

ORDINANCE NO. 24-33

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD, CALIFORNIA, REENACTING CHAPTER 5.66 OF TITLE 5 AND SECTIONS 19.36.331, 19.80.120 AND 19.90.020 OF TITLE 19 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO REENACT THE CITY'S EXISTING VACATION RENTAL REGULATIONS AND REENACT THE RECENTLY EXPIRED HOME SHARING REGULATIONS AND TO PREVENT THEIR FUTURE AMENDMENT WITHOUT SUBSEQUENT VOTER APPROVAL, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 9215(a)

WHEREAS, pursuant to authority provided by the California Elections Code, a petition has been filed with the City Council of the City of West Hollywood, seeking to enact an initiative measure/ordinance which would reenact Chapter 5.66 of Title 5 and Sections 19.36.331, 19.80.120 and 19.90.020 of Title 19 of the West Hollywood Municipal Code to reenact the City's existing vacation rental and home sharing regulations and to prevent their future amendment without subsequent voter approval, (the "Measure" or "Ordinance"); and

WHEREAS, pursuant to California Elections Code section 9215, an initiative petition must be in filed with the City in valid form and signed by not less than ten percent (10%) of the registered voters of the City in order to qualify a local initiative measure for the ballot; and

WHEREAS, according to Los Angeles County voter records, the minimum signature requirement in order to qualify this Measure for the ballot is 26,036 registered City voters; and

WHEREAS, the City Clerk, through the Los Angeles County Registrar of Voters, has certified that the form of the petition complies with California law and, based upon an examination of voter registration records, has ascertained that the petition is signed by the requisite number of voters to qualify this Measure/Ordinance for the ballot under the Elections Code; and

WHEREAS, this Measure's/Ordinance's proponents have completed all other necessary prerequisite steps qualify and place it on the ballot; and

WHEREAS, since this Ordinance has qualified for placement on the ballot, pursuant to California Elections Code Section 9215, the City Council is legally required to either (i) adopt this Ordinance without alteration, or (ii) submit it to the voters at its next regularly scheduled election occurring not less than 88 days after the date of the order of election or at a special election pursuant to Elections Code Section 1405; and

WHEREAS, in lieu of placing the Measure/Ordinance on the ballot, the City Council has voted to adopt it without alteration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Pursuant to California Elections Code Section 9215(a), the City Council hereby adopts the initiative ordinance without alteration to reenact Chapter 5.66 of Title 5 and Sections 19.36.331, 19.80.120 and 19.90.020 of Title 19 of the West Hollywood Municipal Code to reenact the City's existing vacation rental regulations and reenact the recently expired home sharing regulations and to prevent their future amendment without subsequent voter approval; which shall read as follows:

“SECTION 1. FINDINGS AND PURPOSE

Housing affordability and access is one of the most important issues facing West Hollywood. By reenacting certain rules restricting the use of residential property for vacation rentals, the City seeks to promote the health, safety, and welfare of West Hollywood's residents by ensuring that short-term vacation rentals do not contribute to the housing crisis in the City.

The purpose of this ordinance is to reenact certain existing vacation rental and home share regulations in full through the popular vote. Reenacting these regulations through the popular vote is intended to ensure that future city councils cannot repeal or amend these regulations without the consent of the voters. Cal. Elec. Code § 9217. This ordinance provides that a city council can amend the vacation rental regulations only to strengthen the restrictions on the use of residential property for vacation rentals set forth herein.

SECTION 2. AMENDMENT OF WEST HOLLYWOOD MUNICIPAL CODE, SECTION 19.36.331

Section 19.36.331, titled “Vacation Rentals,” of Chapter 19.36 of Article 19-3 of Title 19 of the West Hollywood Municipal Code is substantively reenacted as follows, with the exception that subparagraph (3) of subsection (C) is restated for technical purposes only. Section 19.36.331 is also amended as follows (new text is shown by underlining and deleted text is shown by ~~strikethrough~~):

§ 19.36.331. Vacation Rentals.

- A. *Vacation Rentals Prohibited.* No person shall offer, facilitate an offer, aid, or provide a vacation rental to any transient.
- B. *Advertisement.* No person shall maintain, produce, post, or publish any advertisement of a vacation rental prohibited by this section. It shall be a violation of this section for any person to falsely advertise, produce, post, or publish, or aid or facilitate such action, any vacation rental showing a location of the vacation rental within the city, but where the actual vacation rental is located outside of the city.
- C. *Hosting Platform Responsibilities.*

1. Hosting platforms shall not complete any booking transaction for any vacation rental in the city if the hosting platform receives a fee for the booking transaction.
 2. 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, including, but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the dwelling unit.
 3. Safe Harbor. A hosting platform operating exclusively on the internet, which operates in compliance with this subsection, shall be presumed to be in compliance with this section, except that the hosting platform remains responsible for compliance with the administrative subpoena provisions of this chapter.
 4. 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).
- D. *Exception.* This section shall not apply to home sharing that takes place in accordance with Chapter 5.66 of the West Hollywood Business License Code.
- E. The City Council is only authorized to amend subsections (A), (B), subparagraphs (1), (2), and (4) of subsection (C), and subparagraph (D) to the extent the amendment increases, enhances, or expands upon the restrictions this section places on vacation rentals.

SECTION 3. REENACTMENT OF WEST HOLLYWOOD CODE, SECTION 19.90.020

The definition of "Vacation Rental(s)" in Subsection (V) of Section 19.90.020 of Chapter

19.90 of Article 19-2 of Title 19 of the West Hollywood Municipal Code is reenacted as follows:

§ 19.90.020 Definitions of Specialized Terms and Phrases

V. Definitions "V"

Vacation Rental(s) shall mean a dwelling unit, in whole or in part, that is rented for a period of 30 consecutive days or less to any transient. The following are definitions related to vacation rentals:

1. Booking Transaction. Any reservation or payment service provided by a person who facilitates a vacation rental, home share, or similar transaction between a prospective visitor and a host.

2. Host. Any natural person who offers a dwelling unit for use as a vacation rental.
3. Hosting Platform. A person who participates in the vacation rental business by collecting or receiving a fee, directly or indirectly through an agent or intermediary, for conducting a booking transaction using any medium of facilitation.
4. Rent. The transfer of any good, service, trade, swap, or other thing of value in exchange for the use of all or part of a dwelling unit.

SECTION 4. REENACTMENT OF WEST HOLLYWOOD CODE, SECTION 19.80.120

Section 19.80.120 of Chapter 19.80 of Article 19-8 of Title 19 of the West Hollywood Municipal Code is reenacted in full as follows:

§ 19.80.120. Vacation Rentals.

Notwithstanding Section 19.80.070 (Initial Enforcement Action) and Section 19.80.080 (Legal Remedies), the following applies to enforcement of Section 19.36.331:

- A. *Administrative Penalty.* Any host who violates any provision of Section 19.36.331, any person other than a hosting platform who facilitates or attempts to facilitate a violation of Section 19.36.331, or a hosting platform that violates its obligations under Section 19.36.331(C), shall be subject to administrative fines and penalties pursuant to Chapter 1.08 of this Code.
- B. *Criminal Penalty.* Any host violating any provision of Section 19.36.331, any person other than a hosting platform who facilitates or attempts to facilitate a violation of Section 19.36.331, or a hosting platform that violates its obligations under Section 19.36.331(C), shall be guilty of a misdemeanor, which shall be punishable by a fine not exceeding \$1,000, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.
- C. Any person convicted of violating any provision of Section 19.36.331 in a criminal case or found to be in violation of Section 19.36.331 in a civil or administrative case shall be ordered to reimburse the city and other participating law enforcement agencies their full investigative costs, pay all back transient occupancy tax.
- D. Any interested person may seek an injunction or other relief to prevent or remedy violations of Section 19.36.331. The prevailing party in such an action shall be entitled to recover reasonable costs and attorney's fees.
- E. The city may issue and serve administrative subpoenas, in accordance with Chapter 1.40, as necessary to obtain specific information regarding vacation rental listings located in the city, including, but not limited to,

- F. 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, to determine compliance with Section 19.36.331. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that 30-day period.

SECTION 5. AMENDMENT AND REENACTMENT OF WEST HOLLYWOOD CODE, CHAPTER 5.66

Chapter 5.66, titled "Home Sharing," in Title 5 of the West Hollywood Municipal Code is reenacted in full and amended as follows (new text is shown by underlining and deleted text is shown by ~~strike through~~):

§ 5.66.010. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

"Guest" shall mean the same as "transient" as defined in Section 3.32.020 of this code.

"Home sharing" shall mean the renting or offering for rent a room or part of a room in a primary residence for a period of thirty days or less while the owner or leaseholder resides in the unit during the guest's stay.

"Host" shall mean any natural person who engages in home sharing.

"Primary residence" shall mean any residential unit that the owner or leaseholder resides in for at least two hundred seventy days per year. A host can only have one primary residence.

"Rent" shall mean the transfer of any good, service, or other thing of value in exchange for the use of all or part of a dwelling for home sharing purposes.

"Reside" shall mean is present in the location for at least four hours within every twenty- four-hour period.

"Short term rental platform" shall mean any internet-enabled application, mobile application, website, or any other digital platform used to connect guests with hosts.

§ 5.66.020. Home Sharing Prohibited.

1. Home sharing shall not take place in any residential dwelling unit where the property owner and homeowners' association has not given their express, written approval to do so.
2. Home sharing shall not be allowed to take place in any rental unit.

3. Home sharing shall not be allowed to take place in any inclusionary housing or other income-restricted housing unit.
4. No person shall offer, facilitate an offer, or conduct home sharing in any location not approved for residential use, including, but not limited to, any vehicle, trailer, tent, storage shed, or garage.
5. No person shall offer, facilitate an offer, or conduct home sharing at any property that has been subject to the Ellis Act within the prior seven years.
6. No person shall offer, facilitate an offer, or conduct home sharing at any property unless it has obtained a valid business license to conduct home sharing at the property.

§ 5.66.030. Application Contents.

Home Sharing. In addition to any other information prescribed by the Director, an application for a home sharing business license shall include the following information:

1. Applicant's name, address, twenty-four-hour phone number, email address, Social Security number or tax ID number,
2. Proof of primary residency at the address to be used for home sharing.
3. The names and contact information of all persons that use the unit as their primary residence.
4. Affirmation that the applicant has read and agrees to abide by the requirements set forth in this chapter.
5. Proof that the applicant has obtained a "Transient Occupancy Registration Certificate" as required by Chapter 3.32 (Transient Occupancy Tax) of this code.
6. The Uniform Resource Locator (URL) (i.e. the web site address) for any and all advertisements of the rental on the business license application.

§ 5.66.040. Advertising Requirements.

1. All advertisements for home sharing shall prominently display the West Hollywood home sharing business license number.
 - a. Any host that creates or maintains an advertisement in violation of this requirement shall be in violation of this chapter.

§ 5.66.050. Operating Requirements.

1. The licensee named on the home sharing business license shall reside in the dwelling unit during the entirety of the guests' stay.
2. The licensee shall respond in person telephonically within one hour and in person on-site within a reasonable period of being contacted by any law enforcement, fire department, or other city official.
3. The licensee shall provide an immediate update to the Code Compliance Division in writing if their contact information has changed.
4. A sign shall be installed on the inside of all exterior doors that lists the following:
 - a. Address of the dwelling unit;
 - b. Name and phone number of the licensee;
 - c. Emergency and non-emergency contact numbers for the West Hollywood Sheriff's Department, Fire Department, and Code Compliance Division.
5. Working smoke and carbon monoxide detectors shall be installed in the home sharing unit as required by the West Hollywood Building Code.
6. Emergency exit routes shall be prominently displayed on the inside of any exterior door for units located in multi-family structures of more than one story.
7. An operable fire extinguisher shall be located in an easily accessible location in the kitchen.
8. During home sharing activities, the unit shall have a maximum occupancy of two people more than twice the number of bedrooms as listed on city or county records.
9. Licensees shall not engage in home sharing activities while the unit is under an open Notice of Violation for any health and safety related violation.
10. Home sharing shall not take place during any time in which the unit is infested with rodents, roaches, bedbugs, mold, or any other vermin or pests.

11. Clean and laundered bedding and towels shall be provided to home sharing guests upon commencement of their stay.
12. West Hollywood visitor on-street parking passes shall not be used by or provided to any home sharing guest.
13. Hosts shall maintain liability insurance in the amount of \$500,000, unless the host exclusively uses a short term rental platform that provides equal or greater coverage.

§ 5.66.060. Record Keeping and Tax Remittance

1. The licensee shall maintain records of home sharing activities as required by Chapter 3.32 of this code.
2. The personal identification and contact information of all home sharing guests may be redacted from records submitted to the city except when an audit pursuant to Chapter 3.32 has been initiated.
3. Licensees shall remit all owed transient occupancy taxes in full at the time they are due pursuant to Chapter 3.32 of this code.

§ 5.66.070. Violations and Penalties

1. The licensee shall be held responsible for administrative citations for violations of the municipal code committed by the home sharing guests.
2. Violations of this chapter are subject to the administrative penalty provisions of Sections 1.08.030 through 1.08.070 of this code.
3. Two or more violations of this chapter or any noise or nuisance violations that arise from home sharing activities in any three hundred sixty-five-day period may result in:
 - a. The immediate revocation of the home sharing business license.
 - i. This revocation may be appealed pursuant to Chapter 5.08 of this code.
 - b. Disallowing the renewal of the West Hollywood business license.
 - i. This determination may be appealed to the Department Director whose decision is appealable pursuant to Chapter 5.08 of this code.

4. If fraudulent information is found to have been provided on the business license application, the business license shall immediately be revoked, and the applicant shall be prevented from applying for a similar business license for a period of six months.
 - a. This revocation may be appealed to the Director by submitting a written request detailing the basis for the appeal and any additional documentation that the appellant would like to be considered.
 - b. This written request shall be submitted within thirty calendar days from the date the revocation letter was sent.
 - c. If a licensee fails to submit an appeal within the prescribed time, the revocation is deemed final.
 - d. The Director's decision may be appealed pursuant to Chapter 5.08 of this code.
 - e. While the appeals process is pending, the licensee shall not engage in any home sharing or short term rental activities.

§ 5.66.080. Permission Revocation.

A property owner or homeowners' association who has provided written approval to conduct home sharing may revoke such approval by submitting the revocation in writing to the licensee and the city. The valid written revocation shall not result in the revocation of the license but shall disqualify the license from being renewed until written approval is again provided.

§ 5.66.090. Subpoenas.

The city shall have the power to use all legal options at its disposal to gather information and enforce compliance with the provisions of this code, including the power to issue subpoenas.

§ 5.66.100. Common Interest Developments.

Nothing in this chapter shall limit the ability of a common interest development to prohibit home sharing or enforce their covenants, conditions, and restrictions.

SECTION 6. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof. The City Council of the City of West Hollywood hereby declares that they would have passed each section, subsection, subdivision,

paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

SECTION 7. CONFLICTING MEASURES

This measure is intended to be comprehensive. It is the intent of the people of the City of West Hollywood that, should this measure and one or more measures relating to regulation of vacation rentals and home shares appear on the same ballot, the provisions of the other measure or measures shall be deemed to conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

SECTION 8. LIBERAL CONSTRUCTION

This measure is an exercise of the initiative power of the people of the City of West Hollywood to implement the regulations set forth in the Ordinance, and it shall be liberally construed to effectuate these purposes.”

SECTION 9. Effective Date. Pursuant to California Elections Code Section 9215(a), the City Council hereby adopts this initiative Ordinance, and it shall go into effect thirty (30) days after adoption.

SECTION 10. CEQA. The City Council hereby finds and determines that adoption of this Measure is not a discretionary action of the City Council within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines and is, therefore, not subject to CEQA review. *See, Tuolumne Jobs and Small Business Alliance v. Superior Court, (2014) 59 Cal. 4th 1029.*

SECTION 11. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation which is published and circulated in the City in a manner permitted under State law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting held this 18th day of November, 2024 by the following vote:

AYES:	Councilmember:	Heilman, Meister, Shyne, Vice Mayor Byers, and Mayor Erickson.
NOES:	Councilmember:	None.
ABSENT:	Councilmember:	None.
ABSTAIN:	Councilmember:	None.

//John M. Erickson//
JOHN M. ERICKSON, MAYOR

ATTEST:

//Melissa Crowder//
MELISSA CROWDER, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, Melissa Crowder, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 24-33 was duly passed, approved, and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 18th day of November 2024.

I further certify that this ordinance was posted in three public places as provided for in Ordinance No. 24-03, adopted the 20th day of February, 2024.

WITNESS MY HAND AND OFFICIAL SEAL THIS 18th DAY OF NOVEMBER, 2024.

MELISSA CROWDER, CITY CLERK

AFFIDAVIT OF POSTING

State of California)
County of Los Angeles)
City of West Hollywood)

I declare under penalty of perjury that I am employed by the City of West Hollywood in the Office of the City Clerk, and that this document was posted on:

Date: November 21, 2024
Signature: \\Alyssa T. Poblador\
Office of the City Clerk