

ORDINANCE NO. 2348

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA AMENDING VARIOUS SECTIONS OF ARTICLE IX, CHAPTER 1 OF THE ARCADIA MUNICIPAL CODE ("THE DEVELOPMENT CODE") WITH AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), TO PROHIBIT SHORT-TERM RENTALS, HOME SHARING, AND THE ADVERTISEMENT OF THESE USES

WHEREAS, on May 2, 2016, the City Council held a public study session to study concerns regarding the land use impacts of short-term rentals and home sharing, namely that short-term rentals and home sharing could result in loss of residential character of neighborhoods and diminish the quality of life for Arcadia residents; and

WHEREAS, on June 27, 2017, a duly noticed public hearing was held before the Planning Commission on Development Code Text Amendment No. TA 17-04, at which time all interested persons were given full opportunity to be heard and to present evidence; and

WHEREAS, after considering the evidence presented, the Planning Commission adopted Resolution No. 1995 by a 4-0 vote with one Commissioner absent, to recommend approval of the Development Code Text Amendment No. TA 17-04, and directed staff to proceed with processing approval of this Ordinance; and

WHEREAS, on July 18, 2017, a duly noticed public hearing was held before the City Council on this Ordinance, at which time all interested persons were given full opportunity to be heard and to present evidence.

WHEREAS, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000 et seq., the State's CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 et seq., and the

City's Local CEQA Guidelines, it has been determined that the proposed text amendment is exempt from review under CEQA pursuant to Section 15061(b)(3) and Section 15321. Section 15061 states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. The proposed Ordinance is exempt under Section 15321 because it consists only of minor revisions and clarifications to an existing Development Code and will not have the effect of deleting or substantially changing any regulatory standards or findings. The proposed Ordinance is an action that does not have the potential to cause significant effects on the environment, but rather will clarify prohibited uses in residential and mixed-use zones in the City.

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

SECTION 1. The factual data set forth in the Recitals of this Ordinance and by the Development Services Department in the staff report dated June 27, 2017 and July 18, 2017, are true and correct.

SECTION 2. Based upon the entire record, including without limitation, the staff report and related documents presented to the City Council, the City Council finds as follows:

1. The amendment is internally consistent with all other provisions of the General Plan.

Facts to Support this Finding: Proposed Ordinance No. 2348 to prohibit short-term rentals, home sharing, and the advertisement thereof, does not amend the General

Plan but is consistent with all provisions of the General Plan to protect neighborhoods from nuisances and other adverse effects resulting from improper operation of short-term rentals and home sharing.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

Facts to Support this Finding: Proposed Ordinance No. 2348 will be in the public interest and will not be detrimental to the health, safety, or general welfare of the City. Short-term rentals and home sharing have been around for many years located predominantly in vacation communities. It isn't until fairly recently with the rise of the sharing economy and hosting platforms like Airbnb, Homeaway, and VRBO that these uses have found their way into many suburban communities like Arcadia. The City of Arcadia's Development Code is silent on short-term rentals and home sharing. The Development Code is based on permissive zoning, whereby if a use of land is not specifically listed, the use is not allowed. Despite the use not being allowed, the number of homes available for short-term rental and home sharing has steadily increased over the past four years. The City has also seen a rise in complaints from neighbors regarding these uses. The most common issues are excessive noise, increased traffic, and parking problems. Properties are being used for parties which can extend into late hours of the night or are being rented commercially for events such as illegal filming, wedding receptions. These activities are very disruptive to the surrounding neighborhood. Residents located near unpermitted short-term rentals and home shares have expressed concerns that the use is changing the character and quality of the neighborhood. With different guests constantly coming and going neighbors feel like

there has been of a loss of community and that the neighborhood is not as safe since the guests are unidentified.

Prohibiting short-term rentals and home sharing in all zones allowing residential uses is in the public's interest in order to eliminate the negative impacts associated with these uses such as, disorderly conduct, increased vehicular traffic, parking problems, excessive noise, and security and public safety concerns. Prohibiting short-term rentals and home sharing is necessary to ensure that in all zones allowing residential, that the uses are compatible with the surrounding neighborhood and that these communities remain safe and quiet.

3. The proposed amendment is consistent with the General Plan and any applicable specific plan(s).

Facts to Support this Finding: Proposed Ordinance No 2348 is consistent with the Arcadia General Plan Land Use and Community Design Element and House Element goals and policies. The City's experience with short-term rentals and home sharing, and the experiences of other cities, indicates that these uses are often associated with negative impacts to residential neighborhoods such as increased vehicular traffic, parking problems, excessive noise, security and public safety concerns from residents, and a loss of residential character. Due to the transient nature of the use, visitors may have no connection with the neighborhood and have little incentive to maintain the same standards and quality of life as permanent residents. Because the properties are associated with temporary and vacation uses, they are often a source of late-night parties and noise. The number of guests utilizing short-term and home sharing properties also results in increased neighborhood parking demands. Short-term

rental and home sharing uses can change the character of a neighborhood because such properties have been used for events such as illegal filming, wedding receptions, and advertised parties with cover charges. Prohibiting short-term rentals and home sharing will ensure that the character and quality of Arcadia's neighborhoods are preserved and a high quality of life for the residents is maintained.

The Housing Element states that Arcadia is in good condition and provides housing opportunities, so it is important to conserve that housing stock. If homes are utilized for transient occupancy, they are no longer part of our housing stock. Prohibiting home sharing is also a way to preserve affordable housing opportunities as rooms and secondary units can be used for permanent housing rather than transient stays. A reduction in permanent housing units can put an upward pressure on rental prices and negatively affect housing affordability. Prohibiting short-term rental and home sharing is consistent with the following General Plan goals and policies:

Land Use and Community Design Element

- Goal LU-3: Preservation and enhancement of Arcadia's single-family neighborhoods, which are an essential part of the City's code identity.
 - Policy LU-4-2: Encourage residential development that enhances the visual character, quality, and uniqueness of the City's neighborhoods and districts.
 - Policy LU-4.4: Strictly enforce City codes, including building and safety, zoning and land use regulations, and property maintenance codes, to maintain safe, high-quality residential neighborhoods". In addition, the General Plan calls for the City to create a safe place for residents to live and to minimize noise impacts as part of land use planning decisions.

Housing Element

- Goal H-1: Conserve and improve the condition of the existing housing stock.
 - Policy H-1.1: Continue to monitor and enforce building and property maintenance codes in residential neighborhoods to prevent the physical deterioration of existing sound housing within the City.
 - Policy H-1.2: Continue to provide code enforcement services designed to maintain the quality of the housing stock and the neighborhoods.
- 4. For Development Code amendments only, the proposed amendment is internally consistent with other applicable provisions of this Development Code.

Facts to Support this Finding: Proposed Ordinance No. 2348 is internally consistent with all other applicable provisions of the Development Code. The proposed Ordinance prohibits property owners from utilizing residential units as short-term rentals or home sharing, in order to eliminate negative impacts associated with said uses such as disorderly conduct, increased vehicular traffic, parking problems, excessive noise, security and public safety concerns, and the loss of residential character. The Development Code is based on permissive zoning, whereby if a use of land is not specifically listed, the use is not allowed. There is no current provision of the Development Code permitting short-term rentals or home sharing as an allowed use in residential zones. The Ordinance only applies to dwellings and therefore does not impact hotels, motels, emergency shelter, or extended stay locations, which may be allowed under other provisions of the Development Code. The Ordinance also does not

apply to residential care facilities or dwellings operated as a group home pursuant to the Community Care Facilities Act that are otherwise exempt from local zoning regulations.

SECTION 3. Chapter 1, Division 2, Section 9102.01.020, Table 2-1 of Article IX of the Arcadia Municipal Code is amended to read as follows:

Table 2-1 Allowed Uses and Permit Requirements for Residential Zones	P	Permitted					
	A	Permitted as an Accessory Use					
M	Minor Use Permit Required						
C	Conditional Use Permit Required						
--	Not Allowed						
Land Use	R-M	R-0	R-1	R-2	R-3	R-3-R	Specific Use Regulations
Residential Uses							
Boarding House	--	--	--	--	--	--	
Dwellings							
Single-Family Dwelling	P	P	P	P	P	--	See required minimum density (Section 9102.01.090, Table 2-6 and) Subsection 9102.01.100.A (Exceptions to Minimum Density in R-2 and R-3)
Multifamily Dwelling	--	--	--	P	P	P	
Two-Family Dwelling	--	--	--	P	P	P	
Accessory Dwelling Unit	A	A	A	--	--	--	Minimum lot size of 15,000 square feet required. See also Subsection 9102.01.080 (Accessory Dwelling Units)
Short-Term Rental	--	--	--	--	--	--	<i>No Person shall post, publish, circulate, broadcast, or maintain any advertisement of a Short-Term Rental in any zone allowing residential uses. See Section 9104.02.300</i>
Home Sharing	--	--	--	--	--	--	<i>No Person shall post, publish, circulate, broadcast, or maintain any advertisement for Home Sharing in any zone allowing residential uses. See Section 9104.02.300</i>

SECTION 4. Chapter 1, Division 2, Sections 9102.05.020, Table 2-10, of Article IX of the Arcadia Municipal Code is amended to read as follows:

Table 2-10 Allowed Uses and Permit Requirements for Downtown Zones	P A C M -- (UF)	Permitted by Right Permitted as an Accessory Use Conditional Use Permit Minor Use Permit Not Allowed Upper Floor Permitted, Not Allowed on Ground Floor			
Land Use	CBD	MU	DMU	CM	Specific Use Regulations
Health/Fitness Facilities, Small	M	M	M	M	
Health/Fitness Facilities, Large	M (UF)	M (UF)	CUP	C	
Indoor Entertainment	C	C	C	M	
Studios – Art and Music	M	M	M	P	
Residential Uses					
Live/Work Unit	--	M (UF)	M (UF)	--	See Subsection 9104.02.210 (Live/Work Units)
Multifamily Dwelling	M (UF)	M (UF)	M (UF)	--	Permitted only in conjunction with a ground-floor commercial use. See Subsection 9102.05.040.A
Supportive Housing – Housing Type	M (UF)	M (UF)	M (UF)	--	(Commercial Uses along Street Frontages).
Transitional Housing – Housing Type	M (UF)	M (UF)	M (UF)	--	
<i>Short-Term Rental</i>	--	--	--	--	<i>No Person shall post, publish, circulate, broadcast, or maintain any advertisement of a Short-Term Rental in any zone allowing residential uses. See Section 9104.02.300</i>
<i>Home Sharing</i>	--	--	--	--	<i>No Person shall post, publish, circulate, broadcast, or maintain any advertisement for Home Sharing in any zone allowing residential uses. See Section 9104.02.300</i>

SECTION 5. Chapter 1, Division 4, Section 9104.02.300, of Article IX, Chapter 1 of the Arcadia Municipal Code is hereby amended read as follows:

9104.02.300 Advertisement of Short Term Rentals and Home Sharing

A. Legislative Findings

1. Short term rentals of dwelling units and home sharing are not permitted in the city, but nonetheless, the city has seen increased complaints related to short term rentals and home sharing due to nuisance conditions such as noise, excessive trash,

increased parking and traffic, and commercial uses of residential property. Properties available for short term rental or home sharing are often advertised using online hosting platforms, as well as traditional methods, and such platforms have resulted in the increase of illegal short term rentals and home sharing in the city.

2. The City Council takes notice of the United States Supreme Court's opinion in the case of *Central Hudson Gas & Electric Corp. v. Public Service Commission* (1980) 447 U.S. 557, which held that public agencies may ban commercial speech related to illegal activity or forms of communication that are more likely to deceive the public than inform it.

3. The City has a substantial interest in banning the advertisement of uses and activities that are unlawful in the city. Without regulating advertisements, nuisance conditions resulting from short term rentals and home sharing are likely to persist, and visitors and guests may be deceived into believing that short term rentals are unlawful. This chapter is no more extensive than necessary because it only regulates those persons who have an interest in the property from placing advertisements for uses that are unlawful. The restriction on advertisements only applies to the particular unlawful uses that are regularly advertised to members of the public, including guests and visitors to the city, who may be unaware that the use is unlawful. This chapter does not infringe on any speech related to lawful commercial activities.

B. Prohibition on Advertising.

It shall be unlawful for an owner, tenant, property manager, agent or any other person with possession or control of residential property to cause to be posted, published, circulated, or broadcasted any advertisement for a short-term rental or home

sharing of the residential property if short-term rental or home sharing is not a lawful use of the residence. “Short-term rental” and “home sharing” shall have the definitions contained in sections 9109.01.200 and 9109.01.090, respectively, of the Arcadia Development Code.

C. Enforcement.

A violation of this Subsection shall be deemed an infraction and shall also be subject to an administrative citation pursuant to chapter 4A of the Arcadia Municipal Code. The record owner of any property that is advertised as a short-term rental or home sharing in violation of this Subsection shall be strictly liable for the offense, regardless of intent. Any other person who owns, rents, manages, or otherwise has possession or control residential property and who advertises a short-term rental or home sharing in violation of Subsection 9104.02.300 shall be liable for the offense.

SECTION 6. Chapter 1, Division 9 (Definitions), Section 9109.01.030, of Article IX, Chapter 1 of the Arcadia Municipal Code is hereby amended to revise the following definition:

9109.01.030 – “B” Definitions

Boarding House. A boarding house is a residence or dwelling, other than a motel or hotel, wherein two or more rooms, with or without cooking facilities in the rooms and/or for groups, are rented to individuals, persons or groups under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence. Notwithstanding this definition, no single-family residence operated as a group home pursuant to the Community Care Facilities Act, that is otherwise exempt from local zoning regulations, shall be considered a boarding house.

SECTION 7. Chapter 1, Division 9 (Definitions), Section 9109.01.090, of Article IX, Chapter 1 of the Arcadia Municipal Code is hereby amended to include the following definition:

9109.01.090 – “H” Definitions

Home Sharing. A use in which a dwelling, or portion thereof, is rented for tourist or transient purposes for compensation for a period of less than twenty-eight (28) consecutive calendar days, and the primary resident of the dwelling continues to reside on-site, in the dwelling, during the rental period. The definition shall include any arrangement in which the rental period is less than twenty-eight consecutive days or can be reduced below 28 consecutive days, or in which the dwelling is rented multiple times within 28 consecutive days. This definition does not apply to residential care facilities or dwellings operated as a group home pursuant to the Community Care Facilities Act that are otherwise exempt from local zoning regulations.

SECTION 8. Chapter 1, Division 9 (Definitions), Section 9109.01.200, of Article IX, Chapter 1 of the Arcadia Municipal Code is hereby amended to include the following definition:

9109.01.200 – “S” Definitions

Short-Term Rental. A use in which a dwelling, or portion thereof, is rented for tourist or transient purposes for compensation for a period of less than twenty-eight (28) consecutive calendar days, and the renter is given exclusive use of the dwelling. The definition shall include any arrangement in which the rental period is less than twenty-eight consecutive days or can be reduced below 28 consecutive days, or in which the dwelling is rented multiple times within 28 consecutive days. This definition

does not apply to residential care facilities or dwellings operated as a group home pursuant to the Community Care Facilities Act that are otherwise exempt from local zoning regulations.

SECTION 9. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be 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 Arcadia hereby declares that it would have passed each section subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional.

Section 10. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's Office located at 240 West Huntington Drive, Arcadia, CA 91007. The custodian of these records is the City Clerk.

Section 11. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of same to be published in the official newspaper of said City within fifteen (15) days after its adoption. This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

Passed, approved and adopted this 1st day of August, 2017.

/S/ Peter Amundson
Mayor of the City of Arcadia

ATTEST:

/S/ Gene Glasco
City Clerk

APPROVED AS TO FORM:

/S/ Stephen P. Deitsch
Stephen P. Deitsch
City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF ARCADIA)

I, GENE GLASCO, City Clerk of the City of Arcadia, hereby certifies that the foregoing Ordinance No. 2348 was passed and adopted by the City Council of the City of Arcadia, signed by the Mayor and attested to by the City Clerk at a regular meeting of said Council held on the 1st day of August, 2017 and that said Ordinance was adopted by the following vote, to wit:

AYES: Beck, Chandler, Verlato, Tay, and Amundson

NOES: None

ABSENT: None

ABSTAIN: None

/S/ Gene Glasco
City Clerk of the City of Arcadia