

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

FILED
12/7/2020 4:24 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2016CH15489

LEILA MENDEZ and ALONSO ZARAGOZA,)	
)	
Plaintiffs,)	11397190
)	Case No. 16 CH 15489
v.)	Judge Sanjay T. Tailor
)	
CITY OF CHICAGO, a municipal corporation; and)	
ROSA ESCARENO, in her official capacity as)	
Commissioner of the City of Chicago Department of)	
Business Affairs and Consumer Protection,)	
)	
Defendants.)	

**DEFENDANTS’ SECTION 2-619.1 MOTION TO DISMISS
PLAINTIFFS’ THIRD AMENDED COMPLAINT**

Defendants City of Chicago and Rosa Escareno, by their counsel, Mark A. Flessner, Corporation Counsel for the City, move to dismiss Plaintiffs’ Third Amended Complaint with prejudice under 735 ILCS 5/2-619.1. In support of their motion, Defendants state as follows:

1. In this action, Plaintiffs, two individuals who own homes or other residential properties in Chicago, challenge the City’s Shared Housing Ordinance, which regulates the “home sharing industry,” a marketplace in which people can rent homes or apartments on a short-term basis to tourists and others using platforms such as Airbnb and VRBO.

2. This case already has a developed procedural history. As Plaintiffs allege, the Court entered orders dismissing or entering judgment on the claims they now bring in their Third Amended Complaint – aside from Count VIII – on October 13, 2017, April 2, 2018, and October 14, 2020. Plaintiffs reallege these claims solely to preserve them for appeal. 3AC, ¶¶ 66, 87, 96, 107, 118, 126, 145.

3. Defendants have also filed contemporaneously with this motion a series of Stipulations formalizing that the Court need not readdress the parties’ claims or arguments as

they relate to Counts V and VI of the Third Amended Complaint (which challenge the Shared Housing Ordinance's restriction on excessive noise), and that those counts are deemed dismissed. *See* Dec. 7, 2020 Stipulations.

4. Plaintiffs' Third Amended Complaint raises only one new claim for the Court's resolution, brought in Count VIII. The claim challenges recent amendments to the City's Shared Housing Ordinance which, in relevant part, prohibit shared housing units and vacation rentals from being rented for only a single night at a time until such rentals can be conducted safely. See SO2020-3986 ("Ordinance"), §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f) (the "Ordinance"). The Ordinance also tasks the heads of two public safety Departments – the Commissioner of the Department of Business Affairs and Consumer Protection (the "Commissioner") and the Superintendent of Police (the "Superintendent") – with making the discrete determination as to when such rentals can be conducted safely, based on rules they will jointly promulgate. *Id.*

5. In Count VIII, Plaintiffs allege that the provisions charging the Commissioner and Superintendent with the task of determining when single night rentals can be conducted safely (the "safe rental provisions") amount to unlawful delegations of legislative authority in violation of Article IV, section 1 of the Illinois Constitution. The Court should dismiss this claim under 735 ILCS 5/2-619.1 because it is not justiciable and fails to state a claim.

6. Motions to dismiss under 735 ILCS 5/2-615 and 5/2-619 may be filed together as a single motion under 735 ILCS 5/2-619.1. "A section 2-615 motion to dismiss challenges the legal sufficiency of a complaint based on defects apparent on its face." Pooh-Bah Enterps., Inc. v. Cnty. Of Cook, 232 Ill. 2d 463, 473 (2009). To survive a section 2-615 motion to dismiss, a plaintiff "must make sufficient factual allegations to bring its claim within a legally recognized cause of action." Babbit Muns., Inc. v. Health Care Serv. Corp., 2016 IL App (1st) 152662, ¶ 23. "[C]onclusions of law and conclusory allegations unsupported by specific facts are not

sufficient to survive dismissal.” Thompson v. N.J., 2016 IL App (1st) 142918, ¶ 28. “The purpose of a section 2-619 motion to dismiss, however, is to dispose of issues of law and easily proven issues of fact at the outset of litigation.” Dratewska-Zator v. Rutherford, 2013 IL App (1st) 122699, ¶ 15. “Lack of standing is an ‘affirmative matter’ that is properly raised under section 2-619(a)(9)[,]” Glisson v. City of Marion, 188 Ill. 2d 211, 220 (1999), as is lack of ripeness, Khan v. BDO Seidman, LLP, 408 Ill. App. 3d 564, 604 (4th Dist. 2011).

7. Initially, Plaintiffs lack standing to bring Count VIII. Standing requires “some injury in fact to a legally cognizable interest” which must “be actual or threatened” and “(1) distinct and palpable; (2) fairly traceable to the defendant’s actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief.” Glisson v. City of Marion, 188 Ill.2d 211, 221 (1999).

8. Plaintiffs lack any injury that might confer standing here. Plaintiffs are not injured by the Commissioner’s and Superintendent’s authority to determine that single-night shared housing unit and vacation rentals can be conducted safely. In fact, Plaintiffs could only benefit from the Commissioner and Superintendent making such a determination, because it would enable Plaintiffs to rent a shared housing unit or vacation rental for a single night, something that is otherwise currently prohibited by the Ordinance. Moreover, the Court cannot redress any supposed injury by striking the safe rental provisions. Instead, were Plaintiffs’ claim successful, the safe rental provisions would be severed out, while the Ordinance’s prohibition on single-night rentals would remain.

9. Count VIII is also unripe. The Commissioner and Superintendent have yet to promulgate rules under the safe rental provisions. And Plaintiffs would suffer no prejudice were the Court to withhold consideration of their claim because the safe rental provisions can only serve to benefit them.

10. Count VIII also fails on the merits. Article IV, section 1 does not create any cause of action against the City – a home rule municipality – because that section concerns the Illinois General Assembly. Moreover, even if the section applied, the safe rental provisions do not amount to unlawful delegations of authority. For these reasons, which are set forth more fully in the City’s accompanying memorandum in support, the Court should dismiss Plaintiffs’ Third Amended Complaint with prejudice.

11. Finally, as explained above, the Court has, in its prior rulings, dismissed or entered judgment on Plaintiffs’ claims in Counts I-VII, and Plaintiffs reallege them solely to preserve the claims for appeal. But to the extent that it is necessary to do so, the City reasserts and incorporates by reference, as to those counts, the grounds for dismissal or judgment that the City previously raised and briefed in prior motion practice in the case.

WHEREFORE Defendants City of Chicago and Rosa Escareno respectfully request that the Court dismiss Plaintiffs’ Third Amended Complaint with prejudice and for any other relief that the Court deems just and proper.

Dated: December 7, 2020

Respectfully submitted,

MARK A. FLESSNER,
Corporation Counsel for the City of Chicago

By: /s/ Jordan A. Rosen
Assistant Corporation Counsel

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FILED DATE: 12/7/2020 4:27 PM 2016CH15489

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
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LEILA MENDEZ and ALONSO ZARAGOZA,)

Plaintiffs,)

v.)

CITY OF CHICAGO, a municipal corporation; and)

ROSA ESCARENO, in her official capacity as)

Commissioner of the City of Chicago Department of)

Business Affairs and Consumer Protection,)

Defendants.)

11397297

Case No. 16 CH 15489

Judge Sanjay T. Tailor

**DEFENDANTS' MEMORANDUM OF LAW
IN SUPPORT OF THEIR SECTION 2-619.1 MOTION TO DISMISS PLAINTIFFS'
THIRD AMENDED COMPLAINT**

INTRODUCTION

In their Third Amended Complaint, Plaintiffs largely reallege claims that have already been dismissed at various points in this litigation to preserve them for appeal. These claims do not raise new issues for the Court's resolution. But Plaintiffs add one new claim, brought in Count VIII, that challenges recent amendments to the City's Shared Housing Ordinance. Those amendments prohibit shared housing units and vacation rentals from being rented for only a single night at a time, until such time that single night rentals can be conducted safely. See SO2020-3986 ("Ordinance"), attached as Exhibit A, §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f). The amendments further provide that the assessment of when such rentals are safe is to be jointly made by the heads of two of the City's public safety Departments – the Commissioner of the Department of Business Affairs and Consumer Protection ("Commissioner") and the Superintendent of Police ("Superintendent") – according to rules that they will issue. Id.

Single night rentals are currently prohibited because, amidst the COVID-19 global pandemic, Chicago experienced a wave of parties hosted in shared housing units and vacation rentals rented for only a single night. These parties risk being "super spreader" events for the transmission of COVID-19. And these "party houses" can also harm the neighborhood and threaten public safety in other ways.

Plaintiffs do not challenge the City Council's prohibition of single night rentals, or the City Council's determination that such rentals will be allowed when they can be conducted safely. Rather, they challenge the provisions designating the Commissioner and Superintendent as being the persons who will determine when such rentals are safe (hereafter, the "safe rental provisions"). Plaintiffs claim that this amounts to an improper delegation of legislative authority to administrative agencies in violation of Article IV, section 1 of the Illinois Constitution.

The claim should be dismissed for multiple reasons. Initially, Count VIII is not justiciable. Plaintiffs lack standing because they are not injured by the safe rental provisions. Those provisions do not restrict single night rentals and, indeed, they can only serve to benefit Plaintiffs because the agencies' determination will allow Plaintiff to engage in an activity – single night rentals – that would otherwise be prohibited indefinitely. Count VIII is also unripe. The issues are not fit for judicial resolution at this time because the Commissioner and Superintendent have yet to promulgate rules under the safe rental provisions. Moreover, there would be no prejudice to Plaintiffs if the Court were to withhold consideration of their claim because, again, allowing the safe rental provisions to stand does not injure Plaintiffs.

Count VIII also fails on the merits. The City – a home rule municipal entity – cannot run afoul of the separation of powers requirements in Article IV, section 1, for that section concerns the Illinois General Assembly. And even if the section applied here, the safe rental provisions are not an unlawful delegation of authority. They simply charge the Commissioner and Superintendent with making a discrete, technical determination that draws upon their experience and expertise. The Court therefore should dismiss Plaintiffs' Third Amended Complaint.

BACKGROUND

The Ordinance provides that it shall be unlawful to rent or lease a shared housing unit or vacation rental, or any portion thereof, “for any period of less than two consecutive nights until such time that the [Commissioner] and [Superintendent] determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the [C]ommissioner and [S]uperintendent.” MCC §§ 4-6-300(g)(1) (vacation rentals); 4-14-050(e) (shared housing units). The Ordinance similarly prohibits the lease or rental of a unit, or any portion thereof, “more than once within any 48-hour period” until such time that the

Commissioner and Superintendent determine that such rentals may be safely conducted. See MCC §§ 4-6-300(g)(2) (vacation rentals); 4-14-050(f) (shared housing units).

The City Council’s Committee on License and Consumer Protection held a hearing on the Ordinance on August 25, 2020.¹ During the hearing, Alderman Smith, a sponsor of the Ordinance, indicated that shared housing and vacation rental “party houses have posed a health, in the case of COVID, and a public safety danger,” id. at 1:46:30-41, and constituted a “public health emergency,” id. at 1:57:00-05. Further, the Commissioner, Rosa Escareno, explained that the Ordinance was informed by a City task force comprised of the Department of Business Affairs and Consumer Protection, the Department of Police, the Department of Buildings, and the Fire Department, that sought to “tackle large gatherings and events” hosted in shared housing units and vacation rentals. Id. at 2:03:51-04:05. The task force concluded, based on data compiled by the Department of Police and the Department of Business Affairs and Consumer Protection, that the majority of the parties posing safety concerns occurred during “single [night] rentals.” Id. at 1:59:52-2:00:30. Commissioner Escareno explained that the safe rental provisions would “prevent the proliferation of party houses that impact neighbors” and threaten “public safety.” Id. at 1:42:46-57. She added that the provisions address “not only the public safety issue related to COVID, but also the public safety concerns that result from problematic parties[.]” Id. at 2:00:00-17. In addition, an Airbnb representative acknowledged that Airbnb is “cognizant of the need to meaningfully address nuisance properties and party houses in Chicago,” id. at 28:25-31, and that “the objective of the single-night stay ban is to combat party houses in Chicago,” id. at 29:50-54. She added that Airbnb, too, sought to “combat disruptive gatherings and prevent unauthorized, irresponsible, and unsafe behavior[.]” Id. at 28:50-29:04.

¹ See 2020 Aug 25 - Virtual Committee on License and Consumer Protection, VIMEO.COM (Aug. 25, 2020), <https://vimeo.com/showcase/6277263/video/451235600>.

The Committee on License and Consumer Protection recommended passage of the Ordinance, id. at 2:11:40-12:11, and the City Council enacted the law on September 9, 2020.²

ARGUMENT

I. Count VIII Is Not Justiciable (2-619).

A. Plaintiffs lack standing.

Count VIII should be dismissed at the outset because Plaintiffs lack standing. “The doctrine of standing is designed to preclude persons who have no interest in a controversy from bringing suit. The doctrine assures that issues are raised only by those parties with a real interest in the outcome of the controversy.” Glisson v. City of Marion, 188 Ill.2d 211, 221 (1999). Standing requires “some injury in fact to a legally cognizable interest” which must “be actual or threatened” and “(1) distinct and palpable; (2) fairly traceable to the defendant’s actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief.” Id.

Here, Plaintiffs lack standing because the safe rental provisions cause Plaintiffs no injury. If those provisions did not exist, Plaintiffs would be in the same position they are in now – they would (by operation of the Ordinance’s ban on single night rentals) be unable to rent their units for a single night. The safe rental provisions therefore make Plaintiffs no worse off, and cause no injury. If anything, the provisions serve only to *benefit* Plaintiffs. Without the provisions, the Ordinance’s ban on single night rentals would persist indefinitely, and would cease only if the City Council decided to repeal it. But the provisions, by allowing the Departments to determine that single night rentals can be conducted safely, potentially allow Plaintiffs to engage single in night rentals sooner than relying on City Council action alone. Plaintiffs therefore suffer no prejudice from the safe rental provisions and lack standing for this reason alone. See In re Cty.

² See 2020 Sep 9 - Virtual City Council Meeting, VIMEO.COM (Sept. 9, 2020), <https://vimeo.com/showcase/6277394/video/456202210>, at 2:01:45-02:22.

Treasurer, 2013 IL App (3d) 120999, ¶ 17 (explaining that party generally may not complain about an error that does not prejudicially affect that party) (collecting cases); Geer v. Kadera, 173 Ill. 2d 398, 413 (1996) (same); Maglio v. Advocate Health and Hosp. Corp., 2015 IL App (2d) 140782, ¶¶ 21-31; McNamara v. City of Chicago, 138 F.3d 1219, 1221 (7th Cir. 1998) (no standing where plaintiff “would have been no better off had the defendant refrained from the unlawful acts of which the plaintiff is complaining”).

Nor can Plaintiffs show that their requested relief would redress any supposed injuries, which is another requirement for standing. Any injury to Plaintiffs from not being able to rent their units for a single night would not be redressed by striking down the safe rental provisions. Instead, those particular provisions would be severed out, and the Ordinance’s prohibition on single-night rentals would remain. See MCC § 1-4-200 (expressing City Council’s intention that a decision adjudging any clause in the MCC “invalid, void and of no effect” does “not affect the validity of the remaining portions of the . . . section”); see also People v. Henderson, 2013 IL App (1st) 113294, ¶¶ 17-18 (severability “involves a question of statutory construction” and of ascertaining the legislature’s intent, which may be expressed in a “general severability statute”). Indeed, far from redressing the injury, a determination that the safe rental provisions are invalid would make Plaintiffs worse off, because it would eliminate a potential route that would enable Plaintiffs to engage in single night rentals. For both these reasons, Plaintiffs lack standing to challenge the safe rental provisions.

B. Count VIII is unripe.

Count VIII is nonjusticiable for a second reason: It is unripe. Ripeness doctrine is designed to prevent courts “from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an

administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.” Morr-Fitz, Inc. v. Blagojevich, 231 Ill. 2d 474, 490 (2008) (quoting Abbott Labs. v. Gardner, 387 U.S. 136, 148-49 (1967)). To determine whether a case is ripe, courts evaluate “whether the issues are fit for judicial decision” and “any hardship to the parties that would result from withholding judicial consideration.” Id. (quoting Abbott Labs., 387 U.S. at 149). These factors indicate that Plaintiffs’ claim here is unripe.

First, Plaintiffs’ challenge is unfit for decision because no action has yet been taken that would ostensibly violate the separation of powers. Plaintiffs contend that the safe rental provisions are unlawful because they permit the Commissioner and Superintendent to decide “whether, when, and under what conditions” single-night rentals will be lawful. 3AC, ¶ 148. But no such decision has yet been made, nor have the Commissioner and Superintendent promulgated the rules that would govern. The claim thus asks the Court to entangle itself in a purely abstract disagreement over whether the Commissioner and Superintendent would hypothetically violate the law if they determined that single-night rentals can be conducted safely. A claim is not ripe if it would “require the court to pass judgment on mere abstract propositions of law, render an advisory opinion, or give legal advice as to future events.” Underground Contractors Ass’n v. City of Chicago, 66 Ill. 2d 371, 375 (1977).

Similarly, because the claim depends on the Commissioner and Superintendent choosing to exercise the authority granted to them, the claim rests upon “contingent future events that may not occur as anticipated, or indeed may not occur at all.” Thomas v. Union Carbide, 473 U.S. 568, 580-81 (1985) (citation omitted). Indeed, the Court adopted this rationale when dismissing Plaintiffs’ earlier challenge to ordinance provisions allowing the Commissioner of the City’s Department of Buildings to conduct inspections of shared housing units and vacation

rentals. Plaintiffs alleged that those inspections would amount to unlawful searches. But the Court concluded that the claim was unripe because the ordinance provisions stated that such inspections would be conducted pursuant to rules and regulations issued by the Commissioner, and the Commissioner had not yet promulgated those rules and regulations. Oct. 13, 2017 Op., at 6-7. The same is true here: The Commissioner and the Superintendent have not yet issued the regulations that would apply to any future determination concerning single night rentals. Plaintiffs' claim is therefore premature.

The other ripeness factor is also in the City's favor because Plaintiffs would suffer no hardship if the Court withholds consideration of their claim. As previously explained, the safe rental provisions place Plaintiffs in no worse position than they would be in if the provisions did not exist or were invalidated; they serve only to *benefit* Plaintiffs by empowering the Commissioner and Superintendent to make determinations that would allow Plaintiffs to conduct single-night rentals. Without the provisions, Plaintiffs would need to wait for the City Council to determine when single night rentals are safe. See Nat'l Marine, Inc. v. Illinois E.P.A., 159 Ill. 2d 381, 383 (1994) (declaratory judgment and writ of *certiorari* challenge seeking to invalidate a statutory notice threatening prosecution under the Environmental Protection Act held to be unripe because the plaintiff sought pre-enforcement judicial review of the notice). For all of these reasons, Count VIII is not justiciable.

II. Count VIII Fails to State a Claim (2-615).

Count VIII also fails on the merits. Plaintiffs cannot sue the City for violating Article IV, section 1 because that section does not impose separation of powers limitations on the City's legislative authority. Even if it did, the Ordinance does not violate the section.

A. The separation of powers requirements in Article IV, § 1 do not apply to the City.

Count VIII fails because Article IV, section 1 imposes separation of powers limitations on the legislative branch of state government, and not on the City. Construction of a constitutional provision poses “a purely legal question.” Hooker v. Illinois State Bd. of Elections, 2016 121077, ¶ 35. The courts’ “primary purpose is to effectuate ‘the common understanding of the persons who adopted it – the citizens of this state.’” Id. (quoting Walker v. McGuire, 2015 IL 117138, ¶ 36). Courts “first and foremost look to the plain language adopted by the framers.” Id. ¶ 47. “If the language of the provision is unambiguous,” courts “give it effect without resorting to aids of statutory construction.” Id. ¶ 35.

By its plain and unambiguous language, Article IV, section 1, addresses the legislative power only of the “General Assembly.” It states: “The legislative power is vested in a General Assembly consisting of a Senate and a House of Representatives, elected by the electors from 59 Legislative Districts and 118 Representative Districts.” The section makes no mention of municipalities.³ And other jurisdictions that have considered state constitutional separation of powers challenges against counties and municipalities have overwhelmingly rejected them because they cannot be brought against localities. Eugene McQuillin, *The Law of Municipal Corporations* § 10.3 (3d ed. 2020) (“Historically, the constitutional principle of separation of

³ In contrast, the constitutional provisions that most directly address the structural powers of home rule municipal entities like the City are found in Article VII, section 6. And nothing there restricts the legislative bodies of home rule municipalities from delegating authority to municipal departments. Indeed, the Constitution gives home rule units “the broadest powers possible” to regulate matters pertaining to local concerns. Scadron v. City of Des Plaines, 153 Ill. 2d 164, 174 (1992). In particular, section 6(a) states that a home rule unit “may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare[.]” Ill. Const., art. VII, § 6(a). It does not micromanage how the City Council chooses to mitigate serious public health concerns, and leaves to the City Council the decision of whether a matter may properly be put to agencies whose expertise lies in assessing and managing public safety.

powers has not been applied to the government of cities.”); Farrer v. Spence, 2005 WL 272916 (7th Cir. 2005), at *1 (“although the Indiana Constitution provides for the separation of powers . . . that provision applies only to the state government, not to local governments”).

The City notes that in Hanna v. City of Chicago, 388 Ill. App. 3d 909 (2009), the Appellate Court declined to dismiss an Article IV, section 1 separation of powers claim against the City. But the Court did so summarily, without considering the arguments that the City raises above, and only after having concluded earlier in the opinion that the plaintiff had stated an unlawful delegation claim rooted in a due process vagueness challenge brought under Article I, section 2 of the Constitution. See id. at 920. For the reasons above, Article IV, section 1 cannot fairly be read as applying to the City.⁴

B. Even if Article IV, section 1 applied here, the safe rental clauses do not violate it.

Even if Plaintiffs could bring a separation of powers claim under Article IV, section 1 against the City, the safe rental clauses are not an unlawful delegation of authority. Under separation of powers doctrine, “[w]hile the legislature cannot delegate its legislative power to determine what the law should be, it may delegate the authority to execute the law.” E. St. Louis Fed’n of Teachers, Local 1220, v. E. St. Louis Sch. Dist. No. 189 Fin. Oversight Panel, 178 Ill. 2d 399, 423 (1997). Indeed, a legislature “may grant an administrative agency discretionary powers to decide an issue provided it establishes standards under which the agency’s discretion may be exercised.” South 51 Dev. Corp. v. Vega, 335 Ill. App. 3d 542, 550 (1st Dist. 2002).

That is precisely what the City Council has done here: It has determined that the law is that single night rentals are unlawful unless they can be conducted safely. And it has simply tasked the Commissioner and Superintendent with making a decision on a particular issue –

⁴ If this Court believes itself bound by Hanna on the issue of whether Article VI, section 1 applies to the City, then the City makes the above arguments for purposes of preserving the issue for appeal.

when such rentals can be conducted safely – using their experience, data, and expertise as public safety regulators. The City Council’s determination that those agencies, rather than the Council, are better suited to make that technical and fact-driven decision falls well within the legislature’s prerogative. Separation of powers “does not prevent the legislature from delegating to an administrative agency the power to do those things which it might properly but not understandingly or advantageously do itself,” and the legislature “may grant to such administrative bodies certain authority and powers in keeping with the spirit of the act, for its efficient and practical application and operation.” Meadowlark Farms, Inc. v. Illinois Pollution Control Bd., 17 Ill. App. 3d 851, 855 (1974). “The point of delegating a task to the executive branch is to allow the executive to efficiently accomplish a particular objective using its experience and expertise when the legislative branch could not perform the task with the same expertise or efficiency.” Am. Fed. of State, Cnty., and Mun. Emp. (AFSCME), Council 31 v. Illinois, 2015 IL App (1st) 133454, ¶ 26. Indeed, “[i]n many cases, it simply is impractical for legislators to become and remain thoroughly apprised of the facts necessary to determine which aspects of that activity are harmful and how they might be modified.” Stofer v. Motor Vehicle Cas. Co., 68 Ill. 2d 361, 370-71 (1977) (internal quotation omitted).

Accordingly, for a delegation to be lawful, the legislature need not provide “[a]bsolute criteria whereby every detail necessary in the enforcement of a law is anticipated.” South 51, 335 Ill. App. 3d at 550 (citation omitted). Indeed, it is precisely the point of delegation that the details be left to administrative expertise. The legislature need only provide sufficient identification of “(1) the persons and activities potentially subject to regulation; (2) the harm to be prevented; and (3) the general means intended to be available to the administrator to prevent the identified harm.” Id. at 550-51. Moreover, “the precision of the permissible standard must

necessarily vary according to the nature of the ultimate objective and the problems involved.”

Id. at 551 (internal quotation omitted). Here, the Court’s scrutiny should be relaxed because the Ordinance provisions at issue are civil business regulations, see City of Chicago v. Pooh Bah Enters., Inc., 224 Ill. 2d 390, 443-44 (2006), that relate to public health and safety, see City of Des Plaines v. Gacs, 65 Ill. App. 3d 44, 48 (1st Dist. 1978) (noting the “especially strong” presumption of validity for “legislation designed to preserve the public health and safety”). Ultimately, Plaintiffs carry the “heavy burden of clearly establishing that the subject legislation is unconstitutional.” South 51, 335 Ill. App. 3d at 550. Meanwhile, the Court has a duty to uphold the constitutionality of the Ordinance if “reasonably possible.” Napleton v. Vill. of Hinsdale, 229 Ill. 2d 296, 307 (2008). If there is any room for a legitimate difference of opinion concerning the reasonableness of the safe rental provisions, the legislative judgment of the body that enacted it must prevail. Gacs, 65 Ill. App. 3d at 48.

Bearing these principles in mind, the safe rental provisions satisfy the three requirements of delegation doctrine. The first requirement is satisfied because the provisions identify the persons and activities subject to regulation: Persons leasing shared housing and vacation rental units for a single night.

The second requirement is met because the provisions sufficiently identify the harm to be prevented. Compared to the first requirement, “the legislature may use broader and more generic language” when identifying that harm. South 51, 335 Ill. App. 3d at 551. Here, the provisions speak of rentals occurring “safely under conditions set forth in rules jointly and duly promulgated by the commissioner and superintendent.” This language is more than sufficient, as it makes clear that unsafe rentals are the harm to be prevented. It is no more general than language upheld in other cases. Id. at 548 (statute authorizing agency to promulgate rules

“necessary and appropriate for the protection of consumers”); Rockford v. Page, 33 Ill. 2d 372, 374 (1965) (statute requiring agency to prepare rules “which will conserve the health and safety of pupils of public schools”).

If anything more were needed beyond the plain statutory text, the Ordinance’s legislative history, which may properly be considered here, South 51, 335 Ill. App. 3d at 551-52, further illuminates the harm the City Council wanted the Commissioner and Superintendent to address. See id. at 553 (“The fact the Amendment does not explicitly reference short-term loans is of no consequence since the legislative history clearly indicates that the Amendment was spurred by the Department’s study of the short-term lending industry.”). Here, the legislative history shows that the City Council was concerned, based on data compiled by regulators, that units rented for only a single night were often the site of super spreader parties during the COVID-19 pandemic, and that they could otherwise be used for raucous or dangerous parties. See supra at 2-4. The City relies on the flexibility and expertise of its agencies to protect residents from the unprecedented and ever-changing public health threats posed by the pandemic and other misuses of single-night rentals. The safe rental provisions authorize the two public officials who are in the best position to determine when conditions are safe enough to allow for single-night rentals to do so based on jointly promulgated rules.

Under the third requirement, “the legislature must specifically enumerate the administrative tools (*e.g.*, regulations, licenses, enforcement proceedings) and the particular sanctions, if any, intended to be available.” Stofer, 68 Ill. 2d at 373. This requirement is met here because the safe rental provisions specify “rules” as the tools the Superintendent and Commissioner are to use to assess whether single night rentals can be conducted safely. See

South 51, 335 Ill. App. 3d at 553 (“Here, the administrative tools specified for use by the Department are ‘rules,’ which, in our view, are synonymous with regulations.”).

For these reasons, the safe rental provisions do not amount to unlawful delegations, and the Court should therefore dismiss Plaintiff’s Third Amended Complaint with prejudice.

CONCLUSION

WHEREFORE Defendants City of Chicago and Rosa Escareno respectfully request that the Court dismiss Plaintiffs’ Third Amended Complaint with prejudice and for any other relief that the Court deems just and proper.

Dated: December 7, 2020

Respectfully submitted,

MARK A. FLESSNER,
Corporation Counsel for the City of Chicago

By: /s/ Jordan A. Rosen
Assistant Corporation Counsel

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CERTIFICATE OF SERVICE

I, Jordan A. Rosen, an attorney, hereby certify that on December 7, 2020, I caused the foregoing **Defendants' Section 2-619.1 Motion to Dismiss Plaintiffs' Third Amended Complaint** and **Defendants' Memorandum of Law in Support of Their Section 2-619.1 Motion to Dismiss Plaintiffs' Third Amended Complaint** to be served upon Plaintiffs' designated email addresses below:

/s/ Jordan A. Rosen

EXHIBIT A



City of Chicago



SO2020-3986

Office of the City Clerk

Document Tracking Sheet

Meeting Date:

7/22/2020

Sponsor(s):

Lightfoot (Mayor)
Hopkins (2)
Smith (43)

Type:

Ordinance

Title:

Amendment of Municipal Code Chapters 4-5, 4-6, 4-13, 4-14, 4-16 and 4-17 by modifying licensing fees and operating regulations for shared housing

Committee(s) Assignment:

Committee on License and Consumer Protection

S U B S T I T U T E
O R D I N A N C E

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

SECTION 1. Section 4-5-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-5-010 Establishment of license fees.

(Omitted text is unaffected by this ordinance)

(36) Short Term Residential Rental Intermediary (4-13)

if the intermediary has 1,000 or more short term residential rentals listed on its platform: \$10,000.00 license fee, plus a \$60.00 per unit fee for each short term residential rental listed on its platform;

if the intermediary has 500 to 999 short term residential rentals listed on its platform: \$7,500.00 license fee, plus a \$60.00 per unit fee for each short term residential rental listed on its platform; and

if the intermediary has 1 to 499 short term residential rentals listed on its platform: \$5,000.00 license fee, plus a \$60.00 per unit fee for each short term residential rental listed on its platform

(37) Short Term Residential Rental Advertising Platform (4-13)

\$10,000.00, if the intermediary advertising platform has 1,000 or more short term residential rentals listed on its platform; \$10,000.00 license fee;

or \$5,000.000, if the intermediary advertising platform has 500 to 999 or fewer short term residential rentals listed on its platform: \$7,500.00 license fee; and

if the advertising platform has 1 to 499 short term residential rentals listed on its platform: \$5,000.00 license fee,

(Omitted text is unaffected by this ordinance)

(42) Shared Housing Unit Registration (Chapter 4-14) \$125.00

SECTION 2. Section 4-6-180 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-6-180 Hotel.

(a) *Definitions.* As used in this section:

(Omitted text is unaffected by this ordinance)

“Licensee” has the meaning ascribed to that term in Section 4-4-005.

(Omitted text is unaffected by this ordinance)

“Platform” has the meaning ascribed to that term in Section 4-13-100.

“Restroom” means any room equipped with toilets.

(Omitted text is unaffected by this ordinance)

(b) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a regulated business license to engage in the business of hotel shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

(c) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of hotel shall be issued to the following persons:

(Omitted text is unaffected by this ordinance)

(e) *Legal duties.* Each ~~license~~ licensee engaged in the business of hotel shall have a duty to:

(Omitted text is unaffected by this ordinance)

(4) if the hotel is listed on any platform:

(i) not to list, or permit any person to list, the hotel or any guest room on such platform unless the listing includes the hotel's license number;

(ii) not to rent, or permit any person to rent, and not to book for future rental, or allow any person to book for future rental, the hotel or any guest room unless the hotel is properly licensed by the department;

(5) comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

(Omitted text is unaffected by this ordinance)

(h) Rules. The commissioner shall have the authority to promulgate rules necessary or appropriate to implement this section.

SECTION 3. Section 4-6-290 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-6-290 Bed-and-breakfast establishment.

(a) *Definitions.* As used in this section:

(Omitted text is unaffected by this ordinance)

"Licensee" has the meaning ascribed to that term in Section 4-4-005.

(Omitted text is unaffected by this ordinance)

"Platform" has the meaning ascribed to that term in Section 4-13-100.

~~"Short term residential rental intermediary" or "intermediary" has the meaning ascribed to that term in Section 4-13-100.~~

~~"Short term residential rental advertising platform" or "advertising platform" has the meaning ascribed to that term in Section 4-13-100.~~

(Omitted text is unaffected by this ordinance)

(c) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a regulated business license to engage in the business of bed-and-breakfast establishment shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(7) a valid certificate of registration in food handling and sanitation issued by the department of health, as required under subsection (f)(6) of this section.

It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

(d) *Departmental duties.*

(4) Either the department of buildings or fire department, pursuant to a coordinated inspection schedule, shall inspect each bed-and-breakfast establishment before any initial license is issued for such establishment. Thereafter, either the department of buildings or fire department, pursuant to a coordinated inspection schedule, shall inspect the establishment once every two years to determine whether the establishment complies with all applicable requirements of this Code. If, within the 12-month period prior to the date of any inspection required under this section, the ~~bed-and-breakfast~~ bed-and-breakfast establishment was inspected either by the department of buildings or fire department in connection with a permit inspection, periodic inspection, code compliance inspection or certificate of occupancy, such inspection shall be deemed to meet the applicable inspection requirement set forth herein. The department of buildings and fire department are authorized to conduct such additional inspections as they deem necessary to maintain health and safety.

(e) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of bed-and-breakfast establishment shall be issued to the following persons:

(1) any applicant or licensee, as applicable, unless the establishment identified in the license application is: (A) an owner-occupied, single-family residential building; or (B) an owner-occupied ~~multiple-family~~ multiple-family dwelling that does not exceed four stories in height and contains no more than 11 sleeping rooms; or (C) an owner-occupied condominium, townhouse or cooperative. Throughout the duration of any rental period, occupancy of the establishment by any person owning 25 percent or more of the interest in the establishment shall be a continuing requirement for maintaining a license under this chapter; provided, however, that it shall not be a violation of this requirement if the owner: (i) is absent from the establishment

overnight or for any longer period of time not to exceed 120 days within a 12-month period; or (ii) is on active military duty for any length of time; and (iii) appoints a designated agent or employee to manage, control and reside in the establishment during the owner's absence;

(Omitted text is unaffected by this ordinance)

(f) *Legal duties.* Each licensee engaged in the business of bed-and-breakfast establishment shall have a duty to:

(Omitted text is unaffected by this ordinance)

(7) conspicuously display the ~~bed-and-breakfast~~ bed-and-breakfast establishment's license number in every advertisement of any type in connection with the rental of the bed-and-breakfast establishment or any sleeping room within such establishment. Failure to comply with this requirement shall create a rebuttable presumption that the bed-and-breakfast establishment is being operated without the proper license;

(8) If the bed-and-breakfast establishment is listed on any ~~short-term residential rental intermediary platform or short-term residential rental advertising~~ platform, a licensee under this section shall have the following duties:

(i) not to list, or permit any person to list, on such platform any bed-and-breakfast establishment unless the listing includes the ~~bed-and-breakfast~~ bed-and-breakfast establishment's license number;

(ii) not to rent, or permit any person to rent, and not to book for future rental, or permit any person to book for future rental, any bed-and-breakfast establishment that is not properly licensed by the city department;

(iii) following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), not to rent or allow any family member to rent, and not to book for future rental or permit any family member to book for future rental, any portion of any bed-and-breakfast establishment identified in such notice that the commissioner has determined is ineligible for listing on any platform. ~~Any~~ In addition to any other penalty provided by law, any person who violates this subsection (f)(8)(iii) shall be fined ~~not less than \$500.00 nor more than \$1,000.00 for renting or booking for future rental such bed-and-breakfast establishment or any portion thereof within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting or booking for future rental such bed-and-breakfast establishment or any portion thereof on or after the 15th calendar day and before the 28th calendar day of the date on which such notice is sent; and \$5,000.00 for each offense~~ renting or booking for future rental such bed-and-breakfast establishment or any portion thereof

~~on or after the 28th calendar day of the date on which such notice is sent. Each day that a violation continues after such 28th calendar day shall constitute a separate and distinct offense;~~

(iv) following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), remove the ineligible listing from the any platform where it is listed in accordance with rules prescribed by the commissioner. Notwithstanding the penalty provided for in subsection (i) of this section, and in In addition to any other penalty provided by law, any person who fails to comply with this subsection (f)(8)(iv) shall be fined ~~not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which such notice is sent; and not less than \$2,500.00 nor more than \$5,000.00 for each offense failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter.~~ Each day that a violation continues after such 15th calendar day shall constitute a separate and distinct offense; and

(9) comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

(g) *Prohibited acts.* It shall be unlawful for any person engaged in the business of bed-and-breakfast establishment to:

(Omitted text is unaffected by this ordinance)

(2) allow occupancy of the establishment or any part thereof to exceed one person per 125 square feet of floor area, excluding elevators, stairways or other shaft enclosures;

(Omitted text is unaffected by this ordinance)

(i) *Penalty.* Except as otherwise provided in this section, and in addition to any other penalty provided by law, three or more violations of ~~any provision of this section or any rule or regulation promulgated thereunder~~ on three different days within any 12-month period may result in license suspension or revocation in accordance with Section 4-4-280. Each day that a violation continues shall constitute a separate and distinct offense.

(j) ~~*Regulations*~~ *Rules.* The commissioner shall have the authority to promulgate rules ~~and regulations necessary or appropriate to implement the requirements of this section.~~ The board of health and the department of health shall have the authority to issue rules ~~and regulations necessary or appropriate to implement subsection (f)(6) of this section and the minimal standards found in subsections (f)(3) and (f)(4) of this section.~~

SECTION 4. Section 4-6-300 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-6-300 Vacation rentals.

(a) *Definitions.* As used in this section:

(Omitted text is unaffected by this ordinance)

“Egregious condition” has the meaning ascribed to that term in Section 4-14-010.

“Excessive loud noise” means: (1) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the vacation rental or on any private open space having a nexus to the vacation rental that is louder than average conversational level at a distance of 100 feet or more, measured vertically or horizontally from the property line of the vacation rental or private open space, as applicable; or (2) any sound generated on the public way immediately adjacent to the vacation rental, measured vertically or horizontally from its source, by any person having a nexus to the vacation rental in violation of Section 8-32-070(a); or (3) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. that causes a vibration, whether recurrent, intermittent or constant, that is felt or experienced on or in any neighboring property, other than a vibration: (i) caused by a warning device necessary for the protection of the public health, safety or welfare; or (ii) caused in connection with the performance of emergency work within the vacation rental by the licensee or such licensee’s agent; or (iii) subject to an exception or exclusion under Section 8-32-170.

(Omitted text is unaffected by this ordinance)

“Illegal activity” has the meaning ascribed to that term in Section 4-14-010.

“Licensee” has the meaning ascribed to that term in Section 4-4-005.

(Omitted text is unaffected by this ordinance)

“Objectionable condition(s)” has the meaning ascribed to that term in Section 4-14-010.

“Overcrowding” means exceeding the maximum occupancy limitation in violation of subsection (g)(5) of this section.

(Omitted text is unaffected by this ordinance)

“Vacation rental” means a dwelling unit that contains 6 or fewer sleeping rooms that are directly or indirectly available for rent or for hire for transient occupancy by guests. The term “vacation rental” shall not include: (i) single-room occupancies as that term is defined in Section 17-17-02163; (ii) bed-and-breakfast establishments, as that term is defined in Chapter 14B-2; (iii) hotels, as that term is defined in Section 4-6-180; (iv) a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are paid on a

monthly basis; (v) corporate housing; (vi) guest suites; or (vii) shared housing units registered pursuant to Chapter 4-14 of this Code. For purposes of this definition:

(1) “tenant” and “rental agreement” have the ~~same~~ meaning ascribed to those terms in Section 5-12-030; and

(2) “corporate housing” has the meaning ascribed to that term in Section 4-14-010.

(b) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, a renewal of, a regulated business license authorizing the owner of a dwelling unit to rent or lease such dwelling unit as a vacation rental shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(11) a statement as to whether, within two years of the date of application or renewal, the applicant or licensee, as applicable, has ever had a license to engage in the business of vacation rental, ~~bed-and-breakfast~~ bed-and-breakfast establishment, hotel or shared housing unit operator, or a shared housing unit registration under Chapter 4-14 of this Code, suspended or revoked for cause;

(Omitted text is unaffected by this ordinance)

(14) a statement as to whether the applicant or licensee, as applicable, held a valid vacation rental license for the unit identified in the license application as of June 22, 2016, and if so, the applicable license number.

It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

(c) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of vacation rental shall be issued to the following persons:

(Omitted text is unaffected by this ordinance)

(12) any applicant or licensee, as applicable, whose vacation rental is located in a restricted residential zone, ~~and (ii) unless~~ unless such vacation rental was not a ~~legally~~ lawfully established use within the meaning of Section 4-17-070 as of the effective date of the ordinance establishing such restricted residential zone.

(Omitted text is unaffected by this ordinance)

(f) *Legal duties.*

(1) *Insurance – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ obtain: (i) homeowner's fire, hazard and liability insurance; and (ii) commercial general liability insurance, with limits of not less than one million dollars (\$1,000,000.00) per occurrence, combined single limit, for bodily injury, personal injury and property damage arising in any way from the issuance of the license or activities conducted pursuant to the license. Each policy of insurance shall: (A) be issued by an insurer authorized to insure in the State of Illinois; (B) name the City of Chicago as additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license; and (C) be maintained in full force and effect for the duration of the license period.

(2) *Registration records – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ maintain current guest registration records ~~which~~ that contain the following information about each guest: (i) name, (ii) address, (iii) signature, and (iv) dates of accommodation.

(3) *Maintenance of records – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ keep the guest registration records required under subsection (f)(2) of this section on file for three years. Except in cases where a licensee consents to disclosure of the applicable guest registration records or some other exception to a warrant applies, including exigent circumstances, guest registration records shall be subject to disclosure to an authorized city official pursuant only to a proper search warrant, administrative subpoena, judicial subpoena, or other lawful procedure to compel the production of records that affords the licensee an opportunity for precompliance review by a neutral decisionmaker.

(4) *License number in advertisements – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ print or ~~to~~ cause the licensee's license number to be printed, in legible type; (i) in every advertisement of any type for any vacation rental that the licensee or the licensee's agent places or causes to be placed in connection with a vacation rental; (ii) on every application for a building permit made by or on behalf of the licensee; and (iii) if the licensee advertises the vacation rental on a primary website established, operated or maintained by such licensee, on such website. Failure to comply with the requirements of this subsection (f)(4) shall create a rebuttable presumption that the business of vacation rental is being operated without a license.

(5) *Soaps and clean linens – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ provide guests with soap, clean individual bath cloths and towels, and clean linen. All linens, bath cloths and towels shall be kept in good repair and changed between guests.

(6) *Sanitized utensils – Food disposal – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ clean and sanitize the vacation rental and all

dishes, utensils, pots, pans and other cooking utensils between guests and to dispose of all food, beverages and alcohol left by the previous guests.

(7) *Posting – License number – Local contact person – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ post in a conspicuous place near the entrance of the vacation rental, the vacation rental license and the name and telephone number of the local contact person.

(8) *Posting – Evacuation diagram – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ post in a conspicuous place on the inside entrance door of each vacation rental an evacuation diagram identifying all means of egress from the vacation rental and the building in which the vacation rental is located.

(9) *Food handling safety – Required.* If the licensee provides food to guests, such licensee shall ~~have a duty to~~ comply with all applicable food handling and licensing requirements of this Code and board of health regulations.

(10) *Notification to police of illegal activity – Required.* If a licensee knows or suspects that any criminal activity, egregious condition or public nuisance is taking place in the vacation rental, such licensee shall ~~have a duty to~~ immediately notify and cooperate with the Chicago police department.

(11) *Smoke alarms and carbon monoxide detectors – Required.* Each licensee engaged in the business of vacation rental shall ~~have a duty to~~ ensure that the vacation rental is in compliance with applicable laws regarding the installation and maintenance of functioning smoke alarms and carbon monoxide detectors.

(12) *Compliance with tax laws – Required.* Each licensee shall ~~have a duty to~~ comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including hotel accommodation taxes but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

(13) *Disclosure and acknowledgement – Required.*

(Omitted text is unaffected by this ordinance)

(2) The tenant or applicant shall be required to execute a receipt acknowledging that these the written disclosures required under paragraph (1)(i) and (1)(ii) of this subsection (f)(13) have been made.

(Omitted text is unaffected by this ordinance)

(4) The purchaser or prospective purchaser shall be required to execute a receipt acknowledging that ~~these~~ the written disclosures required under paragraph (1)(i) and (1)(ii) of this subsection (f)(13) have been made.

(g) *Prohibited acts.*

(1) *Rental under ~~10 hours~~ the minimum rental period – Prohibited.* It shall be unlawful for any licensee engaged in the business of vacation rental to rent or to lease any vacation rental, or any portion thereof, by the hour or for any period of fewer less than ten two consecutive hours nights until such time that the commissioner and superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the commissioner and superintendent. Provided, however, that under no circumstances shall a vacation rental, or any portion thereof, be rented by the hour or for any period of less than 10 consecutive hours;

(2) *Multiple rentals within ~~10 hour~~ the minimum rental period – Prohibited.* It shall be unlawful for any licensee engaged in the business of vacation rental to rent or lease any vacation rental, or any portion thereof, more than once within any consecutive ~~ten~~ 48-hour period, as measured from the commencement of one rental to the commencement of the next rental until such time that the commissioner and superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the commissioner and superintendent. Provided, however, that under no circumstances shall a vacation rental, or any portion thereof, be rented more than once within any consecutive 10-hour period;

(3) *Advertising ~~hourly rate~~ less than the minimum rental period – Prohibited.* It shall be unlawful for any licensee engaged in the business of vacation rental to advertise an hourly rate or any other rate for a vacation rental based on a rental period of fewer less than ~~ten consecutive hours~~ the rental period authorized under subsections (g)(1) and (g)(2) of this section;

(4) *~~Criminal Nuisances – Illegal activity, egregious condition, nuisance objectionable conditions, egregious conditions~~ – Prohibited.*

(i) *Illegal activity and objectionable conditions.* It shall be unlawful for any licensee engaged in the business of vacation rental to permit any ~~criminal activity, egregious condition or public nuisance~~ within the meaning of Section 4-13-260(a)(1) to take place ~~in~~ within or having a nexus to the vacation rental. In addition to any other penalty provided by law, any person who violates this subsection (g)(4)(i) shall be subject to a fine of not less than \$2,500.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense;

(ii) Egregious condition. It shall be unlawful for any licensee engaged in the business of vacation rental to permit any egregious condition to take place within or having a nexus to the vacation rental. In addition to any other penalty provided by law, any person who violates this subsection (g)(4)(ii) shall be subject to a fine of not less than \$5,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense;

(5) Exceeding maximum occupancy – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to exceed the maximum occupancy limit of: (i) two persons, not including a guest’s children under the age of 18, per guest room within the vacation rental; or (ii) no more than one person per 125 square feet of floor area of the dwelling unit for which the license is issued; ~~or. The occupancy limitation set forth in this subsection (g)(5) is the absolute maximum limitation. The~~ (iii) the actual allowed capacity of the dwelling unit shall be based on the applicable provisions of the building code, whichever is less. As used in this subsection (g)(5), the term “guest room” means a room used or intended to be used for sleeping purposes. The term “guest room” does not include bathrooms, toilet rooms, kitchens, closets, halls, incidental storage or utility spaces, or similar areas. In addition to any other penalty provided by law, any person who violates this subsection (g)(5) shall be subject to a fine of not less than \$5,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense;

(Omitted text is unaffected by this ordinance)

(h) Vacation rentals listed on a platform. If a vacation rental is listed on any ~~short term residential rental intermediary platform or short term residential rental advertising platform~~ within the meaning of Chapter 4-13 of this Code, a licensee under this section shall have the following duties:

(Omitted text is unaffected by this ordinance)

(2) Rental without license -- Prohibited. Such licensee shall not rent, or permit any person to rent, or book for future rental, any vacation rental ~~which~~ that is not properly licensed by the ~~city~~ department;

(Omitted text is unaffected by this ordinance)

(4) ~~Rental of ineligible units by licensee or licensee’s family members prohibited --~~ Prohibited Removal from platform required. ~~Following notice of If, following a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), such licensee is notified in writing by the commissioner that a vacation rental is ineligible to be listed on any platform, the licensee shall:~~ (i) remove the ineligible listing from any platform where it is listed;

and (ii) not rent, or allow any family member to rent, any the vacation rental identified in such notice that the commissioner has determined is ineligible for listing on any platform. Any In addition to any other penalty provided by law, any person who violates this fails to comply with this subsection (h)(4) shall be fined not less than \$500.00 nor more than \$1,000.00 for renting such vacation rental within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting such vacation rental on or after the 15th calendar day and before the 28th calendar day of the date on which such notice is sent; and \$5,000.00 for each offense renting such vacation rental on or after the 28th calendar day of the date on which such notice is sent. Each day that a violation continues after such 28th calendar days shall constitute a separate and distinct offense;

(7) *Violation of rental requirements and restrictions – Prohibited.* Such licensee shall not list on any platform or rent any vacation rental that is subject to a rental agreement, if the rental agreement prohibits the use of such dwelling unit as a vacation rental or shared housing unit, in any combination;

(Omitted text is unaffected by this ordinance)

~~(11) *Removal of ineligible listings from platform.* Following notice of a final determination of ineligibility under Section 4-13-260 (b) or Section 4-13-330(b), such licensee shall remove the ineligible listing from the platform in the manner prescribed by the commissioner in rules. In addition to any other penalty provided by law, any person who fails to comply with this subsection (h)(11) shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under Section 4-13-260(b) or Section 4-13-330(b) is sent; and not less than \$2,500.00 nor more than \$5,000.00 for failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15th calendar day shall constitute a separate and distinct offense.~~

(Omitted text is unaffected by this ordinance)

(j) *License – Suspension or revocation.*

(1) *Immediate suspension or revocation – Post-deprivation hearing – Authorized when.* If the commissioner has good cause to believe that: (1) continued rental of a vacation rental causes an imminent threat to public health, safety or welfare, and (2) grounds exist for revocation or suspension of the licensee's vacation rental license, including, but not limited to, any of the grounds set forth in items (i) through ~~(vi)~~(v), inclusive, of subsection (j)(2) of this section, the commissioner may, upon issuance of a written order stating the reason for such conclusion and without notice or hearing, suspend or revoke a vacation rental license under this section and prohibit the licensee from renting the vacation rental to guests for a period of time not to exceed ten calendar days; provided, however, that the licensee shall be afforded an opportunity to be heard during such period. If the licensee fails to request a hearing within the

prescribed time, or requests a hearing but fails to appear at the hearing, the vacation rental license shall be deemed revoked.

(2) *Suspension or revocation – Pre-deprivation hearing – Authorized when.* In addition to any other applicable reason, a vacation rental license may be suspended or revoked in accordance with Section 4-4-280 under the following circumstances:

(i) *Situs of one or more egregious conditions.* When a vacation rental is the situs of one or more egregious conditions while rented to guests; or

(ii) ~~*Situs of three or more objectionable conditions.*~~ When a vacation rental has been the situs, on three or more occasions, while rented to guests, of disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, loitering, public urination, lewd conduct, overcrowding, exceeding design loads, or excessive loud noise. For purposes of this item (ii):

~~“Excessive loud noise” means any noise, generated from within or having a nexus to the rental of the shared housing unit, between 8:00 P.M. and 8:00 A.M., that is louder than average conversational level at a distance of 100 feet or more, measured from the property line of the vacation rental.~~

~~“Overcrowding” means occupancy by more persons than the maximum occupancy limit of no more than one person per 125 feet of floor area of the vacation rental or the vacation rental’s actual capacity based on the applicable provisions of the building code, whichever is less.~~

~~“Exceeding design loads” means placing loads on structural elements or components of buildings, including, but not limited to, porches, balconies, and roof decks, in excess of the minimum design loads required by the building code; or~~

(iii)(ii) *Situs of two or more nuisance conditions.* When, in the determination of the commissioner, the rental of the vacation rental creates a nuisance because at least three two separate incidents involving illegal acts activity or objectionable conditions, as that term is defined in Section 4-4-13(h), occurred during a 12-month period: (1) in the vacation rental; or (2) in or on the premises in which the vacation rental is located; or (3) in the vacation rental’s parking facility, or (4) on adjacent property. For purposes of determining whether ~~three or more~~ illegal acts any nuisance occurred during a 12-month period, such illegal acts activity or objectionable conditions occurring shall be limited to acts of the guests, or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the vacation rental while rented to a guest. In a proceeding to suspend or revoke the license of a vacation rental that is or creates a nuisance under this Section 4-6-30 (j)(2)(iii) subsection (j)(2)(ii), any evidence on which a reasonably prudent person would rely may be considered

without regard to the formal or technical rules of evidence, and the commissioner may rely on police reports, official written reports, affidavits and business records submitted by authorized city officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal ~~aets~~ activity or objectionable conditions occurred. If, during any 12-month period, ~~three~~ two or more separate incidents of illegal ~~aets~~ activity or objectionable conditions, in any combination, occur on the licensed premises, or on or in the licensed premises' parking facility, or on adjacent property, a rebuttable presumption shall exist that the vacation rental is or creates a nuisance in violation of this ~~Section 4-6-300(j)(2)(iii)~~ subsection (j)(2)(ii); or

~~(iv)~~(iii) *Scofflaw or problem landlord.* When a vacation rental is listed on, or is located in a building that is listed on, the ~~city's~~ City's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

~~(v)~~(iv) *Threat to public health, safety or welfare.* When the commissioner determines that the continued rental of a vacation rental poses a threat to the public health, safety or welfare; or

~~(vi)~~(v) *Unlawful discrimination.* When, in connection with the listing for rental or rental of a vacation rental, the commissioner or ~~the~~ Chicago commission on human relations has determined that a violation of Section 2-160-070 or Section 4-6-300 (h)(13), as applicable, has occurred.

(Omitted text is unaffected by this ordinance)

(n) Rules. The commissioner is authorized to promulgate rules necessary or appropriate to implement this section.

SECTION 5. Section 4-13-100 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting, in correct alphabetical order, the language underscored, as follows:

4-13-100 Definitions.

(Omitted text unaffected by this ordinance)

"Booking service transaction" means any reservation or payment service provided by a licensee under this chapter that facilitates a short term residential rental transaction between a shared housing host and such host's prospective or actual guest or between a vacation rental licensee, bed-and-breakfast establishment licensee, or hotel licensee and such licensee's prospective or actual guest or transient occupant, and for which a licensee under this chapter charges, collects or receives, directly or indirectly through an agent, third-party intermediary, subsidiary or any affiliate thereof, a fee or other consideration in connection with the reservation or payment service provided for such transaction.

“Code” means the Municipal Code of Chicago.

“Commissioner” means the Commissioner of Business Affairs and Consumer Protection or the Commissioner’s designee.

(Omitted text is unaffected by this ordinance)

“Department” means the Department of Business Affairs and Consumer Protection.

(Omitted text is unaffected by this ordinance)

“Licensee” has the meaning ascribed to that term in Section 4-4-005.

(Omitted text is unaffected by this ordinance)

“Provider” means a short term residential rental provider.

(Omitted text is unaffected by this ordinance)

“Shared Housing Ordinance” means the ordinance passed by the Chicago City Council on June 22, 2016 and published in the *Journal of the Proceedings of the City Council of the City of Chicago* on pages 27712 - 27770 of that same date, as amended from time to time.

(Omitted text is unaffected by this ordinance)

“Short term residential rental” means a dwelling located within the city City that is rented as, or held out as being used as, a shared housing unit, ~~bed-and-breakfast~~ bed-and-breakfast establishment or vacation rental.

(Omitted text is unaffected by this ordinance)

“Short term residential rental provider” or ~~“provider”~~ means any person who offers for rent a short term residential rental.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 4-13-200 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-13-200 License – Required.

No person shall engage in the business of short term residential rental intermediary without first having obtained a an intermediary license under Article II of this Chapter 4-13. The holder of an intermediary license is entitled to primarily list shared housing units on its platform in accordance with this Article II. Listings on the intermediary's platform of vacation rentals, bed-and-breakfast establishments and hotels are also permitted in accordance with this chapter.

SECTION 7. Section 4-13-205 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-205 Annual Licensee License – Fee – Required.

- (a) The intermediary license required under this Article II shall be renewed annually.
- (b) The intermediary license fee set forth in Section 4-5-010 shall be payable annually.

SECTION 8. Section 4-13-210 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-13-210 License application – Additional information required.

- (a) In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a license to engage in the business of short term residential intermediary shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

- (b) It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

SECTION 9. Section 4-13-215 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-215 Attestation – Acknowledgment – Required.

The intermediary shall be required to make available in a conspicuous place on its platform an electronic copy of a summary of the requirements of ~~this ordinance~~ the Shared Housing Ordinance, including: (1) the provider's need to obtain from the department a valid registration or license number, as applicable, for the short term residential rental prior to advertising it for rent, listing it on the platform, renting it or booking it for future rental; (2) the requirement that the a shared housing host must be a natural person; (3) the eligibility requirements for registration with the department of a shared housing unit, as set forth in Chapters 4-13 and 4-14 of the Municipal Code of Chicago; and (4) the potential penalties applicable for violation of the ordinance Shared Housing Ordinance. As a condition of listing a shared housing unit on the platform, the intermediary shall require the shared housing host to: (1) attest that the host has reviewed the summary of the requirements of this ordinance, and to (2) acknowledge that the listing, rental and operation of shared housing units in the City are subject to those requirements.

SECTION 10. Section 4-13-220 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-220 Legal duties.

(a) *Insurance for intermediary – Required.* Each licensee under this Article II shall ~~have the duty to~~ obtain commercial general liability insurance, with limits of not less than one million dollars (\$1,000,000.00) per occurrence, for bodily injury, personal injury (if such coverage is commercially available to the licensee), and property damage arising in any way from the issuance of the ~~short term residential rental~~ intermediary license or activities conducted pursuant to that license. Each policy of insurance shall: (i) be issued by an insurer authorized to insure in the State of Illinois; (ii) name the City of Chicago as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license (~~if commercially available to the licensee~~); (iii) be maintained in full force and effect for the duration of the license period; and (iv) include a provision requiring 30 calendar days' advance notice to the commissioner prior to cancellation or lapse of the policy.

(b) *Insurance for guests -- Required.* Each licensee under this Article II shall ~~have the duty to~~ provide commercial general liability insurance, with limits of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury (if such coverage is commercially available to the licensee), and property damage arising in any way from activities conducted pursuant to a registration or issuance of a license for a short term residential rental.

Such insurance shall cover any bodily injury, personal injury (if such coverage is commercially available to the licensee), or property damage sustained by any guest arising in any way from activities related to the rental of the short term residential rental. Each policy of insurance provided shall have policy limits, as set forth in this subsection (b), that apply separately for each short term residential rental, and if the policy has an aggregate limit, the aggregate limit shall apply separately to each short term residential rental. Each policy of insurance shall be: (i) issued by an insurer authorized to insure in the State of Illinois; and (ii) maintained in full force and effect for as long as the short term residential rental is registered or licensed, ~~whichever is as~~ applicable. The licensee shall provide advance notice to the commissioner of the cancellation of, or lapse in, the policy as soon as is reasonably practicable after the licensee becomes aware of ~~the such~~ cancellation of, or lapse in, the policy.

(c) *Identification of local contact person – Required.* Each licensee under this Article II shall ~~have the duty to~~ include on its platform the name of, and contact information for, the licensee's local contact person.

(d) *Compliance with tax laws – Required.* Each licensee under this Article II shall ~~have the duty to~~ comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including hotel accommodation taxes but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

(e) *Compliance with rental, homeowners association and cooperative building agreements – Required.* Each licensee under this Article II shall ~~have the duty not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee~~ advises post a notice on its platform informing the short term residential rental provider providers that the provider must comply with all existing applicable rental agreements, or homeowners association or cooperative building rules or restrictions, regarding the rental for transient occupancy of the short term residential rental for transient occupancy.

(f) *Descriptive listing information – Required.* Each licensee under this Article II shall ~~have the duty not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee~~ advises the post a notice on its platform informing short term residential rental provider providers that every listing on the intermediary's platform shall must include the information set forth in required under Section 4-14-040(a)(1) through (a)(4), inclusive.

(g) *Process to remove listings from a platform – Required.* Each licensee under this Article II shall ~~have the duty to~~ establish a process, to be approved by the commissioner, that enables a short term residential rental provider to remove from the intermediary's platform any or all of the provider's listings on such platform.

(h) *Process to address quality of life concerns due to units on ineligible list – Required.* Each licensee under this Article II shall establish and comply with a process, to be approved by the commissioner, for mitigating the impact on quality of life of ~~units~~ any short term residential rental determined by the department to be ineligible for listing on a platform

under Section 4-13-260 or any hotel, bed-and-breakfast establishment or vacation rental that is not properly licensed under Chapter 4-6 of this Code.

(i) *Compliance with written plan – Required.* Each licensee under this Article II shall ~~have the duty to~~ comply with any written plan approved by the commissioner pursuant to Section 4-13-210(4).

(j) ~~License number~~ *Posting license and registration numbers on listings – Notification to providers – Required when.*

(1) Each licensee under this Article II shall advise short term residential rental providers, by posting a notice in a conspicuous place on its platform or otherwise, that such providers are required under the Code to: (i) obtain a valid registration or license number, as applicable, for the short term residential rental prior to advertising it for rent, listing it on the platform, renting it, or booking it for future rental; and (ii) post the applicable registration or license number on the platform as part of the provider's listing.

(2) Each licensee under this Article II shall establish a process, to be approved by the commissioner, to ensure that ~~every~~ providers have the ability to include the registration or license number, as applicable, of any shared housing unit, hotel, bed-and-breakfast establishment or vacation rental listed by such provider on it's the licensee's platform includes the provider's license number.

(k) *Approved means of data transmission – Required.* Each licensee under this Article II shall use an approved application program interface (“API”) or other approved electronic means required by the department to transmit data and other communications to the department and to receive data and other communications from the department.

SECTION 11. Section 4-13-230 of the Municipal Code of Chicago is hereby repealed in its entirety and replaced with a new Section 4-13-230, underscored as follows:

4-13-230 Shared housing units – Registration of unit by provider with department required – Advertising, listing, renting, and booking for future rental prohibited when.

(a) *Shared housing hosts – Duties – Prohibited acts.* Prior to advertising for rent, listing on a platform, renting, or booking for future rental any shared housing unit or portion thereof, the shared housing host shall successfully register such unit with the department in accordance with Section 4-14-020, as evidenced by the assignment of a unique registration number to such unit by the department. It shall be unlawful for any shared host to advertise for

rent, list on a platform, rent, or book for future rental, any shared housing unit: (1) until such time that the department assigns a unique registration number to the shared housing unit; or (2) at any time while departmental approval of the registration is pending; or (3) without including the registration number on any advertisement, listing, rental agreement, or booking. Any shared housing host who violates this subsection (a) shall be subject to the penalty set forth in Section 4-14-090(a).

(b) *Departmental duties.* Upon receipt of a registration application for a shared housing unit, the department shall determine whether the unit identified in the registration application is eligible for such registration under Section 4-14-030(a). If the department determines that the shared housing unit is eligible for registration, the department shall assign a unique registration number to the shared housing unit and shall notify the shared housing host of such fact. If the department determines that the shared housing unit is ineligible for registration under Section 4-13-260, the notification and hearing process set forth in Section 4-13-260(b) shall apply.

SECTION 12. Chapter 4-13 of the Municipal Code of Chicago is hereby amended by inserting a new Section 4-13-235, as follows:

4-13-235 Intermediaries – Prohibition on booking service transactions – Applicable when.

It shall be unlawful for any licensee under this Article II to process or complete any booking service transaction for any: (1) shared housing unit or portion thereof, unless such unit has first been registered with the department within the meaning of Section 4-13-230(a), or (2) vacation rental, bed-and-breakfast establishment or hotel, or any portion thereof, unless such establishment is properly licensed under Chapter 4-6 of this Code.

SECTION 13. Section 4-13-240 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-240 Data and reports – Required.

(a) *Departmental report – Required.* Each licensee under this Article II shall ~~have a duty to~~ submit to the department, every two months, a report, in a form approved by the commissioner, that contains the following information about each of the short term residential rentals listed on through the intermediary's platform during the applicable reporting period: (i) ~~the total~~ total number of short term residential rentals listed on the platform during the applicable reporting period; (ii) the license or registration number of each short term residential rental listed

on the platform during the applicable reporting period; (iii) the address, including the unit number if applicable, of each short term residential rental listed on the platform during the applicable reporting period; ~~(ii)(iv)~~ the total exact number of nights that each short term residential rental listed on the platform was rented to guests during the applicable reporting period; ~~(iii)(v)~~ the amount of rent paid by guests in connection with the rental of each short term residential rental listed on the platform during the applicable reporting period; ~~(iv)(vi)~~ the total amount of tax paid by the intermediary to the city under Section 3-24-030 in connection with the rental of each short term residential rental listed on the platform during the applicable reporting period; and ~~(v)(vii)~~ a cumulative tally to date of the number of nights that each short term residential rental listed on the platform is booked for rental during the remaining months of the applicable calendar year; and ~~(vi)~~ a notation indicating each short term residential rental listed on the platform that the department has determined is ineligible under Section 4-13-260(a) to be listed on the platform.

(b) *Additional departmental reports – Required when.* Upon request by the commissioner, each licensee under this Article II shall ~~have a duty to~~ submit to the department, in a form and manner prescribed by the commissioner, data identifying the total number of shared housing units that have been rented for more than 30 nights, or for any other period of nights during the current, previous, or subsequent calendar year, that the commissioner reasonably determines is necessary to assist the department in enforcing this Chapter 4-13 or Chapters 4-14 or 4-16 of this Code. ~~Such submission shall include a notation indicating each shared housing unit included in the data that the department has determined is ineligible under Section 4-13-260(a) for listing on a platform.~~

(c) *Aldermanic report – Required.* Each licensee under this Article II shall have a duty to submit to each alderman and to the department, every two months, a report, in a form approved by the commissioner, that contains, on a ward specific basis for the respective ward, the information set forth in items (i) through ~~(vi)~~ (vii) of subsection (a) of this section about each of the short term residential rentals listed on the intermediary's platform during the applicable reporting period.

(d) *Maintaining books and records – Required.* Each licensee under this Article II shall ~~have a duty to~~ keep accurate books and records and maintain such books and records for a period of three years.

(e) *Additional reports and data.* Each licensee under this Article II shall ~~have a duty to~~ provide additional reports and data to the City department as provided by the commissioner in rules.

(f) *Form of data and report submission.* The information contained in the reports required under subsections (a), (b) and (c) of this section may be submitted in an anonymized form that removes personally identifiable information about the short term residential rental provider. Provided, however, that if the information required under subsections (a), (b) or (c) has been submitted in an anonymized form and the commissioner requires de-anonymized information about a short term residential rental provider or short term residential rental in connection with an audit conducted by the department to determine compliance with this

Chapter 4-13 or Chapters 4-14 or 4-16 of this Code, or the commissioner reasonably determines that a short term residential rental provider or short term residential rental is: (i) the scene of a crime or other illegal act under investigation by any local, State or Federal law enforcement agency, or (ii) operating in violation of this Chapter or Chapters 4-14 or 4-16 of this Code or any other applicable provision of this Code, including, but not limited to, the Chicago Zoning Ordinance, the commissioner may issue an order, in the form of a subpoena, directing the intermediary to provide the information in a de-anonymized form, including, but not limited to, the name of the short term residential rental provider, the address of the short term residential rental, the details of the unit's rentals, and any information within the control or possession of the intermediary regarding the guests of the shared housing unit or the rental of the unit. The intermediary shall, within 21 calendar days of the date on which such order is issued, either provide the de-anonymized information or file a legal objection to such order in writing with the commissioner. If the intermediary or shared housing host files a legal objection, the commissioner shall provide a hearing on the objection within 10 business days, as provided by rule. The commissioner's determination shall be final and may be appealed in the manner provided by law. Nothing in this subsection shall be considered a limitation or restriction on the commissioner's powers and duties under Chapter 2-25.

SECTION 14. Section 4-13-250 of the Municipal Code of Chicago is hereby repealed in its entirety.

SECTION 15. Section 4-13-260 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-260 Ineligibility – Listing on platform by a provider prohibited when.

(a) *Conditions of ineligibility for listing.* A short term residential rental shall be ineligible for listing registration with the department as a shared housing unit or for licensure as a bed-and-breakfast establishment or vacation rental, and shall not be listed by a provider on a licensee's platform, under the following conditions:

(1) *Nuisance.* When, in the determination of the commissioner, the rental of the short term residential rental creates a nuisance because at least ~~three~~ two separate incidents involving illegal acts activity or objectionable conditions, as ~~that term is~~ those terms are defined in Section ~~4-4-13(h) 4-14-010~~, occurred, in any combination, during a 12-month period: (i) in the short term residential rental; or (ii) in or on the premises in which the short term residential rental is located; or (iii) in the short term residential rental's parking facility; or (iv) on adjacent property. For purposes of determining whether ~~three or more~~ any nuisance illegal acts occurred during a 12-month period, such illegal acts activity or objectionable conditions ~~occurring~~ shall be limited to acts of the guests; or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the short term residential rental while rented to a guest; or

(Omitted text is unaffected by this ordinance)

(3) *Scofflaw or problem landlord.* When a short term residential rental is listed on, or located in a building that is listed on, the city's City's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

(Omitted text is unaffected by this ordinance)

SECTION 16. Section 4-13-270 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-270 Departmental duties.

(a) *Duty to maintain ~~list~~ a database of short term residential rentals.* The commissioner shall maintain a ~~list~~ database, by address, of all short term residential rentals currently licensed by or registered with the department under the applicable provisions of this Code.

(b) *Duty to maintain ineligibility ~~list~~ database.* The commissioner shall prepare and maintain a ~~list~~ database of all short term residential rentals that are ineligible to be advertised for rent by a provider, listed on a short term residential rental intermediary's platform by a provider, rented by a provider, or booked for future rental by a provider. Such ~~list~~ database, which shall be updated by the commissioner periodically, but in no event fewer than four times per calendar year without undue delay following a determination of ineligibility under Section 4-13-260, shall include the date on which the ~~list~~ database was most recently updated and shall be made available by the commissioner to all licensed ~~short term residential rental intermediaries and short term residential rental advertising platforms~~ in a form and manner prescribed by the commissioner.

(Omitted text is unaffected by this ordinance)

SECTION 17. Section 4-13-300 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-13-300 License – Required.

No person shall engage in the business of short term residential rental advertising platform without first having obtained a an advertising platform license under Article III of this Chapter 4-13. The holder of an advertising platform license is entitled to primarily list vacation

rentals, bed-and-breakfast establishments and hotels on its platform in accordance with this Article III. Listings on the advertising platform of shared housing units are also permitted in accordance with this chapter.

SECTION 18. Section 4-13-305 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-305 Annual Licensee License – Fee – Required.

(a) The advertising platform license required under this Article III shall be renewed annually.

(b) The advertising platform license fee set forth in Section 4-5-010 shall be payable annually.

SECTION 19. Section 4-13-310 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-310 License application – Additional information required.

(a) In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a license to engage in the business of short term residential advertising platform shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(2) an affidavit from the local contact person identified in the license application attesting that such local person: (i) is designated for service of process; (ii) is authorized by the applicant ~~or~~ or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city.

(Omitted text is unaffected by this ordinance)

(b) It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

SECTION 20. Section 4-13-320 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-13-320 Legal duties.

(a) *Insurance for ~~short-term residential rental~~ advertising platform – Required.* Each licensee under this Article III shall ~~have a duty to~~ obtain commercial general liability insurance, with limits of not less than one million dollars (\$1,000,000.00) per occurrence, for bodily injury, personal injury (if such coverage is commercially available to the licensee) and property damage arising in any way from the issuance of the ~~short-term residential rental~~ advertising platform license or activities conducted pursuant to that license. Each policy of insurance shall: (i) be issued by an insurer authorized to insure in the State of Illinois; (ii) name the City of Chicago as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license (~~if commercially available to the licensee~~); (iii) be maintained in full force and effect for the duration of the license period; and (iv) include a provision requiring 30 calendar days' advance notice to the commissioner prior to cancellation or lapse of the policy.

(b) *Identification of local contact person – Required.* Each licensee under this Article III shall ~~have a duty to~~ include on its platform the name of, and contact information for, the licensee's local contact person.

(c) *Compliance with tax laws – Required.* Each licensee under this Article III shall ~~have a duty:~~ (i) ~~not to list, or permit any person to list, any short-term residential rental on its platform, unless the licensee obtains an attestation, in a form to be determined by the commissioner in rules, from its short-term residential rental providers that each such provider has a duty to~~ comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including hotel accommodation taxes but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable); and (ii) ~~to ensure that any third-party hired or otherwise retained by the licensee to accept or process the payment of any rent or its equivalent that a provider charges a guest in connection with the rental of a short-term residential rental obtains an attestation from its short-term residential rental providers in a form to be determined by the commissioner in rules, that each such provider has a duty to comply with all such applicable laws and regulations.~~

(d) *~~Conditions for listing on the platform – Vacation rental license required –~~*
~~Exceptions – Platform to post license number on all listings~~ Posting license and registration numbers on listings – Notification to providers – Required.

(1) Each licensee under this Article III shall ~~have a duty not to list, or permit any person to list, any short-term residential rental on its platform, unless the licensee:~~ (1) posts a advise notice, in a conspicuous place on its website, advising short term residential rental

providers, by posting a notice in a conspicuous place on its platform or otherwise, that such providers are required under this Article III the Code to: (i) obtain a vacation rental license in order to list a rental unit on a short term residential rental advertising platform, unless the short term residential rental being listed is a properly licensed hotel or bed-and-breakfast establishment; (2) includes the provider's vacation rental license number, hotel license number or bed-and-breakfast establishment license number, as applicable, on all listings that appear on the short term residential rental advertising platform valid license or registration number, as applicable, for the short term residential rental prior to advertising it for rent, listing it on the platform, renting it, or booking it for future rental; and (ii) post the applicable license or registration number on the platform as part of the provider's listing.

(2) Each licensee under this Article III shall establish a process, to be approved by the commissioner, to ensure that providers have the ability to include the license or registration number, as applicable, of any shared housing unit, hotel, bed-and-breakfast establishment or vacation rental listed by such provider on the licensee's platform.

(e) Approved means of data transmission – Required. Each licensee under this Article III shall use an approved application program interface ("API") or other approved electronic means required by the department to transmit data and other communications to the department and to receive data and other communications from the department.

SECTION 21. Chapter 4-13 of the Municipal Code of Chicago is hereby amended by inserting a new Section 4-13-325, as follows:

4-13-325 Advertising platforms – Prohibition on booking service transactions – When applicable.

It shall be unlawful for any licensee under this Article III to process or complete any booking service transaction for any: (1) vacation rental, bed-and-breakfast establishment or hotel, or any portion thereof, unless such establishment is properly licensed under Chapter 4-6 of this Code; or (2) shared housing unit or portion thereof, unless such unit has first been registered with the department within the meaning of Section 4-13-230(a).

SECTION 22. Section 4-13-340 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-13-340 Data and reports – Required.

Each licensee under this Article III shall submit to the department, no later than the tenth day of each month, a complete and accurate report, in a form approved by the commissioner, identifying the name of the owner or provider, and the address and business license or registration number, of each hotel, bed-and-breakfast establishment, shared housing unit and vacation rental that: (1) is currently listed on the licensee's advertising platform, and (2) constitutes a new listing since the time the licensee submitted its last report to the department pursuant to this section. Provided, however, that the licensee shall be deemed to be in compliance with this section if the licensee submits the required report to the department on a daily, weekly or semi-monthly basis.

SECTION 23. Section 4-13-400 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-13-400 Rules.

The commissioner is authorized to promulgate rules necessary or appropriate to implement this chapter.

SECTION 24. Section 4-14-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting, in correct alphabetical order, the language underscored, as follows:

4-14-010 Definitions.

(Omitted text is unaffected by this ordinance)

~~“Building containing two to four dwelling units” includes, but is not limited to, a duplex or row house comprising two to four connected dwelling units.~~

“Building containing five or more dwelling units” includes, but is not limited to, a row house ~~comprising~~ consisting of five or more connected individual dwelling units.

~~“Building containing two to four dwelling units” includes, but is not limited to, a duplex or row house consisting of two to four connected individual dwelling units.~~

~~“Commissioner” means the commissioner of business affairs and consumer protection or the commissioner’s designee.~~

(Omitted text is unaffected by this ordinance)

“Department” means the department of business affairs and consumer protection.

“Egregious condition” means: (1) drug trafficking; (2) prostitution; (3) gang-related activity; (4) violent acts involving the discharge of a firearm, or the death of, or serious bodily injury to, any person; ~~or~~ (5) exceeding the design load; (6) overcrowding; (7) the use of a shared housing unit by a guest for commercial purposes, including, but not limited to, ~~holding out the unit to members of the general public as the location of a party; amusement or event, or~~ inviting persons to the unit under circumstances where the invitee is required, either directly or indirectly, to pay an admission fee, entrance fee or other compensation, consideration or revenue to gain entry to the unit; or (8) using or allowing the use of a shared housing unit for a party, amusement, event or other gathering in excess of the maximum occupancy limitation set forth in Section 4-14-050(b).

“Exceeding the design load” means placing loads, including natural persons, on structural elements or components of buildings, including but not limited to porches, balconies and roof decks, in excess of the design load allowed under the building code.

“Excessive loud noise” means: (1) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the shared housing unit or on any private open space having a nexus to the shared housing unit that is louder than average conversational level at a distance of 100 feet or more, measured vertically or horizontally from the property line of the shared housing unit or private open space, as applicable; or (2) any sound generated on the public way immediately adjacent to the shared housing unit, measured vertically or horizontally from its source, by any person having a nexus to the shared housing unit in violation of Section 8-32-070(a); or (3) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. that causes a vibration, whether recurrent, intermittent or constant, that is felt or experienced on or in any neighboring property, other than a vibration: (i) caused by a warning device necessary for the protection of the public health, safety or welfare; or (ii) caused in connection with the performance of emergency work within the shared housing unit by the shared housing host or such host’s agent; or (iii) subject to an exception or exclusion under Section 8-32-170.

(Omitted text is unaffected by this ordinance)

“Guest suite” has the meaning ascribed to the ~~that~~ term in Section 4-6-300(a).

(Omitted text is unaffected by this ordinance)

“Illegal activity” means any criminal conduct, of whatever degree, in violation of federal, State or local law.

(Omitted text is unaffected by this ordinance)

“Objectionable condition(s)” means any disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, loitering, public urination, unlawful garbage or waste disposal, gambling, lewd conduct or excessive loud noise.

“Overcrowding” means exceeding the maximum occupancy limitation in violation of Section 4-14-050(b).

(Omitted text is unaffected by this ordinance)

“Shared housing host” means an owner or tenant of a shared housing unit, or a manager acting on behalf of an owner or tenant, who directly or indirectly rents such unit to guests.

(Omitted text is unaffected by this ordinance)

“Single-family home” means a building that: (i) contains one dwelling unit only; and (ii) is located on its own lot; and (iii) is not attached to any other dwelling unit.

(Omitted text is unaffected by this ordinance)

“Vacation rental” has the meaning ascribed to the that term in Section 4-6-300.

SECTION 25. Section 4-14-020 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-14-020 Shared housing unit registration – Registration fee – Required.

(a) Registration by intermediary with the department required. Except as otherwise provided in subsection (g) of this section, no No dwelling unit listed on a short term residential rental intermediary's platform shall be rented by a shared housing host shall advertise for rent, list on a platform, rent, or book for future rental any shared housing unit or portion thereof until such intermediary, acting on behalf of the owner or tenant of the listed dwelling unit, and shared housing host, in accordance with Section 4-13-230 (a); (1) registers such unit with the department, as evidenced by the submission by submitting to the department of a registration application meeting the requirements of subsections (b) and (c) of this section; and (2) is issued a unique registration number by the department for the shared housing unit identified in the registration application; and (3) includes such registration number in any advertisement for rent, listing on a platform, rental agreement, or booking for future rental pertaining to such shared

housing unit; and (4) if the shared host advertises the shared housing unit on a primary website established, operated or maintained by such shared housing host or his agent, includes such registration number in any advertisement for such shared housing unit on such website. A separate registration shall be required for each dwelling unit used as a shared housing unit.

(b) *Registration application – Form and contents.* The registration application required under subsection (a)(1) of this section shall be in a form and manner prescribed by the commissioner, and shall be accompanied by the following information:

(1) the shared housing host's name, which shall be the name of a natural person, and the shared housing host's residence address. The accuracy of the information required under this subsection (b)(1) shall be verified by documentation provided in a form approved by the commissioner;

(2) the address of the dwelling unit being registered as a shared housing unit, including the unit number, unit letter or similar unit identification;

(3) ~~the~~ contact information for the host or for a local contact person;

(4) whether the dwelling unit identified in ~~such~~ the registration application is a: (i) a single family home, or (ii) a unit in a building containing ~~multi-dwelling~~ multiple dwelling units, and, if so, the number of dwelling units in the building, and (iii) whether the ~~listing host will~~ intends to make the entire dwelling unit available for rent or only a room or portion of the dwelling unit available for rent;

(5) whether the dwelling unit identified in ~~such~~ the registration application is the shared housing host's primary residence; ~~and~~

(6) the registration fee required under subsection (j) of this section; and

~~(6)(7)~~ any other information that the commissioner may reasonably require in connection with the issuance or renewal of a registration under this chapter.

It is a condition of the registration that all information in the application be kept current. Any change in required information shall be reported to the department within ten business days of such change.

(c) ~~(1)~~ *Attestation – Accurate Information – Required.* It shall be unlawful for any shared housing host: (i) ~~not to submit the attestation required under Section 4-13-215,~~ or (ii) to submit ~~incomplete or false information or to make any false, misleading or fraudulent statement~~

~~on~~ in the registration application required under subsection (b) of this section; or (ii) use any scheme or subterfuge for the purpose of evading the requirements of this chapter.

(2) ~~False statements.~~ Any information on a registration application submitted pursuant to subsection (b) of this section shall be deemed to be an application to the city within the meaning of the False Statements Ordinance, Chapter 1-21 of this Code, regardless of the method by which such information is submitted or transmitted to the department.

(d) (1) *Zoning review – Required.* Each registration under this section shall include a zoning review, ~~as provided by the commissioner in rules,~~ to ensure that the location of the shared housing unit is in compliance with the Chicago Zoning Ordinance.

(2) *Review of prohibited building list – Required.* Each registration under this section shall include a review of the prohibited building buildings list maintained by the commissioner pursuant to ~~under~~ Section 4-13-270(c) to ensure that the shared housing unit is not located at an address identified on that list.

(3) *Review of restricted residential zone list – Required.* Each registration under this section shall include a review of the list of current restricted residential ~~zone~~ list ~~required under~~ zones maintained by the city clerk pursuant to Section 4-17-060 to ensure that the shared housing unit is not located in a restricted residential zone, unless ~~such the~~ shared housing unit located within a restricted residential zone is a legally lawfully established use within such zone within the meaning of Section 4-17-070.

(e) *Registration number – Required.* The commissioner shall assign a unique registration number to each approved shared housing unit registered with the department.

(f) *Duty to post registration number.* ~~Upon notification from the commissioner that a unique registration number has been assigned to the dwelling unit identified in the registration application, the shared housing host shall promptly post the registration number in a conspicuous place in all applicable listings on any platform. The shared housing host shall include, in legible type, the shared housing unit's unique registration number in any advertisement for rent, listing on a platform, rental agreement, or booking for future rental pertaining to such shared housing unit.~~

(g) *Listing Advertising for rental, listing on a platform, renting, and booking for future rental* ~~and rental of a shared housing unit while registration is pending – Permitted when – Exception Prohibited.~~ Until the department approves the registration application, as evidenced by its assignment of a unique registration number to the dwelling unit identified in such application, any listing of such dwelling unit on an intermediary's platform shall be accompanied by a notation, which shall be located in a conspicuous place in the listing, indicating that

approval of the unit's registration by the department is pending. While such registration application is pending approval by the department: (1) the intermediary may allow any shared housing unit that will be included in the registration report required under Section 4-13-230(c) to be listed on its platform, if the listing is accompanied by the required notation; and (2) except as otherwise provided in this subsection, the shared housing host identified in the registration application shall be allowed to rent the shared housing unit identified in such application and report, and to book future listings for such unit, until such time that: (i) the commissioner determines that the unit is ineligible under Section 4-13-260(a) for listing on a platform, or (ii) the listing is invalid under Section 4-13-230(e). Provide, however, that during the period in which approval of the shared housing unit's registration is pending, no shared housing host shall at any time advertise for rent, list on a platform, rent, or book for future rental any shared housing unit that is located in a restricted residential zone. It shall be unlawful for any shared housing host to advertise for rent, list on a platform, rent or book for future rental any shared housing unit: (1) while registration of that unit with the department is pending, and (2) until such time that a unique registration number is assigned to such shared housing unit by the department.

(h) *Annual review of registration – Required.* After the initial registration of a shared housing unit is approved by the department, the shared housing host may renew the shared housing unit's registration ~~may be renewed once annually~~ each year thereafter in a manner prescribed by the commissioner ~~in rules~~, unless the commissioner determines that the unit is ineligible for registration under Section 4-13-260(a).

(i) *Transfer of registration – Prohibited.* The registration for a shared housing unit shall ~~not be non-transferable~~ transferable to any other shared housing unit or shared housing host.

(j) *Registration fee – Required.* The shared housing unit registration fee set forth in Section 4-5-010 shall be payable annually.

SECTION 26. Section 4-14-030 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-14-030 Failure to meet eligibility requirements for registration – Legal effect – Processes.

(a) *Eligibility for registration.* A dwelling unit shall not be eligible for registration with the department as a shared housing unit, or for renewal of such registration, if: (1) any of the conditions of ineligibility applicable to a short term residential rental, as set forth in Section 4-13-260(a), exist; or (2) the shared housing host identified on the registration application required under Section 4-14-020 has any outstanding debt to the City resulting from any unpaid

fine incurred in connection with any violation of Chapter 4-14 of this Code, unless and until such debt is satisfied or otherwise resolved within the meaning of Section 2-32-094(a).

(Omitted text is unaffected by this ordinance)

(c) *Rental of ineligible units prohibited – Duty to remove ineligible listings Removal from platform required.* If, following a final determination of ineligibility under Section 4-13-260(b)(a) or Section 4-14-030(b)(a), the shared housing host is notified in writing by the commissioner that a shared housing unit is ineligible to be listed on any ~~short-term residential rental intermediary's~~ platform, the shared housing host shall: (i) remove the ineligible listing from the any platform where it is listed; and (ii) not rent or allow any family member to rent the shared housing unit identified in such notice in accordance with rules prescribed by the commissioner. In addition to any other penalty provided by law, any shared housing host who fails to comply with this subsection shall be fined ~~not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under this subsection is sent; and not less than \$2,500.00 nor more than \$5,000.00 for each offense such failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter.~~ Each day that a violation continues after such 15th calendar day shall constitute a separate and distinct offense.

(d) ~~Within thirty calendar days of the date on which notice is sent from an intermediary pursuant to Section 4-13-230(f) informing a shared housing host that a registration number has been assigned by the commissioner to the shared housing unit listed by such host on the intermediary's platform, the shared housing host shall update the applicable listing on the intermediary's platform to include the registration number identified in such notice.~~

SECTION 27. Section 4-14-040 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows

4-14-040 Legal duties.

(a) *Descriptive information on listing – Required.* Each shared housing host shall include the following information in every listing of a shared housing unit on a platform:

(1) ~~the short-term residential rental provider's~~ shared housing host's cancellation and check-in and check-out policies;

(2) a statement on: (i) whether the ~~short-term residential rental~~ shared housing unit is wheelchair or ADA accessible; (ii) whether the ~~short-term residential rental~~ shared housing unit has any parking availability or restrictions; and (iii) the availability of, or restrictions on, the use of any recreational facilities or other amenities applicable to guests;

(3) a description of the ~~short-term residential rental~~ shared housing unit, including the number of sleeping rooms and bathrooms, and whether the entire dwelling unit, or only a portion thereof, is available for rent; and

(4) ~~except as otherwise provided in Section 4-13-230(d), the short-term residential rental provider's city license or registration number assigned by the department to the shared housing unit.~~

(b) *Operating requirements.* Each shared housing host shall comply with the following operating requirements:

(Omitted text is unaffected by this ordinance)

(4) *Registration number in advertisements, listings, rental agreements and bookings for future rental – Required.* ~~Except as otherwise provided in Section 4-13-230(d), each~~ Each shared housing host shall conspicuously display in legible type the shared housing unit's registration number in: (i) every advertisement of any type in connection with the rental of the shared housing unit, (ii) every listing of the shared housing unit on any platform, and (iii) every rental agreement for, and booking for future rental of, any shared housing unit. Failure to comply with this requirement shall create a rebuttable presumption that the shared housing unit is being operated without the proper registration.

(Omitted text is unaffected by this ordinance)

(e) *Compliance with tax laws – Required.* Each shared housing host shall comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

SECTION 28. Section 4-14-050 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-14-050 Unlawful acts.

(a) ~~Criminal activity, nuisances,~~ Nuisances – Illegal activity, objectionable conditions, egregious conditions – Prohibited.

(1) Illegal activity and objectionable conditions. It shall be unlawful for any shared housing host to permit any ~~criminal activity, or public nuisance~~ within the meaning of Section 4-13-260(a)(1), ~~or egregious condition~~, to take place within the shared housing unit. In addition to any other penalty provided by law, any person who violates this subsection (a)(1) shall be subject to a fine of not less than \$2,500.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(2) *Egregious condition.* It shall be unlawful for any shared housing host to permit any egregious condition to take place within the shared housing unit. In addition to any other penalty provided by law, any person who violates this subsection (a)(2) shall be subject to a fine of not less than \$5,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(b) *Exceeding maximum occupancy – Prohibited.* It shall be unlawful for any shared housing host to exceed the maximum occupancy limit of: (i) two persons, not including a guest's children under the age of 18, per guest room within the shared housing unit; or (ii) no more than one person per 125 square feet of floor area of the shared housing unit; ~~or The occupancy limitation set forth in this subsection is the absolute maximum limitation. The (iii) the actual allowed capacity of the shared housing unit shall be based on the applicable provisions of the building code, whichever is less.~~ As used in this subsection (b), the term "guest room" means a room used or intended to be used for sleeping purposes. The term "guest room" does not include bathrooms, toilet rooms, kitchens, closets, halls, incidental storage or utility spaces, or similar areas. In addition to any other penalty provided by law, any person who violates this subsection (b) shall be subject to a fine of not less than \$5,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(Omitted text is unaffected by this ordinance)

(e) *Rental under ~~ten hours~~ the minimum rental period – Prohibited.* It shall be unlawful for any shared housing host to rent any shared housing unit, or any portion thereof, ~~by the hour or for any period of fewer than ten consecutive hours~~ less than two consecutive nights until such time that the commissioner and superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the commissioner and superintendent. Provided, however, that under no circumstances shall a shared housing unit, or any portion thereof, be rented by the hour or for any period of less than 10 consecutive hours.

(f) *Multiple rentals within ~~40-hour~~ the minimum rental period – Prohibited.* It shall be unlawful for any shared housing host to rent any shared housing unit, or any portion thereof, more than once within any consecutive ~~ten-hour~~ 48-hour period, as measured from the commencement of one rental to the commencement of the next rental until such time that the commissioner and superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the commissioner and superintendent. Provided, however, that under no circumstances shall a shared housing unit, or any portion thereof, be rented more than once within any consecutive 10-hour period.

(g) *Advertising ~~hourly rate~~ less than the minimum rental period – Prohibited.* It shall be unlawful for any shared housing host to advertise an hourly rate or any other rate for any shared housing unit, or any portion thereof, based on a rental period of ~~fewer than ten less than consecutive hours~~ the rental period authorized under subsections (e) and (f) of this section.

(Omitted text is unaffected by this ordinance)

(i) *Rental of ineligible units by shared housing host or host's family members – Prohibited.* Following notice of a final determination of ineligibility under Section ~~4-14-030(b)~~, it shall be unlawful for any shared housing host to rent or allow any family member to rent any shared housing unit identified in such notice that the commissioner has determined is ineligible for listing on any platform. Any person who violates this subsection shall be fined not less than \$500.00 nor more than \$1,000.00 for renting such shared housing unit within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting such shared housing unit on or after the 15th calendar day and before the 28th calendar day of the date on which such notice is sent; and \$5,000.00 for renting such shared housing unit on or after the 28th calendar day of the date on which such notice is sent. Each day that a violation continues after such 28th calendar day shall constitute a separate and distinct offense.

SECTION 29. Section 4-14-060 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-14-060 Rental requirements and restrictions.

(a) *Lawfully established dwelling unit with six or fewer sleeping rooms – Required.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit that is not a lawfully established dwelling unit within the meaning of Section 17-17-0248, ~~which contains~~ containing six or fewer sleeping rooms and located within a residential building.

(b) *Violation of condominium or cooperative building restrictions – Prohibited.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit if the homeowners association or board of directors has adopted by-laws prohibiting the use of the dwelling unit as a shared housing unit or vacation rental, in any combination.

(c) *Violation of rental requirements and restrictions – Prohibited.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit that is subject to a rental agreement, if the owner of the building in which the dwelling unit is located has prohibited the use of such dwelling unit as a shared housing unit or vacation rental, in any combination.

(d) *Listing and rental of single family home that is not the licensee's primary residence – Restricted.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit that is a single family home, unless such single family home is the shared housing host's primary residence. Provided, however, that this prohibition shall not apply if: (i) the shared housing host is on active military duty and such host has appointed a designated agent or employee to manage, control and reside in the single family home during such host's absence while on military duty; or (ii) the applicable commissioner's adjustment under Section 4-14-100(a) permitting otherwise has been obtained; or (iii) the single family home was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental.

(e) *Listing and rental in buildings with up to four dwelling units – Restricted.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit that is located in a building containing two to four dwelling units, inclusive, unless such dwelling unit is: (i) the shared housing host's primary residence, and (ii) is the only dwelling unit in the building that is or will be used as a shared housing unit or vacation rental, in any combination. Provided, however, that the prohibition set forth in item (i) of this subsection shall not apply if the shared housing host is on active military duty and such host has appointed a designated agent or employee to manage, control and reside in the shared housing unit during such host's absence. Provided further, that the prohibitions set forth in items (i) or (ii) of this subsection shall not apply if: (a) the applicable commissioner's adjustment under Section 4-14-100(a) permitting otherwise has been obtained; or (b) the shared housing unit was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental.

(f) *Listing and rental in buildings with five or more dwelling units – Prohibited.* It shall be unlawful for any shared housing host to advertise for rental, list on any platform, ~~or to rent or book for future rental~~ any shared housing unit that is located in a building containing five or more dwelling units, when more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as shared housing units or vacation rentals, in any combination, if the dwelling unit identified in the registration application is registered as a shared housing unit.

(g) *Removal of ineligible listings from platform.* ~~Following notice of a final determination of ineligibility under Section 4-13-260 (b) or Section 4-14-030(b), it shall be unlawful for a shared housing host to fail to remove the ineligible listing from the platform in the manner prescribed by the commissioner in rules. In addition to any other penalty provided by law, any person who fails to comply with this subsection (g) shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under Section 4-13-260 (b) or Section 4-13-220 (h) is sent; and not less~~

than \$2,500.00 nor more than \$5,000.00 for failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15th calendar day shall constitute a separate and distinct offense.

SECTION 30. Section 4-14-070 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-14-070 Rules.

The commissioner is authorized to promulgate rule necessary or appropriate to implement this chapter.

SECTION 31. Section 4-14-080 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-14-080 Registration – Suspension or revocation.

(Omitted text is unaffected by this ordinance)

(b) *Immediate suspension or revocation – Post-deprivation hearing – Authorized when.* If the commissioner has good cause to believe that: (1) continued rental of a shared housing unit causes an imminent threat to public health, safety or welfare, and (2) grounds exist for revocation or suspension of the shared housing unit's registration, including, but not limited to, any of the grounds set forth in subsection (c)(1) through ~~(e)(6)~~(c)(5), inclusive, of this section, the commissioner may, upon issuance of a written order stating the reason for such conclusion and without notice or hearing, suspend or revoke the shared housing unit's registration and prohibit the shared housing host from renting the shared housing unit to guests for a period of time not to exceed ten calendar days; provided, however, that the shared housing host shall be afforded an opportunity to be heard during such period. If the shared housing host fails to request a hearing within the prescribed time, or requests a hearing but fails to appear at such hearing, the shared housing unit's registration shall be deemed revoked.

(c) *Suspension or revocation – Pre-deprivation hearing – Authorized when.* In addition to any other applicable reason, a shared housing unit registration may be suspended or revoked in accordance with this section under the following circumstances:

(1) *Situs of one or more egregious conditions.* When a shared housing unit is the situs of one or more egregious conditions while rented to guests; or

(2) ~~*Situs of three or more objectionable conditions.*~~ When a shared housing unit has been the situs, on three or more occasions, while rented to guests, of disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, loitering, public urination, lewd conduct, overcrowding, exceeding design loads, or excessive loud noise. For purposes of this subsection (c)(2):

“Excessive loud noise” means any noise, generated from within or having a nexus to the rental of the shared housing unit, between 8:00 P.M. and 8:00 A.M., that is louder than average conversational level at a distance of 100 feet or more, measured from the property line of the shared housing unit.

“Overcrowding” means occupancy by more persons than the maximum occupancy limit of no more than one person per 125 feet of floor area of the shared housing unit or the shared housing unit's actual capacity based on the applicable provisions of the building code, whichever is less.

“Exceeding design loads” means placing loads on structural elements or components of buildings, including, but not limited to, porches, balconies, and roof decks, in excess of the minimum design loads required by the building code; or

(3)(2) ~~*Situs of three*~~ two or more nuisance conditions. When, in the determination of the ~~Commissioner~~ commissioner, the rental of the shared housing unit creates a nuisance because at least ~~three~~ two separate incidents involving illegal acts ~~activity or objectionable conditions~~, as that term is defined in Section 4-13-313(h), occurred during a 12-month period: (i) in the shared housing unit; or (ii) in or on the premises in which the shared housing unit is located; or (iii) in the shared housing unit's parking facility; or (iv) on adjacent property. For purposes of determining whether ~~three or more illegal acts~~ any nuisance occurred during a 12-month period, such illegal acts activity or objectionable conditions ~~occurring~~ shall be limited to acts of the guests, or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the shared housing unit while rented to a guest. In a proceeding to suspend or revoke the registration of a shared housing unit that is or creates a nuisance under this ~~Section 4-14-080~~ subsection (c)(3), any evidence on which a reasonably prudent person would rely may be considered without regard to the formal or technical rules of evidence, and the ~~Commissioner~~ commissioner may rely on police reports, official written reports, affidavits and business records submitted by authorized City officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal acts activity or objectionable conditions occurred. If, during any 12-month period, ~~three~~ two or more separate incidents of illegal acts activity or objectionable conditions, in any combination, occur on the registered premises, or on or in the registered premises' parking facility, or on adjacent property, a rebuttable presumption

shall exist that the shared housing unit is or creates a nuisance in violation of this ~~Section 4-18-080~~ subsection (c)(3); or

(4)(3) *Scofflaw or problem landlord.* When a shared housing unit is listed on, or is located in a building that is listed on, the ~~city's~~ City's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

(5)(4) *Threat to public health, safety or welfare.* When the commissioner determines that the continued rental of a shared housing unit poses a threat to the public health, safety or welfare; or

(6)(5) *Unlawful discrimination.* When, in connection with the listing for rental or rental of a shared housing unit, the commissioner or the Chicago commission on human relations has determined that a violation of Section 2-160-070 or Section 4-14-040(c), as applicable, has occurred.

(d) *Notification and hearing process.* Upon determining that a shared housing unit's registration is subject to suspension or revocation under this section, the commissioner shall notify the shared housing host, in writing, of such fact and of the basis for the suspension or revocation of the registration. Such notice shall include a statement informing the shared housing host that the shared housing host may, within 10 calendar days of the date on which the notice was sent, request, in a form and manner prescribed by the commissioner in rules, a hearing before the commissioner to contest the suspension or revocation. The notice shall also advise the shared housing host that the shared housing host is entitled to present to the commissioner any document, including affidavits, related to the commissioner's determination for suspension or revocation. If requested, a hearing before the commissioner shall be commenced within 10 business days of receipt of such request. Within 60 calendar days of completion of the hearing the commissioner shall either affirm or reverse such determination based upon the evidence presented. The commissioner's decision shall be final and may be appealed in the manner provided by law. If a shared housing host fails to request a hearing within the prescribed time, the shared housing unit registration shall be deemed suspended or revoked. Upon entry of a final order of suspension or revocation, the commissioner shall: ~~(1) notify the short term residential rental intermediary in writing of such fact; and (2) place the unit on the ineligibility list maintained by the commissioner under Section 4-13-270(b). Within three calendar days of the date on which the commissioner sends such written notification of suspension or revocation to the shared housing host, the shared housing host shall remove the short term residential unit identified in such notice from its platform. The intermediary shall act in accordance with the approved process established pursuant to Section 4-13-220(h).~~

SECTION 32. Section 4-14-105 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-14-105 Limit calculation.

The limits on the number of shared housing units in a building shall be calculated as maximum limits using the method in ~~section~~ Section 17-1-0605-B.

SECTION 33. Section 4-16-100 of the Municipal Code of Chicago is hereby amended by inserting, in correct alphabetical order, the language underscored, as follows:

4-16-100 Definitions.

(Omitted text is unaffected by this ordinance)

“Licensee” has the meaning ascribed to that term in Section 4-4-005.

(Omitted text is unaffected by this ordinance)

SECTION 34. Section 4-16-210 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-16-210 License application – Additional information required.

(a) In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested renewal of, a license to engage in the business of shared housing operator shall be accompanied by the following information:

(Omitted text is unaffected by this ordinance)

(b) It is a condition of the license that all information in the application be kept current. Any change in required information shall be reported to the department in accordance with Section 4-4-050(b).

SECTION 35. Section 4-16-220 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-16-220 Legal duties.

(a) *Local contact person – Required.* Each licensee under this Article II shall ~~have a duty to~~ maintain a local contact person who: (i) is designated for service of process; (ii) is authorized by the applicant or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city.

(b) *Compliance with shared housing unit laws – Required.* Each licensee under this Article II shall ~~have a duty to~~ comply with all applicable laws and regulations regarding operation of shared housing units.

(c) *Compliance with tax laws – Required.* Each licensee under this Article II shall ~~have a duty to~~ comply with all applicable federal, state and local laws and regulations regarding the collection and payment of taxes, including hotel accommodation taxes including but not limited to the Chicago Hotel Accommodation Tax Ordinance, Chapter 3-24 of this Code (where applicable).

SECTION 36. Section 4-16-230 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through, as follows:

4-16-230 Departmental duties.

(a) *Inspections.* The building commissioner is authorized to mandate an inspection of any shared housing unit operated by a shared housing unit operator at least once every two years, at a time and in manner, including through third-party reviews, as provided for in rules ~~and regulations~~ promulgated by the building commissioner.

SECTION 37. Chapter 4-16 of the Municipal Code of Chicago is hereby amended by inserting a new Section 4-16-240, underscored as follows:

4-16-240 Rules.

The commissioner is authorized to promulgate rules necessary or appropriate to implement this section.

SECTION 38. Section 4-17-010 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

Section 4-17-010 Definitions.

(Omitted text is unaffected by this ordinance)

“Residentially zoned property” means property that bears an RS-1, RS-2, ~~or~~ RS-3, RT-3.5, RT-4, RM-5 or RM-4.5 designation pursuant to the Chicago Zoning Ordinance.

(Omitted text is unaffected by this ordinance)

SECTION 39. Effective date.

(a) SECTION 4 (amending Section 4-6-300), SECTION 24 (amending Section 4-14-010), SECTION 28 (amending Section 4-14-050), SECTION 31 (amending Section 4-14-080) and SECTION 38 (amending Section 4-17-010) of this ordinance shall take full force and effect ten days after its passage and publication. Provided, however, that the prohibitions set forth in Section 4-6-300(g)(1) and (g)(2) and in Section 4-14-050(e) and (f), pertaining to rental and multiple rentals within the minimum rental period, shall not apply to any rental that was lawfully booked prior to the date of introduction of this Ordinance.

(b) The remainder of this ordinance shall take full force and effect on April 1, 2021 in accordance with this subsection. On and after April 1, 2021, any person submitting an initial application for registration of a shared housing unit with the department shall comply with the application requirements set forth in Section 4-14-020(b). Persons holding a valid registration number issued before April 1, 2021 for a shared housing unit (“existing registration”) shall comply with the application requirements set forth in Section 4-14-020(b) at the time of renewal of such existing registration or in accordance with an expedited renewal schedule for existing registrations as may be required by the commissioner in duly promulgated rules.