

ORDINANCE NO. 3264

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTION 5.03.363, "SHORT-TERM RENTALS," OF DIVISION 5.03 OF CHAPTER 5 OF THE ONTARIO DEVELOPMENT CODE, UPDATING REGULATIONS FOR THE SHORT-TERM RENTAL OF PROPERTY IN THE CITY.

WHEREAS, the growing popularity of "home-sharing" and other short-term vacation rentals, through the use of websites such as Airbnb, VRBO, and Homeaway, allow individual homeowners, landlords, and tenants to list homes, apartments, and rooms for rent at the price and duration of their choosing; and

WHEREAS, on December 20, 2022, the City Council adopted Ordinance No. 3235, adding Section 5.03.363 to the Ontario Development Code to establish a regulatory framework applicable to all short-term rentals within the City; and

WHEREAS, the City has determined that certain minor clarifying revisions are necessary to Section 5.03.363, including an update to the areas of the City in which short-term rentals are expressly authorized; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO DOES ORDAIN AS FOLLOWS:

SECTION 1. The recitals above are true and correct and are hereby incorporated herein by this reference.

SECTION 2. Amendment. Subsections C, D, E, F, I, J and K of Section 5.03.363 ("Short Term Rentals") of the Ontario Municipal Code is hereby revised to read as follows:

"5.03.063: Short Term Rentals

A. Definitions. As used in this Section, the words or phrases listed below shall have the meanings thereafter specified:

1. *Booking transaction* means any reservation or payment service provided by a person who facilitates a short-term rental, home sharing, or similar transaction between a prospective guest and a host.

2. *Director* means the finance director of the City of Ontario.

3. *Dwelling unit* means a structure or portion thereof which is used for human habitation.

4. *Guest* means a person who rents a short-term rental for a period of less than 30 days.

5. *Group* means a single guest or any number of guests who are occupying a short-term rental on a single rental agreement.

6. *Host* means a person engaged in providing short-term rental at their primary residence.

7. *Hosted stay* means short-term rental activity whereby the host remains on the site of his or her primary residence throughout the duration of the guest's stay, except during daytime and/or work hours.

8. *Hosting platform* means a marketplace in whatever form or format which facilitates the short-term rental activity, through advertising, match-making, or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

9. *Primary residence* means the dwelling unit used as the permanent residence or usual place of return for housing by the host. A person may have only one primary residence.

10. *Short-term rental* means a dwelling unit, or any portion thereof, that is rented by the host to another party for a period of not more than 30 consecutive days in exchange for any form of monetary or non-monetary consideration, including trade, fee, swap or any other consideration in lieu of cash payment. Hosted stays, Un-hosted stays, and vacation rentals are types of short-term rental.

11. *Transient occupancy tax* or "*TOT*" means the tax imposed on occupancies of 30 consecutive calendar days or less under Chapter 6 of Title 3 of the Ontario Municipal Code.

12. *Un-hosted stay* means a short-term rental activity whereby the host remains off the site of his or her primary residence-site for some or all of the duration of the guest's stay.

13. *Vacation rental* means a dwelling unit that is not a primary residence, and which is available for temporary lodging, for compensation or any form of consideration. The term "vacation rental" shall not include: single-room occupancy buildings, bed and breakfast inns, hotels, a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are made on a monthly basis, or corporate housing.

**B. Permit required for authorized short-term rental**

No person, either for themselves or any other person, shall cause, allow, conduct, permit, maintain, or facilitate short-term rental at any dwelling unit within the city without first obtaining a short-term rental permit pursuant to this chapter, and complying with all other applicable provisions of this code. A short-term rental permit shall only be issued to authorize hosted stays and un-hosted stays. Vacation rentals are prohibited.

**C. Permit application**

To apply for a short-term rental permit, a person seeking to become a host must file an application with the City, accompanied by a nonrefundable processing fee in an amount established by resolution of the city council. The application shall be in a form prescribed by the City and shall contain, at a minimum, the following:

1. The legal name, current address and telephone number of the applicant;
2. Address of the short-term rental property, and if applicable, location telephone number;
3. An index of all residents of the property with name and date of birth, juveniles may be listed by title and age only;
4. A diagram of the property indicating areas intended for use as short-term rental;
5. Documentation indicating the number of bedrooms within the dwelling unit, such as a record from the County Assessor's Office;
6. A parking plan indicating sufficient lawful parking on the property for all vehicles belonging to residents and one additional space for each bedroom of the house to be used for short-term rental;
7. Evidence that the applicant has applied for and is in the process of obtaining business license pursuant to Chapter 1 of Title 3 of the Ontario Municipal Code;
8. A home occupation permit pursuant to Section 5.03.240 of the Ontario Development Code is not required;
9. Emergency contact information for 24-hour response within 30 minutes;
10. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;
11. Documentation establishing that the dwelling unit proposed to be used as a short-term rental is the host's primary residence. Such documentation shall include

at least two of the following and be in the name of the host: Motor vehicle registration, driver's license, voter registration, or tax documents showing the residential unit as the residence of the host;

12. Two passport size photographs of the applicant; and

13. Any other information required by regulations promulgated pursuant to this chapter or deemed necessary by the director.

D. Application investigation and criteria for approval or denial or permit

Upon receipt of a completed application, the City, shall cause an investigation of the applicant and the application as submitted. The investigation shall be completed in a timely manner as follows and the applicant shall be notified of the result in writing in a timely manner:

1. The applicant shall be required to pay the established fees for such service in addition to the permit fee.

2. Inspection of the property by city staff shall be scheduled within 30 days of application. Annual inspections will be required upon renewal of a short-term rental permit.

3. If, as a result of this investigation, the applicant is found to satisfy all of the requirements of Section 5.03.063.D., and no grounds for denial exist, the application shall be approved, and a short-term rental permit shall be issued to the applicant. The permit shall contain the name, address of the permittee, a description of the short-term rental to be offered, the date of issuance and term of the permit, photograph of the permittee, and the signature of the Planning Director or his or her designee.

4. A short-term rental permit application may be denied for any of the following reasons:

a. Information contained in the application, or supplemental information requested from the applicant, is false or misleading in any material detail;

b. The applicant failed to provide a complete application, after having been notified of the requirement to produce additional information or documents;

c. The applicant is delinquent in payment of any city or county taxes, fines, or penalties in relation to short-term rental;

d. The applicant has previously held a short-term rental permit which was revoked by the city during the year prior to the application;

e. The applicant has failed to pay any previous administrative fines, remediate any other violations, and/or complete any other alternative disposition associated with a previous violation of this chapter; or

f. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in Section 5.03.363.1.

If the permit application is denied, written notice of such denial and the reasons therefore shall be provided to the applicant.

E. Permit expiration and renewal

A short-term rental permit shall be valid for 12 months from the date of issuance and shall expire and become null and void on the first anniversary date of its issuance. A person may apply for a permit renewal on a form provided by the city prior to the expiration of his or her active short-term rental permit and upon successfully completing an inspection by city staff. The applicant shall be required to pay the administrative fee for the permit renewal fee in the amount established by city council resolution at the time the renewal application is filed. In addition, the applicant shall renew their business license. Failure of the applicant to submit a complete application prior to the expiration date of the existing short-term rental permit shall be a basis for denial of the renewal.

F. Permit revocation

Two (2) violations of any provision of this chapter or this code within one (1) year by any applicant, occupant, responsible person, local contact person, owner, or owner's authorized agent or representative, with respect to any one (1) residential dwelling shall result in an immediate suspension of the short-term vacation rental permit. A revocation under this section may be appealed in accordance with the procedure set forth in Section 5.03.363(G), below.

G. Appeals

Any person whose short-term rental permit is denied or revoked may file an appeal of the decision in writing with the city clerk within 15 days following the date of the director's decision stating the grounds for said appeal. The appellant shall pay a non-refundable fee in an amount established by resolution of the city council for such appeal. The city clerk shall schedule an appeal hearing with the city manager or his or her designee within 15 days of an appeal being filed. The decision of the city manager or the designee shall be final.

H. Permits nontransferable

A short-term rental permit granted pursuant to this chapter shall not be transferable to another person, parcel number, or to another property owner. Said permit shall not run with the land or property to which it applies.

I. Operating requirements

Short-term rental hosts shall comply with the following requirements:

1. The host shall be:
  - a. The property owner or the spouse, parent, or adult child of the property owner.
  - b. A tenant of the property who has occupied the property as his or her primary residence prior to making application for a short-term rental permit and who has submitted written authorization from the property owner to operate short-term rental at the residence.
2. The dwelling unit shall be the primary residence of the host.
3. The dwelling unit must be located within the following zones: AR-2, RE-2, RE-4, LDR-5, MDR-11, MDR-18, MDR-25, HDR-45, LUA-3, MU-2, MU-1, MU-3, MU-6, MU-8B, MU-8C, MU-8D and MU-8E, including residential and mixed-use zoning districts within specific plan and planned unit development areas. Dwelling units are not permitted to be used as short-term rentals in any other zones.
4. All advertising for the dwelling unit as a short-term rental that is displayed on a hosting platform or other media shall display the number of the current and valid permit as issued by the city, a street-view photo of the front of the house and the maximum number of guests based on the occupancy limit set forth in subsection 1.5.
5. The dwelling unit's occupancy, including the host, other residents of the dwelling unit, and guests, during a short-term rental shall not exceed two times the number of bedrooms of the dwelling unit.
6. The short-term rental permit shall be conspicuously displayed in each area of the dwelling unit available for occupancy.
7. Any accessory dwelling unit subject to a covenant that specifically prohibits rentals of 30 days or less may not be used as a short-term rental.
8. A single dwelling unit shall be limited to two groups of any number concurrently or two concurrent booking transactions.
9. The short-term rental shall comply with all applicable provisions of this Code and State law.
10. Conditions that cause a public nuisance, as defined by this code or state law, are prohibited at the dwelling unit during a short-term rental.
11. Un-hosted stays shall be limited to a total of 90 days within a calendar year at the same dwelling unit. Hosted stays shall not be limited.
12. Excessive traffic to and from the short-term rental that significantly impairs the quiet enjoyment of neighboring properties is prohibited.

13. Excessive noise that significantly impairs the quiet enjoyment of neighboring properties is prohibited. The amplification of sound by any device outside the short-term rental is prohibited. Quiet hours during which noise must be restricted to the interior of the short-term rental shall be between 10:00 p.m. and 7:00 a.m. the following morning.

14. The obstruction of any public right-of-way, road, street, highway, or private road by occupants of the unit is prohibited.

15. No event, including a conference, wedding, fundraiser, or similar gathering, or any commercial event, may be held at a short-term rental.

16. The permittee shall install at least one (1) public-facing camera at or near the front entrance of the home that enables the host or manager to remotely monitor the number of individuals entering the home and activity in the front yard. The permittee shall install at least one (1) public-facing camera over the garage of the home that enables the host or manager to remotely monitor the activity in the front driveway and street in front of the residence. The permittee shall maintain video recordings from both required cameras for a minimum of 30 days.

17. A permittee shall, for a period of at least one year after the date of each stay, keep written rental records that document the following information:

- a. All dates on which the permittee rented the short-term rental to one or more guests;
- b. The name and contact information for each renter; and
- c. The license plate(s) of vehicles associated with the renter stored at or near the short-term rental during their stay.

18. Short-term rentals, within those neighborhood communities with established Homeowner Associations (HOAs), shall comply with any HOA Short-Term Rental provisions and/or regulations.

19. Off-street parking spaces shall be provided on the property sufficient for all vehicles associated with the short-term rental property or its occupants in accordance with the Ontario Development Code Section 6.03.015. Parking is allowed only in designated driveways and garages. The maximum number of vehicles at a Short-Term rental property at any time is equivalent to the minimum number of parking spaces required for that property.

#### J. Hosting platform requirements

1. Hosting platforms shall be responsible for collecting all applicable TOTs and remitting the same to the city. TOT remittance is due monthly, in accordance with Chapter 6 of Title 3 of the Ontario Municipal Code. The hosting platform shall be considered a managing agent of the host for purpose of TOT collections and remittance responsibilities as set forth in Chapter 6 of Title 3 of the Ontario Municipal Code.

2. Subject to applicable laws, hosting platforms shall disclose to the city on a regular basis each short-term rental listing located in the city, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.

3. Hosting platforms shall require hosts to include the city-issued registration number in their listing(s), in a format designated by the city. Upon notice from the city that a listing is non-compliant, hosting platforms shall cease any short-term rental booking transactions for said listing(s) within five business days. A hosting platform shall not complete any booking transaction for a residential property or unit subject to a city notice until notified by the city that the residential property or unit is in compliance with the local registration requirement.

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

5. A hosting platform operating exclusively on the internet, which operates in compliance with subsections 1., 2., 3., and 4. above, shall be presumed to be in compliance with this chapter.

6. The provisions of this section shall be interpreted in accordance with otherwise applicable state and federal law(s) and will not apply if determined by the city to be in violation of, or preempted by, any such law(s).

#### K. Enforcement and penalties.

1. Operating a short-term rental without a valid short-term rental permit and business license is prohibited. Advertising shall be considered prima facie evidence of operation. Additional evidence of operation may include, but shall not be limited to, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the city.

2. A violation of this chapter shall constitute a public nuisance, which may be abated by any means provided by law, including, but not limited to, injunctive relief, issuance of administrative fines pursuant to Chapter 2 of Title 1 of the Ontario Municipal Code, and shall also constitute a misdemeanor punishable pursuant to Chapter 2 of Title. The city may issue an administrative citation to any applicant, occupant, responsible person, local contact person, owner, owner's authorized agent or representative, or hosting platform of this code, if there is any violation of this chapter committed, caused or maintained by any of the above parties. Nothing in this section shall preclude the city from also issuing a citation upon the occurrence of the same offense on a separate day.



3. An administrative citation may impose a civil penalty for one (1) or more violations of this chapter in the maximum amount allowed by state law or this code. A civil penalty issued in accordance with this code shall be in the amount of one thousand dollars (\$1,000.00) for the first violation, two thousand dollars (\$2,000.00) for the second violation, and three thousand dollars (\$3,000.00) for the third and all subsequent violations.

4. Each and every day, or portion thereof, a violation of this chapter exists shall constitute a separate and distinct violation.

5. The remedies provided herein are intended to be cumulative and may be used in lieu of or in addition to any other remedy provided by this chapter or other law."


SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective.

SECTION 4. This Ordinance shall become effective thirty (30) days after its adoption by the City Council.

SECTION 5. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Moreover, the City Council finds that this Ordinance is also exempt under CEQA pursuant to Guidelines Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment).

SECTION 6. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of December 2023.

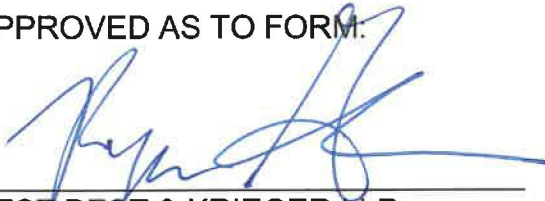


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PAUL S. LEON, MAYOR

ATTEST:

  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO )  
CITY OF ONTARIO )

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3264 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 21, 2023 and adopted at the regular meeting held December 5, 2023 by the following roll call vote, to wit:

AYES:	MAYOR/COUNCIL MEMBERS:	LEON, DORST-PORADA, WAPNER AND VALENCIA
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	BOWMAN

  
SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3264 duly passed and adopted by the Ontario City Council at their regular meeting held December 5, 2023 and that Summaries of the Ordinance were published on November 28, 2023 and December 12, 2023, in the Inland Valley Daily Bulletin newspaper.

  
SHEILA MAUTZ, CITY CLERK

(SEAL)