which the home sharing rental is located that the host is operating a home sharing rental from that location.

G. The Host shall post contact information on the property on a place that is visible to the public that provides the following information for the host: name, phone number, e-mail address. The notice shall be in a minimum 1-inch size font.

H. The home sharing rental must at all times have operable basic health and safety features, including fire extinguishers, smoke detectors, and carbon monoxide detectors.

I. The property of the home sharing rental shall be maintained in a clean and sanitary condition. Trash and refuse shall not be left outdoors and shall not be left stored within public view, except in proper containers for the purpose of collection by the trash collectors.

J. The owner must maintain a transient occupancy registration certificate and must ensure the timely remittance of all transient occupancy taxes due in accordance with 3.16 of this Code.

K. A home sharing rental is for overnight lodging accommodations only and may not be used for, or advertised for use for weddings, parties of any kind, conferences, or similar events.

L. If the Host no longer resides in the home sharing rental or is no longer the property owner, the Host must inform the Community Development Department within 15 days from the date when the unit was sold or no longer the Host's primary residence. The Host must also remove all listings within this time frame.

M. The Host shall keep and preserve, for a minimum period of three years, all records regarding each home sharing stay, including the length of stay for each booking and the corresponding rate charged.

5.76.060 Advertising

A. The Host is responsible for the content of all advertising with respect to the home sharing rental.

B. All advertising shall contain the following information:

1. The City-issued registration number
2. The applicable maximum occupancy per bedroom.

C. In the event a Host's Rental Permit is revoked, the Host must remove all listings within 48 hours.

D. The Director may request a hosting platform to remove a listing for any unpermitted home sharing or short-term rental unit or for any home share unit that had its Rental Permit revoked pursuant to this Chapter.

5.76.070 Ban and automatic termination.

A. Ban.

1. If the Director determines that there is fraud on any application, the applicant shall be permanently banned from operating a home sharing rental within the City.

2. If there are three sustained complaints, whether criminal, civil, or administrative, within a 12 month period against a host, the Rental Permit shall be revoked and the Host shall be permanently banned from operating a home sharing rental within the City.

B. Automatic Termination. A Rental Permit shall automatically terminate upon a change of circumstances relating to a change of property ownership as defined in Revenue and Taxation Code section 60 *et seq.* or a change in the Unit qualifying as the Host's primary residence, or the Host failing to reside in the Unit.

5.76.080 Registry.

All owners and their respective property permitted for home sharing pursuant to this Chapter shall be listed on a registry created by the City which list shall be periodically updated. This registry shall be a public record and made available to any person upon request.

5.76.090 Hosting Platform Responsibilities.

A. Unless an alternative arrangement is authorized by the Administrative Guidelines, a hosting platform shall be responsible for collecting all transient occupancy taxes applicable to bookings completed through the hosting platform and for remitting the same to the City. The hosting platform shall be considered an agent of the owner for

purposes of such transient occupancy tax collections and remittance responsibilities as set forth in Chapter 3.16 of this Code.

B. The hosting platform shall require the host to input the home share unit's corresponding Short-term Home Sharing Rental Permit number, consistent with the City's alphanumeric format, before the listing can be displayed. Any short-term rental unit listing that predates this ordinance and that does not have a corresponding Short-term Home Sharing Rental Permit number shall be removed by the hosting platform consistent with this Section.

C. A hosting platform shall not complete any booking transaction for any residential property or unit unless it is listed on the City's registry created under Section 18.42 at the time the hosting platform receives a fee for booking the transaction. Upon request from the Director made in a manner specified in the Administrative Guidelines, the hosting platform must remove a home share or short-term rental listing or take other action consistent with the Administrative Guidelines.

D. On a quarterly basis, the hosting platform shall provide the City with a report detailing the total number of nights all home sharing rentals were rented through the platform during the applicable reporting period.

E. A hosting platform shall not collect or receive a fee or other financial benefit, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to an unregistered home sharing rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the residential property or unit.

F. Safe Harbor. A hosting platform shall be presumed to be in compliance with this Chapter if it does either of the following:

1. Operates in compliance with subsections A – E above, or
2. Complies with the Administrative Guidelines issued by the Director and approved by the City Council that describe how the hosting platform must satisfy the hosting platform responsibilities in this Chapter.

G. The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal laws and will not apply if determined by the City to be in violation of, or preempted by, any such laws.

5.76.100 Prohibitions.

A. It is unlawful to offer, operate, maintain, authorize, aid, facilitate or advertise the home sharing of any portion of any residential dwelling unit in the city without a valid Short-term Home Sharing Rental Permit.

B. It is unlawful to offer, operate, maintain, authorize, aid, facilitate or advertise the short-term rental of any portion of any residential dwelling unit in the city, other than for home sharing.

C. It is unlawful to operate or maintain a home sharing rental in violation of the provisions of this Chapter.

D. Only a qualifying residential dwelling unit or portion thereof may be made available for home sharing subject to this Chapter and Title 18.

E. It is unlawful to offer, operate, maintain, authorize, aid, facilitate or advertise the short-term rental of any place or vehicle, other than a permitted home sharing rental, for purposes of overnight lodging (for example, a tree house, recreational vehicle, tent, etc.)

5.76.110 Enforcement; penalties.

A. Any person who violates any provision of this Chapter, or hosting platform that violates its obligations under this Chapter, shall be subject to administrative citations and penalties pursuant to Chapter 1.20 of this Code.

B. If the property upon which a home sharing rental unit is located is the subject or the site of three violations of any of the provisions of this Chapter, or of Chapters 8.36 (Noise) or 8.64 (Real Property Nuisance) or any combination thereof, the Home Sharing Rental Permit for the unit shall be automatically revoked. For purposes of this section, the automatic revocation shall become effective as of the date the third citation becomes final (i.e., the time for administrative and/or judicial review has passed or final judgment of a court has been entered upholding the citation).

C. In addition to the penalties set forth herein, if the short-term home sharing rental property is the site of a loud or unruly gathering as defined in Chapter 9.68 that results in the issuance of an administrative citation or criminal charge, the Rental Permit shall be automatically revoked if and when the administrative citation becomes final (i.e., the time for administrative or judicial review has passed or final judgment of a court has been entered upholding the citation) or a criminal conviction is obtained.

D. The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the City's use or application of any other remedies, penalties or procedures established by law.

5.76.120 Remedies not exclusive.

The remedies listed in this Chapter are not exclusive of any other remedies available to the City under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

SECTION 16. General Plan Consistency. Adoption of this Ordinance is consistent with the City’s General Plan. Specifically, the Ordinance implements Land Use Goal 1 and policies 1.1 and 1.2 by preserving and protecting single-family and low/medium-density residential neighborhoods as it helps create safe neighborhoods and protects the neighborhoods from incompatible uses of areas becoming commercial districts. The Ordinance also promotes policy 1.10 by insuring there will be adequate off-street parking. The Ordinance promotes Noise Goal 2 by incorporating noise considerations into land use planning decisions. By preventing entire homes from being rented as short term rentals, the Ordinance also promotes Housing Element Goal 1.0 by maintaining and enhancing the stability of the of the City’s housing stock. Lastly, adoption of the Ordinance helps promote and retain the business community by increasing the customer base of people who will make use of City businesses.

SECTION 17. CEQA. Pursuant to the provisions of the California Environmental Quality Act (“CEQA”), Public Resources Code § 21000 *et seq.* and the CEQA Guidelines, staff has determined that the Ordinance does not qualify as a project as defined in CEQA Guidelines section 15378, and there is no potential for the adoption of the Ordinance to result in a physical change in the environment and therefore is not subject to CEQA. Even if the Ordinance were subject to CEQA, it would be exempt under the common sense exemption of Guidelines section 15061(b)(3) as there is no possibility that the activity may have a significant effect on the environment. Adoption of the Ordinance is also exempt under Guidelines section 15308 as an action to creating a regulatory process to protect the environment. Staff is directed to file a Notice of Exemption.

SECTION 18. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 19. Effective Date.

- A. This Ordinance shall take effect on the thirty-first day after passage.
- B. Notwithstanding subsection A, short term rentals that were in effect on XXX shall have until XXX, 2023 to cease all operations. This extension shall not apply to any property that has an accessory dwelling unit.

SECTION 20. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage

and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023.

TASHA CERDA, Mayor

ATTEST:

MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

CARMEN VASQUEZ, City Attorney

CITY OF GARDENA

HOME SHARING RENTAL PROGRAM

ADMINISTRATIVE GUIDELINES



April 2023

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PART 1—PURPOSE

These Administrative Guidelines are for the purpose of implementing Gardena’s Home Sharing Rental (HSR) Program, as established by Ordinance No. 1854. These Guidelines reflect the City’s application of the Ordinance and provide detail on how property owners, hosts and hosting platforms can comply with the requirements of the Ordinance.

All terms used in these Guidelines shall have the same meaning as set forth in Chapter 5.76 of the Gardena Municipal Code.

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PART 2—REGISTRATION AND PERMITS

ELIGIBILITY REQUIREMENTS

Only the following properties are eligible for home sharing.

- Single family homes in the R-1 zone that are owner occupied and are the primary residence of the owner are eligible for home sharing.
- Properties in the R-2 zone which have only two residential units on the lot. If one person owns both units, they may only home share the unit that is owner occupied and which is their primary residence.

No property that has an accessory dwelling unit or junior accessory dwelling unit on it is eligible for home sharing.

Home sharing rentals are only allowed during such period of time as the host is also present and residing in the home sharing unit.

PERMITTING PROCESS

A prospective host must obtain both a business license and an HSR permit, which are applied for together.

An HSR permit shall only be valid for one year, except for the first year of the program when the permit shall run through December 31st of the following calendar year.

Applications shall be submitted between September 15th and October 30th for the following calendar year.

Only 100 permits shall be issued per year. If the City receives more applications than available permits, it shall hold a lottery process for the permits. All permit fees shall be refunded if a qualified applicant is not selected.

APPLICATIONS

Applications will be received at any time after the program implementation date, but all permits will expire at the end of the pilot program regardless of when the application is made.

To apply for an HSR permit, an applicant can find all the necessary forms online at <https://cityofgardena.org/business-licensing/>, or at City Hall. Application for an HSR permit and the supporting documents (including the required business license) must be submitted to the Business License Division via email at CDDLICENSEANDPERMITCENTER@CITYOFGARDENA.ORG. Additional documents to establish proof of ownership and residency are required and explained in this document.

ESTABLISHING OWNERSHIP AND PRIMARY RESIDENCY

Two important initial steps in the application process are establishing property ownership and permanent residency. The HSR Permit Program Ordinance requires that home sharing be conducted only on a property owner's primary residence. Renters are not eligible for this program.

If the property ownership is held in a family trust, then at least one of the trustees must reside at the property as their principal residence and be the applicant to be eligible. Any property held by a Partnership, LLC, or other entity may be eligible if one of the owners or members resides at the property as their primary residence.

HSR Permits are not transferrable to new owners nor to other properties. In the event of a sale, or if the property ceases to be the primary residence, the permit becomes void.

As part of the application process, a prospective host must provide a copy of at least one document that identifies the full name or names of the applicant as owner and the address or tax assessor identification number of the property. Below are examples of documents that are acceptable proof of property ownership:

- Recent property tax bill
- Recent mortgage statement
- Title report

To establish primary residency an applicant must associate their property as the place which is the base of their personal life activities. This is accomplished by providing two of the following documents when submitting the application:

- Valid federal or state-issued photo identification card with name and address that match name and address on application

- Passport or Alien Registration Card with name and address that match name and address on application
- Valid California voter's registration card or a voter registration status document showing name and home address (may be obtained online at voterstatus.sos.ca.gov)
- Valid California vehicle registration certificate showing name and home address
- Health insurance or vehicle insurance bill issued in the last six months showing name and home address
- Pay stub issued in the last six months showing name and home address
- Original utility bill for water, gas, or electric; cable, cell phone, or internet provider bills do not qualify
- Copy of a current property tax bill indicating homeowner's exemption

OTHER INFORMATION GATHERED

After establishing property ownership and primary residency, the application process focuses on ensuring that applicants are aware of the responsibilities of hosts in the program and what activities are not allowed.

The first of these is an affidavit sheet, an example of which can be found in the appendix right after the HSR Permit. On the Sheet the applicant is asked to sign an affidavit stating the following:

The applicant is the owner of the property and will reside in the unit to be used for Home Sharing for at least 183 nights per calendar year.

INSURANCE REQUIREMENT

Hosts must also include proof of liability insurance to cover home-sharing with minimum limits of not less than \$1,000,000. This requirement may be satisfied if the Host lists only on Hosting Platforms that provide the Host with this level of insurance. In such a case, the Host must provide the City with a copy of the agreement between the Host and the Hosting Platform that evidences the requisite insurance coverage.

BUSINESS LICENSE

In addition to the HSR permit application and affidavits mentioned above, as well as the various supporting documents to establish property ownership, primary residency, and insurance coverage, a business license application is required. Application for the business license must also be submitted when applying for an HSR permit. The business license fee shall be in the amount set forth in section 5.08.230 of the Gardena Municipal Code.

It's important to note that the business license is only valid during a given calendar year, and expires on December 31st of the year in which the business license is issued. The applicant is responsible for renewing a business license for the following year if the HSR permit is renewed for an additional year.

TRANSIENT OCCUPANCY TAX (TOT) REGISTRATION

Unless the applicant has the hosting platform they use collect and remit all TOT on their behalf, the applicant must be registered to pay TOT with the City's Revenue Division. Regardless of whether a host utilizes a hosting platform that offers to collect and remit TOT on their behalf, the host is ultimately responsible for the collection and monthly remittance of TOT to the City.

PART 3—HOST RESPONSIBILITIES

The host is personally responsible for complying with the rules and requirements contained in these guidelines.

ADVERTISEMENTS

All listings and advertisements must clearly list the City-issued registration number and include the maximum occupancy of the home share unit, which will be shown on the permit. In the event a host's permit is revoked, the host must remove all listings within 24 hours.

RESPONSIBLE FOR VIOLATIONS

A host is responsible for preventing violations of the Home Share Ordinance, or of Chapters 8.64 (Nuisances) and 8.36 (Noise), of Title 8 of the GMC, arising at the host's residence during home sharing activities.

PRESERVE RECORDS

The host shall keep and preserve, for a minimum period of three years, all records regarding each home sharing stay, including the length of stay for each booking and the corresponding rate charged.

TRANSIENT OCCUPANCY TAX

The host shall maintain a valid transient occupancy registration and must ensure the timely remittance of all transient occupancy taxes due in accordance with Gardena Municipal Code Title 3, Chapter 3.16.

PART 4—OPERATIONS

As part of the application process, all applicants must acknowledge these operational guidelines. Once permitted, it is the responsibility of the host to ensure these measures are taken or are maintained in order to remain in good standing with the program.

- Only habitable space designated for sleeping may be used for home sharing.
- A home sharing unit is for overnight lodging accommodations only and may not be used for, or advertised for use for weddings, parties, bachelor or bachelorette parties, conferences, or similar events.
- An accessory dwelling unit may not be used for short-term rental.
- The home sharing unit must at all times provide operable basic health and safety features, including fire extinguishers, smoke detectors, and carbon monoxide detectors.
- The property of the home sharing unit shall be maintained in a clean and sanitary condition. Trash and refuse shall not be left outdoors and shall not be left stored within public view, except in proper containers for the purpose of collection by the trash collectors.
- The total occupancy of each home sharing unit may not exceed four guests for each bedroom available for home sharing. The applicable maximum occupancy must be included in every advertisement, posting, and listing for a home sharing unit.
- One parking space must be available for each reservation. Parking spaces may include garage or driveway spaces. Tandem parking spaces are acceptable provided each space measures at least 9 by 20 feet and does not extend into the sidewalk or alley.
- The home sharing permit number must be included in every listing for a home sharing unit.

- No signs or displays advertising a home sharing unit are allowed on the property.
- The host must maintain a transient occupancy registration certificate and must ensure the timely remittance of all transient occupancy taxes due in accordance with Title 3, Chapter 3.16 of the Gardena Municipal Code.
- A home sharing rental is for overnight lodging accommodations only and may not be used for, or advertised for use for weddings, parties of any kind, conferences, or similar events.
- The host must maintain a record of the guests and vehicle license plate numbers of such guests.
- The host must notify all residents within 75 feet of the property on which the home sharing rental is located that the host is operating a home sharing rental from that location.
- The host must post contact information on the property on a place that is visible to the public that provide the following information for the host: name, phone number and e-mail address. The notice shall be in a minimum 1-inch size font.
- The Host shall keep and preserve, for a minimum period of three years, all records regarding each home-sharing stay, including the length of stay for each booking and the corresponding rate charged.

PART 5—TERMINATION

Except for the first year the program is in operation, all HSR permits issued expire on December 31st of the year for which the permit is issued. HSR permits do not automatically renew and the host must apply for a new permit each year.

It is important to note that the associated business license is only valid during a given calendar year, and expires on December 31st of the year in which the business license is issued. The applicant is responsible for renewing a business license for the following year.

If a host no longer resides in the residence used for home sharing or is no longer the property owner, the host must inform the City's Licensing Division within 15 days from the date when the unit was sold or no longer is the owner's Primary Residence. Any advertising listing must be removed within 48 hours of termination.

PART 6—PROHIBITIONS

The following activities are prohibited and considered violations that may result in citation or revocation of the permit.

- Making materially false statements or omissions on the HSR permit application or in connection with any enforcement action by the city relating to home sharing
- Advertising without registration number and maximum occupancy
- Operating a home share without a valid home-sharing permit and business license
- Exceeding occupancy limits
- Hosting more than one home sharing unit
- Renting a home share without living on-site during the rental period
- Renting a unit that is not your primary residence
- Renting a home share on a property with an accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU)
- Offering home share in areas outside the residence
- Failing to ensure that basic health and safety features are provided
- Failing to actively prevent nuisances
- Failing to maintain adequate liability insurance
- Using the permit for uses other than for overnight lodging
- Failing to collect and remit TOT

PART 7—CITATIONS AND PERMIT REVOCATION

Any host violating any provision of the HSR Permit Ordinance, or a hosting platform that violates its obligations stated in the HSR Permit Ordinance, shall be subject to administrative citations and penalties pursuant to Gardena Municipal Code Section 1.16.010 and Chapter 1.20.

GENERAL REVOCATION

Violating any of the provisions of GMC Chapter 8.36 or 8.64 or of Title 8, Chapter 5.76, of Title 5, or any combination thereof, shall be cause for citation of up to \$2,500 for first offence and \$5,000 for second offence. If the property upon which a Short-Term home sharing rental unit is located has been the subject of two citations that have become final during the term of the host's home-sharing permit or business license, the home-sharing permit shall be automatically revoked. In such a case, no new HSR permit may be issued for the subject dwelling unit for the remaining period of the pilot program. The revocation shall become effective as of the date the second citation becomes final (*i.e.*, the time for administrative or judicial review has passed or final judgment of a court has been entered upholding the citation).

LOUD OR UNRULY GATHERINGS

If the HSR property is the site of one loud or unruly gathering in violation of Chapter 9.68 of the Gardena Municipal Code that results in the issuance of an administrative citation or criminal charge, the HSR permit shall be automatically revoked if and when the administrative citation or criminal charge becomes final (*i.e.*, the time for administrative or judicial review has passed or final judgment of a court has been entered upholding the citation) or a criminal conviction is obtained.

PART 8—HOSTING PLATFORM RESPONSIBILITY

TRANSIENT OCCUPANCY TAXES

A hosting platform shall collect all transient occupancy taxes (TOT) applicable to bookings completed through the hosting platform unless the City and the owner enter into an agreement whereby the owner fulfills the requirements of Title 3, Chapter 3.16 of the Gardena Municipal Code. Absent such agreement, the hosting platform shall be considered an agent of the owner for the purposes of TOT collections and remittance responsibilities set forth in Title 3, Chapter 3.16 of the Gardena Municipal Code.

A hosting platform shall report aggregate information on the tax return form prescribed by the City, including an aggregate of gross receipts, exemptions and adjustments, and taxable receipts of all TOT collected and remitted to the City by the hosting platform. The City may audit a hosting platform on an anonymized transaction basis, but the hosting platform shall not be required to produce any personally identifiable information relating to any owner or guest or relating to any booking transaction without binding legal process served only after the City has made reasonable attempts to complete an audit of the hosting platform with respect to such users.

MANDATORY HSR REGISTRATION FIELD INPUT BEFORE PUBLISHING

Beginning no later than 60 days after applications for HSR Permits are available as set forth in Section XXX, a hosting platform shall include a designated field in its listing flow that requires a host to input their Short-Term rental permit number for their listing on the hosting platform.

Beginning no later than 45 days after the implementation of the hosting platform's mandatory field, a hosting platform shall take down, on a one-time

basis, any Short-Term rental listing that does not have an HSR Permit number as required by these Guidelines.

The Mandatory Field will be formatted in alignment with the format of the City issued HSR permit.

ROLLING NOTICE AND TAKEDOWNS

City-issued notice and hosting platform's takedowns of unregistered Short-Term rental listings.

Beginning no later than 45 days after effective hosting platform's takedown of Short-Term rental listings as set forth in this Part, upon written notification and documentation from the City that a Short-Term rental listing does not have a valid HSR permit number, a hosting platform shall deactivate the Short-Term rental listing from its website within seven business days.

The City's written notification and documentation to the hosting platform to initiate the hosting platform's takedown of unregistered listings shall consist of an Excel or CSV document that provides the unlicensed Short-Term rental listing ID.

Upon written notification from the City that a deactivated Short-Term term rental unit is in compliance, the hosting platform may reactivate the Short-Term rental listing.

DATA SHARING

The hosting platform shall provide the City a report of the total number of nights all Short-Term rental units were rented through the hosting platform each quarter. The first reporting period will begin no later than 60 days after applications are available as set forth in Section XXX of the Ordinance.

Each report shall be delivered to the Finance Department by close of business on the last day of the month of the applicable reporting quarter.

PART 9 —HOME-SHARING RESOURCES

Transient occupancy tax information

<https://www.codepublishing.com/CA/Gardena/#!/Gardena03/Gardena0316.html#3.16>

Gardena Municipal Code

<https://www.codepublishing.com/CA/Gardena>

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APPENDIX A

FORMS

The following forms and handouts are needed by a prospective host to apply for an HSR permit during the pilot program. These forms are available online and can be filled out prior to printing and being brought to City Hall to start the application process.

- Short-Term Rental Home Sharing Permit Application
- HSR Affidavit
- Business Tax Registration Application
- Transient Occupancy Tax Information Handout
- HSR Permit Summary of Fees

SUMMARY OF FEES

| | |
|---|--------------|
| HSR Permit Application Fee | \$XXX |
| Business Tax Registration Application Fee | <u>\$XXX</u> |
| TOTAL | \$XXX |

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APPENDIX B

APPLICATION CHECKLIST

- HSR Permit Application Form
- Proof of property ownership (at least one of following)
 - Recent property tax bill
 - Recent mortgage statement
 - Title report
- Proof of primary residency (at least two of following)
 - A valid federal or state-issued photo ID
 - Passport or Alien Registration Card
 - Valid California voter's registration card
 - Valid California vehicle registration certificate
 - Health insurance or vehicle insurance bill
 - Pay stub issued in the last six months
 - Current property tax bill with homeowner's exemption
 - Original bill from Water, Gas Company, or SCE
- Proof of insurance
- Affidavit page
- Business Tax Registration Application
- Check or credit card for fees

TO: Gardena Valley News
FROM: City of Gardena

DATE: April 28, 2023

Publication Date: May 4, 2023

CITY OF GARDENA
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT on Tuesday, May 16, 2023, at 7:00 p.m., the Planning Commission of the City of Gardena will conduct a public hearing to consider the following:

REQUEST: Consideration of an Ordinance amending Title 18 and Title 5, Zoning, of the Gardena Municipal Code relating to regulations for short term home sharing rentals in residential zoning districts throughout the city. The Ordinance does not qualify as a project as defined in CEQA Guidelines section 15378, and there is no potential for the adoption of the Ordinance to result in a physical change in the environment and therefore is not subject to CEQA. Even if the Ordinance were subject to CEQA, it would be exempt under the commonsense exemption of Guidelines section 15061(b)(3) and Guidelines section 15308 as an action to creating a regulatory process to protect the environment. The Planning Commission is being asked to make a recommendation to the City Council on the ordinance.

Project Location: Citywide

The public hearing will be held in the Council Chambers of City Hall at 1700 West 162nd Street, Gardena, CA 90247.

The related materials will be on file and open for public inspection on the City's website at <https://www.cityofgardena.org/community-development/planning-projects/> no later than May 12, 2023. You will have the opportunity to speak during the hearing. Written comments and documentation may be submitted by email to publiccomment@cityofgardena.org. Alternatively, comments may be mailed to City of Gardena, at 1700 W. 162nd Street, Gardena, California 90247.

If you challenge the nature of the proposed action in court, you will be limited to raising only those issues you or someone else raises at the public hearing described in this notice, or in written correspondence delivered to the Gardena Planning and Environmental Quality Commission at, or prior to, the public hearing. For further information, please contact the Planning Division, at (310) 217-9524.

Amanda Acuna
Senior Planner



PAUL L. CASS LL.M.
ATTORNEY AT LAW

May 11, 2023

RE: SHORT TERM RENTALS GARDENA

MY CLIENT: MARIYA WRIGHTSMAN PROPERTY OWNER

DEAR PLANNING COMMISSION:

As the City Attorney was specifically advised in October of 2022, the City of Gardena has violated my client's (Ms. Wrightsman's) constitutional rights and based on the last public notice apparently intend to do so again. The City of Gardena is prohibited from violating my client's constitutional property rights and any effort to do so would invite a lawsuit for equitable relief to have the local legislation deemed void and unenforceable as a matter of law.

The City of Gardena is engaging in harassment in violation of the US and State constitution. As was spelled out to the City Attorney in an October 2022 letter, the Council Members are not immune under a 1983 action for violating these rights, nor is the City itself. This letter serves to put the City of Gardena on notice that pursuant to Civil Code, § 827, the right to charge "rent" for "tenancies for less than one month" as to "a residential dwelling" is granted by the State of California. [See also Civil Code, § 1946 "hiring of real property" "not exceeding 30 days" "the rent shall be due and payable"]. The City of Gardena is preempted in this field by the State law.

Not to mention the constitutional issues. Below are the [Airbnb terms of use](#):

8. Terms specific for Guests

"8.2 Booking Accommodations

8.2.1 You understand that a confirmed booking of an Accommodation ("**Accommodation Booking**") is a limited license granted to you by the Host to enter, occupy and use the Accommodation for the duration of your stay, during which time the Host (only where and to the extent permitted by applicable law) retains the right to re-enter the Accommodation, in accordance with your agreement with the Host."

The interests which enjoy constitutional protection as “property” are generally defined by state law. (Civ. Code, § 755; *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1030.) In California “[t]he right to acquire and possess property, guaranteed by the constitution, includes the right to dispose of it, or any part of it, and for that purpose to divide it in any possible manner, either by separating it into estates for successive periods or otherwise, and to dispose of one or more of such estates.” (*Tennant v. John Tennant Memorial Home* (1914) 167 Cal. 570, 575; *Gregory v. City of San Juan Capistrano* (1983) 142 Cal.App.3d 72, 88.) Just as that right encompasses the power to grant a license to use a portion of the owner’s property temporarily (see *Ex Parte Quarg* (1906) 149 Cal. 79 [theater ticket]), it includes the right to create a leasehold estate. *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 794-95

““If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void.” (*Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897)” (*Action v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1242) “As we observed more than a century ago, ‘[e]very constitutional provision is self-executing to this extent, that everything done in violation of it is void.’ [Citation]” (*Katzberg v. Regents of the University of California* (2002) 29 Cal.4th 300, 307) “[V]oid may be attacked anywhere, directly or collaterally whenever it presents itself, either by parties or strangers. It is simply a nullity, and can be neither a basis nor evidence of any right whatever.” (*Andrews v. Superior Court* (1946) 29 Cal.2d 208, 214)

Void in legal terms means it never existed.

Please present this letter to the City Attorney’s Office, whom will be able to advise of the correctness of the law that prohibits the current course of action.

If the City wishes to readdress this issue, it is suggested to pursue the only correct legal avenue available, by sponsoring an initiative to amend the California Constitution and also lobby the California state Legislature to change existing laws. Because the City can only proceed in this manner, future attempts to enact local legislation which is void will result in a Federal action under 42 U.S.C. §§ 1983 and 1985 pursuant to the equal protection clause of the Fourteenth Amendment. Due process protections are necessary "to insure that the state-created right is not arbitrarily abrogated." (*Vitek v. Jones* (1980) 445 U.S. 480, 489, quoting *Wolff v. McDonnell*, (1974) 418 U.S. 539, 557) and see *Vitek* at 491 fn. 6. In reality the amount of rentals of less than 30 days is minimal within the boundaries of Gardenia. However, since my client invested heavily before any attempt was made to change the laws, then this fact inures to my client's benefit. Legally under existing laws the City may not unilaterally change the rules without subjecting the City to a costly legal battle. The City's plan of action would be deemed arbitrary and is a form of "taking" which is prohibited.

The issue of "**grandfathering**" existing Gardena rentals (which are few in number) is not before us at this time but may in the future be a remedy especially if there is a situation where the City affirms its plan and the client is forced to file a Federal Lawsuit and tack-on the State law claims. If this event of a total ban on rentals of less than 30 days occurs then such action will cause all concerned parties to waste resources in a quagmire of litigation. If the City wanted to bypass litigation and to that end it inserted a grandfather provision in its expected law this would make it where the City might have some leverage as to new units (post legislation), assuming some future attempt by a property owner to engage in rentals of less than 30 days. However, that possibility is not yet before us. The current understanding is that the City will be seeking a total ban on rentals of less than 30 days which would trigger a lawsuit / petition.

Best,

A handwritten signature in blue ink, appearing to read "P.L. Cass". The signature is fluid and cursive, with a large initial "P" and "L" followed by "Cass".

PAUL L. CASS, ESQUIRE SBN 158,323