

CAUSE NO. DC-23-16845

DALLAS SHORT-TERM RENTAL	§	IN THE DISTRICT COURT
ALLIANCE, SAMMY AFLALO,	§	
VERA ELKINS, DANIELLE	§	
LINDSEY, and DENISE LOWRY,	§	
	§	
<i>Plaintiffs,</i>	§	95th ____ JUDICIAL DISTRICT
	§	
v.	§	
	§	
CITY OF DALLAS,	§	
	§	
<i>Defendant.</i>	§	DALLAS COUNTY, TEXAS

**PLAINTIFFS’ ORIGINAL PETITION AND
APPLICATION FOR TEMPORARY INJUNCTION**

Dallas Short-Term Rental Alliance, Sammy Aflalo, Vera Elkins, Danielle Lindsey, and Denise Lowry (collectively, “Plaintiffs”) file this Original Petition and Application for Temporary Injunction against Defendant City of Dallas (the “City”), challenging the City’s new ordinances about short-term rentals (“STRs”), and respectfully show as follows:

I. INTRODUCTION

*“[N]o citizen of this State shall be deprived of life, liberty, **property**, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.”* Tex. Const. art. I § 19 (emphasis added).

Despite that solemn guarantee, and directly contrary to repeated and unchanging advice from its professional staff, the City recently rewrote longstanding laws to ban most STRs and impose a punitive registration regime on the few that would remain. This lawsuit seeks a declaration that those ordinances violate the state constitution and other

state laws against government overreach. It then asks for an injunction to stop the City from enforcing these unlawful and unfair laws. (This pleading refers to City Ordinance 32482 as the “Zoning Ordinance” and attaches a copy as Exhibit “A,” and refers to City Ordinance 32473 as the “Registration Ordinance” and attaches a copy as Exhibit “B.”)

II. DISCOVERY CONTROL PLAN

1. Pursuant to Tex. R. Civ. P. 190, Plaintiff intends to conduct discovery under a Level 2 discovery control plan and affirmatively pleads that this suit is not governed by the expedited actions process.

III. PARTIES

2. Plaintiff Dallas Short-Term Rental Alliance (“DSTRA”) is a non-profit association, organized under Texas law, with its principal (and only) office in Dallas.

a. The great majority of DSTRA’s members are individuals who own STRs in Dallas, invest in STRs, or provide services to STRs. DSTRA’s mission is to advocate for its members’ interests as owners of STR-related businesses in Dallas, and to educate its members as participants in the STR industry.

b. DSTRA asserts claims on its own behalf. The harm done by the Ordinances to its members’ businesses will cause a substantial decrease in financial support to DSTRA. DSTRA has approximately a hundred donors now and anticipates material decreases in the number of donors and amount of donations because of the

Ordinances. That loss will harm DSTRA and undermine its ability to carry out its mission. *See* Tex. Bus. Orgs. Code § 252.007(a).

c. DSTRA also asserts claims on behalf of its members. It has standing to do so because: (a) at least one (and likely, most if not all) of DSTRA's members has standing to assert a claim in his or her own right as an STR-related business owner adversely affected by the Ordinances; (b) the interests that DSTRA seeks to protect by this lawsuit are germane to its mission as an advocacy group, and (c) neither the claim asserted, nor the relief requested, requires the participation of individual members in the lawsuit. The claims can be proven based on established law and the administrative record, and the requested injunction would bar the City from any enforcement of the Ordinances against anyone, whether or not they are a party. *See id.* § 252.007(b); *see also* *Hunt v. Washington State Apple Adv. Comm'n*, 432 U.S. 333, 343 (1977).

3. DSTRA is joined as plaintiff by four individuals: Sammy Aflalo, Vera Elkins, Danielle Lindsey, and Denise Lowry (collectively, the "Owners"). As detailed further below, each of them owns a successful small business involving Dallas STRs, and each of their businesses will be significantly harmed by the Ordinances.

4. Defendant, City of Dallas, is a Texas home-rule municipality. It may be served by hand delivery on the City Secretary or her designated representative, 1500 Marilla St. Room 5 D South, Dallas, Texas 75201.

5. Per Tex. Civ. Prac. & Rem. Code § 37.006(b), Warren Kenneth Paxton, Jr., in his capacity as Attorney General, may be given notice of this matter by service upon him or his designated representative at 300 W. 15th Street, Austin, Texas 78701.

IV. JURISDICTION AND VENUE

6. This controversy is within the Court's general jurisdiction to grant declaratory and equitable relief (non-monetary relief under Tex. R. Civ. P. 47).

7. Venue is proper in this County because all parties reside here, the relevant properties are located here, and the relevant ordinances were enacted here.

8. Sovereign immunity does not apply because Plaintiffs raise constitutional challenges, along with challenges to the City's enactment of the Ordinances without authority to do so, and do not seek damages. *See, e.g., Patel v. Texas Dep't of Licensing & Regulation*, 469 S.W.3d 69, 75 (Tex. 2015).

V. FACTUAL BACKGROUND

A. **STRs operated freely in Dallas for decades, subject only to private regulation and payment of Hotel Occupancy Taxes.**

9. "[T]he right of the citizen to use his property as he chooses so long as he harms nobody, is an inherent and constitutional right" *Spann v. City of Dallas*, 111 Tex. 350, 356 (Tex. 1921). And as the Texas Supreme Court has held twice in the last five years, the right to own residential property includes the right to lease that same property. *See Tarr v. Timberwood Park Owners Ass'n, Inc.*, 556 S.W.3d 274, 287-88 (Tex. 2018); *JBrice Holdings, L.L.C. v. Wilcrest Walk Townhomes Ass'n, Inc.*, 644 S.W.3d 179, 185-86 (Tex. 2022).

The right to enter a valid lease is further protected as part of Texas common law that “strongly favors parties’ freedom of contract.” *E.g.*, *Energy Transfer Partners, L.P. v. Enterprise Prods. Partners, L.P.*, 593 S.W.3d 732, 738 (Tex. 2020).

10. While no bright line separates a “short-term” and “long-term” lease, *see Tarr*, 556 S.W.3d at 289-90, an STR is generally understood as a contract involving less than a month’s occupancy. A STR is usually a fully furnished home, which the owner may or may not use when it is not rented. *See Boatner v. Reitz*, No. 03-16-00817-CV, 2017 WL 3902614, at *1 (Tex. App.—Austin 2017, no pet.).

11. Because Texas law has traditionally viewed leases as an incident to private-property ownership, it has traditionally left regulation of STRs to the private sector. A contract establishes the terms of an STR, along with rules set by any relevant hosting platform (Airbnb, Vrbo, etc.), STR owners thus have a commercial incentive, under both the lease agreement and the hosting-platform rules, to ensure that guests follow rules that limit potential nuisances, such as quiet times, noise restrictions, etc.

12. The Legislature confirmed its “hands off” approach to STRs in Chapter 92 of the Property Code, which applies generally “to the relationship between landlords and tenants of residential real property,” Tex. Prop. Code § 92.002, and which avoids any restriction (much less bar) on STRs. *See* Tex. Prop. Code § 92.001 (general definitions refer to “permanent residence”); *see also id.* § 92.010 (defining maximum lease occupancy and allowing persons “seeking temporary sanctuary” to remain at a leasehold premises for

thirty days, even if maximum occupancy is exceeded); *id.* § 92.153 (regulating security devices and referring to “transient housing” and “temporary residential tenancy”).

13. In fact, the Legislature affirmatively encouraged STRs by establishing them as a source of state revenue, defining the term “hotel” in the Tax Code to include short term rentals. *See* Tex. Tax Code § 156.001(b) (“For purposes of the imposition of a hotel occupancy tax ... ‘hotel’ includes a short-term rental”); *see also id.* § 156.101 (clarifying how the Code applies to rentals of less than thirty days. This tax is commonly called the “Hotel Occupancy Tax” or “HOT Tax.”

14. Further acknowledging the commercial significance of STRs, the Legislature allowed cities to impose their own local HOT Tax. *See* Tex. Tax Code § 351.001 *et seq.* (chapter entitled “Municipal Hotel Occupancy Taxes”).

15. Dallas took advantage of that authority and established its own HOT Tax. Like the state Property Code, the City’s HOT Tax ordinances confirm that “‘hotel’ includes a ‘short term rental,’” and define “hotel” broadly to cover “any building in which members of the public obtain sleeping accommodations for consideration ... includ[ing] a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast.” Dallas City Code art. VII § 44-48(6).

16. Consistent with those ordinances, the City issued guidance that STRs could lawfully operate so long as the owner paid applicable Hotel Occupancy Taxes:

- Can I rent my property with a "Short-Term Rental" program?

Yes, the property can participate in a "Short-term Rental" program as long as any Hotel Occupancy Taxes due have been paid by the owner.

Single Family Rental Registration Frequently Asked Questions, Dallas City Hall, <https://tinyurl.com/yc2fhzva> (last accessed September 24, 2023).

17. The City gave that guidance because, under its ordinance about rental-property registration, an owner had a defense to prosecution if “at the time of the notice of a violation:

- (A) the property was a short-term rental; and
- (B) applicable hotel occupancy taxes ... had been collected and remitted in full.”

Dallas City Code ch. 27, art. VIII § 27-30 (“Registration and Posting Requirements; Defenses.”).

18. The City also took affirmative steps to collect HOT taxes from STRs. Below, for example, is a 2019 letter sent by the City to known STR owners.

Short-Term Rental Registration

Dear Property Owner/Manager,

Did you know all short-term rental owners are required to register their property with the City of Dallas? A short-term rental is any residential property or part of a property rented for 30 days or less. This includes homes or other units, such as a garage apartment or backyard cottage, listed for rent on Airbnb, VRBO, HomeAway, and similar websites.

In addition to registering, short-term rental owners are also required to collect hotel occupancy taxes (HOT) from their guests and report and pay all HOT to the City on a monthly basis.

And the City has aggressively tried to collect allegedly past-due HOT Tax when STR owners have attempted to register under the pre-2023 system.

19. The first recital in the Zoning Ordinances claims that “short-term rentals have never been a recognized land use” in Dallas. *See* Zoning Ordinance at 1. The City’s own statements, laws, and actions plainly show otherwise.

20. Other City ordinances address “habitual criminal and nuisance properties.” *See* Dallas City Code ch. 27, art. VIII § 27-45 *et seq.*; *see also id.* Dallas City Code ch. 27, art. V § 27-17 (defining a “public safety nuisance”); *id.* § 30-1 *et seq.* (defining “loud and disturbing noises and vibrations”). Those laws apply City-wide to all types of property, including STRs.

21. To summarize: until June 14, 2023, the legal framework for STRs in Texas was straightforward, well-understood, and consistent with the broad protection that Texas law provides for private property and the freedom to contract. The Legislature made a judgment that Texas was best served by minimal government regulation of STRs, letting them thrive as private businesses controlled by contracts—and thus, become a significant and reliable source of state *and local* government revenue from HOT Tax.

B. In June, the City banned short-term rentals in single-family zoned areas, while punitively “regulating” the few remaining STRs.

22. On June 14, 2023, the City drastically changed course.

23. The City's zoning ordinances have global definitions for types of land use. Then, in the definitions of specific zoning areas—for example, "single-family residential"—the ordinances say what land use may occur in each such area.

24. "Lodging use" is a globally defined term. Some zoned areas allow "lodging use" while some do not.

25. The Zoning Ordinance added "short-term rental lodging" to the global definition of "lodging use." See Zoning Ordinance § 1 (amending Dallas City Code ch. 51, art. IV, § 51.4.216.1) and § 17 (amending Dallas City Code ch. 51A, art. IV, § 51A-4.205).

26. By doing so, the Zoning Ordinance banned STRs from all zoned areas in the City where "lodging use" was not permitted.

27. Because "single-family residential" is one of the areas where STRs can no longer operate, the Zoning Ordinance forces STRs to operate only in areas zoned for multi-family residences, hotels, or commercial. That change puts a substantial number of STR owners out of business.

28. At the same time, the Registration Ordinance imposed additional, punitive restrictions on STRs that would still be operating, located in areas for uses such as multi-family or commercial zones.. The details of this ordinance are described in connection with Plaintiffs' claim about the "due course of law," *infra* page *et seq.* In general, the Registration Ordinance sets a yearly fee ten times higher than any comparable activity,

sets onerous and arbitrary conditions on STR operation, and enforces its terms with a \$500 daily fine for each alleged violation.

29. Upon approval of the new ordinances, the City wrote to each “STR Owner/Operator” in its records, giving notice of the new ordinances, and stating that enforcement would begin six months from their enactment (December 13, 2023). The City sent its most recent notice about the Ordinances on September 18, 2023.

C. The Ordinances hurt thousands of law-abiding small business owners.

30. Relying on the pre-2023 legal framework, thousands of property owners in the City invested money to buy and improve properties for STRs and committed to future bookings. Those property owners planned for and depended on income from short-term rentals when making those business decisions.

31. STR owners have no realistic chance to recoup their investments in the short time left before the City starts to enforce the Ordinances. And relying just on long-term rental income is not economically realistic for the great majority of STR owners, who did not develop their properties with that goal and may not have adequate facilities or location for long-term renters, for example. Specifically, the City estimates that the Zoning Ordinance will ban *approximately 98%* of the present STRs operating in the City—leaving 48 out of the present total of approximately 2,600. *See Short-Term Rental Zoning and Registration Ordinances: City Council Briefing*, at 14 (April 4, 2023) (“Under COC’s recommendations, approximately 48 (1.8% operating STRs would be permitted,

assuming registration with Code Compliance Services.”) (available at <https://tinyurl.com/kb9u5kbj> (last visited Sept. 26, 2023)).

32. The Ordinances swat a fly with a sledgehammer. And the City knows that. The City’s own research concluded that less than 5 percent of STRs were even *potentially* problematic, concluding: “[O]ver 88 percent of STRs generated zero 311 or 911 calls,” and that “[t]here were 123 (4.6%) STR Properties that had 2 or more 311 or 911 calls during 2021-22. See *Short-Term Rental Impact Analysis Update*, at 1 (Nov. 10, 2022) (available at <https://tinyurl.com/37uj9uwf> (last visited Sept. 26, 2023)). Two other reports by City staff reached the same conclusion. No report prepared by City staff *ever* concluded that a ban, such as the Zoning Ordinance, was required because of pervasive problems with STRs causing nuisances.

33. Consistent with that research, the City’s Director of Planning and Urban Design, Dr. Julie Ryan, admitted that the Zoning Ordinance’s wholesale ban an extraordinarily poor solution to the perceived problem of nuisance-creating “party houses”:

[City Council Member] ... If you had a recommendation on the zoning [this has gotten cut off and needs to be fixed]:

[Dr. Ryan:] ... *My professional opinion is that we continue to move forward with a definition that refers all regulations to a registration ordinance* that when we look at things like enforcement and operations, that having all of the registration regulations in one area where it’s all connected and it’s all contained within one program, is going to be the most efficient and effective way to move forward with regulating especially the bad operators, if you will.

Because that is what I think everyone is concerned about is really those operations that do impact the quality of life of residents, but moving forward, we have been [--] I don't want to say this again, but I will that *we've used zoning in ways that we shouldn't* and we're not dealing with a lot of those consequences with permitting and with inefficient city services that all tie back to the PD.

I worry that we're doing something similar in this case, where we're adding regulations within the zoning ordinance that are going to either create confusion or inefficiencies with the enforcement piece.

See Transcript of Dallas City Council Briefing, June 7, 2023 (emphasis added).¹ Moreover, the City staff's recommendation at *the very meeting* where the Zoning Ordinance was adopted—June 14, 2023---was as follows:

PUD staff recommendation is to address STRs entirely through the registration process and not through amendments to the zoning code. This recommendation is based on the assertion that the major concerns related to STRs are operational and would be best managed through a registration ordinance enforced by Code Compliance Services. This is consistent with other zoning treatment of the operational considerations of residential properties. The Dallas Development Code is silent on the tenancy or ownership status of the occupants of a residential property (i.e., there is no difference in land use standards based on if a property is owned fee simple, leased, rented, mortgaged, shared ownership with condominium regime, etc.). Chapter 27 of the Dallas City Code contains standards for rental properties and the proposed Chapter 428 contains standards for STRs that

¹ David Noguera, the City's Director of Housing, gave similar testimony earlier. See City Planning Comm'n Meeting of Dec. 8, 2022 ["Dec. CPC Meeting"], at 2:24:30 (available at <https://dallastx.new.swagit.com/videos/12092022-588> (last visited October 2, 2023)) ("You have many people who come to a city for a short-term basis whether you are a traveling nurse or whether you are one of my colleagues who is shopping for housing or taking on a short-term job. And if you look at their options, they can either sign a one-year lease or they can take on a hotel which is very expensive. *Short-term rentals provide that interim balance at a much more affordable level.* ... So the places that you see typically used for short-term rentals are not the market-rate it's one of those things where if you just outwardly ban them then essentially you force the industry to go underground then you have no information to track." (emphasis added)).

address the concerns voiced and is better suited to enforce operational standards.

See Development Code Amendment to the Dallas Development Code address short-term rental lodging uses, at 9 (presented June 14, 2023).

34. The individual plaintiffs in this case provide vivid, specific examples of what the Ordinances will do.

35. Plaintiff Sammy Aflalo entered the STR business in 2016 when he began traveling to California for personal reasons. He now operates 22 STRs in the City, 12 of which are zoned single-family and are thus subject to the Zoning Ordinance.

a. Mr. Aflalo's STRs consist of 12 houses located in single-family areas. He has spent approximately \$75,000 on each of those homes to provide the highest level of service and comfort. He also operates 10 STR units in three apartment buildings in the City (two of which he owns, and for the third, he has an "arbitrage" relationship with a business associate for the building's STR units). To ensure peaceful operations and compliance with all applicable law, each of his STR units has security cameras, security systems, and a decibel reader that measures and stores data about the noise level. Mr. Aflalo is fully up to date with all HOT Tax obligations.

b. Mr. Aflalo's business employs a full-time Hospitality Manager, a full-time maintenance worker, 3 full-time cleaners, and works regularly with 8 other cleaners who are independent contractors. His STR business also uses about half the time of a Director of Operations and an accountant who also work on other business matters

for Mr. Aflalo. Some of those individuals are likely to lose their jobs if the Ordinances become effective.

36. Plaintiff Vera Elkins began her STR business by renting a room in her residence, located in the City. While she still leases that room from time to time, the STR business has grown far larger to now provide management services for 11 STR properties across the City.

a. It employs fifteen people, including meaningful employment for her special-needs brother. It is the sole source of income for her family and her business partner. Her business also supported her disabled grandmother. Without this income she cannot take care of her family and extended family. Ms. Elkins has paid the City of Dallas Hotel Occupancy Tax (HOT) faithfully since learning of her obligation to do so several years ago. Not only that, but she has also made significant progress toward the back taxes that accrued before she became aware that they owed the taxes.

b. . The Zoning Ordinance will prevent her from using her home for STRs because it is in an area zoned for single-family residence, and exclusive reliance on long-term rental is not an economically viable option for that property. Most of those properties for which her business provides management services will shut down if the Ordinances become effective, some will continue to operate but with lower volume (and thus lower revenue), and none are expected to benefit from the Ordinances. Her business

will be materially and adversely affected, and she will have to lay off employees if the Ordinances become effective. This would result in her losing her business.

37. Plaintiff Danielle Lindsey runs a business called Prepped Place (www.preppedplace.com) that provides cleaning, maintenance, and other such support services to rental properties across the City.

a. Ms. Lindsey, a single mother, started her business while “moonlighting” in 2018 from her full-time job at the time. The business has grown to now employ over thirty people, who provide services to over 300 rental units throughout the Dallas area. Many of the employees are single mothers who need the flexible hours allowed by work in the STR industry and would have significant difficulties finding comparable work in another area.

b. A majority of the rental units serviced by Prepped Place are located in the City. Ms. Lindsey anticipates that some of those STRs will shut down if the Ordinances become effective, that some will continue to operate but with lower volume (and thus lower revenue), and that none will benefit from the Ordinances. Ms. Lindsey anticipates that Prepped Place’s business will be materially and adversely affected, and she will have to lay off hardworking and trusted employees if the Ordinances become effective.

38. Plaintiff Denise Lowry operates an STR in the City, in East Dallas, called the Cozy Owl Cottage. The Cozy Owl is located in an area zoned for single-family residence, so it is affected by the Zoning Ordinance.

a. When her mother fell ill at 92, Ms. Lowy remodeled her home's workshop area to make a small apartment for her mother's final year of life. Around the start of 2018, approximately two years after her mother's passing, Ms. Lowy realized that the apartment would be perfect as an STR (it lacked a full kitchen, but had a kitchenette with a microwave, toaster oven and full-size refrigerator). She had the bathroom shower renovated with such things as a low-step curb and pull-down shower seat to make the property attractive to older couples.

b. The renovations worked. The Cozy Owl succeeded. Ms. Lowy has consistently rented it as an STR since 2018. Her typical guests are middle-aged to older couples who are visiting family nearby or children at SMU. Other common guests include single women here for work. They consistently tell her that the cottage is "lovely" and "homey" and that they are grateful to stay in a quiet and safe neighborhood. Ms. Lowy has consistently been a Super Host on Airbnb and a Premier Partner on VRBO for the past 5 years.

c. The Zoning Ordinance could not have come at a worse time. Ms. Lowry's husband was recently diagnosed with dementia, and her new role as his care partner has made it impossible for her to continue any work as a real estate agent. Income from the Cozy Owl is critical to the Lowrys' financial security and peace of mind at this stage of their lives.

39. In sum, to address problems caused by a handful of "bad apple" STR

owners, Dallas would destroy a vibrant industry that employs hardworking people across the city and provides a necessary category of housing.².

VI. CLAIMS FOR RELIEF

40. Pursuant to Tex. Civ. Prac. & Rem. Code § 37.004(a), Plaintiffs seek the following declarations, as described in more detail below:

- a. The Ordinances violate the Texas Constitution's guarantee of due course of law;
- b. The Zoning Ordinance is a taking that violates the Texas Constitution;
- c. The Zoning Ordinance violates the Texas Constitution's prohibition against retroactive laws;
- d. The Ordinances arbitrarily discriminate against owners and operators of STRs in violation of the Texas Constitution;
- e. The Ordinances are void because they were enacted without any authority to do so under the Zoning Enabling Act; and
- f. The Ordinances are preempted by the new "Death Star Act."

² See David Noguera, City' Director of Housing, Dec. CPC Meeting at 2:34:07 ("The housing that we need comes in various forms. We need for-sale housing, we need market-rate housing, we need subsidized housing, we need market-rate rental houses, subsidized rental housing. We also need some short-term rentals. And the reason that you see so many people utilizing it is because there is a need for it. So I think it's important to make sure you are not ignoring what that need is. The question is what is the appropriate mixture? what is the appropriate balance? Between different housing types that we should have in our market.").

A. The Ordinances violate the guarantee of due course of law.

41. The Texas Constitution guarantees that “[n]o citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.” Tex. Const. art. I § 19 (emphasis added). It is harder to imagine a more glaring denial of that protection than the City’s enactment of an ordinance that its professional staff repeatedly and uniformly told it not to enact.

42. An economic regulation, such as a zoning ordinance or land-use restriction, is unconstitutional as a denial of due course of law if either: (1) the statute's purpose could not arguably be rationally related to a legitimate governmental interest; or (2) when considered as a whole, the statute’s actual, real-world effect as applied to the challenging party could not arguably be rationally related to, or is so burdensome as to be oppressive in light of, the governmental interest. *Patel*, 469 S.W.3d at 87; accord *Barshop v. Medina Cnty. Underground Water Conservation Dist.*, 925 S.W.2d 618, 626–27 (Tex. 1996).

43. As to both Ordinances, Plaintiffs agree that the City has a legitimate interest in regulating “noise, traffic, trash, and crime,” and that reasonable regulation is appropriate to curb the handful of problematic STRs.

44. But the City’s problem is that it cannot ban traffic, trash, traffic, or noise in the abstract. It can only regulate the activity of individuals that contribute to those nuisances. And short-term guests are not uniquely prolific creators of trash, traffic, or

noise. They are just ordinary people occupying homes in the ordinary residential manner. The record developed by the City about the Ordinances does not establish that short-term rentals cause more nuisances than other residential tenancies or owner-occupancies. Where people exist, traffic, trash, parking, and noise will also exist.

45. And despite multiple attempts to find data that would justify outlawing short-term rentals, studies have not shown that short-term rentals have a negative effect on housing affordability. *See, e.g., Zaatari v. City of Austin*, 615 S.W.3d 172, 189 (Tex. App.—Austin 2019, pet. denied.) The City also has many other options to promote affordable housing that do not require the wholesale destruction of a thriving industry.³

46. **Zoning Ordinance.** STRs are a residential use of property, as Texas courts have routinely held. The City’s reclassification of STRs as a “lodging use” does not change reality. STRs are fundamentally different from hotels, and STRs are popular because of their residential (rather than commercial) nature. And as described above, the City’s staff established that STRs are not inherently problematic, as compared to fulltime residents or long-term guests.

47. Moreover, the City already has ordinances that address public nuisances. The City simply chose to target STRs rather than enforce pre-existing ordinances against

³ *See* David Noguera, City Director of Housing, Dec. CPC Meeting, *supra*, at 2:27:13 (“If you look at what we call workforce housing, and the occupations that occupy those professions, those are typically people between 60 to about 100 percent median income. And essentially those folks need affordable housing too.”).

the handful of “bad apple” property owners.

48. The City’s denial of due course of law does not end there. “SB929,” enacted in the last legislative session, created Tex. Loc. Gov. Code § 211.019, which mandates that a municipality give due notice and pay due compensation for zoning decisions that create “non-conforming uses” of property. The Zoning Ordinance plainly does so. But the City has fulfilled none of its responsibilities under SN929. The City wants to ban STRs without accepting any of the consequences of that decision. The City thus has no constitutionally permissible basis for the Zoning Ordinance.

49. **Registration Ordinance.** The City has a legitimate interest in mitigating public nuisances. But like the Zoning Ordinance, the Registration Ordinance lacks a constitutionally sufficient connection to that interest, as several parts of the law show:

a. **Excessive fee.** Section 42B-5c sets an annual registration fee of \$404. That’s ten times the fee charged for other rental properties. *See* Dallas City Code § 27-31(e) (“The annual registration fee for a single dwelling unit rental property is \$43 per single dwelling unit rental property.”). The City’s work did not establish that STRs are ten times more problematic than all other types of rental property.

b. **Inconsistent maximum occupancy.** Tex. Prop. Code § 92.010 says that the maximum number of adults that a landlord may allow to occupy a dwelling is three times the number of bedrooms in the dwelling. It goes on to define “adult” as an individual 18 years of age or older, and “bedroom” as an area intended for sleeping

quarters. In contrast, Section 42B-12(a) of the Registration Ordinance says that “the maximum occupancy for a short-term rental is three people per bedroom with a total occupancy of 12.” This limitation ignores the age of the “people” (and would thus bar multi-generational families with many children from renting an STR), and it has no connection to “sleeping” (and would thus bar more than three people per bedroom, regardless of whether they stay the night). The City’s work did not establish that daytime use of STRs by children requires a new law, inconsistent with the Property Code.

c. *Irrational day limit.* Section 4B-12 says that the rental period must be for at least two nights. The City established no material difference between a one-night rental and a two-night rental—and specifically, did not establish that persons planning a “party house” only rent an STR for one night. And if those persons are that firmly committed to having a “party house”—that would violate many other ordinances if it is excessively loud or disruptive—then they would just rent the STR on a Friday and have the problematic party on Saturday. Conversely, there is nothing about visiting the City for just one night (for lawful activities such as a job interview, wedding, or sports event) that necessarily causes more crime or noise than a two-night trip. To the contrary, Dallas is a destination city for thousands of legitimate one-night events. The City’s work did not establish that adding an extra day to a one-day rental will do anything to avoid any type of public nuisance.

d. **Parking.** Even though street parking is typically public use, and the City has no restrictions for how many cars may visit any other type of property at any given time, Section 42B-12 of the Registration Ordinance seeks to limit the number of parked visitors that a short-term tenant may have. The City's work did not establish that short-term renters (who usually come from out of town) require an inordinate amount of parking compared to all other property uses.

e. **Density.** The density restrictions would allow a handful of STRs, but not more than specified percentages that have no obvious connection to any objective data. For example, in Section 42B-12, the City has decided that a certain arbitrary percentage of multifamily residences may be STRs, but any more than that will subject all of the STRs to punitive fines. The City's work does not establish any reason for that bright-line distinction.

f. **Owner location.** The Registration Ordinance says that a property owner has a defense to prosecution if the relevant property has been registered as a homestead. A person can claim a homestead exemption if the property is their "principal residence," which simply means that the owner lives there more often than any other place. *See* Op. Tex. Att'y Gen. No. JC-0415 (2001) (construing "principal residence" in Tex. Tax Code § 11.13(j)(1)(D) as "the owner's primary or chief residence that the owner actually occupies on a regular basis"); *Harris County Appraisal Dist. v. Wilkinson*, 317 S.W.3d 763, 767 (Tex. App. – Houston [1st Dist.] 2010, pet. denied) (same). That definition

has no link to the problems that the Registration Ordinance purports to address. A property owner is free to leave that property in the summer, or for a weekend, and allow it to become a “party house” in his or her absence.

50. If an STR is found to be in violation of any of the above restrictions, or any other restriction in the Ordinances, the owner will be fined \$500 per day. See Registration Ordinance § 43B-16 (setting penalty); § 42B-15 (applying it daily).

51. And these restrictions penalize the Dallas taxpayer as well. The City has budgeted over two million dollars over the next two years to enforce these prohibitions.

52. For these reasons, the court should declare that both Ordinances violate the Texas Constitution’s assurance of due course of law.

B. The Zoning Ordinance is an unconstitutional taking.

53. The Texas Constitution bars the government from taking private property without adequate compensation. *See* Tex. Const. art. 1, § 17.

54. A taking occurs “where regulation has gone too far and become too much like a physical taking” of property. *Sheffield Dev. Co., Inc. v. City of Glenn Heights*, 140 S.W.3d 660, 672 (Tex. 2004). The test for an unlawful taking examines “how the regulation affects the balance between the public’s interest and that of private landowners,” and considers (1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the governmental action. *See id.*

55. *Impact and expectations.* The economic impact, and the degree to which that impact involves distinct investment-backed expectations, is explained above. Thousands of property owners relied on settled Texas law to make investments and contractual commitments for their STR properties. The right to rent a privately owned residence is fundamental and well-protected by both Texas property and contract law. Moreover, many City residents have built businesses providing support services for the thriving STR industry. All those investments will be irreparably injured by the Ordinances.

56. *Government action.* The basic standard is set by Article 1, Section 19 of the Texas Constitution. As explained above, this constitutional provision requires that restrictions on private property rights must be rationally related to a legitimate government interest, and not unduly burdensome given the claimed government interest. The supreme court has made clear that this test requires evidence, and a reviewing court may not simply accept an unsubstantiated claim by the City about harm, or the subjective preferences of a segment of the population.

57. Short-term rentals are a residential use of property. Nothing about them intrinsically produces more harm than other residential uses. Traditional nuisance behaviors such as noise, parking, and trash are not more prevalent with short-term rentals, and even if they were, these concerns can be addressed by enforcement of traditional nuisance abatement ordinances that are already on the books.

58. In the recitals of the Zoning Ordinance, the City claims that enforcement of the anti-nuisance laws “create[s] a burden on law enforcement.” But all the Zoning Ordinance achieves in that regard is creating a new burden—the City’s regulatory and enforcement burden from the ordinance is already budgeted at over \$2.2 million dollars.

Major Budget Item	FY 2023-24 Positions	FY 2023-24 Budget	FY 2024-25 Positions	FY 2024-25 Planned
Add 9 positions to form a Short-Term Rental Registration and Inspection team (6.75 FTEs).	9	1,375,057	9	941,175

See City of Dallas Annual Operating and Capital Budget: Fiscal Year 2023-24, at 205 (Aug. 8, 2023) (available at <https://tinyurl.com/5dm3d9cs>) (last accessed Sept. 27, 2023)). (The City budgeted these funds even as Dallas institutions such as the DMA will be denied funds for critical renovations because of the inevitable decline in HOT Tax collection.)

59. The government’s overreaching in the Zoning Ordinance is further shown by its excessive scope—extinguishing property owners’ rights without either (1) grandfathering those who invested money and entered future bookings, or (2) allowing a reasonable recoupment period. And that overreach is further shown by the City’s refusal to accept its responsibility to pay compensation as required by SB929.

60. Any minimal distinction between short-term rentals and other residential uses—to the extent it exists at all—does not justify wholesale elimination of a well-established property right.

61. The Zoning Ordinance is a taking that violates the Texas Constitution.

C. The Zoning Ordinance is an unconstitutional retroactive law.

62. The Texas Constitution bars retroactive laws. *See* Tex. Const. art. 1, § 16 (“No bill of attainder, ex post facto law, retroactive law, or any law impairing the obligation of contracts, shall be made.”).

63. The test for a retroactive law considers three factors, applied to advance Section 16’s goals of protecting reasonable, settled expectations and preventing abuses of governmental power: (1) the nature and strength of the public interest served by the statute as evidenced by any factual findings in support of it, (2) the nature of the prior right impaired by the law at issue, and (3) the extent of the impairment. *See Robinson v. Crown Cork & Seal Co.*, 335 S.W.3d 126, 142 (Tex. 2010).

64. As detailed above, that ordinance (1) is overbroad when compared to the claimed justifications for it, (2) is directly contrary to the settled expectations of Owners as established by common law and prior Dallas ordinances (see *City of Grapevine v. Muns*, 651 S.W.3d 317 (Tex. App.—Fort Worth 2021), *pet. denied*, No. 22-0044, 2023 WL 4035802 (Tex. June 16, 2023), and (3) causes Owners to lose all or a material part of their investments made in good-faith reliance on prior law.

65. Moreover, the ordinance is overly broad in that it cuts off property owners’ rights without either (1) grandfathering those who invested money and entered future bookings, or (2) allowing a reasonable recoupment period.

66. The Zoning Ordinance is an unconstitutional retroactive law.

D. The Ordinances arbitrarily discriminate against owners and operators of STRs.

67. Article 1, Section 3 of the Texas Constitution guarantees “equal rights” — equal protection of law — to “[a]ll freemen.” This guarantee requires that any disparate treatment between similar property uses must bear a real and substantial relationship to a legitimate government interest.

68. Most basically, as described above, both short and long-term rentals are residential uses. And the City has never shown any material difference between the two that would justify its exercise of policy power (i.e., evidence that short term rentals cause substantially more nuisances than long-term rentals or full-time residents).

69. Further, the Ordinance draws a strict distinction between rentals of 29 and 30 days. Rentals of 29 days (short term rentals) are banned in residential areas, while rentals of 30 days (long-term rentals) are permitted. The City’s work did not support that distinction, and this arbitrary distinction does not substantially advance a legitimate government interest.

70. The Ordinances also distinguish between a person who operates an STR out of their homestead, and an entity who operates the STR. The former is permitted, and the latter is banned. This is another arbitrary distinction that violates the guarantee of equal protection.

71. The Zoning Ordinance violates Article 1, Section 3 of the Texas Constitution.

E. The City enacted the Zoning Ordinance without authority to do so under the Zoning Enabling Act.

66. Texas cities are defined by statutes. A city's authority to engage in zoning is derived from—and subject to the limits of—the Zoning Enabling Act, Tex. Loc. Gov't Code § 211.001, *et seq.*

67. Specifically, the Zoning Enabling Act permits cities to regulate: the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; population density; the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and the pumping, extraction, and use of groundwater by persons other than retail public utilities. Tex. Loc. Gov't Code § 211.003.

68. The Zoning Enabling Act also limits the acceptable purposes for a city zoning law. The statute requires that a zoning category “must be designed to”: lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements. Tex. Loc. Gov't Code § 211.004.

69. For two reasons, the Zoning Ordinance exceeds the City's authority under the Zoning Enabling Act. *First*, a ban on STRs is not a “use” restriction; as the Third Court of Appeals recently held, a ban on STRs “does not advance a zoning interest because both

short-term rentals and owner-occupied homes are residential in nature.” *Zaatari*, 615 S.W.3d at 190 (citing *Tarr v. Timberwood Park Owners Ass’n, Inc.*, 556 S.W.3d 274, 291 (Tex. 2018)). And *second*, even if the Zoning Ordinance was a permissible use restriction, it is not rationally related to any acceptable purpose allowed by the Zoning Enabling Act—as shown above, permanent Dallas residents also host parties, discard trash and drive cars.

70. Because the City enacted the Zoning Ordinance without authority to do so, that ordinance is void and unenforceable. See *Mayhew v. Town of Sunnyvale*, 774 S.W.2d 284, 293-94 (Tex. App.—Dallas 1989, writ denied) (“The courts of this State have held ordinances and amendments to ordinances invalid where the express, mandatory provisions of our zoning statute have not been complied with.” (citing *Bolton v. Sparks*, 362 S.W.2d 946, 950 (Tex.1962))).

F. The Ordinances are preempted by the “Death Star Act.”

71. Effective September 1, 2023, Section 15 of HB 2127 (often called the “Death Star Act”) creates field preemption of municipal ordinances on matters occupied by a provision of the Property Code.

72. As described above, Texas state law in this area reflected the Legislature’s balancing of interests with a minimal role for government regulation, as set forth in the relevant sections of the Property and Tax Codes. The Ordinances are obviously inconsistent with that balance, imposing an outright ban on many STRs. Accordingly, the Ordinances are preempted by HB 2127.

73. As of the filing of this petition, the question whether the Death Star Act violates the state constitution is in active litigation in Austin and Houston. Plaintiffs will monitor that litigation and inform the Court of the Act's status when their temporary-injunction application is submitted.

74. Any notice requirement of HB 2127 does not apply because Plaintiffs are suing under the Declaratory Judgment Act and the Court's equitable power to issue injunctive relief. In any event, the City has received ample notice of Plaintiffs' position from the hearings and other public comment that preceded the Ordinances, and any notice requirement is properly excused under the circumstances of this case, given the short time between the effective date of HB 2127 and the date when the City will begin enforcing the Ordinances in December 2023.

75. The Ordinances are unenforceable under the Death Star Act.

G. Attorneys' fees

76. Upon entry of the above declarations, this Court should grant Plaintiffs an equitable and just award of reasonable and necessary attorneys' fees and costs incurred in bringing their claims. *See* Tex. Civ. Prac. & Rem. Code § 37.009.

VII. TEMPORARY INJUNCTION

77. An injunction must issue "where a violation of a constitutional right is clearly established." *Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981). This is because the "denial of a constitutionally guaranteed right ... as a matter of

law, inflicts an irreparable injury.” *S.W. Newspapers Corp. v. Curtis*, 584 S.W.2d 362, 368 (Tex. Civ. App.—Amarillo 1979); *see also Tex. Ass’n of Bus. v. City of Austin*, 565 S.W.3d 425, 441 (Tex. App.—Austin 2018, pet. denied). The same is true for a law enacted without the authority to do so. *See, e.g., Abbott v. Jenkins*, 665 S.W.3d 675, 686-87 (Tex. App.—Dallas 2021), *vacated on other grounds*, 671 S.W.3d 960 (Tex. 2023).

78. As shown above, the Ordinances violate the state constitution in numerous ways, and the City lacked lawful authority to enact them. A temporary injunction is required to prevent an ongoing violation of law that causes probable, imminent, and irreparable injury to the plaintiffs. As shown above, that injury includes irreparable loss of legitimate business opportunities, based on significant investments made in reliance on well-established law.

79. Additionally, a temporary injunction for Plaintiffs maintains the relevant status quo during the pendency of this dispute, whereas denial of an injunction could force Plaintiffs to cease business and then restart it at some future time upon acceptance of their legal claims.

80. Plaintiffs stand ready to post appropriate bond. As they have established all requirements for a temporary injunction, until final judgment in this cause, this Court should enjoin the City (and its officers, agents, servants, employees, and attorneys, and all others in active concert or participation with them) from taking any actions to enforce the Ordinances.

VIII. PRAYER

For the foregoing reasons, Plaintiffs respectfully request that the Court:

- a. Declare that the Ordinances violate the Texas Constitution;
- b. Declare that the Ordinances are void because the City had no authority to enact them;
- c. Grant a temporary injunction against enforcement of the Ordinances;
- d. Grant a permanent injunction against enforcement of the Ordinances;
- e. Award Plaintiffs their reasonable and necessary attorneys' fees and court costs incurred in pursuit of this action, along with appropriate post-judgment interest;
- f. Grant all other relief to which Plaintiffs are justly entitled that is consistent with the above declarations and remedies.

DATE: October 2, 2023

Respectfully submitted,

/s/Michael K. Hurst

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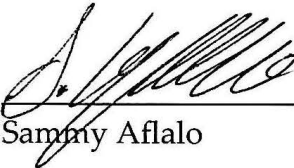
VERIFICATION OF SAMMY AFLALO

1. I am a plaintiff in *Dallas Short-Term Rental Alliance v. City of Dallas*. I own short-term rental properties in the City of Dallas.

2. The statements of fact in paragraph V.B.35 filed by the plaintiffs in the above action are within my personal knowledge (based on my years of experience in the Dallas STR industry) and are true and correct.

6. My name is Sammy Aflalo. My date of birth is 10-21-1981 and my address is 5907 prospect ave dallas tx 75206. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 2nd day of October, 2023.



Sammy Aflalo

□

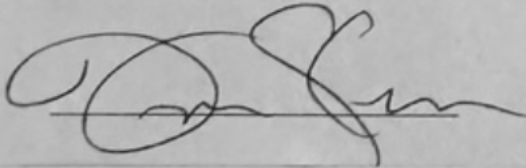
VERIFICATION OF VERA ELKINS

1. I am a plaintiff in *Dallas Short-Term Rental Alliance v. City of Dallas*. I operate a business that provides services for short-term rental properties in the City of Dallas, and I own a short-term rental property in the City.

2. The statements of fact in paragraph V.36 of the Original Petition filed by the plaintiffs in the above action are within my personal knowledge (based on my years of experience in the Dallas STR industry) and are true and correct.

3. My name is Vera Elkins. My date of birth is 1.12.1984, and my address is 4840 WORTH
DALLAS, TX. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 1st day of Oct, 2023.



Vera Elkins

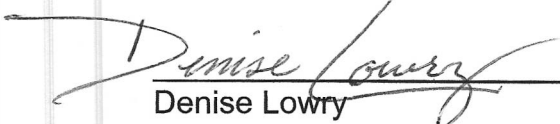
VERIFICATION OF DENISE LOWRY

1. I am a plaintiff in *Dallas Short-Term Rental Alliance v. City of Dallas*. I own a short-term rental property in the City of Dallas.

2. The statements of fact in paragraph V.38 of the Original Petition filed by the plaintiffs in the above action are within my personal knowledge (based on my years of experience in the Dallas STR industry) and are true and correct.

6. My name is Denise Lowry. My date of birth is 8/28/1952 and my address is 6747 Patrick Drive, Dallas Texas 75214. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 29 day of SEPT., 2023.


Denise Lowry


VERIFICATION OF LISA SIEVERS

1. I am an officer of the Dallas Short-Term Rental Alliance, a plaintiff in *Dallas Short-Term Rental Alliance v. City of Dallas*. I have been in that position for the last two years.

2. The statements of fact in paragraph III.2 of the foregoing Petition are within my personal knowledge (based on my experience in the STR industry and my work as a leader of DSTRA) and are true and correct.

6. My name is Lisa Sievers. My date of birth is July 25, 1960, and my address is 8238 Barbaree Blvd, Dallas TX 75228. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 29th day of September, 2023.



Lisa Sievers

EXHIBIT A

6-14-23

32482

ORDINANCE NO. _____

An ordinance amending Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” and Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Sections 51-4.216.1, 51A-4.110, 51A-4.121, 51A-4.124, 51A-4.125, 51A-4.126, 51A-4.127, and 51A-4.205; providing regulations for short-term rental lodging uses; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, short-term rentals have never been a recognized land use in the Dallas Development Code and do not fit within the definition of any other land use in the Dallas Development Code; and

WHEREAS, the City of Dallas began examining the impact of short-term rentals in 2019; and

WHEREAS, the city council quality of life, arts, and culture committee was first briefed on short-term rentals on February 18, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee appointed a task force to examine the impact of short-term rentals and to explore effective means of regulating them, with the task force holding its first meeting on June 12, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed by memo on the progress of the short-term rental task force on September 21, 2020, October 19, 2020, and November 16, 2020; and

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WHEREAS, the city council quality of life, arts, and culture committee was presented recommendations from the short-term rental task force on January 19, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on options for regulating short-term rentals on March 23, 2021; and

WHEREAS, city council held a public hearing to gather input on regulating short-term rentals on May 5, 2021; and

WHEREAS, city staff sought guidance from the city council quality of life, arts, and culture committee on options for regulating short-term rentals on May 17, 2021; and

WHEREAS, the quality of life, arts, and culture short-term rental task force was restructured in November 2021 to include representation from community stakeholders, short-term rental operators, and short-term rental platforms; and

WHEREAS, the restructured short-term rental task force met on November 15, 2021, November 29, 2021, and January 3, 2022; and

WHEREAS, the city plan commission authorized a public hearing to determine the proper zoning regulations for short-term rentals on December 2, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee held a public hearing to gather input on the impact and effective regulation of short-term rentals on January 31, 2022; and

WHEREAS, city council was briefed on short-term rental regulation options on May 4, 2022; June 1, 2022, and June 15, 2022; and

WHEREAS, the city plan commission's zoning ordinance advisory committee held meetings on June 23, 2022, July 7, 2022, August 2, 2022, August 16, 2022, August 30, 2022, and October 4, 2022, where the committee examined numerous options for appropriate zoning regulations for short-term rentals; and

WHEREAS, the city plan commission was briefed on the recommendation from the zoning ordinance advisory committee on November 17, 2022; and

WHEREAS, the city plan commission held a public hearing to determine proper zoning regulations for short-term rentals on December 8, 2022, where, after hearing from numerous speakers, the commission recommended defining short-term rentals as a lodging use and prohibiting short-term rental lodging in residential zoning districts; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on March 20, 2023; and

WHEREAS, the city council was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on April 4, 2023 and June 7, 2023; and

WHEREAS, the city plan commission and city council received input from hundreds of speakers both in favor of, and in opposition to, regulation of short-term rentals through zoning and registration ordinances; and

WHEREAS, the city council finds that continued operation of short-term rentals in single-family neighborhoods is detrimental to the peaceful enjoyment of residents living in their homes due to the transient nature of short-term rentals and associated nuisances like increased noise and overparking on city streets; and

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WHEREAS, the city council finds that the transient nature of short-term rentals renders them a non-residential use that is not compatible with uses generally found in single-family zoning districts; and

WHEREAS, the city council finds that short-term rentals should be regulated through registration and operational requirements in multifamily and non-residential zoning districts; and

WHEREAS, the city council finds that the city of Dallas is experiencing a housing crisis and that continued operation of short-term rentals in single-family neighborhoods removes needed housing stock from potential Dallas renters and homeowners; and

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51-4.216.1, “Lodging Uses,” of Division 51-4.200, “Use Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” of the Dallas City Code is amended by adding a new Paragraph (5), “Short-Term Rental Lodging,” to read as follows:

“(5) Short-term rental lodging.

(A) Definition: A full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days per rental period.

(B) Districts permitted: By right in MO, GO, multiple family, and central area districts.

(C) Required off-street parking: One space per bedroom used as short-term rental lodging.

(D) Required off-street loading: none.

(E) Additional provisions:

(i) This use must comply with Chapter 42B, "Short-Term Rentals," of the Dallas City Code.

(ii) The number of short-term rentals in a single rentable unit may not exceed one.

(iii) A short-term rental must not be used as a commercial amusement (inside), commercial amusement (outside), restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, or any other use unless it is located in a zoning district in which the use is permitted and a certificate of occupancy is issued for the use.

(iv) Short-term rental lodging is prohibited in a multiple family structure that has received a density bonus under Division 51-4.900.

(v) For purposes of this paragraph, rentable unit means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms."

SECTION 2. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (a), "MF-1(A) and MF-1(SAH) Districts," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

-- Short-term rental lodging. [None permitted.]"

SECTION 3. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "MF-2(A) and MF-2(SAH) Districts," of Section 51A-4.116, "Multifamily Districts," of Division 51A-4.110, "Residential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house.”

SECTION 4. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (c), “MF-3(A) District,” of Section 51A-4.116, “Multifamily Districts,” of Division 51A-4.110, “Residential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house.”

SECTION 5. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (d), “MF-4(A) District,” of Section 51A-4.116, “Multifamily Districts,” of Division 51A-4.110, “Residential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Short-term rental lodging.
- Lodging or boarding house.”

SECTION 6. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (c), “MO(A) Districts (MO-1 and MO-2),” of Section 51A-4.121, “Office Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*

-- Short-term rental lodging.

SECTION 7. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "General Office [GO(A)] District," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 8. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (a), "CA-1(A) District," of Section 51A-4.124, "Central Area Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel.
- Lodging or boarding house.
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.

SECTION 9. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "CA-2(A) District," of Section 51A-4.124, "Central Area Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel.
- Lodging or boarding house.
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.”

SECTION 10. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (d), “MU-1 and MU-1(SAH) Districts,” of Section 51A-4.125, “mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1)].*
- Short-term rental lodging.”

SECTION 11. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (e), “MU-2 and MU-2(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1)].*
- Short-term rental lodging.”

SECTION 12. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (f), “MU-3 and MU-3(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.”

SECTION 13. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (d), “MC-1 District,” of Section 51A-4.126, “Multiple Commercial Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.”

SECTION 14. That Subparagraph (E), “Lodging Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (e), “MC-2 District,” of Section 51A-4.126, “Multiple Commercial Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*

- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.

SECTION 15. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (f), "MC-3 and MC-4 Districts," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Extended stay hotel or motel. *[SUP]*
- Hotel or motel. *[RAR] or [SUP] [See Section 51A-4.205(1).]*
- Overnight general purpose shelter. *[See Section 51A-4.205(2.1).]*
- Short-term rental lodging.

SECTION 16. That Subparagraph (E), "Lodging Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "UC Districts," of Section 51A-4.127, "Urban Corridor Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(E) Lodging uses.

- Short-term rental lodging ~~[None permitted].~~

SECTION 17. That Paragraph (3) of Section 51A-4.205, "Lodging Uses," of Division 51A-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(3) Short-term rental lodging.

(A) Definition: A full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days per rental period.

(B) Districts permitted: By right in MO(A), GO(A), multifamily, central area, mixed use, multiple commercial, and urban corridor districts.

(C) Required off-street parking: One space per bedroom used as short-term rental lodging.

(D) Required off-street loading: none.

(E) Additional provisions:

(i) This use must comply with Chapter 42B, "Short-Term Rentals," of the Dallas City Code.

(ii) The number of short-term rentals in a single rentable unit may not exceed one.

(iii) A short-term rental must not be used as a commercial amusement (inside), commercial amusement (outside), restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, or any other use unless it is located in a zoning district in which the use is permitted and a certificate of occupancy is issued for the use.

(iv) Short-term rental lodging is prohibited in a multifamily structure that has received a density bonus under Division 51A-4.1100.

(v) For purposes of this paragraph, rentable unit means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms [Reserved]."

SECTION 18. That the director of planning and urban design shall revise the use charts to reflect the change in use regulations made by this ordinance, and shall provide these charts for publication in the Dallas Development Code.

SECTION 19. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 20. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

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SECTION 21. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 22. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 23. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas with enforcement action being taken no earlier than six months from and after the passage of this ordinance, and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, Interim City Attorney

By Casey Burgess
Assistant City Attorney

Passed JUN 14 2023



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 14 2023

ORDINANCE NUMBER 32482

DATE PUBLISHED JUN 17 2023

ATTESTED BY:

EXHIBIT B

6-14-23

ORDINANCE NO. 32473

An ordinance amending Chapter 27, "Minimum Property Standards," by amending Section 27-30; adding Chapter 42B, "Short-Term Rentals," to the Dallas City Code; providing a defense to prosecution from the Chapter 27 rental property registration requirements if a short-term rental is registered under Chapter 42B; providing registration and operational requirements for short-term rentals; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, short-term rentals have never been a recognized land use in the Dallas Development Code and do not fit within the definition of any other land use in the Dallas Development Code; and

WHEREAS, the City of Dallas began examining the impact of short-term rentals in 2019; and

WHEREAS, the city council quality of life, arts, and culture committee was first briefed on short-term rentals on February 18, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee appointed a task force to examine the impact of short-term rentals and to explore effective means of regulating them, with the task force holding its first meeting on June 12, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed by memo on the progress of the short-term rental task force on September 21, 2020, October 19, 2020, and November 16, 2020; and

WHEREAS, the city council quality of life, arts, and culture committee was presented recommendations from the short-term rental task force on January 19, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on options for regulating short-term rentals on March 23, 2021; and

WHEREAS, city council held a public hearing to gather input on regulating short-term rentals on May 5, 2021; and

WHEREAS, city staff sought guidance from the city council quality of life, arts, and culture committee on options for regulating short-term rentals on May 17, 2021; and

WHEREAS, the quality of life, arts, and culture short-term rental task force was restructured in November 2021 to include representation from community stakeholders, short-term rental operators, and short-term rental platforms; and

WHEREAS, the restructured short-term rental task force met on November 15, 2021, November 29, 2021, and January 3, 2022; and

WHEREAS, the city plan commission authorized a public hearing to determine the proper zoning regulations for short-term rentals on December 2, 2021; and

WHEREAS, the city council quality of life, arts, and culture committee held a public hearing to gather input on the impact and effective regulation of short-term rentals on January 31, 2022; and

WHEREAS, city council was briefed on short-term rental regulation options on May 4, 2022; June 1, 2022, and June 15, 2022; and

WHEREAS, the city plan commission's zoning ordinance advisory committee held meetings on June 23, 2022, July 7, 2022, August 2, 2022, August 16, 2022, August 30, 2022, and October 4, 2022, where the committee examined numerous options for appropriate zoning regulations for short-term rentals; and

WHEREAS, the city plan commission was briefed on the recommendation from the zoning ordinance advisory committee on November 17, 2022; and

WHEREAS, the city plan commission held a public hearing to determine proper zoning regulations for short-term rentals on December 8, 2022, where, after hearing from numerous speakers, the commission recommended defining short-term rentals as a lodging use and prohibiting short-term rental lodging in residential zoning districts; and

WHEREAS, the city council quality of life, arts, and culture committee was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on March 20, 2023; and

WHEREAS, the city council was briefed on the city plan commission's zoning recommendation and staff's recommendation for a short-term rental registration ordinance on April 4, 2023 and June 7, 2023; and

WHEREAS, the city plan commission and city council received input from hundreds of speakers both in favor of, and in opposition to, regulation of short-term rentals through zoning and registration ordinances; and

WHEREAS, the city council finds that continued operation of short-term rentals in single-family neighborhoods is detrimental to the peaceful enjoyment of residents living in their homes due to the transient nature of short-term rentals and associated nuisances like increased noise and overparking on city streets; and

WHEREAS, the city council finds that the transient nature of short-term rentals renders them a non-residential use that is not compatible with uses generally found in single-family zoning districts; and

WHEREAS, the city council finds that short-term rentals should be regulated through registration and operational requirements in multifamily and non-residential zoning districts; and

WHEREAS, the city council finds that the city of Dallas is experiencing a housing crisis and that continued operation of short-term rentals in single-family neighborhoods removes needed housing stock from potential Dallas renters and homeowners; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (g) of Section 27-30, "Registration and Posting Requirements; Defenses," of Article VII, "Registration and Inspection of Rental Properties and Condominiums," of Chapter 27, "Minimum Property Standards," of the Dallas City Code is amended to read as follows:

"(g) It is a defense to prosecution under this section that:

(1) at the time of notice of violation, no dwelling units in the rental property are leased or offered for lease and the owner of the rental property has filed with the director an exemption affidavit on a form provided by the director;

(2) at the time of notice of violation, the owner of the single dwelling unit rental property had rented the property to tenants for a total of no more than 30 consecutive days during the preceding 12 months;

(3) at the time of the notice of violation, the only tenants living in the single dwelling unit rental property are individuals related to the owner by consanguinity or affinity;

(4) at the time of the notice of violation, the owner of a single dwelling unit rental property had a homestead exemption for the property on file with the county appraisal district in which the rental property is located; or

(5) at the time of the notice of violation:

(A) the property was registered as a short-term rental in accordance with Chapter 42B; and

(B) applicable hotel occupancy taxes levied on the property under Articles V and VII of Chapter 44 [~~of the city code, as amended,~~] had been collected and remitted in full.”

SECTION 2. That the Dallas City Code is amended by adding a new Chapter 42B, “Short-Term Rentals,” to read as follows:

“CHAPTER 42B

SHORT-TERM RENTALS

SEC. 42B-1. DEFINITIONS.

In this chapter:

(1) **BEDROOM** means any room in a short-term rental other than a kitchen, dining room, living room, bathroom, or closet.

(2) **BOOKING TRANSACTION** means any reservation or payment service provided by a person who facilitates a short-term rental transaction between a prospective visitor and a host.

(3) **DEPARTMENT** means the department designated by the city manager to enforce and administer this chapter.

(4) **DIRECTOR** means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

(5) **EGREGIOUS OFFENSE** means an offense that caused or could cause a serious threat to public health and safety, including but not limited to, commission of crimes that are related to drugs, prostitution, or a serious breach of the peace.

(6) **EMERGENCY CONDITION** means any fire, natural disaster, collapse hazard, burst pipe, lack of operable utilities, serious police incident, noise violation, or other condition that requires an immediate response to prevent harm to the property, the occupants of the property, or the public.

(7) **HOST** means a person who operates a short-term rental and includes representatives, agents, and employees of the host.

(8) **HOSTING PLATFORM** means a person who participates in the short-term rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.

(9) **LOCAL RESPONSIBLE PARTY** means a natural person who represents the owner or host who may be contacted 24 hours a day, seven days a week, in the event of an emergency condition at a short-term rental.

(10) **MULTITENANT STRUCTURE** means a structure with three or more rentable units.

(11) **OWNER** means a person who owns property used as a short-term rental and includes representatives, agents, and employees of the owner.

(12) **RENTABLE UNIT** means one or more rooms designed to accommodate tenants containing one or more kitchens, one or more bathrooms, and one or more bedrooms.

(13) **SHORT-TERM RENTAL** means a full or partial rentable unit containing one or more kitchens, one or more bathrooms, and one or more bedrooms that is rented to occupants for fewer than 30 consecutive days or one month, whichever is less, per rental period.

SEC. 42B-2. AUTHORITY OF DIRECTOR.

The director shall implement and enforce this chapter and may by written order establish such rules, regulations, or procedures, not inconsistent with this chapter or other city ordinances, and state or federal law, as the director determines are necessary to discharge any duty under or to affect the policy of this chapter.

SEC. 42B-3. ESTABLISHMENT OF RULES AND REGULATIONS.

(a) Before adopting, amending, or abolishing a rule, the director shall hold a public hearing on the proposal.

(b) The director shall fix the time and place of the hearing and, in addition to the notice required under the Open Meetings Act (Chapter 551, Texas Government Code), as amended, shall notify each owner, host, hosting platform, and such other persons as the director determines are interested in the subject matter of the hearing.

(c) After the public hearing, the director shall notify all owners, hosts, hosting platforms, and other interested persons of the director's action and shall post an order adopting, amending, or abolishing a rule on the official bulletin board in city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period.

SEC. 42B-4. SHORT-TERM RENTAL REGISTRATION AND POSTING REQUIREMENTS.

(a) A person commits an offense if he owns or operates a short-term rental without a valid short-term rental registration issued under this chapter.

(b) A person other than a hosting platform commits an offense if the person advertises a property for rent as a short-term rental without a valid short-term rental registration issued under this chapter.

(c) The owner and host of a short-term rental commits an offense if he fails to post the following in a conspicuous place in a common area of the property or as otherwise approved by the director:

- (1) the short-term rental certificate of occupancy; and
- (2) the certificate of registration for short-term rental.

SEC. 42B-5. SHORT-TERM RENTAL REGISTRATION; FEES; RENEWAL.

(a) Each short-term rental lodging use must be separately registered.

(b) A short-term rental registration expires on the earlier of:

- (1) one year after the registration date, or
- (2) when ownership of the property changes.

(c) The annual registration fee for a short-term rental is \$404.00.

(d) The registration fee is nonrefundable. The registration fee may not be prorated or applied to another property.

(e) The initial inspection fee is included in the annual registration fee. If a property must be reinspected, the reinspection fee is \$234.00.

(f) A host shall keep the information contained in its registration application current and accurate. If there is any change in the application information, the host shall notify the director in writing within 10 days of the changes of information.

(g) A registration may be renewed by making application for a renewal in accordance with this chapter on a form provided by the director. In the application for renewal, the host shall certify that all information in the then-current registration application is still accurate as of the date of the renewal application or otherwise correct any information that is not accurate as of the date of the renewal application.

SEC. 42B-6. SHORT-TERM RENTAL REGISTRATION APPLICATION.

To obtain a registration to operate a short-term rental, a person must submit a complete application to the director on a form provided for that purpose. If the applicant is not an individual, an authorized officer or agent of the applicant must file the form. The application must contain the following information and be accompanied by the annual registration fee required under Section 42B-5 before it is considered complete:

- (1) The name, mailing address, and telephone number for:
 - (A) the owner;
 - (B) the host;
 - (C) the local responsible party;
 - (D) if the owner of the short-term rental is not a natural person, then an agent, employee, or officer of the owner authorized to receive legal notices and service of legal process on behalf of the owner, and in the case of an entity required to be registered with the State of Texas, the registered agent for service of process for the entity;
 - (E) if the host is not a natural person, then an agent, employee, or officer of the host authorized to receive legal notices and service of legal process on behalf of the host, and in the case of an entity required to be registered with the State of Texas, the registered agent for service of process for the entity;
 - (F) the holder of any deed of trust or mortgage lien on the short-term rental property being registered; and
 - (G) any agent, employee, officer, property manager, and other persons in control of, managing, or operating the short-term rental property on behalf of the owner or host;
- (2) the property address;
- (3) if the property being registered is part of a multitenant property or a condominium:
 - (A) the name of the property, all legal addresses comprising the property, and the main telephone number, if any, of the property;
 - (B) the apartment or unit number of the short-term rental unit being registered; and

(C) an affidavit signed by the owner acknowledging that the owner is responsible for ensuring that no unregistered short-term rentals operates on the property and that the owner may be liable for code violations committed by hosts or short-term rental guests, such as being declared a habitual nuisance property under Chapter 27 of this code;

(4) if the owner is not a natural person, the form of the entity, including, but not limited to, a corporation, general partnership, limited partnership, trust, or limited liability company, and the state or foreign jurisdiction of organization and registration, if other than the State of Texas, as well as the name and mailing address for each principal officer, director, general partner, trustee, manager, member, or other person charged with the operation, control, or management of the entity;

(5) if the host is not a natural person, the form of the entity, including, but not limited to, a corporation, general partnership, limited partnership, trust, or limited liability company, and the state or foreign jurisdiction of organization and registration, if other than the State of Texas, as well as the name and mailing address for each principal officer, director, general partner, trustee, manager, member, or other person charged with the operation, control, or management of the entity;

(6) a copy of the host's current driver's license or other government-issued personal identification card containing a photograph of the host, if the host is a natural person;

(7) the hotel occupancy tax registration number issued in accordance with Chapter 44 of this code;

(8) any additional information the host desires to include or that the director deems necessary to aid in the determination of whether the application will be deemed complete;

(9) an acknowledgement by the host of the following:

(A) occupancy limits;

(B) parking requirements;

(C) noise limits;

(D) revocation process; and

(E) advertisement and signage limitations; and

(10) if the host is not the owner, a statement that is signed and acknowledged by the owner giving the host permission to operate the short-term rental.

SEC. 42B-7. REVIEW AND ACCEPTANCE OF REGISTRATION APPLICATION.

(a) An application will not be processed until the annual registration fee required by Section 42B-5 has been paid.

(b) The director shall review an application within 10 business days of receipt to determine completeness.

(c) If the director finds that the applicant has failed to submit a complete application or that any of the information on the application is materially incorrect or misleading, the director shall promptly notify the applicant by United States or electronic mail that the application is defective or incomplete and the director shall list the defects and missing items.

(d) An application shall expire and be void *ab initio* if by the 10th business day after the applicant is notified that the application is defective or incomplete, the applicant fails to provide documents or other information necessary to comply with the requirements of this chapter.

(e) If the director finds that the applicant submitted a complete application and all criteria have been met, the director shall promptly notify the applicant that the application has been received and found to be complete.

SEC. 42B-8. PROPERTY INSPECTIONS.

(a) After the director deems an application complete, but before an application is approved, the director shall conduct an inspection of the property to determine if there are any code violations. If the inspection reveals any violations of the Dallas City Code, the director shall issue a notice of violation to the owner, operator, or person in control to remedy the violations. The director shall not approve the registration until the identified code violations at the property have been abated.

(b) The director may conduct inspections of short-term rental properties at any time the director deems necessary when determined to be in the interest of the public health, safety, and welfare.

(c) Except as provided in this section, the director shall conduct a property inspection of each short-term rental upon application for renewal of a registration.

(d) For a registration renewal, no inspection is required if code violations were not found on the property in the previous 12 calendar months.

(e) The director may conduct inspections at the property if any complaint is received alleging violations occurring at the property including, but not limited to, violations of noise or parking regulations.

SEC. 42B-9. ISSUANCE AND DENIAL OF REGISTRATION.

(a) Upon the submission of a complete application, the director shall issue a registration to operate a short-term rental if the director determines:

(1) the applicant has complied with all requirements for issuance of the registration;

(2) the applicant has not made a false statement as to a material matter in the application;

(3) the property being registered has passed all inspections and the condition and use of the short-term rental comply with the zoning regulations in the Dallas Development Code and the minimum property standards in Chapter 27;

(4) there have not been two or more citations for violations of the Dallas City Code found on the property being registered within the preceding 12 calendar months prior to the registration application;

(5) if the property is a multitenant property, registration of the rentable unit will not exceed the density requirements in Section 42B-12;

(6) the owner and host are not delinquent in any ad valorem taxes, fees, fines, or penalties owed to the city in relation to the property where the short-term rental is located;

(7) the owner and host are not delinquent in any hotel occupancy taxes owed to the city; and

(8) the owner and host have not had a short-term rental registration revoked within the past 12 months.

(b) If the director determines that the requirements of Subsection (a) have not been met, the director shall deny the registration.

(c) If the director determines that the applicant should be denied a registration, the director shall notify the applicant in writing, by certified mail, return receipt requested, that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right to appeal.

SEC. 42B-10. REVOCATION OF SHORT-TERM RENTAL REGISTRATION.

(a) The director may revoke a short-term rental registration if the property registered as a short-term rental is the site of two or more citations for violations of the Dallas City Code or state or federal law two or more times in the preceding year. Violations considered under this provision include, but are not limited to, parking on unapproved surfaces, failure to maintain the property free of litter, exceeding noise limitations, disorderly or criminal conduct, failure to pay hotel occupancy tax, or any of the provisions of this chapter.

(b) A short-term rental registration issued under this chapter may be revoked at the director's discretion if an egregious offense occurs at the property.

(c) The director may revoke all registrations associated with a single owner or host upon revocation of any registration.

(d) If the director determines that a registration should be revoked, the director shall notify the owner and host in writing, by certified mail, return receipt requested, that the registration is revoked and include in the notice the reason for revocation and a statement informing the owner and host of the right to appeal.

(e) An owner or host that has had a registration revoked under this section shall not be permitted to apply for a short-term rental registration for a period of one year following the date of the revocation.

(f) A revocation under this section is final unless the owner or host files an appeal with the permit and license appeal board in accordance with Section 2-96.

(g) The filing of an appeal stays the action of the director in revoking a registration until the permit and license appeal board makes a final decision.

(h) The permit and license appeal board shall consider the facts as they existed at the time of the registration denial, suspension, or revocation in making its decision.

SEC. 42B-11. REQUIRED EMERGENCY RESPONSE.

(a) A host shall provide the director with the name, address, and telephone number of a local responsible party. This designation shall be provided on a notarized form designated by the director that is signed by the local responsible party.

(b) A host shall notify the director immediately of any change in the emergency response information on a notarized form designated by the director.

(c) The local responsible party shall arrive at the property within one hour after being notified by the city or emergency response personnel that an emergency condition has occurred on the property.

(d) Upon arrival at the short-term rental when requested as provided above, the local responsible party shall notify the requesting city personnel of his arrival and shall take reasonable actions to resolve the emergency condition.

(e) A local responsible party must be authorized to make decisions regarding the premises and its occupants. A local responsible party may be required to, and shall not refuse to, accept service of citation for any violations on the premises. Acceptance of service shall not act to release owner of any liability under this chapter.

SEC. 42B-12. OPERATION OF SHORT-TERM RENTAL.

(a) Maximum occupancy for a short-term rental is three people per bedroom with a total occupancy of 12.

(b) The number of short-term rentals in a single rentable unit may not exceed one.

(c) The maximum density for short-term rentals located in a multifamily structure is:

(1) three percent of rentable units if the multitenant structure has more than 20 rentable units and is located in a multifamily or multiple-family zoning district or a planned development district or conservation district whose base zoning is multifamily or multiple-family;

(2) 20 percent of rentable units if the multitenant structure has more than 20 rentable units and is located in a nonresidential zoning district;

(3) zero rentable units if the multitenant structure has 20 rentable units or less.

(d) The use of amplified sound equipment that produces a sound audible beyond the property line of the premises between the hours of 10:00 p.m. and 7:00 a.m. is prohibited.

(e) The host shall limit the number of guest vehicles to the number of available off-street parking spaces available at the short-term rental property.

(f) The minimum allowable rental period is two nights.

(g) Any public listing or advertisement for a property as a short-term rental must include:

(1) the City of Dallas short-term rental registration number;

(2) occupancy limitations;

(3) limitations on the use of amplified sound equipment;

(4) the number of vehicles allowed;

(5) city regulations related to parking on unapproved surfaces and oversized vehicles; and

(6) a minimum allowable rental period of two nights.

(g) A short-term rental may not be used as a commercial amusement, restaurant, or similar business unless the property has a valid certificate of occupancy for the use.

SEC. 42B-13. HOSTING PLATFORM REGISTRATION; REVOCATION.

(a) To obtain a registration to operate as a hosting platform, a person shall submit a complete application to the director on a form provided for that purpose. If the applicant is not an individual, an authorized officer or agent of the applicant must file the form. The application must contain the following information before it is considered complete:

(1) the name, telephone number, and email address of a contact person at the hosting platform; and

(2) any other information the director deems necessary.

(b) A registration issued under this section is valid for one year.

(c) The director may revoke the registration of a hosting platform if the hosting platform collects a fee or fails to submit a report in violation of Section 42B-14.

(d) If the director determines that a registration should be revoked, the director shall notify the hosting platform in writing, by certified mail, return receipt requested, that the registration is revoked and include in the notice the reason for revocation and a statement informing the owner and host of the right to appeal.

(e) A hosting platform that has had a registration revoked under this section shall not be permitted to apply for a hosting platform registration for a period of one year following the date of the revocation.

(f) A revocation under this section is final unless the hosting platform files an appeal with the permit and license appeal board in accordance with Section 2-96.

(g) The filing of an appeal stays the action of the director in revoking a registration until the permit and license appeal board makes a final decision.

(h) The permit and license appeal board shall consider the facts as they existed at the time of the revocation in making its decision.

SEC. 42B-14. HOSTING PLATFORM OPERATIONS.

(a) Hosting platforms shall not collect or receive a fee, directly or indirectly, through an agent or intermediary, for completing a booking transaction for a short-term rental unless the hosting platform has registered with the city in compliance with this Section 42B-13 and the short-term rental has a valid registration number issued by the director in accordance with Section 42B-9.

(b) Hosting platforms shall not collect or receive a fee, directly or indirectly, through an agent or intermediary, for facilitating or providing services ancillary to an unregistered short-term rental, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance.

(c) A hosting platform registered under this chapter shall provide the director, on a monthly basis, an electronic report, in a format determined by the director, of the listings maintained, authorized, facilitated, or advertised by the hosting platform within the city for the applicable reporting period. The report must include a breakdown of where the listings are located and whether the listing is for a room or a whole rentable unit.

SEC. 42B-15. CRIMINAL OFFENSES.

A person commits an offense if he violates or attempts to violate a provision of this chapter, or a rule or regulation established by the director under this article, that is applicable to a person. A culpable mental state is not required for an offense under this chapter unless the provision defining the conduct expressly requires a culpable mental state. A separate offense is committed each day in which an offense occurs.

SEC. 42B-16. REVIEW OF CHAPTER.

The regulations in this chapter must be reviewed by a city council committee by June 14, 2025.”

SECTION 3. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 4. That Chapters 27 and 42B of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 5. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

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SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 7. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas with enforcement action being taken no earlier than six months from and after the passage of this ordinance, and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, Interim City Attorney

By 
Assistant City Attorney

Passed **JUN 14 2023**



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JUN 14 2023

ORDINANCE NUMBER 32473

DATE PUBLISHED JUN 17 2023

ATTESTED BY: