

**Article 10: Short-Term Residential Occupancy and Hosting Platforms**

*(“Short-Term Residential Occupancy and Hosting Platforms”  
added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)*

**Division 1: Short-Term Residential Occupancy**

*(“Short-Term Residential Occupancy”  
added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)*

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**§510.0101 Purpose and Intent**

It is the intent of this Article to promote and protect the public health, safety, and welfare of the citizens of San Diego by allowing and regulating *short-term residential occupancy* in *dwelling units* through the requirements set forth in this Article and by balancing the need to preserve neighborhood quality of life with the protection of private property rights. This Article is enacted to ensure that *short-term residential occupancy* activity, including activity facilitated by *hosting platforms*, is appropriately regulated so that such activity is conducted in a lawful manner. It is also the intent that the City utilize any applicable provision in Chapter 1, Article 2 of the Municipal Code to enforce the provisions of this Article, including civil and criminal remedies and the issuance of administrative subpoenas.

*(“Purpose and Intent” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)*

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**§510.0102 Definitions**

For the purpose of this Article, the following definitions shall apply and appear in the text in italicized letters:

*Booking service* means any reservation or payment service that facilitates a transaction between a *host* and *guest* for *short-term residential occupancy* for which a fee is collected or received, directly or indirectly, in connection with the reservation or payment of services provided for the transaction.

*Complaint* means a statement submitted in written or electronic form to the City Manager alleging a violation of this Article. It shall include the complainant's name and contact information, the *short-term residential occupancy dwelling unit's* address, including unit number, date(s), the nature of alleged violation(s), and any available contact information for the *host*.

*Deemed complete* has the same meaning as in Municipal Code section 113.0103.

*Dwelling unit* has the same meaning as in Municipal Code section 113.0103.

*Guest* means any person who exercises *short-term residential occupancy*, or is entitled to *short-term residential occupancy*, by reason of concession, permit, right of access, license, or other agreement for a period of less than one *month*.

*Home share* means the *short-term residential occupancy* of either the *host's primary residence* or a separate *dwelling unit* on the same premises as the *host's primary residence*.

*Host* means a natural person who has the legal right to occupy the *dwelling unit* and to allow *short-term residential occupancy*.

*Hosting platform* means any person, as defined in Municipal Code section 11.0210, who provides, and collects or receives, a fee, subscription, commission, or other consideration for *booking services* through which a *host* may offer *short-term residential occupancy*.

*License* means a license issued to a *host* pursuant to this Division. *License* includes Tier One Licenses, Tier Two Licenses, Tier Three Licenses, and Tier Four Licenses as described in Municipal Code section 510.0104.

*Month* means a period of consecutive days from the first calendar day of *occupancy* in any month to the same calendar day in the next month following, or the last day of the next month following, if no corresponding calendar day exists.

*Occupancy* means the use or possession, or the right to the use or possession, of a *dwelling unit* for dwelling, lodging, or sleeping purposes.

*Primary residence* means the *dwelling unit* in which the *host* resides at least six *months* of the year. A *host* can only have one *primary residence*.

*Rent* means the total consideration charged for *short-term residential occupancy* as shown on the *guest's* receipt.

*Short-term residential occupancy* means the *occupancy* of a *dwelling unit* or part thereof for less than one *month*.

*Whole home means short-term residential occupancy of the host’s entire dwelling unit while the host is not physically present and residing in the dwelling unit.*

*(“Definitions” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)*

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**§510.0103 License Required**

It is unlawful for any person to use a *dwelling unit* for *short-term residential occupancy* except as provided in this Article.

*(“License Required” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)*

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**§510.0104 Short-Term Residential Occupancy Regulated**

(a) General Rules Applicable to All *Licenses*.

- (1) A *license* is required for all *short-term residential occupancy*.
- (2) A *host* may only hold one *license* at a time.
- (3) A *host* may not operate more than one *dwelling unit* for *short-term residential occupancy* at a time within the City of San Diego.

(b) Tier One License: *Short-Term Residential Occupancy* for 20 Days or Less Per Calendar Year.

- (1) A Tier One License is required for *home share* or *whole home short-term residential occupancy* for an aggregate total of 20 days or less per calendar year.
- (2) *Home share* with a Tier One License is only allowed in the *host’s primary residence*.

- (3) Only one Tier One License may be issued for a *dwelling unit* per calendar year.
  - (4) A Tier One License shall expire two years from the date of issuance and may be renewed in accordance with Municipal Code section 510.0106(d).
- (c) Tier Two License: *Home Share* for More than 20 Days Per Calendar Year.
- (1) A Tier Two License is required for *home share short-term residential occupancy* for an aggregate total of more than 20 days per calendar year.
  - (2) *Home share* with a Tier Two License is only allowed in the *host's primary residence*.
  - (3) The *host* shall occupy the *host's primary residence* for no less than 275 days of the calendar year in which the *primary residence* is rented as a *home share*. If the *host* has not rented or owned the *dwelling unit* for the full preceding calendar year, the *host* shall occupy the *host's primary residence* for no less than 75 percent of the days the *host* has owned or rented the *dwelling unit*.
  - (4) A Tier Two License shall expire two years from the date of issuance and may be renewed in accordance with Municipal Code section 510.0106(d).
- (d) Tier Three License: *Whole Home Short-Term Residential Occupancy* Outside of Mission Beach Community Planning Area.
- (1) A Tier Three License is required for *whole home short-term residential occupancy* outside the Mission Beach Community Planning Area as described in section 510.0104(e) for an aggregate total of more than 20 days per calendar year.
  - (2) A two consecutive night minimum stay by the same *guest* is required.
  - (3) A Tier Three License shall expire two years from the date of issuance and may be renewed in accordance with Municipal Code section 510.0106(d).

- (4) The total number of Tier Three Licenses issued shall not exceed 1 percent of the total housing units in the City of San Diego, excluding the total housing units within the Mission Beach Community Planning Area, based on the most recent Demographic and Socioeconomic Housing estimates issued by the San Diego Association of Governments (SANDAG), rounded up to the next whole number. The total number of available Tier Three Licenses shall be updated once every two years based on the formula in this section 510.0104(d)(4). The total number of Tier Three Licenses shall not be reduced below the total number of Tier Three Licenses available in the prior two-year period.
- (e) Tier Four License: *Whole Home Short-Term Residential Occupancy Within Mission Beach Community Planning Area.*
  - (1) A Tier Four License is required for *whole home short-term residential occupancy* within the Mission Beach Community Planning Area (depicted on the Map on file in the office of the City Clerk as Document No. OO-21305) for an aggregate total of more than 20 days per calendar year.
  - (2) A two consecutive night minimum stay by the same *guest* is required.
  - (3) A Tier Four License shall expire two years from the date of issuance and may be renewed in accordance with Municipal Code section 510.0106(d).
  - (4) The total number of Tier Four Licenses issued shall not exceed 30 percent of the total housing units in the Mission Beach Community Planning Area, based on the most recent Demographic and Socioeconomic Housing estimates issued by the San Diego Association of Governments (SANDAG), rounded up to the next whole number. The total number of available Tier Four Licenses shall be updated once every two years based on the formula in this section 510.0104(e)(4). The total number of Tier Four Licenses shall not be reduced below the total number of Tier Four Licenses available in the prior two-year period.

(“*Short-Term Residential Occupancy Regulated*” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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**§510.0105 License Application Requirements**

- (a) Only a *host* may apply for a *license*.
- (b) A *host* shall submit a *license* application containing, at a minimum, the following:
  - (1) A Transient Occupancy Tax Certificate number for the *dwelling unit* or proof of concurrent application for a Transient Occupancy Tax Certificate for the *dwelling unit*.
  - (2) Proof of payment of the Rental Unit Business Tax, if applicable.
  - (3) For an application for a *license* to *home share*, proof that the *dwelling unit* is the *host's primary residence*.
- (c) An application shall not be processed for a *dwelling unit* with a pending enforcement action by the City for violations of this Article or any provision of the Municipal Code, unless the approval is required to resolve the enforcement action.
- (d) An application shall not be processed for a *host* who has had a *license* revoked by the City within 12 months prior to the date of application.

(“License Application Requirements” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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**§510.0106 License Issuance and Renewal**

- (a) A *host* may be issued only one *license* for *short-term residential occupancy* at a time within the City of San Diego.
- (b) Issuance of Tier One Licenses and Tier Two Licenses.

Once an application for a Tier One License or a Tier Two License is *deemed complete*, the appropriate *license* shall be issued by the City Manager when the required fees have been paid, except as provided below.

- (1) A *license* shall not be issued for a *dwelling unit* with a pending enforcement action by the City for violations of this Article or any provision of the Municipal Code, unless the approval is required to resolve the enforcement action.
  - (2) A *license* shall not be issued for a *host* who had a *license* revoked by the City within 12 months prior to the date of application.
- (c) Issuance of Tier Three Licenses and Tier Four Licenses.

The issuance of Tier Three Licenses and Tier Four Licenses shall be on a lottery basis if sufficient demand exists. Once an application for a Tier Three License or a Tier Four License is *deemed complete*, the application shall be accepted. The City Manager shall adopt administrative rules to implement and administer the lottery.

- (1) A Tier Three License or a Tier Four License shall only be issued when the required fees have been paid.
- (2) A Tier Three License or a Tier Four License shall not be issued for a *dwelling unit* with a pending enforcement action by the City for violations of this Article or any provision of the Municipal Code, unless the approval is required to resolve the enforcement action.
- (3) A Tier Three License or a Tier Four License shall not be issued for a *host* who had a *license* revoked by the City within 12 months prior to the date of application.
- (4) The City Manager may create a waiting list of applications that are *deemed complete* for Tier Three Licenses and Tier Four Licenses for issuance of any Tier Three License or Tier Four License that becomes available before the next lottery is held.

(d) *License Renewal*

(1) A *license* may be renewed if the *host* complies with the following:

- (A) timely pays the renewal fee;
- (B) has complied with the provisions of this Division during the term of the current *license*;
- (C) provides information concerning any changes to the previous application for or renewal of the *license*; and
- (D) submits the records described in Municipal Code section 510.0107, unless the *host* lists exclusively on a *hosting platform* that has an agreement with the City that includes a provision for pass-through registration for *license* applicants.

(2) A *license* shall not be renewed if an action to revoke the *license* is in progress or has been taken within 12 months prior to the date of the renewal request.

(e) *Licenses* are not transferrable. The City shall not accept any request to transfer or assign ownership or location of any *license* or *license* application.

(“*License Issuance and Renewal*” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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**§510.0107 Short-Term Residential Occupancy Operating Requirements**

All *hosts* shall comply with the following:

- (a) maintain and use the *dwelling unit* at all times for residential *occupancy* only;
- (b) for Tier Two Licenses, *home share* while present on the premises in accordance with section 510.0104(c)(3);



- (c) for Tier Three Licenses and Tier Four Licenses, use the *license* a minimum of 90 days each year during the term of the *license* and submit quarterly reports to the City Manager containing the number of days the *dwelling unit*, or any portion thereof, was used for *short-term residential occupancy* to demonstrate utilization;
- (d) not allow the *short-term residential occupancy* to create a public nuisance;
- (e) comply with Chapter 3, Article 5, Division 1 of the Municipal Code;
- (f) provide proof of payment of the Rental Unit Business Tax to the City upon request, if applicable;
- (g) provide a Good Neighbor Policy notice, on a form acceptable to the City Manager, to all *guests* that advises, at a minimum, the following:
  - (1) when the *dwelling unit* is located in a residential neighborhood, *guests* are expected to be respectful of neighbors and maintain the residential character of the neighborhood;
  - (2) *guests* are expected to abide by all laws and be respectful of neighbors;
  - (3) the number of guest rooms and the maximum number of allowable occupants;
  - (4) the parking limitations and rules;
  - (5) the rules for trash and recycling;
  - (6) the City noise limits pursuant to Municipal Code sections 59.5.0401 and 59.5.0501, and remedies available to the City to address and enforce violations, including the issuance of individual administrative citations in an amount up to \$1,000 to each *guest* and to the *host*;
  - (7) that upon a failure to vacate by the expiration of the *occupancy* term, *guests* may be deemed trespassers and may be subject to removal by relevant authorities; and
  - (8) that, pursuant to Chapter 5, Article 1, Division 10 of the Municipal Code, if the police are called to address public peace, health, safety, or general welfare issues, *guests* may be responsible for the cost of the police response;

- (h) ensure that the *dwelling unit* complies with current California Fire Code Regulations, which may be confirmed by City inspection or *host* affidavit at the discretion of the City Manager;
- (i) that signs on the premises promoting a business are not allowed;
- (j) designate a local contact who shall be responsible for actively discouraging and preventing any nuisance activity at the premises, pursuant to Chapter 5 of the Municipal Code. The *host* or designated local contact shall respond to a complainant in person or by telephone within one hour for all reported *complaints* and shall take action to resolve the matter;
- (k) post a notice on the exterior of the *dwelling unit* in a location visible to the public from the sidewalk or public right-of-way, whichever is closer, that includes the Transient Occupancy Tax Certificate number, *license* number, contact information and telephone number for the *host* or the designated local contact and for the City of San Diego Code Enforcement Division. The *host* shall maintain the notice in good condition while the *dwelling unit* is operated for *short-term residential occupancy*.
  - (1) The notice shall be 8.5 inches by 11 inches.
  - (2) The notice shall use all capital letters in black, bold font in at least 20-point font;
- (l) include the Transient Occupancy Tax Certificate number and *license* number on all advertisements; and
- (m) post, in a conspicuous location within the *dwelling unit*, guidance for *guests* to report human trafficking based on information provided by the City Manager and educate employees or contractors of the *host* who may interact with *guests* about identifying and reporting human trafficking.  
(“*Short-Term Residential Occupancy Operating Requirements*” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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**§510.0108 Records Maintenance and Production**

- (a) A *host* shall maintain the following information for each *short-term residential occupancy* transaction for a period of four years from the date of the transaction:
  - (1) the exact address of the *dwelling unit*, including any unit numbers;
  - (2) the exact dates for which a *guest* procured *occupancy* of the *dwelling unit*, and the total number of nights by reporting period;
  - (3) a copy of the Good Neighbor Policy notice provided to all *guests* as required by Municipal Code section 510.0107(g);
  - (4) the amount of gross receipts, including, but not limited to *rent* and transient occupancy tax paid for each stay in a format required by the City Manager; and
  - (5) the Transient Occupancy Tax Certificate number for the *short-term residential occupancy* and proof of payment of the Rental Unit Business Tax for the *dwelling unit* used for *short-term residential occupancy*, if applicable.
- (b) For as long as a *host* holds a *license*, a *host* shall maintain proof of completing a human trafficking awareness course prior to the initial listing of the *dwelling unit* for *short-term residential occupancy*.
- (c) Subject to applicable law, a *host* shall deliver information provided in Municipal Code section 510.0108(a) to the City Manager upon request. The City Manager may apply auditing procedures necessary to determine the amount of taxes and fees due to the City and to ensure compliance with this Article.

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**§510.0109 Enforcement of a Short-Term Residential Occupancy License**

In addition to the remedies in Chapter 1 of the Municipal Code, a *license* may be revoked in accordance with the following:

- (a) In addition to any penalties and remedies provided by law, and any other bases for regulatory action provided by law, a *host* is subject to regulatory action for any of the following reasons:
  - (1) non-compliance with this Division or any condition of the *license*;
  - (2) failure to take corrective action after timely written notice of a violation; or
  - (3) violation of any state or local law or regulation pertaining to the *license*, including all laws prohibiting human trafficking.
- (b) Regulatory actions include any of the following, the selection of which shall be at the discretion of the City Manager, without any requirement that the actions escalate in severity:
  - (1) issuance of a verbal warning;
  - (2) issuance of a written warning;
  - (3) issuance of a notice of violation; or
  - (4) revocation of the *license*.
- (c) The City Manager shall provide written notice to the *host* of any regulatory actions taken pursuant to Municipal Code section 510.0109(b)(2) through (b)(4).
- (d) The *host* may request an appeal hearing of the regulatory actions taken pursuant to Municipal Code section 510.0109(b)(3) or 510.0109(b)(4).
  - (1) The request for an appeal hearing shall be made in writing to the City Manager within ten calendar days of the receipt of the notice of regulatory action.
  - (2) Upon receiving the request for a hearing, the City Manager shall set a hearing not more than 90 calendar days from the date of receipt of the request, unless a later date is agreed to by the City and the *host* in writing.

- (3) The City Manager shall provide notice to the *host* of the date, time, and place of the hearing in accordance with Municipal Code section 11.0301.
  - (4) The hearing shall be conducted by a hearing officer provided by the City Manager pursuant to the process in Chapter 1, Article 2, Division 4 of the Municipal Code.
  - (5) The hearing officer may affirm, deny, or modify the regulatory action, and shall furnish the reason for the decision to the *host* in writing within 30 calendar days of the conclusion of the hearing.
- (e) If a third violation of any provision of Municipal Code section 510.0107 is alleged to have occurred within the previous 12 months at the *dwelling unit* or by a *host*, the hearing officer may revoke the *license* upon a determination that the third violation has occurred. Notice of the alleged third violation, *license* revocation, and conduct of the hearing on the alleged third violation and the *license* revocation shall be combined and the hearing shall be held in accordance with Chapter 1.

(“*Enforcement of a Short-Term Residential Occupancy License*” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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### §510.0110 Administration

- (a) The City Manager shall receive and process *license* applications and *complaints* regarding violations of this Article and provide appropriate staffing to process *license* applications, maintain the *license* registry, and enforce the requirements of this Article in a timely and efficient manner.
- (b) The City Manager may promulgate reasonable administrative guidelines, rules, interpretations, and regulations to implement and enforce the provisions of this Article, to simplify and streamline the application process and to minimize the time between the filing of applications and their final approval.
- (c) The City Manager shall create a registry of all *licenses* issued by the City.

- (d) The City Manager shall designate a contact person for members of the public who wish to file *complaints* under this Article or who otherwise seek information regarding this Article or *short-term residential occupancy* generally. This contact person shall also provide to the public upon request, and in accordance with applicable law, information regarding quality of life issues, like noise violations, vandalism, or illegal dumping, and shall direct the member of the public or forward any such complaints to the appropriate City department.

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### §510.0111 Reporting Requirements

The City Manager shall annually report to the City Council or the appropriate City Council Committee on the results of implementing this Article, including:

- (a) the total number of Tier Three Licenses and Tier Four Licenses available for the following year;
- (b) the total number of issued *licenses* by tier;
- (c) the total fees and transient occupancy tax collected by the City from *short-term residential occupancy* operations;
- (d) the total number of *licenses* revoked during the prior year; and
- (e) any proposed changes to these regulations.

(“Reporting Requirements” added 4-14-2021 by O-21305 N.S.; effective 5-29-2021.)

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