



**Agenda Item No. 14**

**REPORT TO THE CITY COUNCIL OF THE CITY OF GUADALUPE  
Agenda of January 11, 2022**

*Philip F. Sinco*

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**Prepared by:**  
**Philip F. Sinco, City Attorney**

*Todd Bodem*

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**Approved by:**  
**Todd Bodem, City Administrator**

**SUBJECT:** Short-Term Rentals Ordinance

**RECOMMENDATION:**

That the City Council introduce on the first reading, and continue to its meeting of January 25, 2022, for second reading and adoption, an ordinance regulating short-term rentals in the City of Guadalupe and amending various provisions of Title 18 (Zoning) of the Guadalupe Municipal Code.

**BACKGROUND:**

In response to concerns about short-term rentals in the City, a presentation was made to the City Council on October 13, 2020, concerning available options including a complete ban and various ways of regulating them. Council's direction at that meeting was to allow them but for staff to prepare an ordinance regulating them and require property owners who rent all or a portion of their properties to short-term renters to obtain a business license and pay transient occupancy tax on these short-term stays.

Staff presented a proposed ordinance generally complying with the Council's previous direction at its meeting on September 14, 2021, for discussion only. Several alternatives/options were also identified, and the Council was asked to provide input and direction about them. The Council directed that one of these options, namely, limiting short-term rentals to only one per property owner, should be added to the proposed ordinance. One additional change was also discussed, which was whether to permit unhosted short-term rentals to 180 days per year, rather than the 120 days in the proposed ordinance. There was no consensus of Council on that issue, and therefore, further discussion of this possible change was deferred the meeting of September 28, 2021.

At the September 28, 2021, meeting, the Council was again unable to reach consensus on the maximum number of days per year for unhosted short-term rentals but determined that additional provisions for the proposed ordinance were required, including that more conditions should be included in the actual ordinance rather than delegated to the discretion of the Planning Director, such as requiring security cameras (exterior only). Also, there was a consensus to reduce the amnesty period for currently operating short-term rentals to comply with the ordinance from one-year to three months. Other issues related to ability to enforce and prevent violations of the ordinance were discussed, and there was support for the ordinance to be reviewed by Chief Cash to obtain his suggestions since the Police

Department would be impacted by the ordinance. Staff agreed to do so and incorporate his recommendations into a revised ordinance. Two issues of particular concern to the Council included: (1) problems associated with the possible failure of an unhosted short-term rental operator to respond to a complaint within the 60 minutes required by the ordinance.; and (2) support for including a condition that onsite parking be required, even if that meant that the garage had to be made available.

Thereafter, Chief Cash provided his recommendations on the proposed ordinance which were included in a revised ordinance along with the changes requested by the City Council at the September 28<sup>th</sup> meeting. The revised proposed ordinance with these changes was presented to the City Council at its December 14, 2021, meeting.

At this meeting, the Council was again unable to reach consensus on the maximum number per year that an unhosted short-term rental would be permitted to operate, and once again, following its deliberations, the Council directed that some additional changes to the ordinance be made.

One of these changes was to include a provision in the ordinance that would allow the City to ban short-term rentals in the future if the ordinance did not adequately regulate them or for some other reason. Mayor Julian had asked what would happen should the City Council pass an ordinance completely banning short-term rentals at a future date. The City Attorney advised that the ordinance as proposed did not include any provision that would permit the Council to rescind any administrative use permits granted for unhosted short-term rentals, and therefore, a future ordinance banning them would likely have to allow a reasonable period of time before requiring them to cease being used for short-term rentals. The City Attorney requested that the Council continue this matter to the Council meeting of January 11, 2022, if it wanted to add a provision providing that any administrative use permits granted for unhosted short-term rentals would be rescinded if short-term rentals were banned at a future date. The City Attorney explained that he wanted to conduct legal research on whether the Council could add such a provision and/or if some period of time would be required to allow short-term rentals to continue in the event of a future ban, and that this was too important of an issue to draft at the meeting.

Another issue of concern that was discussed was the requirement that all guest parking at short-term rentals be onsite. The City Attorney had expressed some concern that this provision might be subject to legal challenge because state law preempts all local parking laws and limits to what extent local jurisdictions are permitted to regulate parking on public streets. The City Attorney advised that he also conduct legal research on whether the City could require all parking to be onsite and whether there was a risk that this could be successfully challenged in court and would inform that Council when the revised ordinance was brought back to the Council.

Finally, after the meeting, the City Attorney and the Director of Public Safety conferred about the requirement that the lease agreement for each short-term rental be available onsite. The City Attorney advised that such lease agreements are generally not available onsite since most short-term rentals are rented by using one of the available online platforms such as AirBnb or VRBO. The Director of Public Safety explained that the Police Department needed to know the names of all short-term renters who had permission from the owner(s) to be at the property to adequately enforce trespass and nuisance laws. The City Attorney agreed to revise the ordinance so that the Police Department would have access to this information without requiring that an actual lease agreement be onsite and available for inspection by the Police Department in the event of an incident.

## **DISCUSSION:**

Since this is the third time a proposed short-term rentals ordinance has been before the City Council, a detailed discussion about the proposed ordinance will not be set forth here. Any Councilmember or member of the public interested in an overview of the ordinance is referred to the agenda materials from prior meetings (i.e., September 14 and 28, and December 14, 2021). The following discussion will be limited to the changes being proposed since the December 14, 2021, Council meeting.

First, with respect to whether any administrative use permits granted for unhosted short-term rentals could be rescinded if the City Council adopted an ordinance banning short-term rentals at some time in the future, the City Attorney was unable to find a definitive answer. In general, any land use, whether as matter of right (permitted use), or granted by issuing an administrative use permit or a conditional use permit (conditional use), is entitled to continue for a reasonable period after the use is banned. A land use that was permitted or conditionally permitted in the past but is banned becomes a legal nonconforming use. The same is true for buildings constructed under prior building or zoning codes in that these buildings are not required to comply with current codes. While both nonconforming buildings and uses can be required to be terminated if the law changes, the “reasonable” time period to bring a building up to the current codes or be demolished is much longer than for land uses. For example, while it may be “reasonable” to require the demolition of a nonconforming building within 30 years after the enactment of a law resulting in the building becoming nonconforming, it has been held that five (5) years is reasonable for a commercial business in a residential zone to cease operations (*City of Los Angeles v Gage* (1954) 127 Cal.App.2d 442, and that one (1) year was reasonable to require an adult business to comply with new regulations or terminate operations (*Castner v City of Oakland* (1982) 129 Cal.App.3d 94). In addition, courts have upheld immediate termination of nonconforming uses when they constitute a public nuisance. If the short-term rentals resulted in wide-spread nuisances and the Council were able to make adequate findings to support this, a future ordinance banning nonconforming uses such as unhosted short-term rentals might be able to be required to immediately cease operations. All things considered, however, should the City Council pass an ordinance in the future banning short-term rentals, it would be best (to reduce legal risk) for the ordinance to grant a reasonable period of time for short-term rentals to continue to operate before requiring them to cease operations.

To reduce possible legal risk, the proposed ordinance has been revised to include the following provision:

The City reserves the right to change the regulations provided in this Chapter at any time, including discontinuing the issuance of short-term rental registrations and/or administrative use permits for Unhosted short-term rentals, notwithstanding any impacts to existing or future short-term permit holders. Anyone using a residential property as a short-term rental pursuant to this Chapter acknowledges and accepts that possibility.

Staff intends to include similar language in any administrative use permits issued for any unhosted short-term rentals. This further reduces potential legal risk to the City should it decide to ban short-term rentals in the future.

Second, with respect to the possible legal risks of requiring that guests at short-term rentals be required to park their vehicle only onsite, the City Attorney is of the opinion that such risk is minimal. The City Attorney’s legal research did not find any cases that discussed this issue; many California cities that regulate short-term rentals either require all guest to park onsite or require a minimum number of onsite

parking spaces (typically one space per bedroom). In light of the fact that many cities require guest to park onsite, and in the absence of any published cases rejecting such a requirement, the City believes that the risk of a successful legal challenge to requiring onsite parking is minimal. Given the minimal risk, both sections in the ordinance concerning parking now provide as follows:

Parking shall be limited to on-site which may require that a garage be required to be made available for renters. All renters' vehicles shall be required to display a sign on the dashboard of the vehicle indicating that it is permitted to be there by permission of the property owner with the dates of the rental period listed.

Third, with respect to Chief Cash' recommendation that the lease agreement for each unhosted short-term rental be available onsite so that responding police officers can determine who has the property owner's permission to be at the property (and who does not), the ordinance has been revised so that this information is available to police officers, although not from requiring a lease agreement to be onsite. Instead, the local contact person will be required to have this information for each short-term rental. In addition, and while not discussed at the December 14, 2021, meeting, the revised ordinance also requires the local contact person to have the license plate numbers for all vehicles that belong to the short-term renter(s). Specifically, the relevant language in the revised ordinance has been changed (in two places) as follows:

The local contact person shall be required to have the names of all persons who have the permission of the property owner(s) to be at the property for each short-term rental. In addition, the local contact person shall be required to have the license plate numbers for all vehicles permitted to park onsite during the time period of each short-term rental. The local contact person shall promptly provide this information any member of the Police Department upon request. A failure to comply with this provision shall be a misdemeanor violation subject to a criminal citation, or issuance of an administrative citation, at the discretion of Public Safety personnel.

**FISCAL IMPACT:**

There are about 10-12 short-term rentals in the City known at present, and assuming an average nightly rental of \$175 (conservative estimate) and an estimated 120 rental days/nights (conservative estimate), there would be a modest increase to the general fund from transient occupancy taxes of approximately \$12,00,000 to \$15,000 annually. Staff costs to issue the registration certificates, business licenses, and administrative use permits for unhosted short-term rentals would be largely offset by associated City fees.

**ATTACHMENTS:**

1. Ordinance No. 2021-497 entitled "An Ordinance of the City of Guadalupe Adding Chapter 18.55 to Title 18 and Amending Various Other Sections of Title 18 of the Guadalupe Municipal Code Regulating the Short-Term Rental of Residential Dwelling Units."

**ORDINANCE NO. 2021-497**

**AN ORDINANCE OF THE CITY OF GUADALUPE ADDING CHAPTER 18.55 TO TITLE 18 AND AMENDING VARIOUS OTHER SECTIONS OF TITLE 18 OF THE GUADALUPE MUNICIPAL CODE REGULATING THE SHORT-TERM RENTAL OF RESIDENTIAL DWELLING UNITS**

**WHEREAS**, the City of Guadalupe has a number of existing, unpermitted, dwelling units being used as short-term rentals defined as any occupancy of less than thirty (30) consecutive days; and

**WHEREAS**, the City Council of the City of Guadalupe has determined not to completely ban short-term rentals, although it reserves the right to discontinue permitting short-term rentals, instead choosing to regulate them;

**WHEREAS**, the City Council intends that short-term rental regulations that allow limited short-term rentals should preserve residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance, safety, and other impacts on adjacent neighbors as well as provide a process to track and enforce all requirements and ensure appropriate collection of transient occupancy taxes; and

**WHEREAS**, the City Council also intends that short-term rental regulations that allow limited short-term rentals not violate any private conditions, covenants, and restrictions or rules of a homeowners or community association applicable to the owner's property that may prohibit the owner from using his or her property as a short-term rental unit; and

**WHEREAS**, the City Council considered a proposed ordinance regulating short-term rentals and amending various provisions of the City of Guadalupe Zoning Ordinance Amendment on September 14, 2021; and

**WHEREAS**, on September 28, 2021, the City Council held a duly-noticed public hearing on the proposed short-term rental ordinance and Zoning Ordinance amendments; and

**WHEREAS**, at the September 28, 2021, meeting, the City Council made some recommendations for the proposed ordinance and directed staff to incorporate these recommendations and bring the ordinance back to the City Council at a future meeting; and

**WHEREAS**, after staff complied with the direction from the City Council, the City Council held a duly-noticed public hearing on the proposed short-term rental ordinance and Zoning Ordinance amendments on December 14, 2021; and

**WHEREAS**, at the public hearing the City Council considered the whole of the record including, but not limited to, any written and oral public comments, staff reports and staff presentations.

**NOW, THEREFORE**, the City Council of the City of Guadalupe does hereby ordain as follows:

**SECTION 1.** Chapter 18.55 is hereby added to Title 18 of the Guadalupe Municipal Code to read as follows:

**18.55.01 Purpose.**

The purpose of this section is to:

A. Allow limited short-term rental uses while preserving residential character and establish operating standards to reduce potential noise, parking, traffic, property maintenance, safety, and other impacts on adjacent neighbors; and

B. Provide a process to track and enforce these requirements as needed and ensure appropriate collection of transient occupancy taxes.

C. Prohibit all short-term rentals except as provided for in this Chapter.

D. The City reserves the right to change the regulations provided in this Chapter at any time, including discontinuing the issuance of short-term rental registrations and/or administrative use permits for Unhosted short-term rentals, notwithstanding any impacts to existing or future short-term permit holders. Anyone using a residential property as a short-term rental unit pursuant to this Chapter acknowledges and accepts that possibility.

**18.55.02 Definitions.**

For purposes of this section, the following definitions shall apply:

A. Neighboring properties. The dwelling units located on any properties within 100 feet of the property lines where the dwelling unit on which the short-term rental is located, measured in all directions from these property lines.

B. Host. Any person(s) who, or entity that, is the owner of record of residential real property on which a dwelling unit, or portion thereof, is offered for short-term rental either through a hosting platform or individually as an operator.

C. Hosting platform. A means through which a host may offer a dwelling unit, or portion thereof, for short-term rental. A hosting platform includes, but is not limited to, an internet-based platform that allows a host to advertise and potentially arrange for temporary occupation of the dwelling unit, or portion thereof, through a publicly searchable website, whether the short-term renter pays rent directly to the host or to the hosting platform.

D. Hosted short-term rental. A short-term rental for which the host resides and maintains a physical presence during the short-term rental period, including being present on the property between the hours of 10:00 p.m. and 6:00 a.m. each day of the short-term rental period.

E. Short-term rental. The use or possession of or the right to use or possess any dwelling unit, or portions thereof in any dwelling unit, for residing, sleeping, or lodging purposes for less than thirty (30) consecutive calendar days, counting portions of days as full calendar days.

F. Short-term renter. A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of less than thirty (30) consecutive calendar days, counting portions of calendar days as full calendar days.

G. Unhosted short-term rental. A short-term rental where the Host does not occupy a portion of the dwelling unit that is offered for a short-term rental during the period of the short-term rental (or does not occupy another dwelling unit located on the same property where the short-term rental is located during the period of the short-term rental).

#### **18.55.03 Permitted use - hosted short-term rentals**

Hosted short-term rental uses shall be permitted in all residential zones in the City of Guadalupe subject to the requirements of this Chapter, including compliance with the operating standards, registration provisions, transient occupancy tax payments, and recordkeeping obligations, unless such short-term rentals are specifically prohibited by conditions, covenants, and restrictions and/or by any rules adopted by a homeowners or community association that apply to the property owner and prohibit the Host from using the property as a short-term rental.

#### **18.55.04 Administrative use permit required for unhosted short-term rentals**

Unhosted short-term rental uses shall be allowed in all residential zones in the City of Guadalupe subject to obtaining an administrative use permit as provided in Chapter 18.72 in addition to compliance with the operating standards, registration requirements, transient occupancy tax payments, and recordkeeping obligations, unless such short-term rentals are specifically prohibited by conditions, covenants, and restrictions that apply to the property and/or by any rules adopted by a homeowners or community association that apply to the property owner and prohibit the Host from using the property as a short-term rental. In addition to any conditions imposed by the Planning Department, conditions imposed for all administrative use permits issued for Unhosted short-term rentals shall include the following conditions:

A. The local contact person shall be required to have the names of all persons who have the permission of the property owner(s) to be at the property for each short-term rental. In addition, the local contact person shall be required to have the license plate numbers for all vehicles permitted to park onsite during the time period of each short-term rental. The local contact person shall promptly provide this information any member of the Police Department upon request. A failure to comply with this provision shall be a misdemeanor violation subject to a criminal citation, or issuance of an administrative citation, at the discretion of Public Safety personnel.

B. Three (3) contacts by Public Safety personnel at an Unhosted short-term rental property within a 20-day period shall permit the City to initiate administrative cost recovery, including for Public Safety personnel's time and expense, in addition to other administrative cost recovery and imposition of administrative citations and penalties as allowed by this Code.

C. The Host shall sign and submit a "Trespass Enforcement Authorization Letter" authorizing Public Safety personnel to act on behalf of Host and enter the property to correct improper and/or illegal activities if three (3) or more attempts to contact the Host, resident(s), designated local contact, or other responsible party have failed, or have not resulted in correction of the improper and/or illegal activities within a reasonable time after contact has been made.

D. Surveillance cameras shall be installed and positioned in such a way to be able to record all persons coming onto the property of any Unhosted short-term rental (exterior only) during the term of any short-term rental of the property. All recordings shall be kept for a minimum of thirty (30) days and shall be made available to the City upon request.

E. Parking shall be limited to on-site which may require that a garage be required to be made available for renters. All renters' vehicles shall be required to display a sign on the dashboard of the vehicle indicating that it is permitted to be there by permission of the property owner with the dates of the rental period listed.

F. If the Unhosted short-term rental has outdoor space such as a patio, balcony, courtyard, etc., the Host shall require renters to cease using such outdoor space no later than 9 p.m. on Sundays through Thursdays, and no later than 10 p.m. on Fridays and Saturdays.

### **18.55.05 Registration Application and Annual Renewal.**

#### A. Registration and Annual Renewal.

1. Application. Prior to advertising or making available any residence for short-term rents, Hosts shall register the residence as a short-term rental with the City. This registration shall be submitted on a form prepared by the City and shall include the name and contact information of the Host, the address of the dwelling unit(s) being used for short-term rental, the contact information for the local contact person, an acknowledgement of compliance with the requirements of the City's Zoning Ordinance, Municipal Codes, applicable health and safety standards, and other information as requested. If the application is for an Unhosted short-term rental, an administrative use permit as provided in Chapter 18.72 must be obtained prior to submitting the application, or such application will be rejected or deemed incomplete.

2. Fee. The registration form shall be accompanied by a filing fee in an amount established by resolution of the City Council and updated from time to time.

3. Application Completeness. The submitted information shall be used to determine whether to register the short-term rental. The Host will be notified if an application is incomplete. If the Host fails to timely submit the required information or fees necessary to complete the application, the application shall be deemed withdrawn. An application will expire (90) days after submission unless extended by the City Administrator upon a showing of good cause. If an application is incomplete and fees have been submitted, they will only be refunded if City staff does not review the application.

4. Decision. The City Administrator or designee shall be responsible for deciding short-term rental registration applications. After an application is deemed complete, registration shall be approved where:

a. The Host demonstrates the ability to meet the requirements of this Chapter.

b. The subject dwelling unit is not the subject of an active code compliance order or administrative citation from the City in the past twelve (12) months.

c. A short-term rental registration for the dwelling unit has not been denied or revoked in the prior twelve (12) month period.

d. An administrative use permit has been obtained if the short-term rental is an Unhosted short-term rental property.

e. The Department of Public Safety shall be provided with a copy of the approved registration upon issuance to Host.

5. Validity. An approved registration shall be valid and payable on a fiscal year basis. An approved registration shall be personal to the Host and shall automatically expire upon sale or transfer of the dwelling unit. No registration may be assigned, transferred, or loaned to any other person.

6. Annual Renewal. A registration may be renewed annually upon payment of registration renewal fees and all required transient occupancy tax remittance associated with the short-term rental. The Host shall submit such information concerning the short-term rental activity as may be required to verify the amount of tax paid. Failure to renew prior to the expiration date will result in expiration of the registration.

C. Requirements Not Exclusive. The issuance of a short-term rental registration shall not relieve any person of the obligation to comply with all other provisions of this Code applicable to the use and occupancy

of the property.

#### **18.55.06 Operating standards and requirements.**

The following operating standards and requirements shall apply to short-term rentals:

A. Legal Dwelling. Short-term rentals may only occur within legal dwelling units with no open code compliance cases.

B. Business license: Any property used as a short-term rental requires approval of a City business license.

C. One Short-Term Rental Allowed Per Host: The same Host may only operate one short-term rental in the City of Guadalupe.

C. Annual Limit. A dwelling unit may be occupied as an Unhosted short-term rental for no more than one hundred twenty (120) days per calendar year. There is no limit on the number of days a primary residence may be occupied as a short-term rental where the Host is present. For purposes of this Chapter, a Host is considered present when they are on the premises at all times between the hours of 10:00 p.m. and 6:00 a.m.

D. Local Contact Person. For Unhosted short-term rentals, Hosts shall identify to all guests and all occupants of neighboring properties a local contact person to be available twenty-four (24) hours per day, seven (7) days per week during the term of any unhosted stay. The designated local contact person shall:

1. Respond within thirty (30) minutes to complaints regarding the condition or operation of the dwelling unit or the conduct of guests; and

2. Take remedial action to resolve such complaints.

3. The local contact person shall be required to have the names of all persons who have the permission of the property owner(s) to be at the property for each short-term rental. In addition, the local contact person shall be required to have the license plate numbers for all vehicles permitted to park onsite during the time period of each short-term rental. The local contact person shall promptly provide this information any member of the Police Department upon request.

E. Parking. Parking shall be limited to on-site which may require that a garage be required to be made available for renters. All renters' vehicles shall be required to display a sign on the dashboard of the vehicle indicating that it is permitted to be there by permission of the property owner with the dates of the rental period listed.

F. Special events. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise, or other problems in the neighborhood are prohibited from occurring at the short-term rental property, as a component of short-term rental activities.

G. Administrative policy. The City Administrator or designee shall have the authority to develop administrative policies to implement the intent of this Section.

H. Transient occupancy tax (TOT). Transient occupancy taxes must be collected for short-term rentals and paid to the City pursuant to Chapter 3.20 of the Guadalupe Municipal Code. Collection of transient occupancy taxes for short-term rentals shall be the responsibility of the Host. The hosting platform shall collect TOT if the City and the hosting platform have entered into a voluntary collection agreement (or equivalent) with the City.

I. Records of compliance. The Host shall retain records documenting the compliance with these requirements for a period of three (3) years after each period of short-term rental, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a Host. Upon request and reasonable notice, the host shall provide any such documentation to City for the purpose of

inspection or audit to the City Administrator or his/her designee.

J. Violations.

1. Notice of Violation. The City may issue a notice of violation to any occupant, owner(s) or operator, pursuant to this Chapter or this Code, if there is any violation of this Chapter committed, caused or maintained by any of the above parties.

2. Administrative Citation. The City may issue an administrative citation to the property owner(s) pursuant to Chapter 1.11 of this Code if there is any violation of this Chapter or this Code committed, caused, or maintained. Nothing in this section shall preclude the City from also issuing an infraction or misdemeanor citation upon the occurrence of the same offense on the same day to any occupant, owner(s) or the operator. Unless otherwise provided herein, any person issued an administrative citation shall for each separate violation be subject to an administrative fine in an amount not to exceed one thousand dollars.

3. Criminal Citation. The City may issue an infraction or misdemeanor citation to any occupant, owner(s) or operator, pursuant to the provisions set forth in Section 1.08.020 (Infractions) or Section 1.08.030 (Misdemeanors) for Municipal Code violations.

K. Revocation of registration. A short-term rental registration issued under the provisions of this Chapter may be revoked by the Planning Director after notice and hearing as provided for in this section, for any of the following reasons:

a. Fraud, misrepresentation, or false statements contained in the application;

b. Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this Chapter;

c. Any violation of any provision of this Chapter or of any provision of this Code; or

d. Any violation of any provision of federal, state or local laws.

2. Revocation hearing. Before revoking a short-term rental registration, the Planning Director or designee shall give the responsible Host notice in writing of the proposed revocation and of the grounds thereunder, and also, the time and place at which the Host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the Host or may be mailed to the host at the last known address or at any address shown upon the application at least ten (10) days prior to the date of the hearing. Upon conclusion of the hearing the Planning Director or designee may, for the grounds set forth herein, revoke the registration.

3. Appeal from denial or revocation of registration. Any Host whose application has been denied or registration has been revoked by the Director or designee shall have the right to an administrative appeal before the City Council. An appeal shall be filed in writing on a form provided by the City stating the grounds therefor within ten (10) days of the decision. The City Council shall hold a hearing thereon within a reasonable time and the decision shall be final.

4. Waiting period. Any Host whose registration has been denied or revoked shall be ineligible from applying for a new registration for a twenty-four-month period.

L. Amnesty period for short-term rentals. Notwithstanding any other provision of law, short-term rentals operating on or before the enactment of this Chapter shall be considered existing, unpermitted uses. An amnesty period of three (3) months after the effective date of the ordinance from which this Chapter is derived is being offered to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this Chapter, including, but not limited to, compliance with operating standards and requirements, registration, and recordkeeping obligations, and obtaining of an administrative use permit for any Unhosted short-term rentals. Transient occupancy tax payments are required for short-term rentals and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted short-term rental use into compliance shall be approved by the City on or before three (3) months after the effective date of the ordinance from which this Chapter is derived, or the short-term rental use must cease until the City has approved the application. Existing short-term rental uses that do not conform to the

requirements of this Chapter shall cease operation within three (3) months of the effective date of the ordinance from which this Chapter is derived and shall be prohibited from resuming unless and until the use conforms to the requirements of this Chapter.

**SECTION 2.** Section 18.20.020 of Title 18, Chapter 18.20 of the Guadalupe Municipal Code is hereby amended to read as follows:

**18.20.020 Permitted uses.**

Permitted uses in the R-1 district include:

- A. One single-family dwelling; the dwelling shall be of a permanent character, placed upon a permanent foundation, and shall not be a mobile home or other temporary or vehicular type of dwelling;
- B. Accessory buildings or uses, such as garages, patios, swimming pools or storage sheds, which are normally incidental to a single-family residence if constructed simultaneously with or subsequent to the main building on the same lot;
- C. The storage of recreational (trailer) vehicles within the rear yard provided that said vehicle is located a minimum of 5 feet from all property lines and structures;
- D. The storage of recreational (trailer) vehicles within the side yard (or street side yard of corner lots) provided that all of the design standards contained in Municipal Code Section 18.60.035 can be met;
- E. Group dwellings with 6 or fewer residents, such as boardinghouses, family care homes, rest homes, convalescent homes, or other similar residential uses, provided that there shall not be more than one residing occupant for each 500 square feet of land within the lot or parcel on which the dwellings are located;
- F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which zoning clearance is required;
- G. Small family daycares;
- H. Large family daycares, provided that no large family daycare is closer than 300 feet from another;
- I. Home occupations;
- J. Keeping household pets;
- K. Hosted short-term rentals as permitted by Section 18.55.03.

**SECTION 3.** Section 18.20.030 of Title 18, Chapter 18.20 of the Guadalupe Municipal Code is hereby amended to read as follows:

**18.20.030 Conditional uses.**

Uses permitted subject to obtaining a conditional use permit, or an administrative use permit when allowed, in the R-1 district include:

- A. A church, public or private elementary school, park, playground, public utility building or public building, along with required parking;
- B. Accessory buildings or uses normally incidental to a single-family residence, if constructed or installed prior to the main building on the same lot;
- C. Employee housing as defined by Section 18.08.328 of this title, where accommodations are provided to 7 or more employees in a dwelling unit, or on a single parcel if there is also an accessory dwelling unit and/or a junior accessory dwelling unit in addition to the primary dwelling unit on the parcel.

D. Unhosted short-term rentals as permitted by Section 18.55.04.

**SECTION 4.** Section 18.21.020 of Title 18, Chapter 18.21 of the Guadalupe Municipal Code (regarding R-1 (SP) Residential Single Family – Low Density (Specific Plan)) is hereby amended to read as follows:

**18.21.040 Permitted uses.**

Permitted uses are limited to those outlined in the adopted specific plan, and short-term rentals as permitted by Sections 18.55.03 and 18.55.04. For the DJ Farms specific plan, schools and public parks are permitted.

**SECTION 5.** Section 18.24.030 of Title 18, Chapter 18.24 of the Guadalupe Municipal Code (R-1-M Single-Family (Medium-Density) Residential District) is hereby amended to read as follows:

**18.24.030 Conditional uses.**

Uses permitted subject to obtaining a conditional use permit, or an administrative use permit when allowed, in the R-1-M district shall be the same as those listed in Section 18.20.030 for the R-1 district.

**SECTION 6.** Section 18.28.020 of Title 18, Chapter 18.28 of the Guadalupe Municipal Code (R-2 Multiple Dwelling (Medium-Density) Residential District) is hereby amended to read as follows:

**18.28.020 Permitted uses.**

Uses permitted in the R-2 district include:

A. One or more single-family or multiple-family dwellings, including apartment houses or condominiums, provided that there shall be no more than one dwelling unit for each 3,000 square feet of land within the lot or parcel on which the dwelling is located. All dwellings shall be of a permanent character, placed upon a permanent foundation, and shall not be a mobile home or other temporary or vehicular type of dwelling;

B. All multiple units in R-2 medium-density residential zones placed on one lot must be attached;

C. Group dwellings with 6 or fewer residents, such as boardinghouses, family care homes, rest homes, convalescent homes, or other similar residential uses, provided that there shall not be more than one residing occupant for each 500 square feet of land within the lot or parcel on which the dwellings are located;

D. Accessory buildings or uses, only if constructed simultaneously with, or subsequent to, the main building on the same lot;

E. Public park or playground;

F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which zoning clearance is required;

G. Hosted short-term rentals as permitted by Section 18.55.03.

**SECTION 7.** Section 18.28.030 of Title 18, Chapter 18.28 of the Guadalupe Municipal Code (R-2 Multiple Dwelling (Medium-Density) Residential District) is hereby amended to read as follows:

**18.28.030 Conditional uses.**

Uses permitted subject to obtaining a conditional use permit, or an administrative use permit when allowed, in the R-2 district include:

A. Group dwellings with more than 6 residents, such as boardinghouses, family care homes, rest homes, convalescent homes, or other similar residential uses, provided that such a group dwelling shall not be located within 300 feet of the boundaries of a parcel containing another group dwelling, unless a conditional use permit is issued on the basis that waiver of such separation requirement would not be materially detrimental or injurious to the property, improvements or uses in the immediate vicinity;

B. A church, public or private elementary school, public utility building or public building, along with required parking;

C. Accessory buildings or uses normally incidental to a single-family residence, if constructed or installed prior to the main building on the same lot;

D. A home occupation;

E. Employee housing as defined by Section 18.08.328 of this title, where accommodations are provided to 7 or more employees in a dwelling unit, or on a single parcel if there is also an accessory dwelling unit and/or a junior accessory dwelling unit in addition to the primary dwelling unit on the parcel;

F. Unhosted short-term rentals as permitted by Section 18.55.04.

**SECTION 8.** Section 18.32.020 of Title 18, Chapter 18.32 of the Guadalupe Municipal Code (R-3 Multiple Dwelling (High-Density) Residential District) is hereby amended to read as follows:

**18.32.020 Permitted uses.**

Uses permitted in the R-3 district include:

A. One or more single-family or multiple-family dwellings, including apartment houses or condominiums, providing there shall be no more than one dwelling unit for each 1,700 square feet of land in the lot or parcel on which the dwellings are located;

B. Group dwellings with 6 or fewer residents, such as boardinghouses, family care homes, rest homes, convalescent homes, or other similar residential uses, provided that there shall not be more than one residing occupant for each 500 square feet of land within the lot or parcel on which the dwellings are located;

C. Offices, recreation facilities, dining rooms, laundry facilities and other incidental uses constructed simultaneously or subsequent to the main building on the same lot;

D. A church, public or private school, public building, public utility building, park or playground;

E. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which zoning clearance is required;

F. Hosted short-term rentals as permitted by Section 18.55.03.

**SECTION 9.** Section 18.32.030 of Title 18, Chapter 18.32 of the Guadalupe Municipal Code (R-3 Multiple Dwelling (High-Density) Residential District) is hereby amended to read as follows:

### **18.32.030 Conditional uses.**

Uses permitted subject to obtaining a conditional use permit, or an administrative use permit when allowed, in the R-3 district include:

A. Mobile home parks or recreational vehicle parks;

B. Mortuaries;

C. A home occupation;

D. Group dwellings with more than 6 occupants, such as hotels, motels, boardinghouses, family care homes, rest homes, convalescent homes or other similar residential uses, provided that such a group dwelling shall not be located within 300 feet of the boundaries of a parcel containing another group dwelling, unless a conditional use permit is issued on the basis that waiver of such separation requirement would not be materially detrimental or injurious to the property, improvements or uses in the immediate vicinity;

E. Accessory buildings or uses normally incidental to one of the uses permitted above, if constructed or installed prior to the main building on the same lot;

F. Employee housing as defined by Section 18.08.328 of this title, where accommodations are provided to 7 or more employees in a dwelling unit, or on a single parcel if there is also an accessory dwelling unit and/or a junior accessory dwelling unit in addition to the primary dwelling unit on the parcel;

G. Unhosted short-term rentals as permitted by Section 18.55.04.

**SECTION 10.** Sections 18.72.150 through 18.72.20 of Chapter 18.72 of Title 18 of the Guadalupe Municipal Code are hereby amended to read as follows:

### **18.72.150 Issuance conditions.**

Administrative use permits (AUP) when required or allowed by this Code ~~are limited to permit applications for an accessory dwelling unit and~~ shall be issued only if the findings identified in Section 18.72.190 can be made. The Planning Director or designee shall impose such conditions as deemed necessary to serve the purposes of this title, and may require tangible guarantees or evidence that such conditions are being or will be complied with.

### **18.72.160 Application—~~Information Required~~Property Owner(s).**

Application for an AUP shall be made in writing by the majority property owner(s). ~~A copy of the application for an accessory dwelling unit (ADU) may be considered the official application for an AUP at the discretion of the Planning Director or designee.~~

### **18.72.170 Application fee.**

~~No additional~~ A fee shall be required to process an AUP ~~once the ADU processing fee has been in an amount established by resolution of the City Council and updated from time to time.~~

### **18.72.180 Application—Director determination.**

Upon receipt of the application for an administrative use permit and payment of the application deposit, the Planning Director or designee shall evaluate the request and determine if the findings listed in Section 18.72.090 can be made to approve the request.

#### **18.72.190 Findings for approval.**

~~A. In order to approve an administrative use permit, under Section 18.53.080 to waive any development standard or other requirement set forth in Section 18.53.050 the Planning Director or designee shall make specific findings that granting the waiver will meet the purposes of Chapter 18.53 (Accessory Dwelling Units) and this title and the administrative use permit will not be detrimental to public health and safety, introduce unreasonable adverse impacts to the immediate neighbors, and would not overburden sewer and water services, or overburden traffic flow or parking.~~

~~B. In order to deny an administrative use permit under Section 18.53.080, the Planning Director or designee shall find that the ADU would be detrimental to the public health and safety, would introduce unreasonable adverse impacts to the immediate neighbors, would overburden sewer and water services, or overburden traffic flow.~~

#### **18.72.200 Administrative hearing.**

Prior to issuing an administrative use permit under this ~~e~~Chapter, the Planning Director or designee shall cause an administrative hearing to be noticed and held in the following manner:

A. Notice of Hearing. Notice of a public hearing shall contain the information required by Government Code Section 65094 and any additional information the Director deems appropriate. In addition, the notice shall declare that the application for the administrative use permit will be acted on without a public hearing if no request for a hearing is made.

B. Method of Notice/Distribution. Notice of public hearings shall be given as provided by Government Code Section 65091.

C. Public Hearing. A public hearing on an administrative use permit shall occur only when a hearing is requested by the applicant or other interested person(s). This request shall be made in writing to the Planning Director or designee no later than seven (7) days after the date of the public notice. In the event a public hearing is requested, the hearing on the administrative use permit shall be held on the date and time as defined in the public notice. At the request of the project applicant and/or at the discretion of the Planning Director or designee, a public hearing may be continued from time to time, but notice of the further hearings may be required to be provided again in the same manner as provided by subsection A. All costs associated with noticing shall be borne by the property owner.

D. Conduct of Hearing. At the public hearing, interested persons may present information and testimony relevant to a decision on the proposed AUP.

E. Final Decision. Immediately after the conclusion of public testimony in the case of a public hearing, or no sooner than the date of the meeting specified in the public notice required by subsection A, the Planning Director or designee shall announce the final decision, continue the decision to a future date, or announce that the matter will be referred to the City Council for a final decision.

**SECTION 6.** This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and has been found to be exempt pursuant to §15306 of the CEQA Guidelines (Information Collection) because it does not have the potential to create a physical environmental effect.

**SECTION 7.** The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance is held invalid, the City Council declares it would have adopted the remaining provisions of this Ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this Ordinance should remain in effect after the invalid portion has been eliminated.

**SECTION 8.** The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

**INTRODUCED** at a regular meeting of the City Council on the 11<sup>th</sup> day of January 2021, by the following vote:

**MOTION:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

**PASSED AND ADOPTED** at the regular meeting of the City Council on the 25<sup>th</sup> day of January 2022, by the following roll call vote:

**MOTION:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

**ATTEST:**

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Amelia M. Villegas, City Clerk

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Ariston Julian, Mayor

**APPROVED AS IS TO FORM:**

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Philip F. Sinco, City Attorney