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

LEILA MENDEZ and ALONSO ZARAGOZA,	)	
	)	
Plaintiffs,	)	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,	)	In Chancery Injunction/Temporary Restraining Order
	)	
Defendants.	)	

PLAINTIFFS' MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

In 2016, the City of Chicago enacted an ordinance (the "Ordinance") imposing various restrictions on home-sharing—i.e., on short-term rentals of homes on platforms such as Airbnb, which the City classifies as either "vacation rentals" or "shared housing units." Shortly afterward, Plaintiffs—Chicago taxpayers who rent out their Chicago homes as shared housing units—filed this lawsuit to challenge various provisions of the Ordinance for violating the Illinois Constitution.

On September 9, 2020, the Chicago City Council passed an ordinance amending the City's rules restricting home-sharing (Ordinance No. SO-2020-3986 ("the 2020 Amendments"), attached as Exhibit A). The 2020 Amendments impose a severe new restriction on Plaintiffs' rights by banning all single-night rentals of vacation rentals and shared housing units—unless and until the Commissioner of the Chicago Department of Business Affairs and Consumer Protection (the "Commissioner") and the superintendent of police (the "Superintendent") take actions to make such rentals legal again. The 2020 Amendments also add new grounds for

finding "excessive loud noise" in addition to the original ground that Plaintiffs have challenged in Counts V and VI of their Second Amended Complaint. And the 2020 Amendments change the fees for registration of shared housing units in a manner that partially moots the Uniformity Clause claims of Count VII of Plaintiffs' Second Amended Complaint, which are the subject of the parties' pending cross-motions for summary judgment.

Plaintiffs seek leave to amend their complaint to address these changes in the law. Specifically, Plaintiffs seek to: (1) add a claim challenging the provisions banning single-night rentals for unconstitutionally delegating legislative power to the Commissioner and the Superintendent; (2) revise their claims challenging the "excessive loud noise" rules for vacation rentals and shared housing units (Counts V and VI) to address the added alternative definitions of "excessive loud noise"; and (3) delete Count VII's Uniformity Clause challenge to the fees for licensing and registration of vacation rentals and shared housing units.

Plaintiffs respectfully request that the Court grant Plaintiffs leave to amend because the amendment would serve the interests of justice and judicial economy, would not prejudice Defendants, would be timely, and could not have been made earlier in the proceedings.

I. Facts

A. Procedural History

Plaintiffs are Chicago taxpayers and homeowners who wish to rent out their homes through the Airbnb home-sharing platform. 2d Am. Compl. ¶¶ 5-6, 55-58. In November 2016, they filed a complaint challenging various provisions of the Ordinance for violating the Illinois Constitution. The City moved to dismiss that complaint, and, in October 2017, the Court issued an order partially granting that motion (the "Order"). The Court denied the motion with respect to Plaintiffs' claim alleging that the Ordinance's "Primary Residence Rule" violates substantive

due process (Order 8-13), and the Court gave Plaintiffs leave to amend their complaint to correct certain alleged defects in their Uniformity Clause challenge to the Ordinance's 4% surcharge on home-sharing rentals and licensing fees (*id.* 19-23).

Plaintiffs then filed an Amended Complaint, which corrected the putative defects in the Uniformity Clause claim, updated certain factual allegations, and omitted the original Count II (which Plaintiffs voluntarily dismissed as moot in February 2017). The City then moved to dismiss the surviving substantive due process and Uniformity Clause claims. On April 2, 2018, the Court granted that motion with respect to the substantive due process claim but denied it with respect to the Uniformity Clause claims.

On July 25, 2018, the Chicago City Council passed a new 2% surcharge on home-sharing in addition to the 4% surcharge that Plaintiffs had challenged. On August 16, 2018, the Court granted Plaintiffs leave to amend their Uniformity Clause claim to add a challenge to the new surcharge. Plaintiffs filed their Second Amended Complaint on September 21, 2018. The parties then engaged in discovery and filed cross-motions for summary judgment on the Uniformity Clause claims, which remain pending before the Court.

B. The 2020 Amendments to the City's Home-Sharing Ordinance

On September 9, 2020, the Chicago City Council further revised the City's home-sharing rules by passing the 2020 Amendments. Three changes to the rules are relevant to Plaintiffs' motion: (1) a ban on single-night rentals, subject to reversal by the Commissioner and the Superintendent; (2) a change in the "excessive loud noise" rule; and (3) changes in the fees charged to owners of vacation rentals and shared housing units.

1. Ban on Single-Night Rentals and Delegation of Authority to the Commissioner and the Superintendent of Police

The 2020 Amendments include new provisions that ban single-night rentals of vacation

rentals and shared housing units—unless and until the Commissioner and the Superintendent say otherwise. Specifically, the 2020 Amendments prohibit rentals of vacation rentals or shared housing units for fewer than two consecutive nights and prohibit multiple rentals of a vacation rental or shared housing unit within a 48-hour period. Chi. Muni. Code §§ 4-6-300(g)(1), (2), 4-14-050(e), (f). The Code states that these prohibitions shall remain in effect only "until such time that the commissioner and the 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." *Id.*

But the Code does not require the Commissioner or the Superintendent ever to determine whether single-night rentals can be conducted safely or to promulgate rules to allow safe single-night rentals. And the Code provides no criteria by which the Commissioner or the Superintendent are to determine what constitutes "safe" conduct of single-night rentals.

2. New Definitions of "Excessive Loud Noise"

The Code provides that a vacation rental license or shared housing unit registration may be suspended if a unit has been the situs of certain "objectionable conditions" on multiple occasions (three occasions under the original Ordinance; two under the 2020 Amendments) while rented to guests. Chi. Muni. Code §§ 4-6-300(j)(2)(ii), 4-14-080(c)(2).

One "objectionable condition" that can lead to a license or registration suspension is "excessive loud noise." The Ordinance's original definition of "excessive loud noise"—which Plaintiffs have challenged as unconstitutionally vague and discriminatory—was "any noise, generated from within or having a nexus to the rental of the shared housing unit [*sic*], 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." 2d Am. Compl. ¶¶ 42, 108-

126.

The 2020 Amendments include a nearly identical definition of "excessive loud noise" but also add two additional grounds for finding "excessive loud noise." With the amendments, the Ordinance's three alternative definitions of "excessive loud noise" are:

> (1) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the [unit] or on any private open space having a nexus to the [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 [unit] or private open space, as applicable; or (2) any sound generated on the public way immediately adjacent to the [unit], measured vertically or horizontally from its source, by any person having a nexus to the [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 [unit] by the licensee or such licensee's agent; or (iii) subject to an exception or exclusion under Section 8-32-170.

Chi. Muni. Code §§ 4-6-300, 4-14-010. The 2020 Amendments' first definition is substantially the same as the Ordinance's original definition. The second and third definitions are new.

3. Changes to Fees

Under the original Ordinance, the City imposed different license fees on vacation rentals than it imposed on shared housing units, and it imposed different fees on vacation rentals and shared housing units than it imposed on other types of "hotel accommodations." For example, the Ordinance required the owner of a vacation rental to pay a $250 license fee every two years, but it did not require the owner of a single shared housing unit to pay any license or registration fee. *See* 2d Am. Compl. ¶¶ 49-54.

The 2020 Amendments changed this fee scheme. Now, the owner of a vacation rental still

must pay a $250 license fee every two years, but the owner of a shared housing unit must pay a $125 fee annually. Chi. Muni. Code §§ 4-5-010(42), 4-14-020(a), (b), (j).

C. Plaintiffs' Proposed Amendments

Plaintiffs seek leave to file a Third Amended Complaint, a red-lined copy of which is attached as Exhibit B, and a clean copy of which is attached as Exhibit C. The Third Amended Complaint would amend Plaintiffs' previous complaint in three ways.

First, it would add a claim (Count VIII) challenging the 2020 Amendments' provisions on single-night rentals because they delegate legislative authority to the Commissioner and the Superintendent in violation of the constitutional separation of powers. *See* Proposed 3d Am. Compl. ¶¶ 145-151.

Second, it would amend Counts V and VI of the Second Amended Complaint, which challenge the original Ordinance's definition of "excessive loud noise" as unconstitutionally vague and discriminatory, to include the 2020 Amendments' added alternative definitions of that term. *See id.* ¶¶ 108-126.

Third, it would amend Count VII of the Second Amended complaint to eliminate the portion alleging that the original Ordinance's fee scheme violates the Uniformity Clause of the Illinois Constitution. *See id.* ¶¶ 127-144.

II. The Court should grant Plaintiffs leave to file their proposed Third Amended Complaint.

Plaintiffs respectfully request leave to file their proposed Third Amended Complaint. Plaintiffs are entitled to raise a constitutional challenge to the ban on single-night rentals; their proposed amendments to their claims on "excessive loud noise" would not change those claims' substance; and their proposed amendment to their Uniformity Clause count would simply eliminate one of their claims. The Court should grant this motion because the proposed

amendments would not prejudice Defendants; because the motion is timely; because Plaintiffs could not have amended their complaint in this way earlier in the litigation; and because allowing the amendment would serve both the interests of justice and judicial economy.

The Court may allow a plaintiff to amend a complaint "on just and reasonable terms" "[a]t any time before final judgment." 735 ILCS 5/2-616(a). Indeed, "[i]n Illinois, courts are encouraged to freely and liberally allow the amendment of pleadings," *Lee v. Chi. Transit Auth.*, 152 Ill.2d 432, 467 (1992), and "*doubts should be resolved in favor of allowing amendments*," *Ryan v. Mobil Oil Corp.*, 157 Ill.App.3d 1069, 1075 (1st Dist. 1987) (emphasis in original).

Illinois law further provides that "[b]efore or after the entry of a summary judgment, the court shall permit pleadings to be amended upon just and reasonable terms." 735 ILCS 5/2-1005(g). This "has been interpreted as *requiring* the trial court to permit amendment if it will further the ends of justice." *Loyola Acad. v. S & S Roof Maint., Inc.*, 146 Ill.2d 263, 272-73 (1992) (emphasis added).

Factors Illinois courts consider in deciding whether to allow a plaintiff to amend a complaint include "[1] whether the amendment would cure a defect in the pleadings; [2] whether the other party would be prejudiced or surprised by the proposed amendment; [3] timeliness of the proposed amendment; and [4] whether there were previous opportunities to amend the pleadings." *Lee*, 152 Ill.2d at 467-68. "The most important of these factors is the prejudice to the opposing party … ." *Feliciano v. Geneva Terrace Estates Homeowners Ass'n*, 2014 IL App (1st) 130269 ¶ 45.

Here, the first factor does not apply—Plaintiffs do not seek to cure a "defect" in their Second Amended Complaint, but to update their complaint to address changes in the laws they challenge—and the other factors favor allowing Plaintiffs to amend their complaint, as do the

interests of justice generally and judicial economy.

A. Granting leave to amend would not prejudice or surprise Defendants.

Defendants will suffer no prejudice or surprise if Plaintiffs amend their complaint to add a separation-of-powers challenge to the 2020 Amendments' provisions on single-night rentals. Nothing about the amendment's timing would "leave[] [Defendants] unprepared to respond to a new theory at trial," *Feliciano*, 2014 IL App (1st) 130269 ¶ 45, or otherwise impair Defendants' ability to defend against this claim. Indeed, Plaintiffs are presenting this claim at the earliest possible time, and Defendants would have no greater difficulty defending against this constitutional challenge in this case than they would in a separate lawsuit, which Plaintiffs or anyone else injured by the new rules would be entitled to bring either now or later.

Defendants likewise will suffer no prejudice or surprise if Plaintiffs are granted leave to update their claims challenging the definition of "excessive loud noise." Nothing about the timing of this claim impairs Defendants' ability to defend against it. Moreover, the amended claims would only challenge the 2020 Amendments' first definition of "excessive loud noise," which is substantially the same as the original Ordinance's definition of "excessive loud noise," so the amended claim should require little additional litigation.

Finally, Defendants obviously will only *benefit* if Plaintiffs are allowed to amend Count VII to eliminate Plaintiffs' Uniformity Clause challenge to the original Ordinance's fee scheme.

B. The amendment is timely and could not have been presented earlier.

Plaintiffs' motion is timely because Plaintiffs have filed it before entry of a final judgment in this case. *See Lee*, 152 Ill.2d at 468 ("[B]ecause amendments may be allowed at any time before the entry of a final judgment …, the timeliness of plaintiff's amendment is not an issue."). And Plaintiffs had no previous opportunity to make these amendments because the City

Council passed the 2020 Amendments only this month.

C. Allowing the amendment would serve the interests of justice and judicial economy.

Allowing Plaintiffs to add their proposed separation-of-powers challenge to the 2020 Amendments' provisions on single-night rentals would serve the interests of justice. The interests of justice demand that individuals harmed by an unconstitutional enactment be allowed to challenge it in court.

Allowing the amendment would also serve judicial economy. If Plaintiffs were not allowed to amend their complaint in this case to raise their separation-of-powers claim, they (like anyone else injured by the ban on single-night rentals) would be entitled to file a new case presenting that claim. That, however, would be costly and inefficient for both the parties and the Court. Although this case has been pending for years, and all involved are no doubt eager to see it resolved, requiring Plaintiffs to file a new action—and litigate two separate challenges to Chicago's home-sharing rules at the same time—would be even more burdensome and time-consuming than allowing Plaintiffs to amend their complaint in this action.

Also, allowing Plaintiffs to amend their claims on the "excessive loud noise" rules would not significantly change the claims' substance and would avoid litigation over whether the original claim is moot or survived notwithstanding the 2020 Amendments. And, of course, allowing Plaintiffs to amend their complaint to remove the challenge to the original Ordinance's fees will simply put that issue to rest.

Further, Plaintiffs' proposed Third Amended Complaint would not likely require protracted additional litigation before this Court. Plaintiffs' proposed separation-of-powers claim presents a question of law that should not require extensive discovery or a trial. Plaintiffs' proposed amendments to their claims regarding the noise rules should require no discovery and,

given the new claims' similarity to the original claims, minimal additional briefing. And of course the amendment of Plaintiffs' Uniformity Clause count to remove an issue simply *eliminates* the need for further litigation, before this Court or the Appellate Court, on that question.

III. Conclusion

In this case, Plaintiffs have challenged provisions of the City's anti-home-sharing ordinance that injure them. The City's additions and changes to that Ordinance, which inflict additional injuries on Plaintiffs, warrant additions and changes to Plaintiffs' claims. Plaintiffs respectfully request that the Court grant them leave to amend their complaint accordingly so that their claims may be addressed promptly, efficiently, and thoroughly.

Dated: September 21, 2020

Respectfully Submitted,

LEILA MENDEZ, SHEILA SASSO,
ALONSO ZARAGOZA, AND MICHAEL LUCCI

By: /s/ Jeffrey M. Schwab
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CERTIFICATE OF SERVICE

I, Jeffrey Schwab, an attorney, hereby certify that on September 21, 2020, I served the foregoing Motion for Leave to File Third Amended Complaint on Defendants' counsel by U.S. mail and electronic mail sent to:

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/s/ Jeffrey M. Schwab
Jeffrey M. Schwab

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LIST OF EXHIBITS
TO PLAINTIFFS' MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT

Exhibit A — City of Chicago Ordinance No. SO-2020-3986

Exhibit B — Plaintiffs' Proposed Third Amended Complaint (red-lined)

Exhibit C — Plaintiffs' Proposed Third Amended Complaint

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

SUBSTITUTE

ORDINANCE

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.*

~~(1)~~ 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 sen~~t. 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 regulation~~s 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 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 renal 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 ~~three~~ 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 ~~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 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 ~~eity~~ 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~~ this 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 ~~to al~~ 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 ~~of~~ 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 objectional 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 ~~10 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 ~~(c)(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 limi 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.

Exhibit B

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

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.	Case No. 16 CH 15489 Judge Sanjay T. Tailor In Chancery Injunction/Temporary Restraining Order

~~SECOND~~ THIRD AMENDED COMPLAINT

Introduction

1. This is a civil-rights lawsuit to vindicate the constitutional rights of homeowners who wish to offer their private homes to overnight guests but have been arbitrarily and irrationally deprived of the right to do so by the City of Chicago's draconian and unintelligible 58-page Shared Housing Ordinance (Ordinance No. O2016-5111, hereinafter the "Ordinance") and the subsequent amendments to the Ordinance: ~~(~~Ordinance No. O2018-4988 ~~(, hereinafter~~ the "2018 Amendment") and Ordinance No. SO2020-3986 (the "2020 Amendments").

2. Home-sharing is a long-standing American tradition, whereby property owners allow people to stay in their homes, sometimes for money, rather than staying in a hotel. The so-called "sharing economy" has empowered homeowners and travelers to connect better than ever before. Online home-sharing platforms like Airbnb and Homeaway enable homeowners to rent their homes to make money and help pay their mortgages. Consumers benefit from more choice and lower prices; communities attract visitors who support local businesses; and people are incentivized to buy dilapidated homes and fix them up.

3. Through the Ordinance, however, the City has imposed draconian and unintelligible restrictions on home-sharing that hurt communities, violate constitutional rights, and punish responsible homeowners.

4. Plaintiffs Leila Mendez and Alonso Zaragoza bring this complaint for declaratory and injunctive relief challenging the Ordinance and its amendments as vague, unintelligible, and an unconstitutional intrusion on their rights to privacy, due process of law, equal protection, and other rights. Plaintiffs seek a declaratory judgment that the Ordinance ~~is~~ and its amendments are invalid and a permanent injunction against its further enforcement.

Parties

5. Plaintiff Leila Mendez is a resident of Cook County and Chicago, Illinois, who owns a home in Chicago.

6. Plaintiff Alonso Zaragoza is a resident of Cook County and Chicago, Illinois, who owns a three-unit residential building in Chicago.

7. Defendant City of Chicago (the "City") is an Illinois Municipal Corporation.

8. Defendant Rosa Escareno, sued in her official capacity, is the Commissioner of the City of Chicago Department of Business Affairs and Consumer Protection ("Commissioner") and is responsible for enforcing the Ordinance.

Jurisdiction

9. This Court has subject matter jurisdiction over this matter under 735 ILCS 5/2-701 because Plaintiffs seek a declaratory judgment that the Ordinance and its amendments violate~~s~~ various provisions of the Illinois Constitution.

10. This Court has personal jurisdiction over the Defendants because this lawsuit arises from Defendants' actions in the State of Illinois.

11. Venue is proper in Cook County because Plaintiffs reside in Cook County, Illinois, and Defendants are located in Cook County.

Factual Allegations

12. The Chicago City Council passed the Ordinance on June 22, 2016, and Mayor Rahm Emanuel signed it on June 24, 2016.

13. Several provisions of the Ordinance took effect on July 15, 2016, including Section 2, which amends the Chicago Municipal Code's definition of "hotel accommodations" to include home-sharing arrangements, imposes an additional 4% tax on home-sharing rentals, and provides for rescission of shared-housing registrations; and the provisions of Section 8 which create Chi. Muni. Code §§ 4-13-260(a)(9) (prohibiting owners of units from renting them out through home sharing arrangements where a building's owner has prohibited it) and 4-13-270(c) (establishing a list of buildings whose owners have prohibited them from being rented out through home sharing arrangements).

14. All other provisions of the original Ordinance became effective on December 17, 2016.

~~15. The Chicago City Council passed the Amendment to the Ordinance on July 25, 2018, and it became law on or before the City Council's next meeting on September 20, 2018 pursuant to 65 ILCS 5/3.1-40-45.~~

15. ~~The Amendment will take effect on the first day of the first month that begins at least 60 days after its passage and publication.~~The Chicago City Council passed the Amendment to the Ordinance on July 25, 2018. It creates Chi. Muni. Code § 3-24-030(C), which imposes a 2% tax on home-sharing rentals, in addition to the 4% tax on home-sharing rentals that was imposed by the original Ordinance.

16. The City Council enacted the 2020 Amendments on September 9, 2020. The 2020 Amendments will take effect 10 days after their passage and publication, except for certain provisions not at issue in this case, which will take effect April 1, 2021.

Definitions

17. The Ordinance establishes two categories of shared-housing arrangements, which it calls "vacation rentals" and "shared housing units." *Compare* Chi. Muni. Code § 4-14-010 *with* Chi. Muni. Code § 4-6-300(a).

18. The Ordinance's definitions of these two terms are nearly identical, except that they are mutually exclusive.

19. The Ordinance defines a "vacation rental" as "a dwelling unit that contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests," ***not*** including "(1) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in Chi. Muni. Code § 13-4-010; (2) hotels, as that term is defined in Chi. Muni. Code § 4-6-180; (3) a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are paid on a monthly basis; or (4) corporate housing; (5) guest suites; or (6) shared housing units registered pursuant to Chapter 4-14 of this Code." Chi. Muni. Code § 4-6-300.

20. The Ordinance defines a "shared housing unit" as "a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests," not including "(1) single-room occupancy buildings; (2) hotels; (3) corporate housing; (4) bed-and-breakfast establishments, (5) guest suites; *or (6) vacation rentals*." Chi. Muni. Code § 4-14-010 (emphasis added).

21. Consequently, a property is classified as a shared housing unit if it (a) meets the

criteria specified, which are the same criteria that define a vacation rental, but (b) is not a vacation rental.

Warrantless Searches

22. The Ordinance requires any property owner who rents out a room or home through a shared-housing arrangement classified as a "vacation rental" to submit to warrantless inspections by city officials or third parties. Chi. Muni. Code § 4-6-300(d)(2)(e)(1). The Ordinance also subjects all vacation rentals to an unlimited number of inspections by the building commissioner or any third party he or she may designate "*at any time and in any manner*." Chi. Muni. Code § 4-6-300(e)(1) (emphasis added).

23. The Ordinance subjects a "shared housing unit operated by a shared housing unit operator" to inspections by the building commissioner (or a third party) "at least once every two years." Chi. Muni. Code § 4-16-230.

24. The Ordinance does not require the building commissioner to find probable cause or to obtain a warrant before ordering an inspection of a "vacation rental" or a "shared housing unit."

25. Through these provisions, the Ordinance delegates unlimited and unbounded discretion to the building commissioner to conduct, or to commission a third party to conduct, unrestricted searches of homes for any reason, at any time, and in any manner.

The Primary Residence Rule

26. The Ordinance also includes rules prohibiting the use of certain homes as vacation rentals or shared housing units if they are not the owner's "primary residence."

27. The Ordinance defines a "platform" as "an internet-enabled application, mobile application, or any other digital platform used by a short term residential rental intermediary to

connect guests with a short term residential rental provider." Chi. Muni. Code § 4-13-100. Short-term residential rental intermediary is defined as "any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists shared housing units on its platform." *Id*. "Advertising platform" is defined as "any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists licensed bed-and-breakfast establishments, vacation rentals, or hotels on its platform or dwelling units that require a license under this Code to engage in the business of a short term residential rental." *Id*.

28. The Ordinance prohibits the owner of a single family home from listing that property on a "platform"—regardless of whether that home is defined as a "vacation rental" or a "shared housing unit"—and/or from renting the property as either a "vacation rental" or a "shared housing unit," unless that single family home is the owner's "primary residence." Chi. Muni. Code §§ 4-6-300(h)(8), 4-14-060(d).

29. The Ordinance also prohibits the owner of a unit within a building that has two, three, or four dwelling units (inclusive) from listing that property on a "platform" and from renting out the property as a vacation rental or a shared housing unit, unless that unit is: (1) the "primary residence" of the vacation-rental licensee or shared-housing host; and (2) the only unit in the building that is or will be used as a vacation rental or shared housing unit. Chi. Muni. Code §§ 4-6-300(h)(9), 4-14-060(e).

30. These two prohibitions—hereinafter referred to individually and collectively as the "Primary Residence Rule"—do not apply to owners of homes located in buildings with five or more dwelling units. Those owners may offer their homes as "vacation rentals" or "shared

housing units" regardless of whether or not the homes are the owner's primary residence. Chi. Muni. Code §§ 4-6-300(h)(1); 4-14-060(f).

31. Because of the Primary Residence Rule for single-family homes, the Ordinance requires an applicant seeking a license to use a single-family home as a vacation rental to submit with his or her application "an attestation that such home is the applicant's or licensee's primary residence" or, alternatively, that one of the specified exceptions to the Primary Residence Rule applies. Chi. Muni. Code § 4-6-300(b)(8). The Ordinance also requires an applicant seeking to use a unit in a building with two, three, or four units as a vacation rental to submit with his or her application an attestation that the unit "(i) is the applicant's or licensee's primary residence; and (ii) is the only dwelling unit in the building that is or will be used as a vacation rental or shared housing unit, in any combination," or, alternatively, that one of the specified exceptions to the rule applies. Chi. Muni. Code. § 4-6-300(b)(9).

32. The Ordinance makes several exceptions to the Primary Residence Rule:

33. The ***first*** exception to the Primary Residence Rule is that the prohibitions do *not* apply if the owner of the home or unit in question "is on active military duty and . . . has appointed a designated agent or employee to manage, control and reside in the [home or unit] during the [owner's] absence." Chi. Muni. Code §§ 4-6-300(h)(8), (9); 4-14-060(d), (e).

34. The ***second*** exception to the Primary Residence Rule is that the prohibitions do not apply if the owner has received a "commissioner's adjustment." Chi. Muni Code §§ 4-6-300(h)(8), (9); 4-14-060(d), (e).

35. Under Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a), the Commissioner may approve such an "adjustment"——*i.e.*, an exception to the Primary Residence Rule——"if, based on a review of relevant factors, the Commissioner concludes that such an adjustment

would eliminate an extraordinary burden on the applicant in light of unique or unusual circumstances and would not detrimentally impact the health, safety, or general welfare of surrounding property owners or the general public."

36. The Ordinance lists factors that the Commissioner may consider in deciding whether to make an exception to the Primary Residence Rule. The Ordinance explicitly declares that the factors are "by way of example and not limitation." Chi. Muni. Code §§ 4-6-300(l), 4-14-100(a). Those factors include: "(i) the relevant geography, (ii) the relevant population density, (iii) the degree to which the sought adjustment varies from the prevailing limitations, (iv) the size of the relevant building and the number of units contemplated for the proposed use, (v) the legal nature and history of the applicant, (vi) the measures the applicant proposes to implement to maintain quiet and security in conjunction with the use, (vii) any extraordinary economic hardship to the applicant, due to special circumstances, that would result from the denial, (viii) any police reports or other records of illegal activity or municipal code violations at the location, and (ix) whether the affected neighbors support or object to the proposed use." *Id.*

37. The ***third*** exception to the Primary Residence Rule exempts vacation-rental applicants or licensees who "held a valid vacation rental license, as of June 22, 2016, for the [home or unit in question]," Chi. Muni. Code §§ 4-6-300(h)(8), (9), and shared housing applicants whose home or unit "was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental," Chi. Muni. Code §§ 4-14-060(d), (e).

Rental Caps

38. The Ordinance limits the number of units within a building that may be used as either a "vacation rental" or a "shared housing unit."

39. Specifically, the Ordinance prohibits a home from being used as a "vacation

rental" or "shared housing unit" if it is a dwelling unit in a building with five or more units and "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 either a "vacation rental" or a "shared housing unit." Chi. Muni. Code §§ 4-6-300(h)(10), 4-14-060(f).

40. Similarly, the Ordinance prohibits a home in a building with four or fewer units from being used as a vacation rental or a shared housing unit if another short term rental is already registered in the same building. Chi. Muni. Code §§ 4-6-300(h)(9), 4-14-060(e).

Noise Rules

41. The Ordinance provides that a vacation rental license or shared housing unit registration may be suspended if a unit has been the situs of certain "objectionable conditions" on ~~three~~ two or more occasions, while rented to guests. Chi. Muni. Code §§ 4-6-300(j)(2)(ii), 4-14- 080(c)(2).

42. The "objectionable conditions" that can lead to a license or registration suspension include, among others, "excessive loud noise," which the 2020 Amendments define~~d~~ as

> (1) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the [unit] or on any private open space having a nexus to the [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 [unit] or private open space, as applicable; or (2) any sound generated on the public way immediately adjacent to the [unit], measured vertically or horizontally from its source, by any person having a nexus to the [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 [unit] by the licensee or such licensee's agent; or (iii) subject to an

> exception or exclusion under Section 8-32-170. ~~"any noise, generated from within or having a nexus to the rental of the shared housing unit [*sic*], 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." Chi. Muni. Code §§ 4-6-300(j)(2)(ii), 4-14-080(c)(2).~~

Chi. Muni. Code §§ 4-6-300, 4-14-010.

~~42.~~43. The Ordinance and its amendments do~~es~~ not define "average conversational level." This term is vague, unintelligible, and provides no limits to, or guidelines for, the exercise of official discretion when determining what "level" is "average."

~~43.~~44. The ~~Ordinance~~ City ~~imposes no~~ does not restrict unamplified sounds originating within residential units or hotel accommodations other than vacation rentals and shared housing units. ~~such noise rule, or any equivalent rule, on other rental entities regulated by this or any other Ordinance.~~ The Chicago Municipal Code sections restricting noise in general (which apply to entities the Ordinance defines as "bed-and-breakfast establishments" or "hotel accommodations") specifically exempt "noise created by unamplified human voices." Chi. Muni. Code §§ 8-32-150, 8-32-170. The ~~Ordinance~~Code~~, however,~~ contains no similar exemption for unamplified human voices in vacation rentals or shared housing units. Further, the restrictions on noise in bed-and-breakfasts or hotels apply to noise "on the public way" or "on any private open space," not noise "within or having a nexus to" a particular property.

Discriminatory Taxation

~~44.~~45. The Ordinance imposes an extra 4 percent tax on "vacation rentals" and "shared housing units" that it does not impose on other rentals the Ordinance defines as "hotel accommodations."

~~45.~~46. The subsequent Amendment imposes an additional 2 percent tax on "vacation rentals" and "shared housing units" that it does not impose on other rentals the Ordinance defines

as "hotel accommodations."

~~46.~~47. The Ordinance defines "hotel accommodations" to include "a room or rooms in any building or structure kept, used, or maintained as, or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, bed-and-breakfast establishment, vacation rental, . . . shared housing unit, dormitory, or similar place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals." Chi. Muni. Code § 3-14-020(A)(4).

~~47.~~48. The Code imposes a 4.5 percent tax on the gross rental or leasing charge for any hotel accommodation in the City, and also imposes additional taxes of 4 percent plus 2 percent (for a total of 6 percent) of gross rental or leasing charges for any "vacation rental" or "shared housing unit." Chi. Muni. Code § 3-24-030. These additional taxes of 4 percent and 2 percent apply *only* to vacation rentals and shared housing units. They do not apply to any other "hotel accommodations," such as inns, hotels, motels, lodging houses, or "bed-and-breakfast establishments."

Ban on Single-Night Rentals

49. The 2020 Amendments to the Ordinance include provisions that ban single-night rentals of vacation rentals and shared housing units. Specifically, the 2020 Amendments prohibit rentals of vacation rentals or shared housing units for fewer than two consecutive nights and prohibit multiple rentals of a vacation rental or shared housing unit within a 48-hour period. Chi. Muni. Code §§ 4-6-300(g)(1), (2), 4-14-050(e), (f).

50. The Code provisions prohibiting single-night rentals state that these prohibitions shall remain in place only "until such time that the [C]ommissioner and the superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules

jointly and duly promulgated by the [C]ommissioner and superintendent." Chi. Muni. Code §§ 4-6-300(g)(1), (2), 4-14-050(e), (f).

51. The Code does not require the Commissioner or the superintendent of police ever to determine whether single-night rentals can be conducted safely or to promulgate rules to allow safe single-night rentals.

52. The Code provides no criteria by which the Commissioner or the superintendent of the police are to determine what constitutes "safe" conduct of single-night rentals.

53. The 2020 Amendments therefore delegate the public policy decision of whether single-night rentals will be allowed in the City of Chicago to the Commissioner and the superintendent of police.

54. Before the City enacted the 2020 Amendments, Plaintiffs made their respective shared housing units available for single-night rentals; they wish to make their homes available for single-night rentals again, and they would do so if the 2020 Amendments did not prohibit it.

~~**Discriminatory Fees**~~

~~48. The Ordinance imposes different fees on "vacation rentals" and "shared housing units" than it imposes on other entities that the Ordinance defines as "hotel accommodations."~~

~~49. To operate a hotel in Chicago, one must obtain a regulated business license from the City. Chi. Muni. Code § 4-6-180(b). That license costs $250, plus $2.20 per room, Chi. Muni. Code § 4-5-010(3), and must be paid every 2 years. Chi. Muni. Code § 4-5-010.~~

~~50. To operate a "bed-and-breakfast establishment" in Chicago, one must obtain a regulated business license to engage in the business of bed-and-breakfast establishment from the City. Chi. Muni. Code § 4-6-290(b). Such a license costs $250, Chi. Muni. Code 4-5-010(2), and must be paid every two years. Chi. Muni. Code § 4-5-010.~~

~~51. To operate a "vacation rental" in Chicago, one must obtain a regulated business license from the City authorizing the owner of a dwelling unit to rent or lease such dwelling unit as a vacation rental. Chi. Muni. Code § 4-6-300(b). Such a license costs $250, Chi. Muni. Code 4-5-010(2), and must be paid every 2 years. Chi. Muni. Code § 4-5-010. A separate license is required for each dwelling unit used as a "vacation rental." Chi. Muni. Code § 4-6-300(d)(1).~~

~~52. Unlike the owner of a "vacation rental," the owner or tenant of a single "shared housing unit" is *not* required to obtain a license or paying a licensing fee to the City. Instead, a "short term residential rental intermediary" must register annually with the City on behalf of the tenant or owner. Chi. Muni. Code § 4-13-230(a). In addition, the "short term residential rental intermediary" must pay a $10,000 license fee plus $60 for each "short term residential" rental listed on its "platform." Chi. Muni. Code § 4-5-010(36).~~

~~53. Further, any person who is a "shared housing unit" host for more than one dwelling unit ("Shared Housing Unit Operator") must obtain a license. Chi. Muni. Code § 4-16-200. A shared housing unit operator license costs $250, Chi. Muni. Code § 4-5-010(38), and must be renewed every two years. Chi. Muni. Code § 4-5-010.~~

Injuries to Plaintiffs

55. Plaintiff~~s Leila Mendez and~~ Alonso Zaragoza use~~s~~ the Airbnb platform to rent out ~~rooms in their homes~~a home in Chicago. Accordingly, ~~they are~~he is subject to the Ordinance's rules that apply to homeowners who rent out their homes as "shared housing units." Plaintiff Leila Mendez previously used the Airbnb platform to rent out a home in Chicago but ceased doing so because of the burdens the Ordinance imposed on her.

~~55.~~

56. Because ~~they rent~~he rents out ~~rooms in their respective homes~~a home as a "shared

housing units," Ms. Mendez and Mr. Zaragoza will be subject to warrantless searches of their respective homeshis home as set forth above; they also he must comply with and will be subject to having their his shared housing unit registrations revoked for violations of the "excessive noise" rules described above; and he is prohibited from renting out his home as a shared housing units for single nights.

57. In addition, the City denied Mr. Zaragoza's application to would like to use the Airbnb platform to rent out a dwelling unit in rent out a dwelling unit in a three-unit residential building he owns in Chicago on the ground that it ; because the unitwas is not his primary residence, however, the Ordinance prohibits him from doing so.

58. As Chicago residents and homeowners, Plaintiffs Mendez and Zaragoza pay sales taxes and property taxes to the City of Chicago.

59. The City uses public funds, including general revenue funds, to implement and enforce all of the foregoing provisions of the Ordinance.

60. Accordingly, Plaintiffs are injured when the City of Chicago uses public funds, which they will be liable to replenish as Chicago taxpayers, for an unconstitutional or otherwise illegal activity.

COUNT I
The Ordinance authorizes unreasonable searches and invasions of privacy.
(Illinois Constitution Article I, Section 6)

61. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

62. Article I, section 6 of the Illinois Constitution provides:

> The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No

> warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

63. Because the Ordinance empowers the building commissioner to conduct unrestricted warrantless administrative searches of residential property, it violates Plaintiffs' and their guests' constitutional rights to privacy and protection against unreasonable searches and seizures under Article I Section 6 of the Illinois Constitution.

64. The Ordinance injures Plaintiffs because it subjects them to unconstitutional searches of their respective homes in Chicago, which they rent out as shared housing units.

65. The Ordinance also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds the City uses to conduct unconstitutional searches pursuant to the Ordinance.

66. Although the Court dismissed this claim in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶ 17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

67. Because the Court dismissed this claim for lack of ripeness because the City of Chicago had not yet enacted rules and regulations to govern its searches under the ordinance, Plaintiffs reserve the right to pursue this claim if and when the City enacts such rules or regulations or when the City conducts searches under the Ordinance in the absence of rules and regulations.

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Ordinance's authorizations of unrestricted warrantless administrative searches of residential property in Chi. Muni. Code §§ 4-6-300(e)(1)

and 4-16-230 violate Article I, Section 6, of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from conducting warrantless searches pursuant to Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230;

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to conduct warrantless searches pursuant to Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230;

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law; and

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT II
The Ordinance's "primary residence" requirement violates substantive due process.
(Illinois Constitution Article I, Section 2)

68. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

69. The Due Process Clause of the Illinois Constitution (Article I, Section 2) provides that "[n]o person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws."

70. The Due Process Clause of the Illinois Constitution protects the right of Illinoisans to use their private property as they see fit, subject only to regulations that are rationally related to the public's health, safety, or welfare.

71. Plaintiffs allege that the City of Chicago's home-rule authority to regulate the use of private property within the City does not entitle it to enact restrictions on the use of private property that bear no reasonable relationship to the public's health, safety, or welfare. *See*

Chicago Title & Trust Co. v. Lombard, 19 Ill. 2d 98, 105 (1960).

72. Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) violate the right to due process, both on their face and as applied, to the extent that they prohibit an owner of private property in Chicago from using a single-family home as a vacation rental or shared housing unit simply because the home is not the owner's primary residence.

73. Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) likewise violate the right to due process, both on their face and as applied, to the extent that they prohibit an owner of a dwelling unit in a building with two, three, or four dwelling units from using his or her unit as a vacation rental or shared housing unit simply because the unit is not the owner's primary residence.

74. The Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e), is not rationally related to any legitimate government interest and therefore is not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

75. Specifically, restricting *who* may rent out a single-family home or dwelling unit in a building with two, three, or four units as a vacation rental or shared housing unit bears no relationship to the public's health, safety, or welfare.

76. The City has no reasonable basis for concluding that guests staying at homes which are the primary residences of the owners would pose a lesser threat to the public's health, safety, or welfare than would guests who stay at homes which are not the primary residences of their owners.

77. A regulation actually directed toward protecting the public's health, safety, or welfare would address *how* such homes and units are used——*e.g.*, by prohibiting specific nuisance activities or specified noise levels, imposing mandates on property management

companies, etc., so as to ensure that actions taken by guests in a vacation rental or shared housing unit do not harm others. Limiting allowable ownership accomplishes none of these purposes. The City can protect quiet, clean, and safe neighborhoods by, for example, implementing rules to limit noise, enforce parking restrictions, and restricting other specific nuisances.

78. Therefore, because the Primary Residence Rule bears no reasonable relationship to how vacation rentals and shared housing units are used, it bears no rational relationship to the public's health, safety, or welfare.

79. For these reasons, the Primary Residence Rule violates the right to due process of law guaranteed by Article I, Section 2 of the Illinois Constitution on its face and as applied to Plaintiffs.

80. In addition, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) give the Commissioner unbounded and unbridled discretion to make exceptions to the Primary Residence Rule under vague, unintelligible, and undefined criteria. This allows the Commissioner to exercise arbitrary and unlimited discretion to permit or deny a citizen the right to use a single-family home as a vacation rental or shared housing unit.

81. Specifically, the Ordinance gives the Commissioner excessively broad discretion by failing to provide sufficient objective criteria to guide the Commissioner's exercise of discretion in deciding whether to make an exception to the Primary Residence Rule. The Ordinance gives the Commissioner arbitrary power by allowing him or her to consider factors not listed in the Ordinance in deciding whether to grant an exception to the Primary Residence Rule.

82. Further, the factors the Ordinance does authorize the Commissioner to consider

when deciding whether to grant an exception to the Primary Residence Rule are vague, arbitrary, undefined, unintelligible, and not reasonably related to the public's health, safety, or welfare. Specifically:

a. "[T]he relevant geography" is vague and unintelligible because the Ordinance does not define that term, and it could therefore mean virtually anything the Commissioner wants it to mean that relates in any way to "geography." The Ordinance thus allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of how unspecified geographical factors may relate to the granting or denial of exceptions.

b. "[T]he relevant population density" is vague and unintelligible because the Ordinance does not specify which geographical unit's population density is relevant, nor does it specify in what way population density is relevant to whether an exception to the Primary Residence Rule would affect the public's health, safety, or welfare, and because the Ordinance allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of how population density in an unspecified location relates to the granting or denial of exceptions.

c. "[T]he legal nature and history of the applicant" is vague and unintelligible because the Ordinance does not define "legal nature and history of the applicant" and because it authorizes the Commissioner to grant or deny an exception to the Primary Residence Rule based on his subjective, personal view regarding an applicant's "legal nature" or "legal history," even if those matters are entirely unrelated to public health, safety, or welfare, or to the applicant's operation of a vacation rental or shared housing unit. Nor does the Ordinance specify in what way the "legal nature" or the "legal history" of the applicant is relevant to whether an exception

to the Primary Residence Rule should be granted.

d. "[A]ny extraordinary economic hardship to the applicant" is vague and unintelligible because the Ordinance does not define "extraordinary economic hardship" or explain how the Commissioner is to determine what qualifies as "hardship," and because the Ordinance allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of an applicant's economic need, which bears no relationship to protecting the public's health, safety, or welfare. Nor does the Ordinance specify in what way "economic hardship" is relevant to whether an exception to the Primary Residence Rule would serve the public's health, safety, or welfare.

e. "[A]ny police reports or other records of illegal activity or municipal code violations at the location" is vague and arbitrary because it authorizes the Commissioner to grant or deny property rights based on "illegal activity" and "municipal code violations" that were not committed by the applicant, including even illegal actions of which the applicant was the victim. Also, this criterion is vague and arbitrary because illegal activities and municipal code violations occurring at a location have no necessary relationship to whether granting an exception to the Primary Residence Rule would affect the public's health, safety, or welfare.

f. "[W]hether the affected neighbors support or object to the proposed use" is also vague, arbitrary, and not rationally related to the promotion of a legitimate government interest. The Ordinance does not define "affected neighbors" and authorizes the Commissioner to grant or deny property rights based on the subjective, personal, or privately-interested desires of particular private parties rather than the public's health, safety, or welfare.

83. On its face, this grant of arbitrary power to the Commissioner violates the right to due process of law guaranteed by Article I, Section 2 of the Illinois Constitution.

84. The Primary Residence Rule injures Plaintiff Alonso Zaragoza because it prevents him from renting out a unit in the three-unit residential building in Chicago that he owns because the unit is not his primary residence.

85. The Primary Residence Rule injures Plaintiffs because they will be liable, as taxpayers, to replenish the public funds the City uses to implement and enforce it.

86. The Commissioner's exercise of arbitrary power in considering whether to grant an exception to the Primary Residence Rule likewise injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds used to fund the Commissioner's activity.

87. The Court dismissed this claim (Count III of Plaintiffs' original complaint) in its Order of October 13, 2017, except to the extent that it is based on the Commissioner adjustment exception to the Primary Residence Rule. It dismissed the rest of this claim in its Order of April 2, 2018. Plaintiff alleges the dismissed bases for this claim to preserve them for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) is unconstitutional, both on its face and as applied, because it violates the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) is unconstitutional, both on its face and as applied, because it violates the due process guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a declaratory judgment that, by granting the Commissioner arbitrary power

to make exceptions to the foregoing rules, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

D. Enter a permanent injunction prohibiting Defendants from enforcing the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

F. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT III
The Ordinance's Primary Residence Rule violates the right to equal protection under the law.
(Illinois Constitution Article I, Section 2)

88. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

89. The Ordinance does not impose the Primary Residence Rule set forth above on owners of homes located in buildings with five or more dwelling units. Instead, those owners may offer their homes as "vacation rentals" or "shared housing units" regardless of whether or not the homes are the owner's primary residence. Chi. Muni. Code § 4-6-300(h)(1) (vacation rentals); § 4-14-060(f) (shared housing units).

90. This discrimination is irrational and arbitrary, and it violates the right to equal protection of the law of people who wish to offer homes that they own, but that are not their primary residences, as vacation rentals or shared housing units. This discrimination is not

rationally related to any legitimate government interest and therefore is not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

91. Specifically, forbidding the owner of a unit in a building with two, three, or four units from renting the unit out as a vacation rental or shared housing unit because the unit is not the owner's primary residence——while allowing owner of a unit in a building with more than four units to rent the unit out as a vacation rental or shared housing unit, even if it is *not* the owner's primary residence——bears no relationship to the public's health, safety, or welfare.

92. The City has no reasonable basis for believing that guests staying at homes of *more than four units* that are not owned by their primary residents would pose a lesser threat to the public's health, safety, or welfare than guests who stay at homes of *two, three, or four units*, that are not owned by people who are not the homes' primary residents.

93. A regulation actually directed toward protecting the public's health, safety, or welfare would address *how* those homes or units are used——*i.e.*, it would be directed at ensuring that actions taken by guests in a vacation rental or shared housing unit do not harm others or create nuisances. For example, the City can protect quiet, clean, and safe neighborhoods by implementing rules to limit noise, enforce parking restrictions, and deal with other nuisances.

94. By imposing restrictions on property based not on the use of that property but on the irrelevant and arbitrary criterion of whether the property contains four units or fewer, the Ordinance imposes a form of unconstitutional discrimination. This discrimination injures Plaintiff Alonso Zaragoza because it prevents him from renting out a unit in the three-unit residential building in Chicago that he owns because the unit is not his primary residence.

95. This discrimination also injures Plaintiffs because, as Chicago taxpayers, they will

be liable to replenish the public funds Defendants use to implement and enforce the Primary Residence Rule.

96. Although the Court dismissed this claim (Count IV of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) is unconstitutional, both on its face and as applied, because it violates the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) is unconstitutional, both on its face and as applied, because they violate the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a declaratory judgment that, by granting the Commissioner arbitrary power to make exceptions to the foregoing rules, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) are unconstitutional, both on their face and as applied, because they violate the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

D. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from enforcing the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

F. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

G. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT IV
The Ordinance's rental cap violates substantive due process.
(Illinois Constitution Article I, Section 2)

97. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

98. The rental-cap provisions of Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f), which limit the number of units in a building that may be used as "vacation rentals" or "shared housing units," are not related to any legitimate government interest and therefore are not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

99. The rental-cap provisions are not tied to how often—or even *whether*—a property is actually rented out to guests. Rather, the caps are triggered by a property owner merely obtaining a license to rent out a property as a vacation rental, or by registering a home as a shared housing unit, even if he or she never actually rents out the property at all.

100. The City has no rational foundation for concluding that restricting the number of vacation rentals or shared housing units within a building, as the rental cap provisions do, protects the public's health, safety, or welfare.

101. A regulation actually directed toward protecting the public's health, safety, or welfare would address *whether* and *how* such units are used—*i.e.*, it would be directed at ensuring that actions taken by guests in a vacation rental or shared housing unit do not harm others.

102. For example, the City can protect quiet, clean, and safe neighborhoods by

implementing rules to limit noise, enforce parking restrictions, and prohibit other nuisance activities.

103. The only purpose of the rental-cap provisions is to protect the traditional hotel industry against legitimate economic competition from property owners classified as "vacation rentals" or "shared housing units."

104. Protecting the hotel industry against competition at the expense of people who would like to operate "vacation rentals" or "shared housing units" is not a valid exercise of the City's police power to protect the public's health, safety, and welfare.

105. The rental cap provisions therefore violate the right to due process of law guaranteed by Article I, Section 2 of the Illinois Constitution on their face and as applied to Plaintiffs.

106. The rental cap provisions injure Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds the City uses to implement and enforce the provisions.

107. Although the Court dismissed this claim (Count V of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that Chi. Muni. Code §§ 4-6-300(h)(10) and 4-14-060(f), which restrict the number of dwelling units in a building with five or more units that may be used as vacation rentals or shared housing units, are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e), which restrict the number of dwelling units that may be used as vacation rentals or shared housing units in a building with four or fewer units, are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a permanent injunction prohibiting Defendants from enforcing the restrictions on the number of units in a building that may be used as vacation units or shared housing units in Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f).

D. Enter a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the restrictions on the number of units in a building that may be used as vacation units or shared housing units in Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f);

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT V
The Ordinance's authorization of license revocation for "excessive loud noise" violates substantive due process because it is vague.
(Illinois Constitution Article I, Section 2)

108. Plaintiffs reallege the preceding paragraphs of this complaint as though fully set forth herein.

109. The sections of the Ordinance providing for suspension of a vacation rental license or shared housing unit registration based on "excessive loud noise" do not provide the kind of notice that would enable an ordinary person to understand what constitutes "excessive

loud noise."

110. ~~The Ordinance's definition of "excessive loud noise" ("any noise, generated from within or having a nexus to the rental of the shared housing unit [or vacation rental], 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 [or vacation rental]")~~ The Code does not define what it means to "hav[e] a nexus to the rental" nor does it define "average conversational level~~.~~" as those terms are used in the Ordinance's first definition of "excessive loud noise" ("any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the [unit] or on any private open space having a nexus to the [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 [unit] or private open space, as applicable").

111. In addition, the ~~Ordinance~~ Code encourages arbitrary and discriminatory enforcement both because of its vague, undefined, and unintelligible terms and because it does not specify a mechanism for how the City will decide when an instance of the Ordinance's first definition of "excessive loud noise" has occurred.

112. The ~~Ordinance~~ Code does not provide a procedure or standards for measuring, recording, or logging instances of the Ordinance's first definition of "excessive loud noise."

113. Other municipalities impose objective noise limitations by specifying the decibel level that is permissible or impermissible at particular times. Because the ~~Ordinance~~ Code lacks such objective measurement or any procedure for objective measurement or recording with respect to a vacation rental license or shared housing unit, the ~~Ordinance~~ Code is vague and subjective and subjects the Plaintiffs to arbitrary, unpredictable, and subjective enforcement and/or punishment based on allegations of "excessive noise" that cannot be proven or disproven.

114. Further, the Ordinance's first definition of "excessive loud noise" specifies no durational requirement, so that a quick and solitary burst of noise—for example, a child crying out or a person cheering while watching a sporting event—apparently would be "excessive loud noise" even if those sounds are sustained for mere seconds, which makes it virtually impossible to avoid noise violations.

115. For these reasons, the Ordinance's first definition of "excessive loud noise" is vague and unintelligible, and allows for arbitrary and discriminatory enforcement, and thus violates the Due Process Clause of the Illinois Constitution.

116. The ~~Ordinance's~~ Code's "excessive loud noise" provision for shared housing units injures Plaintiffs ~~Alonzo Zaragoza~~ because, as ~~a person~~property owners who rent~~s~~ out ~~his~~their respective Chicago homes as shared housing units, ~~he~~ they cannot know in advance what noise level is "excessive," or take steps to prevent "excessive loud noise," or know in advance how to avoid suspension of ~~his~~ their shared housing units' registrations based on noise violations or how to avoid other penalties.

117. The ~~Ordinance's~~ Code's "excessive loud noise" provisions also injure Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds Defendants use to implement and enforce the unconstitutional rule.

118. Although the Court dismissed a previous version of this claim (Count VI of Plaintiffs' original complaint) in its order of October 13, 2~~1~~017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶ 17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal). **Wherefore**, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the "excessive loud noise" provisions of Chi.

Muni. Code §§ 4-6-300~~(j)(2)(ii~~a~~)~~ and 4-14-0~~8~~1~~0(c)(2)~~ are unconstitutionally vague, both on their face and as applied, in violation of the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from revoking any vacation rental license or shared housing unit registration based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to revoke any vacation rental license or shared housing unit based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

D. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VI
The Ordinance's authorization of license revocation for "excessive loud noise" violates the right to equal protection under the law.
(Illinois Constitution Article I, Section 2)

119. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set forth herein.

120. Although the ~~Ordinance~~ Code authorizes the City to revoke the vacation rental license or shared housing unit registration of a unit that has been the situs of "excessive loud noise" on ~~three~~ two or more occasions, as set forth above, the City does not subject hotels and bed-and- breakfast establishments to the same restrictions.

121. This difference in treatment bears no reasonable relationship to protecting the public's health, safety, or welfare because noise has the same effect on the public regardless of

whether it comes from a hotel, a bed-and-breakfast establishment, a vacation rental, or a shared housing unit.

122. The ~~Ordinance's~~ Code's rule on "excessive loud noise" therefore singles out "vacation rentals" and "shared housing units" for unfavorable treatment for reasons and in a manner that is not reasonably calculated to protect any legitimate government interest in public health, safety, or welfare.

123. In this way, the ~~Ordinance~~ Code irrationally and arbitrarily discriminates against owners of vacation rentals and shared housing units in violation of their right to equal protection of the law.

124. This discrimination injures ~~Plaintiff Alonso Zaragoza as a person~~Plaintiffs as individuals who rent~~s~~ out ~~his~~their respective Chicago homes as shared housing units, who are~~is~~ subject to the more stringent rule applicable to shared housing units.

125. This discrimination also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds Defendants use to implement and enforce the unconstitutional rule.

126. Although the Court dismissed a previous version of this claim (Count VII of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the "excessive loud noise" provisions of Chi. Muni. Code §§ 4-6-300~~(aj)(2)(ii)~~ and 4-14-0180~~(c)(2)~~ violate the equal protection clause of

Article I, Section 2 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendant City of Chicago from enforcing license revocation provisions for "excessive loud noise" of Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to revoke any vacation rental license or shared housing unit based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

D. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 740 ILCS 23/5(c);

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VII
The Ordinance's taxes ~~and fees~~ violate the Uniformity Clause of the Illinois Constitution.
(Illinois Constitution Article IX, Section 2)

127. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set forth herein.

128. The Uniformity Clause, Article IX, Section 2, of the Illinois Constitution provides:

> In any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.

~~129.~~ To comply with the Uniformity Clause, a tax must: (1) be based on a "real and substantial" difference between those subject to the tax and those that are not; and (2) "bear some reasonable relationship to the object of the legislation or to public policy." *Arangold Corp. v.*

Zehnder, 204 Ill. 2d 142, 150 (2003).

~~130.~~129. **~~Discriminatory Tax~~**

~~131.~~130. The City of Chicago imposes a 4% tax—in addition the City's hotel tax—on the class of taxpayers who stay in vacation rentals or shared housing units in Chicago.

~~132.~~131. The City of Chicago does not impose that extra 4% tax on the class of taxpayers: who stay at Chicago establishments other than vacation rentals and shared housing units that are included in the City's definition of "hotel accommodations," such as hotels and bed-and- breakfasts.

~~133.~~132. The City of Chicago also imposes an additional 2% tax—in addition the City's hotel tax—on the class of taxpayers who stay in vacation rentals or shared housing units in Chicago.

~~134.~~133. The City of Chicago does not impose that extra 2% tax on the class of taxpayers: who stay at Chicago establishments other than vacation rentals and shared housing units that are included in the City's definition of "hotel accommodations," such as hotels and bed-and- breakfasts.

~~135.~~134. There are individuals who are members of the first class of taxpayers who are not members of the second class of taxpayers: *i.e.,* some individuals stay (and pay taxes) only at vacation rentals or shared housing units in Chicago, and some individuals stay (and pay taxes) only at hotels, bed-and-breakfasts, or other "hotel accommodations" that are not vacation rentals or shared housing units.

~~136.~~135. For purposes of taxation, there is no real and substantial difference

between vacation rentals and shared housing units—whose guests are subject to additional taxes of 4% and 2% (for a total of 6%)—and other establishments included in the definition of "hotel accommodations," whose guests are not subject to those taxes.

~~137.~~136. The Code's definition of a bed-and-breakfast establishment—"an owner-occupied single-family residential building, or an owner-occupied, multiple-family dwelling unit building, or an owner-occupied condominium, townhouse, or cooperative, in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by registered guests," Chi. Muni. Code § 4-6-290(a)—is substantially similar to, and overlaps with, the Ordinance's definitions of vacation rentals and shared housing units, which include dwelling units with "6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests," Chi. Muni. Code §§ 4-6-300, 4-14-010.

~~138.~~137. Accordingly, the City cannot justify imposing taxes of 4% and 2% on vacation rentals and shared housing units that it does not apply to bed-and-breakfast establishments.

~~139.~~138. In addition, the Ordinance's stated purpose of the extra 4% tax that applies only to guests of vacation rentals and shared housing units—to "fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless," Chi. Muni. Code § 3-24-030(B)—does not bear any reasonable relationship to the object of the legislation.

~~140.~~139. Further, the Ordinance's stated purpose of the additional 2% tax that applies only to guests of vacation rentals and shared housing units—to "fund housing and related supportive services for victims of domestic violence," Chi. Muni. Code § 3-24-030(C)—does not bear any reasonable relationship to the object of the legislation.

~~141.~~140. There is no reason to believe that guests of vacation rentals and shared housing units have anything to do with homelessness, let alone any reason to think that vacation rentals and shared housings units have any *greater* connection to homelessness than other traveler housing accommodations, such as hotels, bed-and-breakfast establishments, or even non-commercial activities such as staying in a friend's guest room.

~~142.~~141. There is also no reason to believe that guests of vacation rentals and shared housing units have anything to do with domestic violence, or a connection to the availability of housing or supportive services for victims of domestic violence. Additionally, there is no reason to think that vacation rentals and shared housings units have any *greater* connection to the availability of housing or supportive services for victims of domestic violence than other traveler housing accommodations, such as hotels, bed-and-breakfast establishments, or even non- commercial activities such as staying in a friend's guest room.

~~143.~~142. For these reasons, the Code's discriminatory taxes that apply to only to guests of vacation rentals and shared housing units, but not to guests of other "hotel accommodations," violate the Uniformity Clause of the Illinois Constitution.

~~144.~~143. The Code's additional taxes on guests of vacation rentals and shared housing units injure Plaintiff Alonso Zaragoza because guests to whom he rents out his shared housing units are required to pay it.

~~145.~~144. The Code's discriminatory taxation of guests of vacation rentals and shared housing units also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the treasury for the public funds used to implement and collect the unconstitutional tax.

~~**Discriminatory Licensing Fees**~~

~~146. For the purpose of licensing fees, there is no real and substantial difference~~

between hotels, bed-and-breakfast establishments, vacation rentals, and shared housing units. Yet the Code applies separate licensing fees for each of these hotel accommodations. *See* ¶¶ 54-59.

147. The license for a hotel costs $250, plus $2.20 per room, Chi. Muni. Code § 4-5-010(3), and must be paid every 2 years. Chi. Muni. Code § 4-5-010.

148. A license for a "bed-and-breakfast establishment" costs $250, Chi. Muni. Code 4-5-010(2), and must be paid every two years. Chi. Muni. Code § 4-5-010.

149. A license for a "vacation rental" costs $250, Chi. Muni. Code 4-5-010(2), and must be paid every 2 years. Chi. Muni. Code § 4-5-010.

150. The owner or tenant of a single "shared housing unit" is *not* required to obtain a license or pay a licensing fee to the City. Instead, a "short term residential rental intermediary" must register annually with the City on behalf of the tenant or owner. Chi. Muni. Code § 4-13-230(a). In addition, the "short term residential rental intermediary" must pay a $10,000 license fee plus $60 for each "short term residential" rental listed on its "platform." Chi. Muni. Code § 4-5-010(36).

151. Any person who is a "shared housing unit" host for more than one dwelling unit ("Shared Housing Unit Operator") must obtain a license. Chi. Muni. Code § 4-16-200. A shared housing unit operator license costs $250, Chi. Muni. Code § 4-5-010(38), and must be renewed every two years. Chi. Muni. Code § 4-5-010.

152. The Ordinance's different fee schemes for vacation rentals and shared housing units are especially unjustifiable because the Code's definitions of the two types of rentals are virtually identical.

153. In addition, the fees' purpose does not bear any reasonable relationship to the object of the Ordinance because there can be no legitimate purpose in charging different

~~registration fees for such similar uses.~~

~~154. For these reasons, the Code's imposition of different registration fees on similar types of hotel accommodations violates the Uniformity Clause of the Illinois Constitution.~~

~~155. The Code's discriminatory fees for vacation rentals and shared housing units injure Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the treasury for the public funds used to implement and collect the unconstitutional fees.~~

Wherefore, the Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Ordinance's additional taxes of 4% and 2% that apply only to vacation rentals and shared housing units, but not to similar units defined as "hotel accommodations," in Chi. Muni. Code § 3-24-030 violate the Uniformity Clause of Article IX, Section 2, of the Illinois Constitution;

~~B. Enter a declaratory judgment that the Ordinance's imposition of different licensing and registration fees on similar units defined as "hotel accommodations" in Chi. Muni. Code § 4-5-010 violates the Uniformity Clause of Article IX, Section 2, of the Illinois Constitution;~~

~~C.~~B. Enter a preliminary injunction and a permanent injunction against the Defendant City of Chicago's enforcement of the Ordinance's 4% and 2% taxes on vacation rentals and shared housing units in Chi. Muni. Code § 3-24-030~~ and the licensing and registration fees for hotel accommodations in Chi. Muni. Code § 4-5-010~~;

~~D.~~C. Enter a preliminary injunction and a permanent injunction against the Defendant City of Chicago's use of public funds or public resources to enforce the Ordinance's 4% and 2% taxes on vacation rentals and shared housing units in Chi. Muni. Code § 3-24-030~~ and the licensing and registration fees for hotel accommodations in Chi. Muni. Code § 4-5-010~~;

~~E.~~D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees, pursuant to 740 ILCS 23/5(c) or other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VIII
The 2020 Amendments' delegation of authority to allow or prohibit single-night rentals violates the constitutional separation of powers.
(Illinois Constitution Article IV, Section 1)

145. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set forth herein.

146. Article IV, Section 1, of the Illinois Constitution places the state's legislative power in the Illinois General Assembly.

147. Although the Illinois General Assembly may delegate legislative powers to municipal legislative bodies, such as the Chicago City Council, Article IV, Section 1 prohibits a municipal legislative body from further delegating legislative power to individuals or entities outside the legislative branch of government.

148. The provisions of the 2020 Amendments regarding single-night rentals (Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f)) violate the constitutional separation of powers because they entirely delegate the public-policy decision of whether, when, and under what conditions single-night rentals of vacation rentals and shared housing units will be lawful in the City of Chicago to the Commissioner and the superintendent of police.

149. The 2020 Amendments do not sufficiently constrain the Commissioner and the superintendent's discretion to avoid violating the constitutional separation of powers.

150. The Commissioner and superintendent's discretion is unconstrained because the Code does not obligate them ever to promulgate, or even consider promulgating, regulations to allow for safe single-night rentals, nor does it define what would constitute safe single-night

rentals.

151. The provisions of the 2020 Amendment banning single-night rentals unless and until the Commissioner and the superintendent take actions to allow them directly injures Plaintiffs because they previously rented out shared housing units for single nights and would do so again but for the ban.

Wherefore, the Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the 2020 Amendments' provisions banning single-night rentals of vacation rentals and shared housing units unless and until the Commissioner and the superintendent of police take action to allow them violate the separation of powers mandated by Article IV, Section 1 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction against enforcement of the provisions prohibiting single-night rentals of vacation rentals and shared housing units in Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f);

C. Enter a preliminary injunction and a permanent injunction against the use of public funds or public resources to enforce the provisions prohibiting single-night rentals of vacation rentals and shared housing units in Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f);

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees, pursuant to 740 ILCS 23/5(c) or other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

Dated: September 21, 2020

Respectfully submitted,

LEILA MENDEZ and ALONSO ZARAGOZA

By: /s/ Jeffrey M. Schwab
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Exhibit C

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

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.	Case No. 16 CH 15489 Judge Sanjay T. Tailor In Chancery Injunction/Temporary Restraining Order

THIRD AMENDED COMPLAINT

Introduction

1. This is a civil-rights lawsuit to vindicate the constitutional rights of homeowners who wish to offer their private homes to overnight guests but have been arbitrarily and irrationally deprived of the right to do so by the City of Chicago's draconian and unintelligible 58-page Shared Housing Ordinance (Ordinance No. O2016-5111, hereinafter the "Ordinance") and the subsequent amendments to the Ordinance: Ordinance No. O2018-4988 (the "2018 Amendment") and Ordinance No. SO2020-3986 (the "2020 Amendments").

2. Home-sharing is a long-standing American tradition, whereby property owners allow people to stay in their homes, sometimes for money, rather than staying in a hotel. The so-called "sharing economy" has empowered homeowners and travelers to connect better than ever before. Online home-sharing platforms like Airbnb and Homeaway enable homeowners to rent their homes to make money and help pay their mortgages. Consumers benefit from more choice and lower prices; communities attract visitors who support local businesses; and people are incentivized to buy dilapidated homes and fix them up.

3. Through the Ordinance, however, the City has imposed draconian and unintelligible restrictions on home-sharing that hurt communities, violate constitutional rights, and punish responsible homeowners.

4. Plaintiffs Leila Mendez and Alonso Zaragoza bring this complaint for declaratory and injunctive relief challenging the Ordinance and its amendments as vague, unintelligible, and an unconstitutional intrusion on their rights to privacy, due process of law, equal protection, and other rights. Plaintiffs seek a declaratory judgment that the Ordinance and its amendments are invalid and a permanent injunction against its further enforcement.

Parties

5. Plaintiff Leila Mendez is a resident of Cook County and Chicago, Illinois, who owns a home in Chicago.

6. Plaintiff Alonso Zaragoza is a resident of Cook County and Chicago, Illinois, who owns a three-unit residential building in Chicago.

7. Defendant City of Chicago (the "City") is an Illinois Municipal Corporation.

8. Defendant Rosa Escareno, sued in her official capacity, is the Commissioner of the City of Chicago Department of Business Affairs and Consumer Protection ("Commissioner") and is responsible for enforcing the Ordinance.

Jurisdiction

9. This Court has subject matter jurisdiction over this matter under 735 ILCS 5/2-701 because Plaintiffs seek a declaratory judgment that the Ordinance and its amendments violate various provisions of the Illinois Constitution.

10. This Court has personal jurisdiction over the Defendants because this lawsuit arises from Defendants' actions in the State of Illinois.

11. Venue is proper in Cook County because Plaintiffs reside in Cook County, Illinois, and Defendants are located in Cook County.

Factual Allegations

12. The Chicago City Council passed the Ordinance on June 22, 2016, and Mayor Rahm Emanuel signed it on June 24, 2016.

13. Several provisions of the Ordinance took effect on July 15, 2016, including Section 2, which amends the Chicago Municipal Code's definition of "hotel accommodations" to include home-sharing arrangements, imposes an additional 4% tax on home-sharing rentals, and provides for rescission of shared-housing registrations; and the provisions of Section 8 which create Chi. Muni. Code §§ 4-13-260(a)(9) (prohibiting owners of units from renting them out through home sharing arrangements where a building's owner has prohibited it) and 4-13-270(c) (establishing a list of buildings whose owners have prohibited them from being rented out through home sharing arrangements).

14. All other provisions of the original Ordinance became effective on December 17, 2016.

15. .The Chicago City Council passed the Amendment to the Ordinance on July 25, 2018. It creates Chi. Muni. Code § 3-24-030(C), which imposes a 2% tax on home-sharing rentals, in addition to the 4% tax on home-sharing rentals that was imposed by the original Ordinance.

16. The City Council enacted the 2020 Amendments on September 9, 2020. The 2020 Amendments will take effect 10 days after their passage and publication, except for certain provisions not at issue in this case, which will take effect April 1, 2021.

Definitions

17. The Ordinance establishes two categories of shared-housing arrangements, which it calls "vacation rentals" and "shared housing units." *Compare* Chi. Muni. Code § 4-14-010 *with* Chi. Muni. Code § 4-6-300(a).

18. The Ordinance's definitions of these two terms are nearly identical, except that they are mutually exclusive.

19. The Ordinance defines a "vacation rental" as "a dwelling unit that contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests," ***not*** including "(1) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in Chi. Muni. Code § 13-4-010; (2) hotels, as that term is defined in Chi. Muni. Code § 4-6-180; (3) a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are paid on a monthly basis; or (4) corporate housing; (5) guest suites; or (6) shared housing units registered pursuant to Chapter 4-14 of this Code." Chi. Muni. Code § 4-6-300.

20. The Ordinance defines a "shared housing unit" as "a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests," not including "(1) single-room occupancy buildings; (2) hotels; (3) corporate housing; (4) bed-and-breakfast establishments, (5) guest suites; *or (6) vacation rentals*." Chi. Muni. Code § 4-14-010 (emphasis added).

21. Consequently, a property is classified as a shared housing unit if it (a) meets the criteria specified, which are the same criteria that define a vacation rental, but (b) is not a vacation rental.

Warrantless Searches

22. The Ordinance requires any property owner who rents out a room or home through a shared-housing arrangement classified as a "vacation rental" to submit to warrantless inspections by city officials or third parties. Chi. Muni. Code § 4-6-300(d)(2)(e)(1). The Ordinance also subjects all vacation rentals to an unlimited number of inspections by the building commissioner or any third party he or she may designate "*at any time and in any manner*." Chi. Muni. Code § 4-6-300(e)(1) (emphasis added).

23. The Ordinance subjects a "shared housing unit operated by a shared housing unit operator" to inspections by the building commissioner (or a third party) "at least once every two years." Chi. Muni. Code § 4-16-230.

24. The Ordinance does not require the building commissioner to find probable cause or to obtain a warrant before ordering an inspection of a "vacation rental" or a "shared housing unit."

25. Through these provisions, the Ordinance delegates unlimited and unbounded discretion to the building commissioner to conduct, or to commission a third party to conduct, unrestricted searches of homes for any reason, at any time, and in any manner.

The Primary Residence Rule

26. The Ordinance also includes rules prohibiting the use of certain homes as vacation rentals or shared housing units if they are not the owner's "primary residence."

27. The Ordinance defines a "platform" as "an internet-enabled application, mobile application, or any other digital platform used by a short term residential rental intermediary to connect guests with a short term residential rental provider." Chi. Muni. Code § 4-13-100. Short-term residential rental intermediary is defined as "any person who, for compensation or a fee: (1)

uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists shared housing units on its platform." *Id*. "Advertising platform" is defined as "any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists licensed bed-and-breakfast establishments, vacation rentals, or hotels on its platform or dwelling units that require a license under this Code to engage in the business of a short term residential rental." *Id*.

28. The Ordinance prohibits the owner of a single family home from listing that property on a "platform"—regardless of whether that home is defined as a "vacation rental" or a "shared housing unit"—and/or from renting the property as either a "vacation rental" or a "shared housing unit," unless that single family home is the owner's "primary residence." Chi. Muni. Code §§ 4-6-300(h)(8), 4-14-060(d).

29. The Ordinance also prohibits the owner of a unit within a building that has two, three, or four dwelling units (inclusive) from listing that property on a "platform" and from renting out the property as a vacation rental or a shared housing unit, unless that unit is: (1) the "primary residence" of the vacation-rental licensee or shared-housing host; and (2) the only unit in the building that is or will be used as a vacation rental or shared housing unit. Chi. Muni. Code §§ 4-6-300(h)(9), 4-14-060(e).

30. These two prohibitions—hereinafter referred to individually and collectively as the "Primary Residence Rule"—do not apply to owners of homes located in buildings with five or more dwelling units. Those owners may offer their homes as "vacation rentals" or "shared housing units" regardless of whether or not the homes are the owner's primary residence. Chi. Muni. Code §§ 4-6-300(h)(1); 4-14-060(f).

31. Because of the Primary Residence Rule for single-family homes, the Ordinance requires an applicant seeking a license to use a single-family home as a vacation rental to submit with his or her application "an attestation that such home is the applicant's or licensee's primary residence" or, alternatively, that one of the specified exceptions to the Primary Residence Rule applies. Chi. Muni. Code § 4-6-300(b)(8). The Ordinance also requires an applicant seeking to use a unit in a building with two, three, or four units as a vacation rental to submit with his or her application an attestation that the unit "(i) is the applicant's or licensee's primary residence; and (ii) is the only dwelling unit in the building that is or will be used as a vacation rental or shared housing unit, in any combination," or, alternatively, that one of the specified exceptions to the rule applies. Chi. Muni. Code. § 4-6-300(b)(9).

32. The Ordinance makes several exceptions to the Primary Residence Rule:

33. The ***first*** exception to the Primary Residence Rule is that the prohibitions do *not* apply if the owner of the home or unit in question "is on active military duty and . . . has appointed a designated agent or employee to manage, control and reside in the [home or unit] during the [owner's] absence." Chi. Muni. Code §§ 4-6-300(h)(8), (9); 4-14-060(d), (e).

34. The ***second*** exception to the Primary Residence Rule is that the prohibitions do not apply if the owner has received a "commissioner's adjustment." Chi. Muni Code §§ 4-6-300(h)(8), (9); 4-14-060(d), (e).

35. Under Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a), the Commissioner may approve such an "adjustment"—*i.e.*, an exception to the Primary Residence Rule—"if, based on a review of relevant factors, the Commissioner concludes that such an adjustment would eliminate an extraordinary burden on the applicant in light of unique or unusual circumstances and would not detrimentally impact the health, safety, or general welfare of surrounding property

owners or the general public."

36. The Ordinance lists factors that the Commissioner may consider in deciding whether to make an exception to the Primary Residence Rule. The Ordinance explicitly declares that the factors are "by way of example and not limitation." Chi. Muni. Code §§ 4-6-300(l), 4-14-100(a). Those factors include: "(i) the relevant geography, (ii) the relevant population density, (iii) the degree to which the sought adjustment varies from the prevailing limitations, (iv) the size of the relevant building and the number of units contemplated for the proposed use, (v) the legal nature and history of the applicant, (vi) the measures the applicant proposes to implement to maintain quiet and security in conjunction with the use, (vii) any extraordinary economic hardship to the applicant, due to special circumstances, that would result from the denial, (viii) any police reports or other records of illegal activity or municipal code violations at the location, and (ix) whether the affected neighbors support or object to the proposed use." *Id.*

37. The ***third*** exception to the Primary Residence Rule exempts vacation-rental applicants or licensees who "held a valid vacation rental license, as of June 22, 2016, for the [home or unit in question]," Chi. Muni. Code §§ 4-6-300(h)(8), (9), and shared housing applicants whose home or unit "was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental," Chi. Muni. Code §§ 4-14-060(d), (e).

Rental Caps

38. The Ordinance limits the number of units within a building that may be used as either a "vacation rental" or a "shared housing unit."

39. Specifically, the Ordinance prohibits a home from being used as a "vacation rental" or "shared housing unit" if it is a dwelling unit in a building with five or more units and "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 either a "vacation rental" or a "shared housing unit." Chi. Muni. Code §§ 4-6-300(h)(10), 4-14-060(f).

40. Similarly, the Ordinance prohibits a home in a building with four or fewer units from being used as a vacation rental or a shared housing unit if another short term rental is already registered in the same building. Chi. Muni. Code §§ 4-6-300(h)(9), 4-14-060(e).

Noise Rules

41. The Ordinance provides that a vacation rental license or shared housing unit registration may be suspended if a unit has been the situs of certain "objectionable conditions" on two or more occasions, while rented to guests. Chi. Muni. Code §§ 4-6-300(j)(2)(ii), 4-14-080(c)(2).

42. The "objectionable conditions" that can lead to a license or registration suspension include, among others, "excessive loud noise," which the 2020 Amendments define as

> (1) any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the [unit] or on any private open space having a nexus to the [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 [unit] or private open space, as applicable; or (2) any sound generated on the public way immediately adjacent to the [unit], measured vertically or horizontally from its source, by any person having a nexus to the [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 [unit] by the licensee or such licensee's agent; or (iii) subject to an exception or exclusion under Section 8-32-170.

Chi. Muni. Code §§ 4-6-300, 4-14-010.

43. The Ordinance and its amendments do not define "average conversational level." This term is vague, unintelligible, and provides no limits to, or guidelines for, the exercise of official discretion when determining what "level" is "average."

44. The City does not restrict unamplified sounds originating within residential units or hotel accommodations other than vacation rentals and shared housing units. The Chicago Municipal Code sections restricting noise in general (which apply to entities the Ordinance defines as "bed-and-breakfast establishments" or "hotel accommodations") specifically exempt "noise created by unamplified human voices." Chi. Muni. Code §§ 8-32-150, 8-32-170. The Code contains no similar exemption for unamplified human voices in vacation rentals or shared housing units. Further, the restrictions on noise in bed-and-breakfasts or hotels apply to noise "on the public way" or "on any private open space," not noise "within or having a nexus to" a particular property.

Discriminatory Taxation

45. The Ordinance imposes an extra 4 percent tax on "vacation rentals" and "shared housing units" that it does not impose on other rentals the Ordinance defines as "hotel accommodations."

46. The subsequent Amendment imposes an additional 2 percent tax on "vacation rentals" and "shared housing units" that it does not impose on other rentals the Ordinance defines as "hotel accommodations."

47. The Ordinance defines "hotel accommodations" to include "a room or rooms in any building or structure kept, used, or maintained as, or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, bed-and-breakfast establishment, vacation rental, . . . shared housing unit, dormitory, or similar place, where sleeping, rooming,

office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals." Chi. Muni. Code § 3-14-020(A)(4).

48. The Code imposes a 4.5 percent tax on the gross rental or leasing charge for any hotel accommodation in the City, and also imposes additional taxes of 4 percent plus 2 percent (for a total of 6 percent) of gross rental or leasing charges for any "vacation rental" or "shared housing unit." Chi. Muni. Code § 3-24-030. These additional taxes of 4 percent and 2 percent apply *only* to vacation rentals and shared housing units. They do not apply to any other "hotel accommodations," such as inns, hotels, motels, lodging houses, or "bed-and-breakfast establishments."

Ban on Single-Night Rentals

49. The 2020 Amendments to the Ordinance include provisions that ban single-night rentals of vacation rentals and shared housing units. Specifically, the 2020 Amendments prohibit rentals of vacation rentals or shared housing units for fewer than two consecutive nights and prohibit multiple rentals of a vacation rental or shared housing unit within a 48-hour period. Chi. Muni. Code §§ 4-6-300(g)(1), (2), 4-14-050(e), (f).

50. The Code provisions prohibiting single-night rentals state that these prohibitions shall remain in place only "until such time that the [C]ommissioner and the superintendent of police determine that such rentals can be conducted safely under conditions set forth in rules jointly and duly promulgated by the [C]ommissioner and superintendent." Chi. Muni. Code §§ 4-6-300(g)(1), (2), 4-14-050(e), (f).

51. The Code does not require the Commissioner or the superintendent of police ever to determine whether single-night rentals can be conducted safely or to promulgate rules to allow

safe single-night rentals.

52. The Code provides no criteria by which the Commissioner or the superintendent of the police are to determine what constitutes "safe" conduct of single-night rentals.

53. The 2020 Amendments therefore delegate the public policy decision of whether single-night rentals will be allowed in the City of Chicago to the Commissioner and the superintendent of police.

54. Before the City enacted the 2020 Amendments, Plaintiffs made their respective shared housing units available for single-night rentals; they wish to make their homes available for single-night rentals again, and they would do so if the 2020 Amendments did not prohibit it.

Injuries to Plaintiffs

55. Plaintiff Alonso Zaragoza uses the Airbnb platform to rent out a home in Chicago. Accordingly, he is subject to the Ordinance's rules that apply to homeowners who rent out their homes as "shared housing units." Plaintiff Leila Mendez previously used the Airbnb platform to rent out a home in Chicago but ceased doing so because of the burdens the Ordinance imposed on her.

56. Because he rents out a home as a "shared housing unit," Mr. Zaragoza will be subject to warrantless searches of his home as set forth above; he must comply with——and will be subject to having his shared housing unit registration revoked for violations of——the "excessive noise" rules described above; and he is prohibited from renting out his home as a shared housing unit for single nights.

57. In addition, the City denied Mr. Zaragoza's application to rent out a dwelling unit in a three-unit residential building he owns in Chicago on the ground that it was not his primary residence.

58. As Chicago residents and homeowners, Plaintiffs Mendez and Zaragoza pay sales taxes and property taxes to the City of Chicago.

59. The City uses public funds, including general revenue funds, to implement and enforce all of the foregoing provisions of the Ordinance.

60. Accordingly, Plaintiffs are injured when the City of Chicago uses public funds, which they will be liable to replenish as Chicago taxpayers, for an unconstitutional or otherwise illegal activity.

COUNT I
The Ordinance authorizes unreasonable searches and invasions of privacy.
(Illinois Constitution Article I, Section 6)

61. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

62. Article I, section 6 of the Illinois Constitution provides:

> The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized.

63. Because the Ordinance empowers the building commissioner to conduct unrestricted warrantless administrative searches of residential property, it violates Plaintiffs' and their guests' constitutional rights to privacy and protection against unreasonable searches and seizures under Article I Section 6 of the Illinois Constitution.

64. The Ordinance injures Plaintiffs because it subjects them to unconstitutional searches of their respective homes in Chicago, which they rent out as shared housing units.

65. The Ordinance also injures Plaintiffs because they will be liable, as Chicago

taxpayers, to replenish the public funds the City uses to conduct unconstitutional searches pursuant to the Ordinance.

66. Although the Court dismissed this claim in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶ 17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

67. Because the Court dismissed this claim for lack of ripeness because the City of Chicago had not yet enacted rules and regulations to govern its searches under the ordinance, Plaintiffs reserve the right to pursue this claim if and when the City enacts such rules or regulations or when the City conducts searches under the Ordinance in the absence of rules and regulations.

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Ordinance's authorizations of unrestricted warrantless administrative searches of residential property in Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230 violate Article I, Section 6, of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from conducting warrantless searches pursuant to Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230;

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to conduct warrantless searches pursuant to Chi. Muni. Code §§ 4-6-300(e)(1) and 4-16-230;

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law; and

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT II
The Ordinance's "primary residence" requirement violates substantive due process.
(Illinois Constitution Article I, Section 2)

68. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

69. The Due Process Clause of the Illinois Constitution (Article I, Section 2) provides that "[n]o person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws."

70. The Due Process Clause of the Illinois Constitution protects the right of Illinoisans to use their private property as they see fit, subject only to regulations that are rationally related to the public's health, safety, or welfare.

71. Plaintiffs allege that the City of Chicago's home-rule authority to regulate the use of private property within the City does not entitle it to enact restrictions on the use of private property that bear no reasonable relationship to the public's health, safety, or welfare. *See Chicago Title & Trust Co. v. Lombard*, 19 Ill. 2d 98, 105 (1960).

72. Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) violate the right to due process, both on their face and as applied, to the extent that they prohibit an owner of private property in Chicago from using a single-family home as a vacation rental or shared housing unit simply because the home is not the owner's primary residence.

73. Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) likewise violate the right to due process, both on their face and as applied, to the extent that they prohibit an owner of a dwelling unit in a building with two, three, or four dwelling units from using his or her unit as a vacation rental or shared housing unit simply because the unit is not the owner's primary

residence.

74. The Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e), is not rationally related to any legitimate government interest and therefore is not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

75. Specifically, restricting *who* may rent out a single-family home or dwelling unit in a building with two, three, or four units as a vacation rental or shared housing unit bears no relationship to the public's health, safety, or welfare.

76. The City has no reasonable basis for concluding that guests staying at homes which are the primary residences of the owners would pose a lesser threat to the public's health, safety, or welfare than would guests who stay at homes which are not the primary residences of their owners.

77. A regulation actually directed toward protecting the public's health, safety, or welfare would address *how* such homes and units are used—*e.g.*, by prohibiting specific nuisance activities or specified noise levels, imposing mandates on property management companies, etc., so as to ensure that actions taken by guests in a vacation rental or shared housing unit do not harm others. Limiting allowable ownership accomplishes none of these purposes. The City can protect quiet, clean, and safe neighborhoods by, for example, implementing rules to limit noise, enforce parking restrictions, and restricting other specific nuisances.

78. Therefore, because the Primary Residence Rule bears no reasonable relationship to how vacation rentals and shared housing units are used, it bears no rational relationship to the public's health, safety, or welfare.

79. For these reasons, the Primary Residence Rule violates the right to due process of

law guaranteed by Article I, Section 2 of the Illinois Constitution on its face and as applied to Plaintiffs.

80. In addition, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) give the Commissioner unbounded and unbridled discretion to make exceptions to the Primary Residence Rule under vague, unintelligible, and undefined criteria. This allows the Commissioner to exercise arbitrary and unlimited discretion to permit or deny a citizen the right to use a single-family home as a vacation rental or shared housing unit.

81. Specifically, the Ordinance gives the Commissioner excessively broad discretion by failing to provide sufficient objective criteria to guide the Commissioner's exercise of discretion in deciding whether to make an exception to the Primary Residence Rule. The Ordinance gives the Commissioner arbitrary power by allowing him or her to consider factors not listed in the Ordinance in deciding whether to grant an exception to the Primary Residence Rule.

82. Further, the factors the Ordinance does authorize the Commissioner to consider when deciding whether to grant an exception to the Primary Residence Rule are vague, arbitrary, undefined, unintelligible, and not reasonably related to the public's health, safety, or welfare. Specifically:

a. "[T]he relevant geography" is vague and unintelligible because the Ordinance does not define that term, and it could therefore mean virtually anything the Commissioner wants it to mean that relates in any way to "geography." The Ordinance thus allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of how unspecified geographical factors may relate to the granting or denial of exceptions.

b. "[T]he relevant population density" is vague and unintelligible because the Ordinance does not specify which geographical unit's population density is relevant, nor does it specify in what way population density is relevant to whether an exception to the Primary Residence Rule would affect the public's health, safety, or welfare, and because the Ordinance allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of how population density in an unspecified location relates to the granting or denial of exceptions.

c. "[T]he legal nature and history of the applicant" is vague and unintelligible because the Ordinance does not define "legal nature and history of the applicant" and because it authorizes the Commissioner to grant or deny an exception to the Primary Residence Rule based on his subjective, personal view regarding an applicant's "legal nature" or "legal history," even if those matters are entirely unrelated to public health, safety, or welfare, or to the applicant's operation of a vacation rental or shared housing unit. Nor does the Ordinance specify in what way the "legal nature" or the "legal history" of the applicant is relevant to whether an exception to the Primary Residence Rule should be granted.

d. "[A]ny extraordinary economic hardship to the applicant" is vague and unintelligible because the Ordinance does not define "extraordinary economic hardship" or explain how the Commissioner is to determine what qualifies as "hardship," and because the Ordinance allows the Commissioner to grant or deny an exception to the Primary Residence Rule based on his or her subjective, personal assessment of an applicant's economic need, which bears no relationship to protecting the public's health, safety, or welfare. Nor does the Ordinance specify in what way "economic hardship" is relevant to whether an exception to the Primary Residence Rule would serve the public's health, safety, or welfare.

e. "[A]ny police reports or other records of illegal activity or municipal code violations at the location" is vague and arbitrary because it authorizes the Commissioner to grant or deny property rights based on "illegal activity" and "municipal code violations" that were not committed by the applicant, including even illegal actions of which the applicant was the victim. Also, this criterion is vague and arbitrary because illegal activities and municipal code violations occurring at a location have no necessary relationship to whether granting an exception to the Primary Residence Rule would affect the public's health, safety, or welfare.

f. "[W]hether the affected neighbors support or object to the proposed use" is also vague, arbitrary, and not rationally related to the promotion of a legitimate government interest. The Ordinance does not define "affected neighbors" and authorizes the Commissioner to grant or deny property rights based on the subjective, personal, or privately-interested desires of particular private parties rather than the public's health, safety, or welfare.

83. On its face, this grant of arbitrary power to the Commissioner violates the right to due process of law guaranteed by Article I, Section 2 of the Illinois Constitution.

84. The Primary Residence Rule injures Plaintiff Alonso Zaragoza because it prevents him from renting out a unit in the three-unit residential building in Chicago that he owns because the unit is not his primary residence.

85. The Primary Residence Rule injures Plaintiffs because they will be liable, as taxpayers, to replenish the public funds the City uses to implement and enforce it.

86. The Commissioner's exercise of arbitrary power in considering whether to grant an exception to the Primary Residence Rule likewise injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds used to fund the Commissioner's activity.

87. The Court dismissed this claim (Count III of Plaintiffs' original complaint) in its Order of October 13, 2017, except to the extent that it is based on the Commissioner adjustment exception to the Primary Residence Rule. It dismissed the rest of this claim in its Order of April 2, 2018. Plaintiff alleges the dismissed bases for this claim to preserve them for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) is unconstitutional, both on its face and as applied, because it violates the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) is unconstitutional, both on its face and as applied, because it violates the due process guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a declaratory judgment that, by granting the Commissioner arbitrary power to make exceptions to the foregoing rules, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

D. Enter a permanent injunction prohibiting Defendants from enforcing the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to

740 ILCS 23/5(c) and any other applicable law;

F. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT III
The Ordinance's Primary Residence Rule violates the right to equal protection under the law.
(Illinois Constitution Article I, Section 2)

88. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

89. The Ordinance does not impose the Primary Residence Rule set forth above on owners of homes located in buildings with five or more dwelling units. Instead, those owners may offer their homes as "vacation rentals" or "shared housing units" regardless of whether or not the homes are the owner's primary residence. Chi. Muni. Code § 4-6-300(h)(1) (vacation rentals); § 4-14-060(f) (shared housing units).

90. This discrimination is irrational and arbitrary, and it violates the right to equal protection of the law of people who wish to offer homes that they own, but that are not their primary residences, as vacation rentals or shared housing units. This discrimination is not rationally related to any legitimate government interest and therefore is not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

91. Specifically, forbidding the owner of a unit in a building with two, three, or four units from renting the unit out as a vacation rental or shared housing unit because the unit is not the owner's primary residence—while allowing owner of a unit in a building with more than four units to rent the unit out as a vacation rental or shared housing unit, even if it is *not* the owner's primary residence—bears no relationship to the public's health, safety, or welfare.

92. The City has no reasonable basis for believing that guests staying at homes of *more than four units* that are not owned by their primary residents would pose a lesser threat to

the public's health, safety, or welfare than guests who stay at homes of *two, three, or four units*, that are not owned by people who are not the homes' primary residents.

93. A regulation actually directed toward protecting the public's health, safety, or welfare would address *how* those homes or units are used—*i.e.*, it would be directed at ensuring that actions taken by guests in a vacation rental or shared housing unit do not harm others or create nuisances. For example, the City can protect quiet, clean, and safe neighborhoods by implementing rules to limit noise, enforce parking restrictions, and deal with other nuisances.

94. By imposing restrictions on property based not on the use of that property but on the irrelevant and arbitrary criterion of whether the property contains four units or fewer, the Ordinance imposes a form of unconstitutional discrimination. This discrimination injures Plaintiff Alonso Zaragoza because it prevents him from renting out a unit in the three-unit residential building in Chicago that he owns because the unit is not his primary residence.

95. This discrimination also injures Plaintiffs because, as Chicago taxpayers, they will be liable to replenish the public funds Defendants use to implement and enforce the Primary Residence Rule.

96. Although the Court dismissed this claim (Count IV of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8) and 4-14-060(d) is unconstitutional, both on its face and as applied, because it violates the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e) is unconstitutional, both on its face and as applied, because they violate the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a declaratory judgment that, by granting the Commissioner arbitrary power to make exceptions to the foregoing rules, Chi. Muni. Code §§ 4-6-300(l) and 4-14-100(a) are unconstitutional, both on their face and as applied, because they violate the equal protection guarantee of Article I, Section 2 of the Illinois Constitution;

D. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from enforcing the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

E. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the Primary Residence Rule of Chi. Muni. Code §§ 4-6-300(h)(8), (9) and 4-14-060(d), (e);

F. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

G. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT IV
The Ordinance's rental cap violates substantive due process.
(Illinois Constitution Article I, Section 2)

97. Plaintiffs reallege the preceding paragraphs of this Complaint as though fully set forth herein.

98. The rental-cap provisions of Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f), which limit the number of units in a building that may be used as "vacation rentals" or "shared housing units," are not related to any legitimate government interest and therefore are

not a valid exercise of the City's police power to protect the public's health, safety, or welfare.

99. The rental-cap provisions are not tied to how often—or even *whether*—a property is actually rented out to guests. Rather, the caps are triggered by a property owner merely obtaining a license to rent out a property as a vacation rental, or by registering a home as a shared housing unit, even if he or she never actually rents out the property at all.

100. The City has no rational foundation for concluding that restricting the number of vacation rentals or shared housing units within a building, as the rental cap provisions do, protects the public's health, safety, or welfare.

101. A regulation actually directed toward protecting the public's health, safety, or welfare would address *whether* and *how* such units are used—*i.e.*, it would be directed at ensuring that actions taken by guests in a vacation rental or shared housing unit do not harm others.

102. For example, the City can protect quiet, clean, and safe neighborhoods by implementing rules to limit noise, enforce parking restrictions, and prohibit other nuisance activities.

103. The only purpose of the rental-cap provisions is to protect the traditional hotel industry against legitimate economic competition from property owners classified as "vacation rentals" or "shared housing units."

104. Protecting the hotel industry against competition at the expense of people who would like to operate "vacation rentals" or "shared housing units" is not a valid exercise of the City's police power to protect the public's health, safety, and welfare.

105. The rental cap provisions therefore violate the right to due process of law guaranteed by Article I, Section 2 of the Illinois Constitution on their face and as applied to

Plaintiffs.

106. The rental cap provisions injure Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds the City uses to implement and enforce the provisions.

107. Although the Court dismissed this claim (Count V of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that Chi. Muni. Code §§ 4-6-300(h)(10) and 4-14-060(f), which restrict the number of dwelling units in a building with five or more units that may be used as vacation rentals or shared housing units, are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a declaratory judgment that Chi. Muni. Code §§ 4-6-300(h)(9) and 4-14-060(e), which restrict the number of dwelling units that may be used as vacation rentals or shared housing units in a building with four or fewer units, are unconstitutional, both on their face and as applied, because they violate the due process guarantee of Article I, Section 2 of the Illinois Constitution;

C. Enter a permanent injunction prohibiting Defendants from enforcing the restrictions on the number of units in a building that may be used as vacation units or shared housing units in Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f).

D. Enter a permanent injunction prohibiting Defendants from using public funds or public resources to implement or enforce the restrictions on the number of units in a building that

may be used as vacation units or shared housing units in Chi. Muni. Code §§ 4-6-300(h)(9), (10) and 4-14-060(e), (f);

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT V
The Ordinance's authorization of license revocation for "excessive loud noise" violates substantive due process because it is vague.
(Illinois Constitution Article I, Section 2)

108. Plaintiffs reallege the preceding paragraphs of this complaint as though fully set forth herein.

109. The sections of the Ordinance providing for suspension of a vacation rental license or shared housing unit registration based on "excessive loud noise" do not provide the kind of notice that would enable an ordinary person to understand what constitutes "excessive loud noise."

110. The Code does not define what it means to "hav[e] a nexus to the rental" nor does it define "average conversational level" as those terms are used in the Ordinance's first definition of "excessive loud noise" ("any sound generated between the hours of 8:00 p.m. and 8:00 a.m. from within the [unit] or on any private open space having a nexus to the [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 [unit] or private open space, as applicable").

111. In addition, the Code encourages arbitrary and discriminatory enforcement both because of its vague, undefined, and unintelligible terms and because it does not specify a mechanism for how the City will decide when an instance of the Ordinance's first definition of

"excessive loud noise" has occurred.

112. The Code does not provide a procedure or standards for measuring, recording, or logging instances of the Ordinance's first definition of "excessive loud noise."

113. Other municipalities impose objective noise limitations by specifying the decibel level that is permissible or impermissible at particular times. Because the Code lacks such objective measurement or any procedure for objective measurement or recording with respect to a vacation rental license or shared housing unit, the Code is vague and subjective and subjects the Plaintiffs to arbitrary, unpredictable, and subjective enforcement and/or punishment based on allegations of "excessive noise" that cannot be proven or disproven.

114. Further, the Ordinance's first definition of "excessive loud noise" specifies no durational requirement, so that a quick and solitary burst of noise—for example, a child crying out or a person cheering while watching a sporting event—apparently would be "excessive loud noise" even if those sounds are sustained for mere seconds, which makes it virtually impossible to avoid noise violations.

115. For these reasons, the Ordinance's first definition of "excessive loud noise" is vague and unintelligible, and allows for arbitrary and discriminatory enforcement, and thus violates the Due Process Clause of the Illinois Constitution.

116. The Code's "excessive loud noise" provision for shared housing units injures Plaintiffs because, as property owners who rent out their respective Chicago homes as shared housing units, they cannot know in advance what noise level is "excessive," or take steps to prevent "excessive loud noise," or know in advance how to avoid suspension of their shared housing units' registrations based on noise violations or how to avoid other penalties.

117. The Code's "excessive loud noise" provisions also injure Plaintiffs because they

will be liable, as Chicago taxpayers, to replenish the public funds Defendants use to implement and enforce the unconstitutional rule.

118. Although the Court dismissed a previous version of this claim (Count VI of Plaintiffs' original complaint) in its order of October 13, 2017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶ 17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal). **Wherefore**, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the "excessive loud noise" provisions of Chi. Muni. Code §§ 4-6-300a and 4-14-010 are unconstitutionally vague, both on their face and as applied, in violation of the due process guarantee of Article I, Section 2 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from revoking any vacation rental license or shared housing unit registration based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to revoke any vacation rental license or shared housing unit based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

D. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 740 ILCS 23/5(c) and any other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VI
The Ordinance's authorization of license revocation for "excessive loud noise" violates the right to equal protection under the law.
(Illinois Constitution Article I, Section 2)

119. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set forth herein.

120. Although the Code authorizes the City to revoke the vacation rental license or shared housing unit registration of a unit that has been the situs of "excessive loud noise" on two or more occasions, as set forth above, the City does not subject hotels and bed-and- breakfast establishments to the same restrictions.

121. This difference in treatment bears no reasonable relationship to protecting the public's health, safety, or welfare because noise has the same effect on the public regardless of whether it comes from a hotel, a bed-and-breakfast establishment, a vacation rental, or a shared housing unit.

122. The Code's rule on "excessive loud noise" therefore singles out "vacation rentals" and "shared housing units" for unfavorable treatment for reasons and in a manner that is not reasonably calculated to protect any legitimate government interest in public health, safety, or welfare.

123. In this way, the Code irrationally and arbitrarily discriminates against owners of vacation rentals and shared housing units in violation of their right to equal protection of the law.

124. This discrimination injures Plaintiffs as individuals who rent out their respective Chicago homes as shared housing units, who are subject to the more stringent rule applicable to shared housing units.

125. This discrimination also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the public funds Defendants use to implement and enforce the

unconstitutional rule.

126. Although the Court dismissed a previous version of this claim (Count VII of Plaintiffs' original complaint) in its order of October 13, 1017, Plaintiffs allege this claim to preserve it for appeal. *See Bonhomme v. St. James*, 2012 IL 112393, at ¶17 (2012) (explaining that an amended complaint must refer to or adopt dismissed causes of action to preserve them for appeal).

Wherefore, Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the "excessive loud noise" provisions of Chi. Muni. Code §§ 4-6-300a and 4-14-010 violate the equal protection clause of Article I, Section 2 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction prohibiting Defendant City of Chicago from enforcing license revocation provisions for "excessive loud noise" of Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

C. Enter a preliminary injunction and a permanent injunction prohibiting Defendants from using public funds or public resources to revoke any vacation rental license or shared housing unit based on "excessive loud noise" under Chi. Muni. Code §§ 4-6-300(j)(2)(ii) and 4-14-080(c)(2);

D. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 740 ILCS 23/5(c);

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VII
The Ordinance's taxes violate the Uniformity Clause of the Illinois Constitution. (Illinois Constitution Article IX, Section 2)

127. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set

forth herein.

128. The Uniformity Clause, Article IX, Section 2, of the Illinois Constitution provides:

> In any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.

129. To comply with the Uniformity Clause, a tax must: (1) be based on a "real and substantial" difference between those subject to the tax and those that are not; and (2) "bear some reasonable relationship to the object of the legislation or to public policy." *Arangold Corp. v. Zehnder*, 204 Ill. 2d 142, 150 (2003).

130. The City of Chicago imposes a 4% tax—in addition the City's hotel tax—on the class of taxpayers who stay in vacation rentals or shared housing units in Chicago.

131. The City of Chicago does not impose that extra 4% tax on the class of taxpayers: who stay at Chicago establishments other than vacation rentals and shared housing units that are included in the City's definition of "hotel accommodations," such as hotels and bed-and-breakfasts.

132. The City of Chicago also imposes an additional 2% tax—in addition the City's hotel tax—on the class of taxpayers who stay in vacation rentals or shared housing units in Chicago.

133. The City of Chicago does not impose that extra 2% tax on the class of taxpayers: who stay at Chicago establishments other than vacation rentals and shared housing units that are included in the City's definition of "hotel accommodations," such as hotels and bed-and-breakfasts.

134. There are individuals who are members of the first class of taxpayers who are not members of the second class of taxpayers: *i.e.*, some individuals stay (and pay taxes) only at vacation rentals or shared housing units in Chicago, and some individuals stay (and pay taxes) only at hotels, bed-and-breakfasts, or other "hotel accommodations" that are not vacation rentals or shared housing units.

135. For purposes of taxation, there is no real and substantial difference between vacation rentals and shared housing units—whose guests are subject to additional taxes of 4% and 2% (for a total of 6%)—and other establishments included in the definition of "hotel accommodations," whose guests are not subject to those taxes.

136. The Code's definition of a bed-and-breakfast establishment—"an owner-occupied single-family residential building, or an owner-occupied, multiple-family dwelling unit building, or an owner-occupied condominium, townhouse, or cooperative, in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by registered guests," Chi. Muni. Code § 4-6-290(a)—is substantially similar to, and overlaps with, the Ordinance's definitions of vacation rentals and shared housing units, which include dwelling units with "6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests," Chi. Muni. Code §§ 4-6-300, 4-14-010.

137. Accordingly, the City cannot justify imposing taxes of 4% and 2% on vacation rentals and shared housing units that it does not apply to bed-and-breakfast establishments.

138. In addition, the Ordinance's stated purpose of the extra 4% tax that applies only to guests of vacation rentals and shared housing units—to "fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless," Chi. Muni. Code § 3-24-030(B)—does not bear any reasonable

relationship to the object of the legislation.

139. Further, the Ordinance's stated purpose of the additional 2% tax that applies only to guests of vacation rentals and shared housing units—to "fund housing and related supportive services for victims of domestic violence," Chi. Muni. Code § 3-24-030(C)—does not bear any reasonable relationship to the object of the legislation.

140. There is no reason to believe that guests of vacation rentals and shared housing units have anything to do with homelessness, let alone any reason to think that vacation rentals and shared housings units have any *greater* connection to homelessness than other traveler housing accommodations, such as hotels, bed-and-breakfast establishments, or even non-commercial activities such as staying in a friend's guest room.

141. There is also no reason to believe that guests of vacation rentals and shared housing units have anything to do with domestic violence, or a connection to the availability of housing or supportive services for victims of domestic violence. Additionally, there is no reason to think that vacation rentals and shared housings units have any *greater* connection to the availability of housing or supportive services for victims of domestic violence than other traveler housing accommodations, such as hotels, bed-and-breakfast establishments, or even non-commercial activities such as staying in a friend's guest room.

142. For these reasons, the Code's discriminatory taxes that apply to only to guests of vacation rentals and shared housing units, but not to guests of other "hotel accommodations," violate the Uniformity Clause of the Illinois Constitution.

143. The Code's additional taxes on guests of vacation rentals and shared housing units injure Plaintiff Alonso Zaragoza because guests to whom he rents out his shared housing units are required to pay it.

144. The Code's discriminatory taxation of guests of vacation rentals and shared housing units also injures Plaintiffs because they will be liable, as Chicago taxpayers, to replenish the treasury for the public funds used to implement and collect the unconstitutional tax.

Wherefore, the Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the Ordinance's additional taxes of 4% and 2% that apply only to vacation rentals and shared housing units, but not to similar units defined as "hotel accommodations," in Chi. Muni. Code § 3-24-030 violate the Uniformity Clause of Article IX, Section 2, of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction against the Defendant City of Chicago's enforcement of the Ordinance's 4% and 2% taxes on vacation rentals and shared housing units in Chi. Muni. Code § 3-24-030;

C. Enter a preliminary injunction and a permanent injunction against the Defendant City of Chicago's use of public funds or public resources to enforce the Ordinance's 4% and 2% taxes on vacation rentals and shared housing units in Chi. Muni. Code § 3-24-030;

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees, pursuant to 740 ILCS 23/5(c) or other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

COUNT VIII
The 2020 Amendments' delegation of authority to allow or prohibit single-night rentals violates the constitutional separation of powers.
(Illinois Constitution Article IV, Section 1)

145. Plaintiffs reallege the foregoing paragraphs of this Complaint as though fully set forth herein.

146. Article IV, Section 1, of the Illinois Constitution places the state's legislative power in the Illinois General Assembly.

147. Although the Illinois General Assembly may delegate legislative powers to municipal legislative bodies, such as the Chicago City Council, Article IV, Section 1 prohibits a municipal legislative body from further delegating legislative power to individuals or entities outside the legislative branch of government.

148. The provisions of the 2020 Amendments regarding single-night rentals (Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f)) violate the constitutional separation of powers because they entirely delegate the public-policy decision of whether, when, and under what conditions single-night rentals of vacation rentals and shared housing units will be lawful in the City of Chicago to the Commissioner and the superintendent of police.

149. The 2020 Amendments do not sufficiently constrain the Commissioner and the superintendent's discretion to avoid violating the constitutional separation of powers.

150. The Commissioner and superintendent's discretion is unconstrained because the Code does not obligate them ever to promulgate, or even consider promulgating, regulations to allow for safe single-night rentals, nor does it define what would constitute safe single-night rentals.

151. The provisions of the 2020 Amendment banning single-night rentals unless and until the Commissioner and the superintendent take actions to allow them directly injures Plaintiffs because they previously rented out shared housing units for single nights and would do so again but for the ban.

Wherefore, the Plaintiffs respectfully pray that the Court grant the following relief:

A. Enter a declaratory judgment that the 2020 Amendments' provisions banning single-night rentals of vacation rentals and shared housing units unless and until the Commissioner and the superintendent of police take action to allow them violate the separation

of powers mandated by Article IV, Section 1 of the Illinois Constitution;

B. Enter a preliminary injunction and a permanent injunction against enforcement of the provisions prohibiting single-night rentals of vacation rentals and shared housing units in Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f);

C. Enter a preliminary injunction and a permanent injunction against the use of public funds or public resources to enforce the provisions prohibiting single-night rentals of vacation rentals and shared housing units in Chi. Muni. Code §§ 4-6-300(g)(1), (2) and 4-14-050(e), (f);

D. Award Plaintiffs their reasonable costs, expenses, and attorneys' fees, pursuant to 740 ILCS 23/5(c) or other applicable law;

E. Award Plaintiffs any additional relief the Court deems just and proper.

Dated: September 21, 2020

Respectfully submitted,

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