



Village of Lincolnwood Plan Commission

Meeting
Wednesday, January 6, 2016
7:00 P.M.

in the
Council Chambers Room
Lincolnwood Village Hall - 6900 North Lincoln Avenue

Agenda

1. **Call to Order/Roll Call**
2. **Pledge of Allegiance**
3. **Approval of Minutes**
December 2, 2015 Minutes
4. **Case #PC-11-15: Public Hearing: Proposed Text Amendment – Short-Term Rental Property** (*Continued from December 2, 2015, November 4, 2015, and September 2, 2015*)
Request: Consideration and review of a Text Amendment to consider definitions and regulations for short-term rental properties.
5. **Other Business**
6. **Next Meeting**
7. **Public Comment**
8. **Adjournment**



**DRAFT MEETING MINUTES
OF THE
PLAN COMMISSION
DECEMBER 2, 2015 – 7:00 P.M.**

**LINCOLNWOOD VILLAGE HALL
COUNCIL CHAMBERS
6900 NORTH LINCOLN AVENUE
LINCOLNWOOD, ILLINOIS 60712**

MEMBERS PRESENT:

Chairman Paul Eisterhold
Irving Fishman
Patricia Goldfein
Anthony Pauletto
Don Sampen
Mark Yohanna

MEMBERS ABSENT:

Steven Jakubowski

STAFF PRESENT:

Timothy M. Clarke, AICP, Community Development Director
Aaron N. Cook, AICP, Community Development Manager
Hart N. Passman, Village Attorney

I. Call to Order

Chairman Eisterhold noted a quorum of four members and called the meeting to order at 7:03 p.m.

II. Pledge of Allegiance

III. Approval of Minutes

Motion to approve the November 4, 2015 Meeting Minutes, as amended, was made by Commissioner Fishman and seconded by Commissioner Yohanna.

Aye: Fishman, Yohanna, and Sampen

Abstained: Pauletto, and Eisterhold

Nay: None

Motion Approved: 3-2

IV. Case #PC-11-15: Public Hearing: Proposed Text Amendment – Short-Term Rental Property

This Public Hearing is a discussion for a proposed Zoning Code text amendment relative to short-term rental property. Mr. Passman stated this is a policy discussion and recommendation that originated from the Village Board. In reviewing this recommendation, the key issues to address are: 1) should this use be regulated; 2) how to define short-term rental property; 3) where should short-term properties be allowed; 4) if this use is permitted, should it be by right or by Special Use; and 5) if allowed, should any conditions or restrictions be written into the Code. Currently, the Zoning Code is unclear and does not expressly differentiate between a regular or traditional residential use. The length of short-term rental properties is what needs to be clarified.

The first topic for discussion was if this use should be licensed. Mr. Passman stated that if the Village goes forward with a licensing process, this would no longer be an amendment to the Zoning Code and not under the jurisdiction of the Plan Commission. Licensing would be more akin to a business license. If a licensing process is preferred, a business license would be required with additional restrictions such as insurance and inspection requirements.

When asked about Chicago's vacation rental policy, Mr. Passman read into the record the City of Chicago's requirements pertaining to short-term rental properties. Also discussed was the Village of Lincolnshire's new regulations in adopting this use.

A short-term rental property can be categorized either as a business, i.e. a hotel/motel or routine property ownership and the ability to rent out your property. To define short-term rental properties, the goal is to determine what is the minimum duration that a single-family home rental continues to be a single-family use. This use differs from a bed and breakfast as this use is not allowed in residential districts. A bed and breakfast is defined as private, owner-occupied business in a single-family residence where overnight accommodations and a morning meal are provided to transients for compensation.

Mr. Clarke stated that this matter came to the Village's attention from two separate properties that were rented out on a nightly or weekend basis. These properties were advertised on a popular short-term rental property website. The neighbors had safety concerns and they do not want a business operating in a single-family residential district. Mr. Clarke further stated that a resident who lives by one of these homes was to present testimony at the November 4, 2015 Plan Commission meeting. Unfortunately, this resident was unable to attend this meeting. Commissioner Yohanna spoke with this resident and summarized his concerns for the record.

The Commissioners agreed to move forward with defining short-term rental properties as a text amendment to the Zoning Code and not as a licensing process.

There was a lengthy discussion as to the specific verbiage and the length of time of the proposed definition. The recommended definition reads "A building or portion thereof that is primarily held out for rent on a nightly, weekly, or monthly basis for overnight lodging for transient guests." The alternative definition reads "A building or portion thereof that is held out for rent on a nightly, weekly, or monthly basis for overnight lodging for transient guests for more than ?? months during a 12-month period." Once a definition is

established, the next step is to define in what zoning district(s) should this use be considered. After much deliberation, Mr. Passman stated that the agreed-upon language of the proposed definition be “A building or portion thereof that is held out for rent for a period of less than 30 days for overnight lodging for transient guests.”

Zoning of Short-Term Rental Property

Zoning District	Permitted Use	Special Use	Prohibited Use
R-1 Residential			X
R-2 Residential			X
R-3 Residential			X
R-4 Residential			X
B-1 Traditional Business			X
B-2 General Business			X
B-3 Village Center PD			X
O Office			X
M-B Light Manufacturing/Business			X

All the Commissioners, with the exception of Commissioner Sampen, agreed with the blanket prohibition of short-term rental properties. Commissioner Sampen would like to see short-term rental properties as a Special Use; a blanket prohibition is too restrictive. Mr. Passman replied that if this was a Special Use, the homeowner would have to show hardship as to why they need to rent out their property on a short-term basis, which is not the route that the Plan Commissioners would like to see happen.

Chairman Eisterhold asked if anyone in the audience had any comment regarding this Public Hearing. Mr. Howard Handler of the North Shore Barrington Association of Realtors, 450 Skokie Boulevard, Northbrook, Illinois, spoke of his experience in Evanston regarding short-term rental properties. Mr. Handler believes that the Evanston ordinance is a good model balancing people’s property rights with neighborhood preservation and harmony. The primary concern are the homeowners who continually rent out their property which disrupts the neighborhood.

Mr. Handler mentioned some of the exemptions that Evanston has in place, and there has been no complaints since they adopted their ordinance a couple of years ago. This list of exemptions can be found in the Plan Commission packet as attachment #7 to the staff report. Commissioner Sampen would like to add some of the proposed exemptions to the proposed language.

Mr. Donald Gelfund, 7310 Tripp Avenue, spoke about the possibility of instituting a licensing process which could help alleviate any potential problems due to home and life safety inspections that would be paid for by the homeowner.

Motion to continue to the January 6, 2016 Plan Commission meeting was made by Commissioner Yohanna and seconded by Sampen.

Aye: Yohanna, Sampen, Fishman, Goldfein, Pauletto, and Eisterhold

Nay: None

Motion Approved: 6-0

V. Case #PC-13-15: Public Hearing: Zoning Code Text Amendment – Prohibition of Front Yard Parking

Mr. Cook outlined the options for the prohibition of front yard parking. The options to be considered are:

1. **No Change: Retain Existing Prohibitions** which is to continue to prohibit parking between commercial buildings and the front and/or corner side lot line. Any new or expanded off-street parking proposed would require a Variation and proof of a zoning hardship;
2. **Eliminate Prohibition Altogether** which is to remove the prohibition and permit off-street parking in any location on a commercial property. This would not eliminate the landscape requirements for off-street parking (i.e. perimeter landscape areas, landscape islands, etc.);
3. **Modify Prohibition to Allow Parking in Through Lots and Corner Side Yards** which is to allow off-street parking in corner side yards or through lots on commercial property. This would expand opportunities for new/expanded parking on corner lots and through lots. This option would continue to prohibit off-street parking between a commercial building and front lot lines. This would not eliminate the landscape requirements for off-street parking (i.e. perimeter landscape areas, landscape islands, etc.);
4. **Modify Prohibition by Zoning District** which would review each non-residential district and the appropriateness within each district to eliminate the prohibition (Option #2) and/or modify to allow in corner side yards or through lots (Option 3); or
5. **Modify Prohibition to Make Off-Street Parking in Front and/or Corner Side Yard a Special Use** which would modify the review process which would take the consideration from a Variation, requiring zoning hardship and consideration by the Zoning Board of Appeals, and shifting the review to a Special Use and heard by the Plan Commission.

Commissioner Fishman would like to eliminate the prohibition (Option #2 with the exception of the Lincoln Avenue Corridor) altogether citing that almost all of the commercial properties are currently legal nonconforming uses, and a Variation process is burdensome and unfair. Staff replied that the reoccupancy of tenant space, as long as the new use is permitted and does not result in the increase in intensity of parking, would be able to retain the current parking use. Commissioners Goldfein, Pauletto, Sampen, and

Eisterhold would like to go forward with the Special Use (Option #5). Commissioner Eisterhold would like to see more landscaping screening.

Chairman Eisterhold asked if anyone in the audience had any comment regarding this Public Hearing. Let the record state that no one came forward.

Motion to modify the prohibition to make off-street parking in the front and/or corner side yard a Special Use in non-residential zoning districts was made by Commissioner Sampen and seconded by Commissioner Pauletto.

Aye: Sampen, Pauletto, Goldfein, Fishman, and Eisterhold

Nay: None

Motion Approved: 5-0

VI. Other Business

Motion to approve the modified 2016 Plan Commission schedule was made by Commissioner Goldfein and seconded by Commissioner Pauletto.

Aye: Goldfein, Pauletto, Fishman, Sampen, and Eisterhold

Nay: None

Motion Approved: 5-0

Commissioner Fishman addressed staff about the updated project list that was included in the packet and would like to be updated on all phases of future projects, not just from a Plan Commission and Village Board level. Staff will expand the list to include building permit status, etc.

Commissioner Fishman passed out the the Establishment and Conduct and Powers and Duties of the Plan Commission which gives the right to the Plan Commission to initiate studies to present to the Village Board.

Motion to adjourn was made by Commissioner Pauletto and seconded by Commissioner Sampen. Meeting adjourned at 9:15 p.m.

Aye: Pauletto, Sampen, Goldfein, Fishman, and Eisterhold

Nay: None

Motion Approved: 5-0

Respectfully submitted,

Kathryn M. Kasprzyk
Community Development Coordinator



Plan Commission Staff Report

Case #PC-11-15

January 6, 2016

(Continued from December 2, 2015,
November 4, 2015, and September 2, 2015)

Subject Property: N/A (Text Amendment)

Requested Action: Text Amendment to Article II Section 2.02 to add an appropriate definition for “Short-term rental property” and Table 4.01.1 to include “Short-term rental property” as a Permitted, Special Use, or Prohibited Use in Village Zoning Districts.

Notification: Notice in Lincolnwood Review dated August 13, 2015

Petitioner: Lincolnwood Village Board

Summary

Below is a summary of the matter included in the December 2, 2015 Plan Commission packet for reference purposes. At the December 2015 meeting, the Plan Commission provided direction to staff and the Village Attorney regarding the desired regulations for Short-term rental properties. Attached to the staff report is the draft text amendments prepared by the Village Attorney based on direction provided at the December 2015 hearing.

The draft text amendments are the only new information distributed in advance of the January 6, 2016 hearing. Pages 1-2 of the draft text include a new definition for Short-term rental property and several modifications to existing definitions for the purposes of distinguishing these uses from Short-term rental properties. Page 3 represents an amendment to the Land Use Table (“P”: Uses are permitted as of right; “S”: Uses considered Special Uses; and “-“ Uses expressly prohibited). Page 4 identifies additional standards applicable to Short-term rental properties.

Attachments below identified with an “” are included in the online packet and available in hard copy upon request. These documents have been distributed previously to the Plan Commission.*

In recent months, Village staff has been contacted regarding several residential properties in use as short-term rentals. These short-term rentals are typically rented out by the property owner of a residential property via websites such as AirBNB or Vacation Rentals By Owner (VRBO). Guests reserve dates for the purpose of using the residential property on a temporary basis.

The use of a residential property as a short-term rental by transient guests for overnight lodging is perhaps most similar to a “Hotel or Motel” use. However, as currently defined, these residential properties used as short-term rentals do not fit the description of a “Hotel or Motel”. The Zoning Code does not anticipate transient uses such as short-term rentals within residential districts. In order to clarify the intent of the Zoning Code to prohibit these uses in residential districts, an amendment is appropriate.

Attached is a cover memo from Steven M. Elrod, Village Attorney, regarding potential Zoning Code amendments to distinguish short-term rentals from traditional residential land uses. Mr. Elrod identifies amendments to Section 2.02 of the Zoning Code for the purpose of defining “short-term rental property” and modification to other definitions to distinguish traditional residential dwellings from short-term rental properties. Also identified is an amendment to Table 4.01.1 to include “short-term rental property” as a permitted use, special use, or prohibited use in Village zoning districts.

Alternatively, regulating short-term rental properties through a licensing process may be appropriate. Such regulations for the licensing of short-term rental properties does not require a public hearing before the Plan Commission as the provisions would be within the Village Code and not the Zoning Code.

This matter was referred to the Plan Commission for public hearing by the Village Board at their July 21, 2015 meeting. It is anticipated that Hart Passman, Village Attorney, will be present at the September 2, 2015 Plan Commission meeting.

Attached is proposed language prepared by the Village Attorney for consideration by the Plan Commission. The matter for deliberation by the Plan Commission is the preferred definition of “Short-term rental property” and how to regulate them within the Village’s Zoning Districts.

Attachments:

1. Proposed Draft Amendments to Village of Lincolnwood Zoning Ordinance - *New*
2. Memorandum from Steven M. Elrod dated July 14, 2015*
3. Lincolnshire Village Board Meeting Minutes Excerpt – Approval of an Ordinance to Regulate Short-Term Rentals*
4. Village of Lincolnshire Short Term Rental COTW Materials*
5. Lincolnshire Review Article*
6. Wilmette Life Article*
7. NSBAR Short Term Rentals Overview*
8. Zoning Practice - Short-Term Rentals October 2015*

**Proposed Draft Amendments to Village of Lincolnwood Zoning Ordinance
For the Regulation of Short-Term Rental Properties**

Section 2.02 Definitions.

Add new definition of "Short-Term Rental Property":

SHORT-TERM RENTAL PROPERTY

A building or portion thereof that is held out for rent, for overnight lodging for transient guests, for a period shorter than thirty consecutive days.

Amend the following definitions as follows:

DUPLEX/TWO-FAMILY DWELLING

A ~~building~~ **dwelling** containing two dwelling units only, one above the other.

DWELLING

A building or portion thereof designed or used exclusively for **non-transient** residential purposes, including single-family, two-family and multiple-family dwellings, but not including lodging rooms in hotels, motels, ~~or~~ rooming houses, **or short-term rental properties.**

DWELLING UNIT

One or more rooms **within a dwelling** which are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete single kitchen facilities, permanently installed to serve the entire family, shall always be included within each "dwelling unit."

BED AND BREAKFAST

A private, owner-occupied business in a single-family ~~residence~~ **dwelling** where overnight accommodations and a morning meal are provided to transients for compensation. **The term "bed and breakfast" does not include short-term rental properties.**

HOME OCCUPATION

Any home occupation or profession conducted entirely within a dwelling by a member of the family residing in the dwelling and when such home occupation is incidental and secondary to the use of the dwelling for dwelling purposes, and in connection with which: (a) there is no other display or activity that will indicate from the exterior of the dwelling that it is being utilized in whole or in part for any purpose other than a residential use; (b) there is not sold or conducted a

commodity or service that requires regular receipt and delivery of merchandise, goods or equipment by other than first class mail; (c) an accessory building is not used in whole or in part for such home occupation; (d) vehicular traffic in the vicinity of the dwelling is not increased by more than one additional vehicle at a time; and (e) no separate entrance is provided in connection with the conduct of any home occupation. **The operation of a short-term rental property is not a home occupation.**

HOTEL OR MOTEL

An establishment which is open to transient guests, in contradistinction to a lodging house, boarding house, or a rooming house, and is commonly known as a hotel in the Village of Lincolnwood, and which provides the following customary hotel services; maid service; furnishing and laundry of linens; telephone and secretarial and desk service; the use and upkeep of furniture; and bellboy service. **Regardless of the services provided, a short-term rental property is not a hotel or motel.**

MULTIPLE-FAMILY DEVELOPMENT

A detached building designed and used as a dwelling by three or more families occupying separate ~~suities~~ **dwelling units**.

MULTIPLE-FAMILY DWELLING

A ~~building~~ **dwelling** containing three or more dwelling units.

TOWNHOUSE

An attached single-family residential ~~housing~~ **dwelling** design which typically contains three or more dwelling units having one or more walls abutting with another dwelling and designed to have all exits open directly to the outside.

Table 4.01.1

Amend Table 4.01.1 as follows:

* * *

Zoning Districts											
Use Category	Residential				Business			Office	Manufacturing / Business	Public	Standard
	R-1	R-2	R-3	R-4	B-1	B-2	B-3 PD	O-1	M-B (Note 8)	P	
Restaurant, >/=5,000 sf	—	—	—	—	S	S	P	—	S	—	§ 4.07(6)
Pub, bar, lounge	—	—	—	—	S	S	P	—	S	—	§ 4.07(10)
Entertainment and recreation											
Billiard club	—	—	—	—	S	S	P	—	—	—	
Commercial recreational facility					S	P	P	S	S		
Golf course, private	S	S	S	S	—	—	—	—	—	—	
Health club	—	—	—	—	S	P	P	S	S	—	
Entertainment venue	—	—	—	—	S	S	S	—	—	—	
Facility with drive-through	—	—	—	—	S	S	P	—	—	—	§ 4.07(8)
Financial services											
Bank, credit union, savings and loan	—	—	—	—	—	P	—	—	—	—	
Firearms shooting range									S		§ 4.08(5)
Food and beverage retail sales											
Convenience store	—	—	—	—	P	P	P	—	—	—	
Grocery store, <30,000 sf	—	—	—	—	P	P	P	—	—	—	
Grocery store, >/=30,000 sf	—	—	—	—	S	S	P	—	—	—	
Liquor store, package goods	—	—	—	—	S	S	S	—	S	—	
Lodging											
Bed-and-breakfast (4 or less guest rooms)	—	—	—	—	S	S	P	—	—	—	
Hotel/motel	—	—	—	—	S	S	P	—	—	—	
Short-term rental property	<u>Note 10</u>	—	<u>Note 10</u>	—	—	—	—				
Medical cannabis dispensary	—	—	—	—	S	—	—	—	S (Note 9)	—	§ 4.07(16)
Office (except as more specifically regulated)											

* * *

Note 10: Short-term rental properties are only permitted to the extent set forth in Section 4.06(4) of this Zoning Ordinance.

Section 4.06 Additional Use Standards for Residential Districts

Amend Sec. 4.06 as follows:

“4.06. Additional Use Standards for Residential Districts:

* * *

(4) Short-Term Rental Properties. No property within any residential district may be used more than once per calendar year as a short-term rental property, except as follows:

- 1. Pursuant to a rental agreement executed pursuant to, or in conjunction with, a contract to sell the real estate on which the short-term rental property is located, for rental to the seller of the real estate;**
- 2. For rental to permanent Village residents who have been displaced from their permanent dwelling units due to repair or renovations; or**
- 3. By owners who can demonstrate, to the satisfaction of the [Village President] [Village Manager], that they will suffer a demonstrable hardship if use of the property for a short-term rental property is prohibited.**

Section 4.07 Additional Use Standards for Business and Office Districts

Amend Sec. 4.07 as follows:

“4.07. Additional Use Standards for Business and Office Districts:

* * *

(17) Short-Term Rental Properties. Short-term rental properties are only allowed in the B-1 and B-3 Districts, and only pursuant to the standards and limitations set forth in Section 4.06(4) of this Zoning Ordinance.

Holland & Knight

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Memorandum

Date: July 14, 2015

To: Timothy Clarke, Community Development Director

From: Steven M. Elrod, Village Attorney

cc: Timothy Wiberg, Village Manager
Aaron Cook, Development Manager

Re: Short-Term Rentals: Potential Zoning Ordinance Amendments

As you requested, we have prepared potential amendments to the Village of Lincolnwood Zoning Ordinance that would permit the Village to regulate the short-term rental of residential properties as a separate land use from traditional residential land uses. The amendments include: (1) defining the term “short-term rental property;” (2) amending other definitions to distinguish traditional residential dwellings from short-term rental properties; and (3) amending Table 4.01.1 to include “short-term rental property” under the “Lodging” use group and to designate short-term rental properties as permitted uses, special uses, or prohibited uses in the Village’s zoning districts.

We have provided two alternative definitions of “short-term rental property.” The first definition uses an objective standard. A building must be held out for rent for a minimum number of months during a 12-month period (to be determined by the Plan Commission and Village Board). This standard would be relatively easy to apply, so long as staff has access to information about the time a building has been held out for rent (e.g., by consulting the website of AirBNB). The second definition is subjective. A building must be “primarily” held out for rent on a short-term basis. This standard is less precise because people may disagree about the meaning of “primarily.” However, if staff cannot obtain information regarding the time that a property is held out for rent, “primarily” may provide appropriate flexibility.

We inserted question marks in Table 4.01.1 to seek direction regarding how short-term rental properties should be classified (i.e., as permitted, special, or prohibited uses). We also suggest that the Village consider whether it is appropriate to impose other regulations on short-term rental properties, such as locational restrictions or performance standards. Any such regulations could be added to the Zoning Ordinance as part of these proposed amendments.

Finally, the Village may want to consider whether it would be appropriate to regulate short-term rental properties through a licensing scheme, as is done in the City of Chicago. Licensing provisions need not go through the Plan Commission hearing process, as they would be located within the Village Code and not the Zoning Ordinance. Please let us know if the Village is

July 13, 2015

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interested in developing a licensing program, either in tandem with, or in lieu of, the proposed zoning amendments.

Trustee McDonough moved and Trustee Feldman seconded the motion to approve the bills prelist as presented. The roll call vote was as follows: AYES: Trustees Feldman, McDonough, Hancock, Grujanac and Leider. NAYS: None. ABSENT: Trustee Servi. ABSTAIN: None. Mayor Brandt declared the motion carried.

5.0 CITIZENS WISHING TO ADDRESS THE BOARD (on agenda items only)

6.0 PETITIONS AND COMMUNICATIONS

7.0 CONSENT AGENDA

8.0 ITEMS OF GENERAL BUSINESS

8.1 Planning, Zoning & Land Use

8.11 Approval of an Ordinance amending Title 6, Zoning, to Regulate Short-Term Rentals (Village of Lincolnshire)

Village Manager Burke stated there were no items to report regarding this Ordinance since the Committee of the Whole meeting discussion. However, since this was the only item to bring forward from the previous meeting, it was listed under Items of General Business rather than as a single item on the Consent Agenda.

Trustee McDonough moved and Trustee Grujanac seconded the motion to approve an Ordinance amending Title 6, Zoning, to regulate short-term rentals. The roll call vote was as follows: AYES: Trustees McDonough, Hancock, Grujanac and Leider. NAYS: Trustee Feldman. ABSENT: Trustee Servi. ABSTAIN: None. Mayor Brandt declared the motion carried.

Mayor Brandt noted there have been many misconceptions in the media regarding the Village eliminating short-term rentals and not allowing Airbnb. Mayor Brandt stated for the record, these types of rentals have never been allowed in Lincolnshire; and noted the approved Ordinance is related to rentals three months and beyond.

8.3 Public Works

8.4 Police

8.5 Parks and Recreation

8.6 Judiciary and Personnel

9.0 REPORTS OF SPECIAL COMMITTEES

10.0 UNFINISHED BUSINESS

11.0 NEW BUSINESS

12.0 EXECUTIVE SESSION

13.0 ADJOURNMENT

Trustee McDonough moved and Trustee Grujanac seconded the motion to adjourn. The voice vote was unanimous and Mayor Brandt declared the meeting adjourned at 7:19 p.m.



**Agenda Item
3.11, COW**

**REQUEST FOR BOARD ACTION
Committee of the Whole
October 26, 2015**

Subject:	Text Amendments to address Short-Term Rental of Residential Property
Action Requested:	Consideration of a Zoning Board recommendation regarding a request to amend Sections 6-2-2, 6-3-5, 6-5A, 6-5B, 6-5C, 6-5D and 6-5F of the Lincolnshire Zoning Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

Background:

- The Village has traditionally permitted single-family residential property to be rented, whether a room or an entire home, on an annual basis.
- The rental of single-family residential property for uses such as a bed and breakfast, lodging house or through a home rental organization such as Vacation Rental By Owner (VRBO) or Air BnB is not currently permitted; nor has it ever been.
- A recent issue with a resident operating an Air BnB business in a single-family residence made it clear the Village's regulations prohibiting such a use should be clarified and placed in a more appropriate section of the Code, with increased visibility.
- ***The Zoning Board held a Public Hearing on September 8th, followed by further discussion at the October 14th regular Zoning Board meeting, at which there was a unanimous recommendation to amend the Zoning Code to regulate short-term rentals, with the following key stipulations (further detailed in the attached Draft Ordinance):***
 - ***Minimum permitted rental period = 3 months***
 - ***No more than two rentals per year.***
 - ***Leases which meet the minimum required rental period may be permitted to extend on a month-to-month basis.***
 - ***Leases less than the 3-month minimum are permissible only when they involve a rent-back option to the original owner on a home sale.***
 - ***No temporary structure (ie. a shed, treehouse, tent, etc.) is permitted to be used for short-term rental.***

Zoning Board Commentary:

The Zoning Board discussed a number of different options, with the intent of balancing the character of a neighborhood, minimizing transient uses, and a desire to permit homeowner flexibility. In the context of this discussion the following benefits were identified:

Potential Benefits:

- Insure that transient uses, which can detract from the stable nature of a residential area, such as Air BnB, VRBO and Bed & Breakfast type uses, are not permitted.
- Require any permissible lease periods, less than three months, are only for situations in which the current home occupant is extending their stay, rather than accommodating



**Agenda Item
3.11, COW**

greater transiency.

- Provide homeowners an ability to reasonably rent their home when situations like a corporate relocation occur and they are unable to sell their home.
- Provide homeowners an ability to reasonably rent their home when they are relocated, but do not desire to sell their home if they are underwater on their mortgage.
- Allow future residents an opportunity to rent in the area if they were awaiting home construction to be completed.
- Allow future residents an opportunity to rent in the area while they find a home to purchase.

Note – The attached correspondence from Howard Handler of NorthShore Barrington Realtor's Association (NSBAR) was submitted during the Zoning Board review process. NSBAR is active in lobbying local governments regarding Ordinances that could have a potential impact on their member Realtors. Mr. Handler attended the October 14th Zoning Board meeting and expressed the concerns of their organization.

Recommendation:

Consideration of text amendments to Chapter's 2, 3 and 5 of Title 6 - Zoning of the Lincolnshire Zoning Code and placement on the November 9th Consent Agenda for approval.

Reports and Documents Attached:

- Draft Ordinance, Prepared by Village Attorney Simon
- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.
- Staff Memoranda, Dated September 8, 2015 and October 14, 2015
- Attachment submitted by Northshore Barrington Realtors Association

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Zoning Board Public Hearing:	September 8, 2015
Continued Zoning Board Discussion:	October 14, 2015
Current COW Discussion:	October 26, 2015

VILLAGE OF LINCOLNSHIRE

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 6 (ZONING)
OF THE VILLAGE OF LINCOLNSHIRE MUNICIPAL CODE
(Short-Term Rentals)**

WHEREAS, the Village of Lincolnshire, an Illinois home rule municipal corporation, has the authority to adopt ordinances and promulgate rules and regulations that pertain to its government and affairs, including the coordination and operation of various activities and structures within its boundaries, and to protect the public health, safety, and welfare of its citizens; and

WHEREAS, the Corporate Authorities of the Village of Lincolnshire find it necessary for the promotion and preservation of the public health, safety and welfare of the Village that the regulation of short-term rental of residential dwellings be reviewed for legality, efficiency and predictability;

WHEREAS, the Board of Trustees referred to the Zoning Board (“Zoning Board”) a petition to research, consider and prepare proposed text amendments to the Zoning Code to clarify and amend the regulation of short-term rental of residential dwellings; and

WHEREAS, following due publication of notice in the Lincolnshire Review on _____, a public hearing concerning the proposed amendments to the Zoning Code of the Village was convened by the Zoning Board on September 8, 2015, and finally adjourned on October 14, 2015, 2015; and

WHEREAS, following deliberation and consideration on the evidence and testimony elicited during the public hearing and the recommendation of the Zoning Board, the Village

Board desires for the Zoning Code to be amended to improve the Zoning Code regulations affecting the short-term rental of residential dwellings; and

WHEREAS, the Village hereby finds that it is in the best interest of the Village and the public to amend its Zoning Code to promote the economic health and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village Of Lincolnshire, Lake County, Illinois, in exercise of its home rule powers, as follows:

SECTION ONE: The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance as though fully set forth herein. The findings of the Zoning Board of the Village of Lincolnshire, attached hereto as **Exhibit A**, are herein incorporated by reference as the findings of the Village Board to the same effect as if fully recited herein at length. All references in the Zoning Board's findings are made the references of the Mayor and Board of Trustees of the Village of Lincolnshire.

SECTION TWO: Title 6 of the Village of Lincolnshire Municipal Code ("Zoning") is hereby revised by amending Chapter 3, Section 5 (Accessory Structures and Uses) by adding a new category of Accessory Use regulations entitled, "Short Term Rental" in the form described in **Exhibit B**, attached hereto and incorporated as though fully set forth herein.

SECTION THREE: Title 6 ("Zoning"), Chapter 2 ("Definitions") is hereby amended in the following manner:

SHORT-TERM RENTAL The accessory use of a residential dwelling under a written or oral agreement providing for occupancy of all or part of the dwelling by any person other than the owner thereof in exchange for consideration therefor.

LODGING HOUSE
(INCLUDING BOARDING ~~A residential building, or portion and thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms which and accommodate persons who are not members of~~

~~the keeper's family. Lodging with or without meals is provided for compensation on a weekly or monthly basis.~~

**~~ROOM HOUSE)
LODGING ROOM
(ROOMING UNIT)~~**

~~A room which is not physically a part of a dwelling unit, or which through physically a part of a dwelling unit is used or intended for use by a person or persons other than members of the family occupying said dwelling unit, and which is used or intended to be used as sleeping and living quarters, but without facilities for either cooking or eating.~~

SECTION FOUR: Title 6 (“Zoning”), Chapters 5A, 5B, 5C, 5D and 5F (the Residential zoning districts) are hereby amended by adding the following permitted use to each Chapter:

Short-Term Rental, as an accessory use to residential dwelling units and as regulated in section 6-3-5 of this Title.

SECTION FIVE: If any section, subsection, sentence, clause, phrase or application of this Ordinance, or any regulations adopted hereby, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, either facially or as applied, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof or any other application under which such provision is deemed permitted.

SECTION SIX: All prior Ordinances in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION SEVEN: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

SO ORDAINED this _____th Day of _____, 2015, at Lincolnshire,
Lake County, Illinois.

AYES:

NAYS:

ABSENT:

APPROVED:

Elizabeth Brandt, Mayor

DATE: _____

ATTEST:

Barbara Mastandrea, Village Clerk

EXHIBIT A
ZONING BOARD FINDINGS OF FACT

EXHIBIT B**TITLE 6, CHAPTER 3, SECTION 5****ACCESSORY STRUCTURES AND USES****Short Term Rental**

- Except as otherwise provided herein, leasing a residential dwelling in any Residential zoning district (R1 through R5, inclusive) for less than three (3) months shall be prohibited.
- The term of any lease which has satisfied the minimum term required by these rules may be extended on a month-to-month basis so long as the tenant(s) remain the same.
- Residential dwellings shall not be leased more than two (2) times during any consecutive twelve (12) month period unless the rental agreement has been terminated by reason of a tenant default.
- The rental premises may comprise all or a part of the principal structure.
- The rental premises shall not count toward the limit of accessory structures otherwise permitted by this Chapter.
- The form of consideration exchanged for the rental premises does not affect whether it is treated as a short term rental for the purposes of this Chapter.
- The property owner shall remain responsible for compliance with all Village Codes during the term of any rental agreement unless the owner can show by clear and convincing evidence that the tenant caused the violation despite good faith efforts by the owner to abate the violation.
- No temporary structure shall be permitted to be used for a short-term rental.
- The prohibition on short term rentals for less than three (3) months shall not apply when the immediately preceding owner maintains possession of the dwelling unit after closing and leases it from the successor owner under a written lease agreement.

Text = New Text Proposed by Zoning Board**6-3-5: ACCESSORY STRUCTURES AND USES**

No accessory structure or use shall be established, erected, altered or moved onto a lot unless it is specifically conforms to the requirements of this Section.

A. General Requirements:

1. Floor Area Ratio: The maximum size shall not exceed 10% of the gross square feet of the Principal Structure on the lot, except as further regulated in Section 6-3-5(B).
2. Height: The maximum height shall not exceed fifteen (15) feet, except as further regulated in Section 6-3-5(B).
3. Location: Shall meet the minimum required Setbacks applicable to the Principal Structure on the lot, except as otherwise permitted in Section 6-3-5(B).
4. Relationship to Principal Structure: No portion of an Accessory Structure shall extend beyond the front façade of the Principal Structure on the lot.
5. Tree Removal: Any tree removal related to the installation of an Accessory Structure shall be subject to the tree removal requirements of Section 13-1-3(l).
6. Quantity: A maximum of two Accessory Structures shall be permitted on a lot. No two Accessory Structures shall be the same, with the exception of Play Structures.
7. Establishment: An Accessory Structure shall not be erected, altered or moved onto a lot prior to the establishment of a permitted Principal Structure on the same lot. Accessory Structures to any non-residential use or structure shall require Architectural Review Board approval prior to establishment.
8. Appeal: Any person or entity aggrieved by Staff determination regarding the application or interpretations of these requirements may submit a written appeal, as specified in Section 6-14-12 of the Lincolnshire Village Code, to the Architectural Review Board or Zoning Board, for final decision by the Village Board of Trustees.

B. Specific Requirements: The following Accessory Structures and Uses shall be permitted subject to the additional specific regulations set forth below:

ACCESSORY STRUCTURES AND USES 6-3-5(B)

P = Permitted
S = Special Use

Flagpole & Flags

- Flagpoles shall not exceed a height of fifteen feet (15') or 75% of the height of the Principal Structure, whichever is greater.
- Flagpoles may be located beyond the front façade of the Principal Structure and shall comply with all required building setbacks or setbacks shall be equal to the pole height, whichever is greater.
- Flagpoles shall be exempt from the Quantity requirement of Section 6-3-5(A)(6). In addition, Flagpoles in single-family residential lots shall be limited to one (1) flagpole per lot.

Gazebo

- Shall incorporate traditional/classical architectural detailing and ornamentation in the pillars, railings, walls, eave brackets, structural members, roof and/or similar elements
- Shall have a shape of six (6) or more sides, with a maximum diameter of fifteen feet (15').
- Shall be open sided, with no more than 50% of any exterior side of the structure consisting of a solid wall surface.
- Installation of natural gas, water supply or sanitary sewer service; plumbing fixtures; hot tubs; whirlpool tubs or similar equipment is prohibited.

- Permanent or temporary windows or other installations are prohibited. The installation of screens to control insects and ceiling fans are permitted.
- Storage is prohibited.
- Shall be constructed of wood materials erected upon concrete piers or a structural foundation
- Permitted within the required rear yard setback, provided the Gazebo is no closer than ten feet (10') from the nearest property line(s).

Greenhouse

- At least two walls and the roof of the structure must be glass or similar transparent materials.
- Storage of materials other than plants shall not be visible from adjacent properties and public ways

Memorial Garden

- As defined in Section 6-2-2

Memorial Assembly Facility

- Shall only be permitted as an accessory use to an assembly use, including but not limited to religious institutions or schools.
- Shall be permitted inside the principal structure on the lot.
- If located outside as an accessory structure, the following shall apply:
 1. Shall be located not less than 100 feet from any Lot Line where there is Frontage.
 2. Shall maintain a minimum distance of 135 feet from any Lot Line where there is no Frontage.
 3. Shall be located not more than 20 feet from the principal structure on the lot.
 4. Shall comprise an area no greater than 600 square feet.
 5. The structure shall have a height not greater than 3 feet.
 6. The structure shall be concealed from the adjacent right-of-way and contiguous residential Lots with vegetation which provides complete screening during the entire year and shall be a minimum of 6 feet tall at the time of planting (such vegetation shall not be considered part of the permitted area).
 7. The face of the structure into which cremated human remains are interned must substantially face towards the principal structure on the Lot.

Parking Garage Structure

- Refer to permitted zoning districts for specific regulations.

Personal Recreation Facility

- Recreation courts/facilities which do not require a foundation, concrete slab, or impervious surface floor shall not require a building permit.
- Permitted within the required rear yard setback, provided they are no closer than ten feet (10') from the nearest property line(s).
- Lighting shall be positioned and operated to minimize the amount of light and glare cast onto any adjacent property or street to not be a nuisance.

Play Structure

- Structures which do not include a foundation or concrete slab shall not require a building permit.
- Playhouses shall not exceed 8 feet in height and a maximum floor area of sixty (60) square feet.
- Storage of materials is prohibited.
- Permitted within the required rear yard setback, provided they are no closer than ten feet (10') from the nearest property line(s).

Private Residential Swimming Pools & Pool Houses

- Private Residential Swimming Pools – Refer to Chapter 5 of Title 5 for specific requirements.
- The combination of a Private Residential Swimming Pool and Pool House shall be classified as one Accessory Structure/Use and exempt from the Quantity requirement of Section 6-3-5(A)(6).
- The use of a Pool Houses as a Second Residential Unit is prohibited.
- Pool Houses shall be constructed with the same materials used on the Principal Structure.

- Pool Houses shall be permitted only in conjunction with an in-ground swimming pool. Installation of natural gas, water supply or sanitary sewer service; plumbing fixtures; heating/air conditioning is permitted.

Second Residential Unit

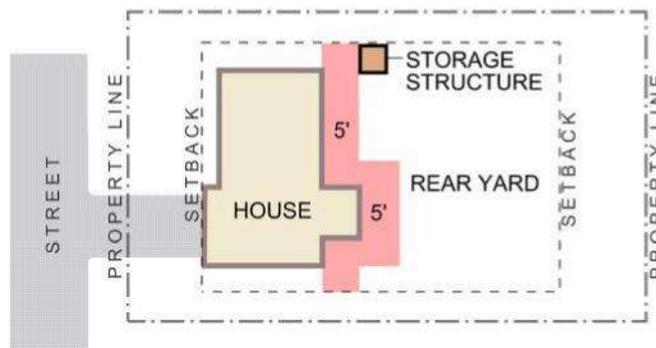
- Refer to Section 6-5A-2(H) for specific requirements.

Short Term Rental

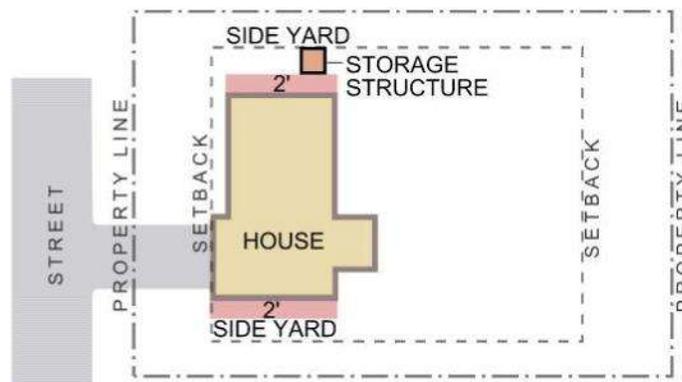
- Except as otherwise provided herein, leasing a residential dwelling in any Residential zoning district (R1 through R5, inclusive) for less than three (3) months shall be prohibited.
- The term of any lease which has satisfied the minimum term required by these rules may be extended on a month-to-month basis so long as the tenants remain the same.
- Residential dwellings shall not be leased more than two (2) times during any consecutive twelve (12) month period unless the rental agreement has been terminated by reason of a tenant default.
- The rental premises may comprise all or a part of the principal structure.
- The rental premises shall not count toward the limit of accessory structures otherwise permitted by this Chapter.
- The form of consideration exchanged for the rental premises does not affect whether it is treated as a short term rental for the purposes of this Chapter.
- The property owner shall remain responsible for compliance with all Village Codes during the term of any rental agreement unless the owner can show by clear and convincing evidence that the tenant caused the violation despite good faith efforts by the owner to abate the violation.
- No Temporary Structure shall be permitted to be used for short term rental.
- The prohibition on short term rentals for less than three (3) months shall not apply when the immediately preceding owner maintains possession of the dwelling unit after closing and leases it from the successor owner under a written lease agreement.

Storage Structure

- Shall be located in one of the following locations:
Rear Yard: Within five feet (5') of the Principal Structure (see figure below)



- Side Yard: Within two feet (2') of the Principal Structure (see figure below)



- Shall have a maximum floor area of 100 square feet.
- Shall not exceed a height of ten feet (10') from the established grade.
- Shall be placed on a hard surface, including but not limited to a concrete pad, cement blocks or similar materials.
- Shall be screened by plant material that provides visual relief throughout the year from both the public way and adjacent properties.
- Plastic, corrugated metal, fiberglass and dryvit/stucco are prohibited unless they are the primary material(s) on the principal structure.

END OF ACCESSORY STRUCTURES AND USES LIST

6-3-5(B)

C. Existing Non-Conforming Accessory Structures: Accessory structures existing as of July 10, 1995 shall be considered Non-Conforming and may be preserved, maintained and used subject to the restrictions in Chapter 13 of this Title.

1. Detached garages located within the Stonegate Circle Subdivision, as defined in Ordinance No. 62-000-70, shall not be subject to the restrictions in Chapter 13 of this Title, but shall be subject to flood plain and flood way regulations and are permitted to perform normal maintenance and incidental repair, reconstruction and restorations but may not increase the existing garage floor area.

Section 6-2-2: Definitions

SHORT-TERM RENTAL The accessory use of a single-family dwelling under a written or oral agreement providing for occupancy of all or part of the dwelling by any person other than the owner thereof in exchange for consideration therefor.

**LODGING HOUSE
(INCLUDING BOARDING
ROOM HOUSE)** **DELETE THIS DEFINITION**

**LODGING ROOM
(ROOMING UNIT)** **DELETE THIS DEFINITION**

Sections 6-5A, 6-5B, 6-5C, 6-5D and 6-5F are amended by adding the following permitted use to each chapter:

Short-Term Rental, as an accessory use to residential dwelling units and as regulated in Section 6-3-5 of this Title.



Agenda Item
3.1, ZB

REQUEST FOR BOARD ACTION
Zoning Board
September 8, 2015

Subject:	Text Amendments to address Short-Term Rental of Single-Family Residential Property
Action Requested:	Public Hearing regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

Background:

- The Village has traditionally permitted single-family residential property to be rented, whether it's a room or an entire home, on an annual basis.
- The rental of single-family residential property for uses such as a bed and breakfast, lodging house or through a home rental organization such as Vacation Rental By Owner (VRBO) or Air BnB is not currently permitted, nor has it ever been.
- A recent issue with a resident operating an Air BnB business in a single-family residence brought to light the Village's regulations prohibiting such a use should be clarified and placed in a more appropriate section of the Code.
- At their July 27th meeting, the Village Board re-confirmed that certain rentals should continue to be prohibited and clarified what should constitute a permitted short-term rental. The Village Board further directed Staff and the Zoning Board to hold a Public Hearing to consider amending Village Code to clarify permissibilities and prohibitions related to the single-family home rentals.
- Per Village Code, a Notice of Public Hearing regarding proposed Text Amendments to be discussed at the September 8th Zoning Board meeting was published in the Lincolnshire Review on Thursday, August 20, 2015.

Project Summary:

Following, is a summary of proposed amendments related to the rental of single-family residential property (*for specific detail, please see attached Draft Code*):

- **Accessory Use:** Per Village Attorney's recommendation, regulations on the permissibility of short-term rentals are placed in the Accessory Structures and Uses (Section 6-3-5(B)) section of the Zoning Code. This is to reiterate the primary use of single-family residential property should be residential and not business use. This also recognizes rental of a property is accessory to the primary purpose of single-family residential, which is long-term owner-occupied use.
- **Permissible Timeframe:** The proposed amendment follows Board direction in permitting rentals for no less than three months and permitting no more than one rental per consecutive twelve-month period, regardless of whether the rental is for 3 months, 6 months or 11 months, etc. However, a caveat is provided permitting more than one rental per twelve-month period if a Tenant defaults on a Rental Agreement. The 3-month minimum



Agenda Item
3.1, ZB

rental still applies in this scenario. In this way, the Owner is not punished for any legal remedy they must take with a bad Renter.

- **Limits of Rental Area:** Since this amendment is not intended to prohibit the rental of a room in someone's house versus the entire house that permissibility has been clarified.
- **Code Enforcement:** A caveat is added stating compliance with Codes is the owner's responsibility during a Rental period, unless it can be clearly proven the tenant caused a particular violation, despite the Owner's demonstrated efforts to remedy the violation. The Village Attorney advises this stipulation is commonplace in Municipal regulations.
- **Definitions:** The proposed amendment removes current definitions for both Lodging Room and House, which were previously utilized to define the type of short-term rentals being clarified in this Code Amendment. These are being replaced by a new definition of Short Term Rental, which more accurately describes these uses.
- **Permissibility in Residential Zoning Districts:** The R1, R2, R2A and R3 Zoning Districts would be amended to add a caveat that Short-Term rentals are permitted per the requirements of Section 6-3-5(B), Accessory Structures and Uses.

Note – Three of six Zoning Board members have notified Staff they will not be available for the September 8th Zoning Board meeting. Although there is sufficient attendance for a Quorum to hold a meeting, there will not be sufficient attendance to vote on the proposed amendment. Therefore, Tuesday night's meeting will function as the required Public Hearing and a workshop session, to enable revised language to be prepared for a vote on October 14th.

Recommendation:

Hold the **Public Hearing** and provide feedback and direction to Staff regarding proposed Draft Code Amendments for further consideration at the October 14th Zoning Board meeting.

Reports and Documents Attached:

- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Current Zoning Board Public Hearing:	September 8, 2015



- APPROVED** Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, September 8, 2015, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.
- PRESENT:** Members Bichkoff, Brady and Kalina.
- STAFF PRESENT:** Steve McNellis, Community & Economic Development Director.
- ABSENT:** Chairman Manion, Members Leider and Van de Kerckhove and Trustee McDonough.

CALL TO ORDER: **Member Kalina** called the meeting to order at 7:02 P.M.

Director McNellis noted **Chairman Manion** was absent this evening, so the Zoning Board would need to elect a Chairman Pro Tem. In speaking with Staff, **Chairman Manion** requested **Member Kalina** serve as Chairman Pro Tem, as he is the next most senior member of the Zoning Board.

Director McNellis requested a vote of the Zoning Board to consider Member Kalina to serve in the role of Chairman Pro Tem. **Member Bichkoff** moved and **Member Brady** seconded appointment of **Member Kalina** as Chairman pro Tem. The temporary appointment was approved unanimously.

1.0 ROLL CALL

The roll was called by **Director McNellis** and **Chairman Pro Tem Kalina** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes related to the Rescheduled Zoning Board Meeting held on Thursday, August 13, 2015.

Member Brady moved and **Member Bichkoff** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS

3.1 **PUBLIC HEARING** regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property (Village of Lincolnshire).

Chairman Pro Tem Kalina recessed the Zoning Board meeting and opened the Public Hearing.

Director McNellis presented Staff's memorandum and summarized what the Village Code currently does and does not permit. He noted there had been an issue recently with a resident operating an Air BnB service. These types of short-term uses are not permitted by the Village Code, however, the current language in the Code is not necessary clear to the average person who may consult the Code. He noted this issue, and potential Code Revision remedies were discussed with the Village Board at their July 27th meeting, where it was subsequently referred to the Zoning Board for consideration.

Director McNellis stated Staff has worked on proposed Code language with the Village Attorney, who believes the most appropriate place to house these regulations is under the Accessory Structures section of the Zoning Code. He noted cross-references have also been added in the Residential Zoning District requirements to help make it more clear and obvious to the average reader consulting the Code where the specific regulations related to the permissibility of short-term rentals are housed. Director McNellis concluded his summary.

Chairman Pro Tem Kalina noted since this is a Public Hearing he would ask for any comment from the public in attendance. There being no comment, with no one present in the audience, Chairman Pro Tem Kalina closed the Public Hearing and reconvened the Regular Zoning Board meeting and sought comments from the Zoning Board.

Chairman Pro Tem Kalina noted he is all for changing the Code to prohibit Air BnB type uses, as he believes it makes sense. He wondered what recourse we currently have. **Director McNellis** noted that presently it's difficult to shut-down such a use immediately as the Courts would likely see our existing Codes as a little vague. The idea would be to make the Code more clear and obvious, and combine that with a concerted effort to "advertise" to the Public that short-term rentals like Air BnB are prohibited via the Village Newsletter, website, e-blasts, etc. This all helps make the Village's intentions clear and can help considerably if a violation needs to go to Court.

Member Brady asked why there is an objection to these types of uses. **Chairman Pro Tem Kalina** answered that for him, the concern is an online marketplace where you have no idea who's coming into a neighborhood. **Member Brady** countered that while he agrees with that concern, a longer rental still doesn't guarantee you know who you're getting as a neighbor. He further noted the only thing he'd like to change is removing the limitation on only one rental per year. He believes the Village is over-reaching with that requirement. **Chairman Pro Tem Kalina** noted it is a point well-taken. He further agreed if a Renter leaves after a 6-month rental, the property owner should be able to rent to another individual for another 6-months. He believes the ultimate goal here is simply to eliminate nightly or weekly rentals.

Member Brady stated he believes daily or weekly rentals should be separate from monthly and should be prohibited. **Member Bichkoff** noted it's about the character of the community, which is family-based and not transient in nature.

Member Brady stated if he has to move and can't sell his house, he'll need to rent it and he doesn't believe this Code should interfere with that. He went on to state he believes this Code should separate Air BnB users from longer-term rentals. **Director McNellis** noted a clarification that if you rent your home for 12 months and someone leaves in the middle of that lease term, you can still rent again for another 12-month lease.

Member Brady inquired as to what happens if he can only find Renters willing to enter into 3-month leases. He believes at a certain point you have to leave it to the Homeowner. He further questioned if maybe the threshold for prohibition should be less than 1-month. **Director McNellis** noted the Village Board's unanimous direction at referral was for a 3-month minimum rental period. **Chairman Pro Tem Kalina** noted while he felt Member Brady had brought up some great points, he still believes a 3-month minimum is reasonable. He further noted he does believe the prohibition on one rental per year should be removed and an owner should be able to rent as many times as they want as long as the 3-month minimum rental period is met.

Member Brady inquired what would happen if someone rents for a 12-month period and then desires to go on to a month-to month lease at that same property. A scenario could be that you are having a house built in Lincolnshire, you're renting in the community while the house is built, and it goes beyond the scheduled completion date and you need more time. With this Code as proposed, you would be out of luck. **Member Bichkoff** noted that is a good point, and inquired of Staff if a lease could be extended under those circumstances. **Director McNellis** stated his agreement in that month-to-month leases are a roll-over of the same tenants, so the transient concerns are lessened.

Member Brady reiterated his concern that rentals of a month or more should be treated differently from Air BnB type uses. **Director McNellis** stated that ultimately, the bottom line is if renting becomes a business, it should be secondary to single-family residential ownership. **Member Brady** noted if the Village has too firm and broad a set of restrictions it could be an over-reach. He believes there should be caveats for residents who really need the ability to rent their house. **Chairman Pro Tem Kalina** agreed with Member Brady. He further noted he is not a supporter of Air BnB uses and believes there is no place for that type of use in the Village's residential community. He believes Member Brady has a valid point that there must be language allowing rentals for someone who is in a position where they need to do this.

Member Bichkoff asked the Zoning Board what they would think about a flat 6-month rental period, with no other restrictions? **Member Brady** asked about a scenario in which you only needed to rent for three months and were then held to a 6-month rental period. He further noted the housing market is still tough, with many homes still under water. If you had to sell your house now, you might strongly considering renting it until the market comes back, so you can get more equity out of it. **Chairman Pro Tem Kalina** noted he would go as short as one-month rentals being permitted. **Director McNellis** asked if the Zoning Board could find a compromise between all the issues discussed tonight?

Member Bichkoff asked if anyone ever signs 90-day leases? To which **Member Brady** noted he has relocated many times and people do want rentals for 90-days as that can be the amount of time you're waiting on new home construction or an addition or remodel to be finished. **Member Bichkoff** inquired if Member Brady was implying that he would be ok with four 3-month leases in a year, with added permissibility for a month-to-month roll-over of an existing lease? **Member Brady** stated whether someone rents for 3-months or 2-years , you still don't know who you're getting living next to you if you're a neighbor unless the Village requires a background check. There was no consensus from the Zoning Board favoring required background checks.

Director McNellis summarized the concerns of the Zoning Board voiced at tonight's meeting and stated Staff would work with the Village Attorney to prepare revised Draft Code language. He thanked the Zoning Board members for their comments.

There being no further comments, **Chairman Pro Tem Kalina** noted this matter will return for additional consideration at the next Zoning Board meeting.

- 4.0 **UNFINISHED BUSINESS (None)**
- 5.0 **NEW BUSINESS (None)**
- 6.0 **CITIZENS COMMENTS (None)**
- 7.0 **ADJOURNMENT**

There being no further business, **Chairman Pro Tem Kalina** sought a motion for adjournment. **Member Brady** moved, and **Member Bichkoff** seconded the motion to adjourn. The meeting adjourned at 7:36 p.m.

Minutes Submitted by Steve McNellis, Community & Economic Development Director.



Agenda Item
3.1, ZB

REQUEST FOR BOARD ACTION
Zoning Board
October 14, 2015

Subject:	Text Amendments to address Short-Term Rental of Single-Family Residential Property
Action Requested:	Continued discussion regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property.
Originated By/Contact:	Steve McNellis, Director Department of Community & Economic Development
Advisory Board Review:	Zoning Board

At the September 8th meeting, the Zoning Board conducted a Public Hearing regarding the regulation of Short-Term Rentals on residentially-zoned property. Draft Ordinance language was discussed and the Zoning Board requested Staff consider revisions to address the following concerns:

- 1) **Limitation on Number of Rentals Annually:** The Zoning Board discussed, and was strongly in favor of, eliminating the previously-proposed draft language limiting the number of rentals per year to one, (regardless of whether that rental period was three months, twelve months or anywhere in between). The three-month minimum rental requirement would remain in place, permitting a maximum of 4 three-month rentals annually. ***The limitation on one rental annually is shown crossed-out on the attached Draft and would be removed if this is the Zoning Board's consensus.***

- 2) **Month-to-Month Lease Extensions:** The Zoning Board recommended existing leases be permitted to continue past the initial lease period on a month-to-month basis, in light of the fact this would be a continuation of an existing tenant's residency and would actually decrease the transient nature of the property. ***A new bullet point is added permitting month-to-month leases as an extension or "roll-over" of an existing lease.***

- 3) **Rental of Unoccupied Property:** The Zoning Board had considerable discussion regarding a way to distinguish between a property that is being used for a rental business and one in which a homeowner seeks the ability to rent due to circumstances beyond their control (relocating and unable to sell, mortgage is underwater, etc.). Staff is concerned that distinguishing between a rental for business reasons and a rental to provide an owner economic peace of mind is a difficult proposition. In addition, the reason for the rental does not necessarily change the end result, which could be a frequently-changing transient population. ***The Village Attorney provided the following draft language as a possible way to address this concern, should the Zoning Board wish to pursue such a distinction:***

In the interest of promoting property maintenance and the preservation of property values, and to prevent the risk of criminal activity at abandoned property, a property owner who certifies to the Village that his/her Single Family Dwelling has been unoccupied for not less than 120 consecutive days may



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3.1, ZB

register such property with the Department of Community and Economic Development and lease that Single Family Dwelling for not less than one month terms. Such owners shall have a duty to renew such registration semi-annually and notify the Department when the property becomes occupied by a successor owner.

- 4) Consider Multi-Family Residential restrictions:** While the Zoning Board didn't previously discuss the details of the residential districts to be covered by the proposed Short-Term rental requirements, Staff believes this matter warrants further deliberation. The proposed Draft Code language regulates Short-Term rentals in all single-family residential zoning districts, including: R1, R2, R2A and R3 zoning districts. The two multi-family residential districts: R4, Attached Residential (townhouse communities such as Heritage Creek, Woodcreek Courts, etc.) and R5, Mixed Use Residential (including the Village Green condominiums) were not initially included as Districts regulated by this proposal. Staff sees a difference in this residential use type in that Condo/Townhouse Homeowner Associations and Apartment Landlords can also tackle this issue if there were a problem, while residential neighborhoods have only the Village to rely on for regulation. However, it would be more uniform to include all residential zoning districts in these regulations. ***So, Staff has added the R4 and R5 Residential Zoning Districts to the list of those regulated by this proposed Draft Code language.***

Recommendation:

Approval of text amendments to the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as presented in Draft Code language attached to this memorandum, with the following revision:

- 1) Removal of the prohibition on more than one rental in a 12-month consecutive period.

Motion:

Having made findings based on facts covered in a Public Hearing held on September 8, 2015, the Zoning Board recommends approval to the Village Board of amendments to Sections 6-2-2, 6-3-5, 6-5A-1(H), 6-5B-2(G), 6-5C-2 and 6-5D-2 of the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as recommended in Staff's memorandum, and further subject to. . . .

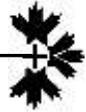
{Insert any additional conditions or modification desired by the Zoning Board}

Reports and Documents Attached:

- Draft Section 6-3-5, Accessory Structures and Uses, of the Lincolnshire Zoning Code.
- Staff Memorandum, Dated September 8, 2015.
- Attachment submitted by NSBAR

Reports and Documents Attached:

Meeting History	
Preliminary Evaluation (COW):	July 27, 2015
Zoning Board Public Hearing:	September 8, 2015
Current Zoning Board Consideration	October 5, 2015



APPROVED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Wednesday, October 14, 2015, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

PRESENT: Chairman Manion, Members Bichkoff, Kalina and Van de Kerckhove.

STAFF PRESENT: Steve McNellis, Community & Economic Development Director.

ABSENT: Members Brady and Leider and Trustee McDonough.

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:00 P.M.

1.0 ROLL CALL

The roll was called by **Director McNellis** and **Chairman Manion** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes related to the Rescheduled Zoning Board Meeting held on Tuesday, September 8, 2015.

Member Van de Kerckhove moved and **Member Bichkoff** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS

3.1 Continued discussion regarding Text Amendments to Chapter 3, General Zoning Regulations, Chapter 2, Zoning Definitions, Chapter 5, Residence Districts, and associated cross-references, in Title 6 - Zoning of the Lincolnshire Village Code, to amend and introduce new regulations governing short-term rental of residential property (Village of Lincolnshire).

Director McNellis presented Staff's memorandum and summarized the proposed Draft Ordinance language. He noted what the Village Code currently does and does not permit. He noted there had been an issue recently with a resident operating an Air BnB service. These types of short-term uses are not permitted by the Village Code, however, the current language in the Code is not necessary clear to the average person who may consult the Code. Director McNellis further noted there was a Public Hearing at the September 8th Zoning Board meeting, at which there were no members of the public present and no one testified. The Public Hearing was subsequently closed.

As requested, **Director McNellis** began to summarize the proposed revisions, beginning with the three-month minimum rental period. He noted there was a lot of discussion at the last meeting. Staff continues to believe this 3-month minimum rental period is appropriate. The Village Board also seemed to be agreeable to that timeframe when the code revision was referred.

Director McNellis discussed a proposed caveat to the three-month minimum rental regarding permissibility of a month-to-month extension for an existing lease. This was discussed at the last meeting by Member Brady. Director McNellis noted that if the concern is about the transient nature in a neighborhood, and if a permissible length of rental occurs, but a situation happens where someone has to extend month-to-month, if say perhaps a home under construction isn't finished, then an extension wouldn't make that property any more transient as it would be the same person that was living in the house for the previous rental period simply extending their time. Staff agrees this is a reasonable change to the Draft Ordinance. Members Bichkoff and Kalina agreed.

Chairman Manion noted he works in an industry that finances apartment buildings and he finds that lease extensions are typical. He agrees this reduces the transient nature of a property, so he believes it seems very reasonable to permit it.

Director McNellis noted the crossed-out bullet point on the current draft was in the previous draft in September, and previously stated that single-family dwellings shall not be rented more than once in a 12-month period. This was the direction from the Village Board that regardless of the lease time frame, there should be only one rental per year. There was much discussion at the last Zoning Board meeting about whether or not that was appropriate. Some Zoning Board members were ok with the minimum 3-month rental period, but believed there should be no further limitations, which should allow you to do up to 4 rentals per year.

Member Kalina praised Member Brady for noting the scenario in which someone was in a distressed financial situation, perhaps with two mortgages, and needed to rent their property, he wondered if it should really be up to the Village to mandate a one rental per year maximum. Member Kalina said he felt it does make sense to allow more than one per year.

Member Bichkoff recounted the discussion was about if you were in this dire situation and you could only find someone for perhaps six months, you'd be prohibited from leasing again, losing 6 months of rental income. He recalled that Member Brady was pretty adamant that this was not a good idea.

Chairman Manion inquired of Staff if they know how many people rent their homes. To which **Director McNellis** answered that Staff has no way of knowing, as we don't require rentals to register with the Village. **Chairman Manion** noted that even most large condo buildings wouldn't allow rentals for less than 12 months initially, and he doesn't see the difference here. **Member Kalina** stated, however, that if you're in a large condo building or high-rise you're all walking in the same entrance, whereas in Lincolnshire we have nice large yards, so perhaps the impact is even greater in a condo building than single-family residential. **Chairman Manion** noted regardless it's the same in that it's a community and however you define community, it doesn't matter whether it's a high-rise or single-family homes. Having said that, Member Brady had a good point and I'm trying not to limit rentals. **Member kalina** noted he agrees that rentals for a day, night or week should not be permitted, but he inquired as to what the Zoning Board is really trying to do by limiting the rental period minimum to 3-months. He wondered what it is we are really trying to prevent by such a long minimum rental period.

Director McNellis stated the Village Board appeared to agree that single-family neighborhoods are for single-family residential. The real concern is permitting a transient

nature to form in the Village's neighborhoods. The expectation of the Village is that on a longer-term basis the same people will be living in each area. The expectation is that single-family neighborhoods will remain stable. The more rental periods you add, the greater potential the neighborhoods become more transient.

Member Kalina agreed that the Village does need to protect the homeowners to a degree, but if someone were to have an economic hardship, he wants to be sure that the Zoning Board looked at all the angles.

Chairman Manion noted that apartments, in general, all require a 12-month lease to start. Very few apartments can be gotten for less. Even apartment dwellers don't want a transient nature to their building. He believes that to allow someone to rent their house for three months is more than reasonable, and he reiterated in the world of apartments, its very common that the rental period is a minimum of 12-months initially.

Member Kalina stated he believes the main question here is how many 3-month rental segments the Village should permit per year. **Chairman Manion** noted that with the previous proposal if you have a 3-month rental and that person leaves and you want to rent again, you couldn't re-rent it that year. But now you're saying there could be up to four 3-month rentals per year? **Director McNellis** noted that was the direction of the Zoning Board at the end of the September meeting. Staff's position is we thought one rental per year would be appropriate, but the Zoning Board at the last meeting felt strongly one rental was not enough. Further, the Zoning Board noted they are an advisory body and should pass on a recommendation they believe is appropriate. If the Village Board disagrees, they can always over-ride that recommendation.

Member Kalina stated he would like to limit the number of rentals to two in a 12-month period. Chairman Manion stated he felt four times a year is excessive, but 2 times seems more realistic. He further inquired of Staff what would happen if the Village changes the Code to 2 times a year, and someone wants to do it 3 times a year. **Director McNellis** stated if the Code is twice per year and we learn someone has more than two leases, we'd notify them they weren't in compliance and undertake a legal process.

Member Kalina stated he thinks of the financial hardship that is involved if someone is relocated and has to sell their house. What if you get a bad tenant and don't renew a lease with them? If its once a year, you're out of luck for the next 9 months. **Chairman Manion** noted that at some point the use becomes transient. He stated two rentals per year is the permissibility he believes the Village should consider.

Member Van de Kerckhove stated someone could go away for the Winter for three months and would like to rent for the period of time they're gone. Would that work? **Chairman Manion** answered that three months would be the minimum and you could do it two times a year, so that would work. He believes this reasonably maintains property rights for a homeowner. He further inquired what it is the Village is trying to accomplish here? He believes its to limit the transient nature of renting and he believes two rentals per year does that. He asked if the rest of the Zoning Board was in agreement with this, to which there was a consensus of agreement.

Director McNellis continued to summarize the regulations contained in the Draft Ordinance. He noted the section of the Ordinance regarding the owner's responsibility for violations on a property, unless it can be shown that the owner tried and failed in good faith to remedy a situation. He noted the Village Attorney stated this caveat is

typical in most Village Codes. **Director McNellis** also noted that temporary structures, like treehouses, cannot be rented. He further noted there is a new proposed definition in the Code and the permissibility of short-term rentals will be prominently cross-referenced in each residential Zoning section of the Code. he asked the Zoning Board if they wanted to include R4 (Townhouse) zoning district and R5 (mixed-use) zoning district in these regulations and permissibility's. **Chairman Manion** asked if there were any for-rent professionally-managed apartment buildings in the Village, to which Director McNellis answered there is one on Apple Hill Lane at Rt. 22.

Chairman Manion asked if condo buildings would then get added-in to the areas regulated by this proposed Code amendment? **Director McNellis** answered yes, but asked the Zoning Board to keep in mind that multi-family developments are usually protected by Landlords and Homeowners Associations whereas single-family development is protected only by Village regulations.

Member Bickhoff asked why we would be inconsistent, when we're trying to make the Code more clear? As such, he believes all zoning districts, single or multi-family, should be included. **Member Van de Kerckhove** stated if the multi-family properties are being governed by a condo HOA, lets let them enforce it. **Chairman Manion** stated he believes all Village residential properties should be subject to the same regulations in this regard. **Director McNellis** noted this is a good point, as there could be some confusion about some residential being treated one way and others being treated a different way. **Member Kalina** noted that anAirBnB use in a condo building could, in many ways, be even more disruptive than in a single-family home.

Director McNellis continued on and stated he would conclude his remarks by asking the Zoning Board to consider Member Brady's position that they should look at language that would differently define rental property as a business versus rentals because of economic hardship a particular owner might have. He noted he spoke with the Village Attorney and they both agreed that this continues to be problematic. The Village would have to register them and show proof of hardship. He also believes what the Zoning Board has agreed to tonight allows for those situations anyway.

Member Kalina gave credit to Member Brady for introducing the thought process on this, but he ultimately agreed that we don't need to separately define the two different situations.

Director McNellis noted there is a member of the public present in the audience who may wish to address the Zoning Board. This isn't a Public Hearing, but the Zoning Board certainly can permit comments from the audience. **Mr. Howard Handler** of the Illinois Association of Realtors and NorthShore Barrington Association of Realtors, located at 450 Skokie Boulevard in Northbrook, provided commentary about how the Realtors Association is looking at this. He stated they're formulating their position and are happy the Zoning Board is balancing private property rights and the needs of the community. He also mentioned Evanston's experience in dealing with this issue. He stated he would strongly recommend a stipulation that Evanston used in which "rent-back" options are considered. This occurs when someone sells their property and can't move out, so they rent it back from the new owner for a few weeks or other specified period of time. He further stated he is not at the meeting to oppose the proposed Village ordinance, only to send the message that the Village may want to consider an ordinance that is least restrictive, but still accomplishes your goals.

Member Kalina inquired what is the real interest of the Illinois Association of Realtors? **Mr. Handler** responded they have no interest in AirBnb whatsoever, and their interest is solely in private property rights and real estate. He noted the Association also wants to be a resource. He further noted that a 3-month minimum rental could make it difficult for a homeowner to rent their house, which could create a hardship, especially if they need the income. The Zoning Board thanked Mr. Howard for his comments.

Chairman Manion asked if its common that people have to rent back their homes after a sale. **Member Kalina** stated Mr. Handler made a good point. We're building a Code to prevent the negative element, but this wouldn't be a problem. He conjectured that in many cases, though, the Village will never even know if someone is going beyond the parameters of the code. **Mr. Handler** noted if you do want to permit something, you shouldn't be silent on it just because no one will complain if its going on. The problem is if someone wants to follow the law and they look in the Code and don't see the permissibility to do something, they won't try to do it. In that way, they'll be deprived of an opportunity.

Director McNellis stated the Village's single-family residential property is intended for longer-term residency and the Village is not interested in seeing a lot of turnover. He further stated the Village should be looking at how far things are opened up and the negative that could come if its opened too far.

Chairman Manion noted there are plenty of options for people to rent for shorter periods. There are plenty of hotels in the area. **Member Bichkoff** agreed with the rent-back option after a sale. He noted if he sold his house he'd like to think this was a viable option. He stated he thinks this caveat would be a good "carve-out". **Member Van de Kerckhove** agreed.

Chairman Manion noted he believes a three-month minimum rental is already a huge concession. He stated he believes the Zoning Board agreed to two caveats in the motion, but agreed with everything else Staff presented to them. The Zoning Board agreed with this assessment.

Member Kalina noted he could go less than a 3-month minimum, as even 1-month would effectively eliminate AirBnB, but he's fine with keeping the 3-month minimum.

The Zoning Board did not have any further questions or concerns.

There being no further comments, **Chairman Manion** sought a motion from the Zoning Board.

Member Kalina moved and Member Van de Kerckhove seconded a motion to recommend approval to the Village Board, based on facts covered in a Public Hearing held on September 8, 2015, of amendments to Sections 6-2-2, 6-3-5, 6-5A-1(H), 6-5B-2(G), 6-5C-2 and 6-5D-2 of the Lincolnshire Zoning Code to amend and introduce new regulations governing short-term rental of residential property, as recommended in Staff's memorandum, and further subject to; 1) No more than two rentals may be permitted per 12-month period, and 2) It is permissible for a seller of a property to rent-back that property for a period of time less than 3-months, after its sale.

The motion passed unanimously by voice vote.

- 4.0 UNFINISHED BUSINESS (None)**
- 5.0 NEW BUSINESS (None)**
- 6.0 CITIZENS COMMENTS (None)**
- 7.0 ADJOURNMENT**

There being no further business, **Chairman Manion** sought a motion for adjournment. **Member Kalina** moved, and **Member Van de Kerckhove** seconded the motion to adjourn. The meeting adjourned at 8:03 p.m.

Minutes Submitted by Steve McNellis, Community & Economic Development Director.



The Gateway to Education, Information and Technology

OVERVIEW OF SHORT-TERM RENTAL REGULATIONS

WHAT IS SHORT-TERM RENTAL HOUSING?

The term “short-term rental housing” typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other lodging uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they are distinguishable by the presence of the owner/operator onsite. Boarding houses differ from short-term rentals by having multiple rooms or units for rent and common kitchen and dining facilities that are shared by the occupants; boarding houses also tend to be less transient than short-term rentals. Similarly, hotels and motels are distinguishable from short-term rentals by having separate entrances, an on-site management office, and multiple rooms for rent by multiple parties. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.

WHY DO PEOPLE CHOOSE SHORT-TERM RENTAL HOUSING?

It is undeniable that, like Uber and other market disrupters, short-term rental housing is fulfilling a market demand. In 2012, 12 percent of Americans stayed in short-term rental housing and the number is growing. In just August 2015, more than 17 million people throughout the world stayed at an Airbnb listing (this figure does not even include listings on other sites). Short-term renters are attracted to the extra living space, lower rates than hotels, and better amenities – short term rentals have been cited as being about 50 percent per square foot less expensive than hotels.

Short-term rentals are used for more than weekend jaunts. They serve a broad variety of needs including providing housing for families renovating their home, people in-town for business, patients and their families in-town for extended medical care, out-of-town relatives visiting family for an extended period of time, families that had to vacate their home but are unable to move into their new home, and much more.

WHY DO PEOPLE RENT THEIR PROPERTY ON SHORT-TERM BASIS?

The money generated by short-term rentals is most often viewed by hosts as extra spending money or supplementary income that the host relies upon. In many cases, the supplementary money is used to make home improvements. In other more extreme cases, property owners are experiencing significant financial hardship and are renting out their house to pay the mortgage or put food on the table.

TYPES OF SHORT-TERM RENTAL RESTRICTIONS

1. **No restrictions.** The vast majority of municipalities have not adopted any short-rental regulations.
2. **Prohibition.** This approach prohibits, community-wide, short-term rentals.
3. **Geographically-based restrictions.** With this option, short-term rentals are allowed within certain zoning districts or neighborhoods.
4. **Quantitative restrictions.** This restriction places a limit on the number times a property may be rented for short-term occupancy. For example, Santa Fe limits short-term rentals, per dwelling, to a maximum of 17 rental periods per calendar year and no more than one rental within a seven consecutive day period. Evanston caps their short-term rentals, per dwelling, to one per year (there is a rigorous licensing process for those that seek to do so more often).

Quantitative restrictions provide the greatest balance between protecting private property rights and preserving neighborhood harmony.

Registration or licensing requirements are frequently adopted in communities that have opted to allow short-term rentals but want some regulation. Registration/licensing requirements may include maximum occupancy limits, parking requirements, required postings, mandatory designated representatives, etc. Registration/licensing is commonly not imposed on those that infrequently rent their property on a short-term basis. For example, Evanston only requires a license for properties that seek to rent their property on a short-term basis more than once a year.

The U.S. Conference of Mayors warns that “onerous regulations of short-term rentals can drive the industry underground, thus evading local regulations.”

The U.S. Conference of Mayors in 2012 unanimously adopted a resolution that “urges support for economic development opportunities through the visitors industry by encouraging regulations of the short-term rental industry” that identify property owners, make any tax collection and remittance obligations clear, and treat short-term rental tenants the same as long-term rental tenants. “Regulations that accomplish all three can achieve a high level of compliance, and are highly effective.”

Often, communities will create exemptions to their short-term rental regulations. Exemptions can include:

1. **A rental agreement in conjunction to sell the house.** This exemption primarily is intended to legalize the very common occurrence of “rent-backs” in which an owner sells their house, is temporarily unable to move into their new home, and rents their home back from the new owner. This exemption could be extended to anyone that is under contract on a house (even if the short-term rental is not related to the contract) but have yet to close and are in need of

housing -- this could be applied to only those that are under contract in relation to a home in the community or a neighboring community.

2. **Displacement.** An exemption can be created for those that are displaced from their own home due to renovation or repair. For example, if family is temporarily displaced from their home due to a fire and are seeking short-term living arrangements during the repair, they would have the ability to rent a nearby house for a few weeks. Again, this exemption could be applied to those that are pre-existing members of the community or a neighboring community.
3. **Demonstratable hardship.** A community should consider if they want to make allowances for those experiencing financial hardship. This exemption may make the difference to prevent a property from falling into foreclosure, or even putting food on the table.
4. **Medical treatment.** This exemption could be provided to individuals and their families that are travelling to the Chicago-area for medical treatment; a doctor's note could be required.
5. **Professional relocation.** This exemption could be granted in cases where individuals have been temporarily relocated in-town for business purposes; a letter from a business located in-town or a nearby community.
6. **Apartment buildings, condominiums, and homeowner associations.** The rationale for exempting apartment buildings, condominiums, and homeowner associations is that the owner or association is empowered to implement regulations if short-term rentals become disruptive whereas single-family property owners cannot dictate the actions of their neighbors.
7. **Catch-all.** This exemption recognizes the inherent right to make use of one's property without unduly burdening neighboring properties. A free, no-questions-asked exemption once, twice, or more per year can be a reasonable balance.

SUMMARY

In adopting any short-term rental policies, municipalities should consider the minimum amount of regulation necessary to achieve the community's goal without unnecessarily depriving property owners of their rights. If homes being rented, day-after-day, night-after-night are disruptive to the community, consider allowing property owners to rent out their property just once or twice a year which would end the problematic activity. A municipality can always revisit and amend an existing ordinance. In Evanston, opponents of allowing any short term rentals argued that short-term rentals would disrupt neighborhood harmony and introduce criminals and sexual predators into residential neighborhoods, but more than two years later after minimal regulations were adopted that allow some short-term rentals city officials report that they are not receiving resident complaints.

The North Shore – Barrington Association of REALTORS® (NSBAR) is the area's leading private property advocate and the recognized voice for real estate. NSBAR, along with affiliated REALTOR® associations, is a strong advocate for a healthy business environment and a resource for its members to deliver ethical and professional services to the public and to one another. With 1.1 million members, REALTORS® are the largest trade association in North America; NSBAR represents approximately 3,600 members. The views expressed within may or may not reflect the view of each and every member.

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Suburbs / Lincolnshire Review / Lincolnshire News

Lincolnshire close to ban of Airbnb rentals

By **Ronnie Wachter** · **Contact Reporter**

Pioneer Press

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Need an Airbnb rental? Need a treehouse rental? Don't look at Lincolnshire.

OCTOBER 28, 2015, 2:22 PM

The village of Lincolnshire is poised to outlaw short-term home rentals, and officials say they will visit Airbnb's site from time to time, looking for violators.

If the trustees give final approval to a new set of rules, no one in Lincolnshire will be able to rent their house for less than three months — effectively eliminating the short-term vacations that Airbnb specializes in. Mayor Liz Brandt spelled it out: Sites like that, and the questions they bring to quiet suburbs, are not wanted in Lincolnshire.

"That was our original objective," Brandt said.

Village Hall officials first started receiving complaints about short-term rentals early in the summer, Brandt said. Community development director Steve McNellis said that, after getting a few tips, they started checking the site themselves, looking for postings.

Article continues below ↓

McNellis said officials will not make a regular habit of patrolling airbnb.com for Lincolnshire listings, and they will continue to rely on complaints from neighbors. But he said they may still check the site on occasion.

[Glenview](#), [Wilmette](#) and [Evanston](#) are among the other municipalities who spent the summer looking at how, if at all, they want to regulate the modern-day bed and breakfast that Airbnb has become.

Lincolnshire's new rules will affect every kind of living space in Lincolnshire, beginning with single-family dwellings, but also covering multi-family buildings. Lincolnshire has only a few of those — but the law would also cover new multi-family dwellings that could be built in the coming

years.

The new code leaves little to chance: it specifies that homeowners cannot rent out treehouses, or even space in the backyard for someone to pitch a tent. It does, however, permit month-to-month leases after an initial three-month lease agreement is completed.

The trustees gave the new rules unanimous first-round approval during their Oct. 26 meeting. The measure will go on the consent agenda for a final vote Nov. 9.

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North Shore communities eyeing Airbnb-style rentals cautiously

By **Kathy Routliffe and Ronnie Wachter** · **Contact Reporters**

Pioneer Press

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North Shore municipal leaders review Airbnb-style rentals carefully

AUGUST 24, 2015, 3:07 PM

Mark Matejka says he became an Airbnb operative by accident.

The east Wilmette resident discovered the online residential-space rental service during a 2014 summer vacation to Seattle, when a hotel shortage convinced him to take a friend's advice to use Airbnb.

During the registration process, he decided to enroll as an Airbnb provider. Since then, the top floor of his home has hosted "really, really cool" guests from all over the world, people he described as intellectually curious travelers — a British retiree and two MIT professors among them — who want to stay someplace more interesting than a hotel room.

Matejka said he likes having the ability to turn potential short-term boarders down, like the group of fraternity brothers he called "an instant decline."

Article continues below ↓

He said he has no problem with the idea of Wilmette regulating or even taxing Airbnb-type businesses in the village.

"I think it's reasonable; I think it's smart. I'm a resident and neighbor and parent here first, and an Airbnb provider second," he said, adding that the service will send him a 1099 tax form next January, "so I already pay taxes on it. It's fair."

Matejka's attitude might be a welcome one for Wilmette officials, who have turned their eyes to the possibility of regulating short-term rentals in the village.

Airbnb-style services require municipalities to deal with a phenomenon that lets private owners

and renters "essentially operate a business in what are usually residential areas," village staff and members of the Village Board's Land Use Committee reported in a July 14 memo to the board.

The memo came after the committee decided to explore short-term rentals more closely.

The committee hasn't yet scheduled its next session, but members know they have a lot to consider, Committee Chairman Dan Sullivan said.

"Obviously, the popularity of this type of thing is picking up, which could be good news if people decide they want to visit Wilmette," Sullivan said, "but what's the potential impact to neighbors and neighborhoods?"

Committee member Ted McKenna shared Sullivan's concerns.

"My personal view is that this is an interesting and good concept that a lot of people like worldwide. The pitfalls that we really want to focus on are, what kind of disruption does it cause?" McKenna said.

Short-term rentals are drawing the attention of municipal governments around the north and northwest suburbs.

Lincolnshire shut down its first known Airbnb operator earlier this summer, declaring it not a permitted use. Its zoning board is currently looking at an amendment to the village's zoning ordinances that might regulate where and for how long listings might be offered.

"We feel it's important to clarify the language," said Stephen Robles, Lincolnshire's village planner.

Airbnb caught Wilmette's eye after residents in a west Wilmette neighborhood complained about what the committee report described as a constant stream of visitors to the Airbnb operator on their quiet street. Lincolnshire cracked down after hearing reports of "loud noise at night and things like that," Robles said.

Paula Delehanty of Wilmette had already decided to stop renting through Airbnb, when she got a cease and desist order July 31 from the village, she said.

"I understand that there's an impact on my neighbors, and I want to be a good neighbor," she said.

But those initial complaints prompted Wilmette to look at the zoning and legal issues inherent in short-term rentals, Community Development Director John Adler said.

Airbnb's services, which started in 2008 and grew significantly after 2011, moved from cities into suburbs like Wilmette before officials had a chance to decide how the rentals jibe with codes or zoning ordinances, Adler said.

"Something like this wouldn't have been possible on the Internet 15 years ago," he said, "but it's moving fast now. We're obviously not ahead of the curve, because people are already doing it here in town."

Adler's staff and Village Attorney Michael Zimmerman delineated one regulatory conundrum for the Land Use Committee's consideration.

Renting one room or section of home for a short time could probably be covered under existing village codes as a commercial use, Zimmerman said in the July 14 memo. But renting an entire house might be harder to govern without new regulations, because it could arguably be legally no different than long-term house rentals.

Those happen all the time in Wilmette and aren't governed in the code, according to the memo.

Money will also be an issue when Sullivan, McKenna and Trustee Carol Ducommun next get together for a committee meeting.

Wilmette instituted a 9.75 percent hotel lodging tax in 2011, preparing for the construction of the Marriott Residence Hotel in west Wilmette. The committee will want to explore how or if short-term rentals could impact that revenue, McKenna said.

"Not that we looking for additional income, but we do want to investigate how (the lodging tax) might be affected. We want to be fair," he said.

Glenview's own 6 percent lodging tax, currently applied at the village's multiple hotels, will be part of that village's discussion about short-term rentals, Brady said

Evanston, which has a 7.5 percent hotel tax, is currently looking at the possibility of taxing one particular type of short-term rental venue — bed and breakfast operations, Muenzer said.

Adler said he and his staff will gather information on how other communities have handled short term rental regulations, but added, "most communities, I think, act on a complaint basis."

That's true in Glenview, where "it has started to pop up a little bit," according to Jeff Brady, the village's planning director. The village has no regulations of short-term rentals, he said. However, he expects staff and Glenview's Village Board to begin taking their own look at the issue later this

year.

"While it seems like it's a very specific issue, it's going to open a lot of doors," Brady said. "When you start talking about short-term rentals, you're talking about pretty much everything. Someone who rents their house out for a month could rent it to someone who needs a place to stay while their own home is being renovated, or they could be renting to tourists.

"Or we could be talking about someone simply renting out a single room in their house. There's a lot to be considered."

Winnetka has not had to deal with similar complaints, nor does the village allow Airbnb-style short-term rentals, said Mike D'Onofrio, the village's community development director.

"It's not a permitted use. If someone came in and asked about it, we'd tell them it wasn't allowed," he said.

Evanston has regulated the licensing of vacation rentals, defined as any rental of 30 days or fewer, since 2013, according to Mark Muenzer, the city's community development director. Evanston has allowed bed and breakfasts under its zoning ordinance since 1993.

The Evanston ordinance requires providers of rentals shorter than 31 days to be licensed, Muenzer said. The petitioner must notify neighbors within 250 feet of his or her residence in order to apply for a license, he said.

The license can be issued after review by the City Council's Planning and Development Committee, and can be renewed administratively thereafter, if the city has issued no citations against the provider in the previous year, Muenzer said. However, the city has seen little activity connected to the ordinance, he said.

Buffalo Grove officials said they are aware of the growing trend in room renting, but have yet to experience any problems. Community Development Director Chris Stilling said that if they start receiving reports, officials will need to see if the individual uses violate any zoning ordinances or Buffalo Grove's current rental housing program.

"We would look at it on a case-by-case basis," Stilling said.

In Buffalo Grove and Lincolnshire, Robles and Stilling said that families renting an entire house for a duration of months is common. Stilling said such Buffalo Grove properties must be licensed and inspected, which costs the owners \$75 annually.

Back in Wilmette, committee members expect to sift through other communities' rules and guidelines as they decide what regulatory route to recommend for Wilmette. But at least one member appeared wary of adding too much red tape for Wilmette short-term rental providers.

"I would prefer not to legislate, although we probably at least want to consider a set of rules making it clear how to proceed," McKenna said. "But I have a favorable impression of the business overall."

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OVERVIEW OF SHORT-TERM RENTAL REGULATIONS

WHAT IS SHORT-TERM RENTAL HOUSING?

The term “short-term rental housing” typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other lodging uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they are distinguishable by the presence of the owner/operator onsite. Boarding houses differ from short-term rentals by having multiple rooms or units for rent and common kitchen and dining facilities that are shared by the occupants; boarding houses also tend to be less transient than short-term rentals. Similarly, hotels and motels are distinguishable from short-term rentals by having separate entrances, an on-site management office, and multiple rooms for rent by multiple parties. In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.

WHY DO PEOPLE CHOOSE SHORT-TERM RENTAL HOUSING?

It is undeniable that, like Uber and other market disrupters, short-term rental housing is fulfilling a market demand. In 2012, 12 percent of Americans stayed in short-term rental housing and the number is growing. In just August 2015, more than 17 million people throughout the world stayed at an Airbnb listing (this figure does not even include listings on other sites). Short-term renters are attracted to the extra living space, lower rates than hotels, and better amenities – short term rentals have been cited as being about 50 percent per square foot less expensive than hotels.

Short-term rentals are used for more than weekend jaunts. They serve a broad variety of needs including providing housing for families renovating their home, people in-town for business, patients and their families in-town for extended medical care, out-of-town relatives visiting family for an extended period of time, families that had to vacate their home but are unable to move into their new home, and much more.

WHY DO PEOPLE RENT THEIR PROPERTY ON SHORT-TERM BASIS?

The money generated by short-term rentals is most often viewed by hosts as extra spending money or supplementary income that the host relies upon. In many cases, the supplementary money is used to make home improvements. In other more extreme cases, property owners are experiencing significant financial hardship and are renting out their house to pay the mortgage or put food on the table.

TYPES OF SHORT-TERM RENTAL RESTRICTIONS

1. **No restrictions.** The vast majority of municipalities have not adopted any short-rental regulations.
2. **Prohibition.** This approach prohibits, community-wide, short-term rentals.
3. **Geographically-based restrictions.** With this option, short-term rentals are allowed within certain zoning districts or neighborhoods.
4. **Quantitative restrictions.** This restriction places a limit on the number times a property may be rented for short-term occupancy. For example, Santa Fe limits short-term rentals, per dwelling, to a maximum of 17 rental periods per calendar year and no more than one rental within a seven consecutive day period. Evanston caps their short-term rentals, per dwelling, to one per year (there is a rigorous licensing process for those that seek to do so more often).

Quantitative restrictions provide the greatest balance between protecting private property rights and preserving neighborhood harmony.

Registration or licensing requirements are frequently adopted in communities that have opted to allow short-term rentals but want some regulation. Registration/licensing requirements may include maximum occupancy limits, parking requirements, required postings, mandatory designated representatives, etc. Registration/licensing is commonly not imposed on those that infrequently rent their property on a short-term basis. For example, Evanston only requires a license for properties that seek to rent their property on a short-term basis more than once a year.

The U.S. Conference of Mayors warns that “onerous regulations of short-term rentals can drive the industry underground, thus evading local regulations.”

The U.S. Conference of Mayors in 2012 unanimously adopted a resolution that “urges support for economic development opportunities through the visitors industry by encouraging regulations of the short-term rental industry” that identify property owners, make any tax collection and remittance obligations clear, and treat short-term rental tenants the same as long-term rental tenants. “Regulations that accomplish all three can achieve a high level of compliance, and are highly effective.”

Often, communities will create exemptions to their short-term rental regulations. Exemptions can include:

1. **A rental agreement in conjunction to sell the house.** This exemption primarily is intended to legalize the very common occurrence of “rent-backs” in which an owner sells their house, is temporarily unable to move into their new home, and rents their home back from the new owner. This exemption could be extended to anyone that is under contract on a house (even if the short-term rental is not related to the contract) but have yet to close and are in need of

housing -- this could be applied to only those that are under contract in relation to a home in the community or a neighboring community.

2. **Displacement.** An exemption can be created for those that are displaced from their own home due to renovation or repair. For example, if family is temporarily displaced from their home due to a fire and are seeking short-term living arrangements during the repair, they would have the ability to rent a nearby house for a few weeks. Again, this exemption could be applied to those that are pre-existing members of the community or a neighboring community.
3. **Demonstratable hardship.** A community should consider if they want to make allowances for those experiencing financial hardship. This exemption may make the difference to prevent a property from falling into foreclosure, or even putting food on the table.
4. **Medical treatment.** This exemption could be provided to individuals and their families that are travelling to the Chicago-area for medical treatment; a doctor's note could be required.
5. **Professional relocation.** This exemption could be granted in cases where individuals have been temporarily relocated in-town for business purposes; a letter from a business located in-town or a nearby community.
6. **Apartment buildings, condominiums, and homeowner associations.** The rationale for exempting apartment buildings, condominiums, and homeowner associations is that the owner or association is empowered to implement regulations if short-term rentals become disruptive whereas single-family property owners cannot dictate the actions of their neighbors.
7. **Catch-all.** This exemption recognizes the inherent right to make use of one's property without unduly burdening neighboring properties. A free, no-questions-asked exemption once, twice, or more per year can be a reasonable balance.

SUMMARY

In adopting any short-term rental policies, municipalities should consider the minimum amount of regulation necessary to achieve the community's goal without unnecessarily depriving property owners of their rights. If homes being rented, day-after-day, night-after-night are disruptive to the community, consider allowing property owners to rent out their property just once or twice a year which would end the problematic activity. A municipality can always revisit and amend an existing ordinance. In Evanston, opponents of allowing any short term rentals argued that short-term rentals would disrupt neighborhood harmony and introduce criminals and sexual predators into residential neighborhoods, but more than two years later after minimal regulations were adopted that allow some short-term rentals city officials report that they are not receiving resident complaints.

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PRACTICE SHORT-TERM RENTALS



Peering into the Peer Economy: Short-Term Rental Regulation

By Dwight H. Merriam, FAICP

You will recall, or if you are a millennial (18 to 34 years old), you might have read about the mantra that James Carville dreamed up for President Bill Clinton's 1992 campaign: "It's the economy, stupid."

Today, for planners, thanks to the entirely new perspective brought to us by the millennials, our theme must be "It's the sharing economy, stupid." It is called variously collaborative consumption, the peer economy, and the sharing economy. More than half of millennials have used sharing services. It is permeating our daily lives in many ways.

This new ethic about our relationship to things, to transportation, to where we bed down, and even to other people has taken us away from owning and exclusively using, to not owning, not possessing, and not using alone. We see the sharing economy in three broad spheres—transportation, goods and services, and housing. While our focus here is on short-term rentals, it helps to understand the larger context for "home sharing."

RIDE-SHARING REVOLUTION

Transportation may be the most obvious and most pervasive face of the sharing economy. Millennials own fewer automobiles than other age cohorts. Millennials purchased almost 30 percent fewer cars from 2007 to 2011 (Plache 2013). Why? Because they use short-term car rentals, public transportation, and ride-sharing services. They are less likely to get driver's licenses. One-third of 16 to 24 year olds don't have a driver's license, the lowest percentage in over 50 years (Tefft et al. 2013). At the same time, so we don't get too carried away with this trend, as the millennials age, they will buy more cars. Forty-three percent said they are likely to buy a car in the next five years (Kadlec 2015).



This four-bedroom colonial home in Wetherfield, Connecticut, rents for \$385 per night, with a four-night minimum stay.

Dwight H. Merriam

Ride sharing as a generic term encompasses short-term rentals, making your car available to others, sharing rides, and driving or riding in taxi-like services brokered online through companies like Uber.

Instead of owning a car, you can rent one on a short-term basis from companies such as Zipcar and Enterprise Rent-A-Car. Why own a car when you can conveniently pick one up curbside and use it to run errands for a few hours?

Sharing a ride and splitting the cost is made easier with services like Zimride (also by Enterprise Rent-A-Car), which links drivers with riders at universities and businesses. You boomers will remember the ride-share bulletin boards on campus. Same thing.

Got a car, not making much use of it, and interested in making some money? You can make it available to others on a short-term basis through peer-to-peer car-sharing services including Getaround, which presently operates in Portland, Oregon; San Francisco; San Diego; Austin, Texas; and Chicago. They will rent your car for you while you are away. Cars are covered with a \$1 million policy, and they even clean it for you. RelayRides connects neighbors to let them rent cars by the hour or the day, and if you're traveling more than 14 days, they will take your car at the airport, rent it for you, and pay you. You can even do it for boats with Boatbound. With the help of Spinlister, you can connect with others and rent a bicycle, surfboard, or snowboard.

Dwight Merriam, FAICP, founded Robinson & Cole's Land Use Group in 1978, where he represents land owners, developers, governments, and individuals in land-use matters. He is past president of the American Institute of Certified Planners and received his masters of Regional Planning from the University of North Carolina and his juris doctor from Yale.

Want to make some money by driving others around in your car, or are you a rider who wants to be driven? Just about everyone has heard of Uber, the leader in this form of ride sharing, which includes other services such as Lyft and now Shuddle for ferrying children around and Sidecar for both people and packages. Wireless communications, the Internet, and smartphones have made such ride-sharing and delivery services possible. This is a big deal. Lyft and Uber are worth \$2.5 billion and \$50 billion (more than FedEx and 405 companies in the S&P 500) respectively (Dugan 2015; Tam and de la Merced 2015). And want to be a driver but don't have a car? You can rent one from Breeze just for that purpose.

GOODS AND SERVICES PEER TO PEER

Beyond transportation, the sharing economy extends to relationships between people and service providers. There is peer-to-peer or collaborative consumption through services like TaskRabbit and Skillshare which provide help, paid or bartered, or sometimes free. Instacart will grocery shop for you and claims it will deliver to your door in an hour. You can be a shopper and delivery person for them, making up to \$25 an hour.

NeighborGoods lets you share all those things you have but use so little, from leaf blowers, to pressure washers, to . . . well, take a look in your garage, that place where you used to park your car. If you live in Austin, Texas; Denver; Kansas City, Missouri; Minneapolis; or San Francisco, Zaarly seeks to create a marketplace

to help freelance home-service workers connect with home owners.

There seems no end to the sharing. Fon, touting over 7 million members, lets you share your home WiFi in exchange for access. The Lending Club connects borrowers and investors, enabling, so they say, better rates than credit cards and more return for lenders than what banks offer. Over \$11 billion has been borrowed since it started in July 2007, with investors earning a median of 8.1 percent. Poshmark lets you show your unneeded clothing in a virtual closet and get linked with people who share your sense of style. You can even share your dog, or become a sitter, with DogVacay and Rover helping you find a local dog sitter to care for your dog at your home or theirs.

The power of the Internet in facilitating collaborative consumption was probably best evidenced first when eBay and Craigslist provided an online marketplace never experienced before. Today, we have web-based services like Freecycle where people can post things they don't want, the remnants of our overconsumption, and others can take that flotsam and jetsam for free. Yes, for free. It solves the donor's solid waste disposal problem and provides free goods for the takers.

SHARING THE ROOF OVER OUR HEADS

That brings us to the subject matter of greatest interest to planners—the sharing of space.

Maybe it began with the sale of timeshares in the United States in 1974. These fractional interests have proved difficult to sell. Short-term vacation rentals emerged as a better way for many, linking property owners with vacationers through companies like HomeAway and its numerous related entities, claiming over one million listings. FlipKey does much the same with what it says are over 300,000 listings in 179 countries.

But Airbnb goes beyond vacation rentals. You can rent a shared or private room for a night, a whole house, an apartment for your exclusive use for a week, a British castle (Airbnb says it has 1,400-plus castles), a teepee, an igloo, a caboose, or an eight-foot by 14-foot treehouse in Illinois (\$195 a night) if you wish.

The company, originally "AirBed & Breakfast," was founded in 2008 by Brian Chesky, Joe Gebbia, and later Nathan Blecharczyk. It began when Chesky and Gebbia, to help pay their rent, rented sleeping accommodations on three air mattresses in their San Francisco apartment living room and made breakfast for the guests (Salter 2012). The company is now worth \$25.5 billion and joins the ranks of the rest of the great ideas we wish we had thought of first (O'Brien 2015).

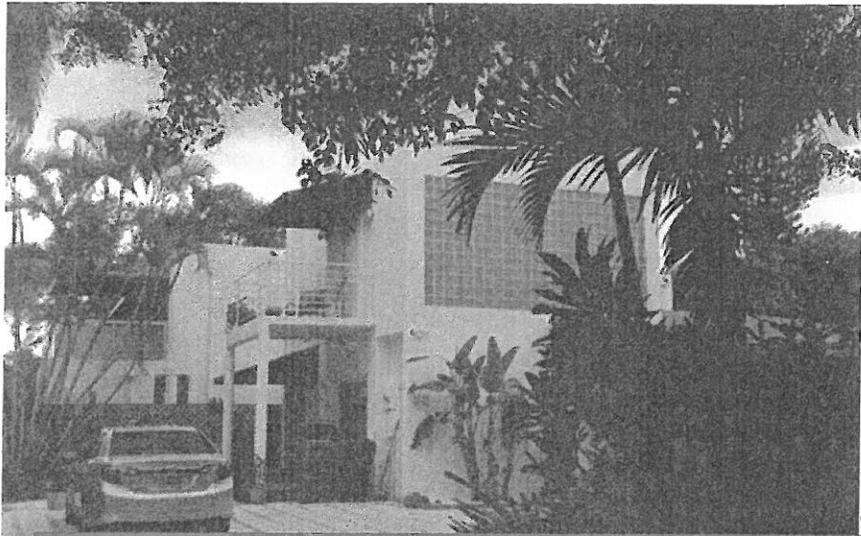
GOOD OR BAD?

Are short-term rentals good or bad for your community? Like so many things, it depends.



Brian J. Connelly

➞ A second floor condominium in this converted mansion in Denver's Capitol Hill neighborhood offers a private bedroom and bath rental for \$105 per night, with a two-night minimum stay.



Sorell E. Negro

➡ This three-bedroom home near Miami's Coconut Grove rents for \$325 per night, with a five-night minimum stay.

Affordable Housing

Short-term rentals (STRs) increase the stock of furnished, short-term accommodations. Because many of the rentals involve renting a room in a permanently occupied dwelling, they are often less expensive than commercial lodging. The benefit for home owners or long-term tenants who host STR guests is additional income, which can help offset mortgage or rent payments.

Some contend that STRs may exacerbate the shortage of lower cost rentals because landlords, attracted by the higher revenue stream from STRs, are taking apartments out of long-term rentals, especially in tight markets like New York and San Francisco (Monroe 2014; Moskowitz 2015). Others say high tenant demand and demographics are the cause of the problem, not STRs, which are a small share of the market (Lewyn 2015; Rosen 2013).

Aging in Place

Short-term rentals of rooms in homes and apartments not only provide additional revenue for those aging in place, but they may provide an opportunity for sharing of chores and bartering for services, just as accessory apartments do. This can enable older people to stay in their homes longer before transitioning to an independent or assisted living facility.

Commercial Lodging

The only possible benefit of STRs with regard to existing commercial lodging is that it may stimulate competition and lower prices for the consumer. The negatives are several. Short-

term rentals may reduce commercial lodging revenues. In many situations STRs have an advantage over commercial lodging because the STRs do not pay the occupancy taxes paid by commercial lodging. Short-term rentals generally do not need the service workers employed in commercial lodging. Unions and service workers often oppose STRs.

State and Local Government

Revenues to state and local government may go down as a result of STRs because, as noted, such rentals usually do not pay the occupancy and other taxes levied on commercial lodging. Airbnb does provide 1099 forms to hosts to report their income, and it has begun collecting and remitting hotel and tourist taxes in San Francisco; San Jose, California; Chicago; and Washington, D.C. (Hantman 2015).

Health and Safety

Much of the STR market today is unregulated. Those who rent typically do not have their premises inspected to determine compliance with health, building, housing, and safety codes. For its part, Airbnb does clearly state in its terms of service that some localities have zoning or administrative laws that prohibit or restrict STRs and that "hosts should review local laws before listing a space on Airbnb."

Airbnb also provides a guide to responsible hosting on its website, and what they do address is good guidance for local planners and regulators, and thus worth reading. How many hosts read and follow up on the suggestions is another matter. Airbnb's list is still a good starting point for local action.

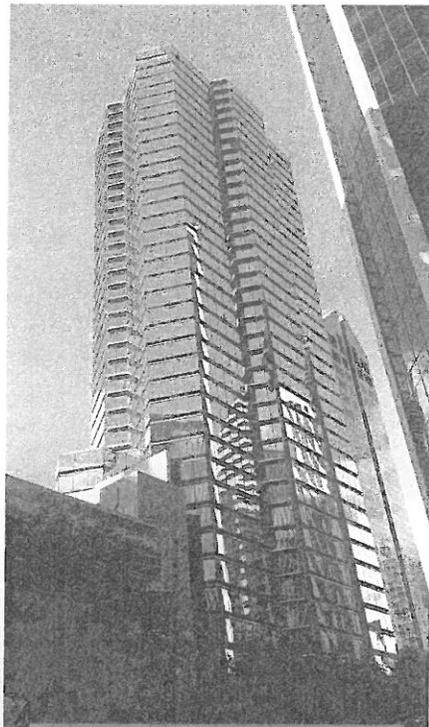
Many STR hosts do not have home owners and liability insurance to cover losses that may result from occupancy. There is a life safety issue here, and in the event of death, injury, or property damage, there may not be insurance coverage or sufficient assets available to cover the liability.

AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

So said Benjamin Franklin, and it is apt here. You need only take a few relatively easy steps to get out ahead of the potential problems with STRs and capitalize on the good that such rentals can provide your community.

Moratorium

This is not a recommendation, but something worth considering. As you work down this list of



Robert H. Thomas

➡ This condo hotel in downtown Honolulu includes owner- and long-term renter-occupied units, privately owned units available for daily rental through the building's hotel operator, units owned by the hotel operators, and privately owned units available for short-term rental through Airbnb and similar sites.

steps you will have the sense that you need to do six things at once. You do. One way to get a grip on it is take a “planning pause” moratorium on all STRs for, say, six months, during which time no one can rent. However, given that the number of such rentals in many places is still relatively small, it is unlikely that much harm will come from letting them continue on while you plan and prepare to regulate. It may not be worth the effort to have a moratorium. A moratorium takes time—for drafting, maybe some legal advice, and the expenditure of political capital in most cases—and may cause some pushback from those already renting, all of which may cost more than the planning pause is worth. Moratoria sometimes serve only to delay the inevitable hard work and are often extended. Back to Ben Franklin: “Don’t put off until tomorrow what you can do today.”

Education

Learn what is available out there now by going to all of the websites and services that you can find, most of which are identified here. Look online to see what STRs are being offered in your community. You may be surprised at how many of your friends and neighbors are already in the STR business. Don’t forget to check Craigslist as well, and use an online search engine, such as Google, with a few key terms, like “rentals Anytown” and “house-sharing Anytown,” to find other STR activity.

Conduct educational sessions in your community (“Everything You Need To Know About Short-Term Rentals”) even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance, fire prevention, emergency response, following rules for rent controlled units, first aid, protecting privacy (e.g., disclosing security cameras), insurance coverage, parking, noise, smoking, pets, childproofing, operation of heating and ventilating systems (including fireplaces and heating stoves), safe access, occupancy limits, deciding what to tell neighbors, home owners association approval, tax obligations, and any required zoning approvals. These sessions may also provide an opportunity to learn who is renting and to connect with them. Consider establishing a section of your municipal website as a resource portal. You will not have all the answers to all the questions as you start, but you need to start.

Planning

Yes, planning. The rational planning model in its simplest terms is what do you have, what do

you want, and how do you get it. You need to know who is renting and what is being rented to whom for how long. You need to determine what you may expect in the future. What do you think the demand is for STRs, in what mix of accommodations, and for what length of tenancy? This will prove useful to deciding whether you need to limit the number of units available for STR and to regulate the length of occupancy.

Regulate

Regulation probably will come in two forms: licensing of individual hosts to insure code compliance and general regulation (either through zoning or licensing standards) as to location, number of units, and terms of tenancy. You will have to draw the line somewhere as to what is an STR and what is simply an unregulated rental.

Conduct educational sessions in your community even before trying to regulate, to sensitize present and potential hosts to the need for proper code compliance.

Is an STR a rental of less than 30 days or 90 days, or some other somewhat arbitrary number of days, and everything else is just an unregulated rental? It is for you to decide. You will also want to consider whether owner-occupied STRs might be regulated less strictly, given that the owner is present during the STR.

Austin, Texas, has a robust program with licensing. They carve out three types of STRs: owner-occupied single-family, multifamily, or duplex units (Type 1); single-family or duplex units that are not owner occupied (Type 2); and multifamily units that are not owner occupied (Type 3). There is a three percent limit by census tract on the Type 2 single-family and duplex STRs, a three percent limit per property on Type 3 STRs in any noncommercial zoning district, and a 25 percent limit per property on Type 3 STRs in any commercial zoning district. However, each multifamily property is allowed at least one Type 3 STR, regardless of these limits.

Austin has separate application forms for Type 1 primary, secondary, and partial STRs. All of these forms include owner and property identification information as well as insurance information, number of sleeping rooms, occupancy limit, and average charge per structure. To qualify as a Type 1 primary STR, the unit must be owner occupied at least 51 percent of the time and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 2 secondary STR, the unit must be accessory to an owner-occupied principal residence and can only be rented out in its entirety and for periods of 30 days or less. To qualify as a Type 1 partial unit, namely a room rental, the unit must provide exclusive use of a sleeping room and shared bathroom access. Only one partial unit can be rented out at a time, to a single party of individuals, and for periods of 30 days or less. Owners must be present for the duration of the rental.

The annual licensing fee for STRs in Austin is \$235. Applicants must also pay a one-time notification fee of \$50.

Of course, as with all regulation there are those with schemes to beat the regulation. There are sites online that advise potential STR hosts to avoid posting on Craigslist, use Airbnb’s community and social features to screen the reservations (presumably to avoid enforcement types), “hide your home” by using Airbnb’s public view that only shows a large circle within which the unit is located, use word of mouth (or social networking sites) to rent the unit, and “get lost in the crowd” in that there are thousands of listings in large places like Austin (but not in the rural counties, suburbs, and small towns). This advice to those interested in breaking the law suggests that it will not always be easy for code enforcement to find the STRs. Perhaps some notice to all property owners, maybe a note with the tax bill, telling them of the need to register would help. Free, simple, online registration might increase compliance. The critical issue is life safety—you need to find all of these STRs to make sure they are safe.

San Francisco has an Office of Short-Term Rental, and in 2014 the city adopted major revisions to its planning codes for STRs. Those amendments include some useful definitions of hosting platform, primary residence, residential unit, short-term residential rental, and tourist or transient use. The code requires registration, occupancy of the unit by the owner not less than 275 days a year, maintenance of records for two years, certain insurance coverage, payment of transient occupancy taxes, compliance with the

housing code, posting the registration number on the hosting platform's listing, and a clearly printed sign inside of the front door with the locations of all fire extinguishers in the unit and building, gas shut-off valves, fire exits, and pull fire alarms. The application fee and renewal fee every two years is \$50. The hosting platform has numerous responsibilities, and there are fines for violations. It is a good model from which to start.

Isle of Palms, South Carolina, regulates STRs through zoning, defining an STR to be three months or less. The city's STR standards limit the number of overnight occupants to six and daytime occupants to 40 (can we assume a wedding party or the like?), set a minimum floor area per occupant, and establish off-street parking requirements.

Monterey County, California, also regulates STRs in its zoning code, defining STRs as rentals between seven and 30 consecutive calendar days. The county considers stays of less than seven days to be a motel/hotel use. The regulation provided for administrative approval of all STRs in operation at the time of its adoption in 1997 if the property owners applied within 90 days. Most of the existing, legal STRs date from that initial round of approvals. Since then, there have been some discretionary approvals, and many STRs are believed to be operating without the required permits.

San Bernardino County, California, permits STRs, defined as rentals of less than 30 days, by zoning in the "Mountain Region" by special use permit exempting multifamily condominium units in fee simple and timeshares with a previous land-use approval. The development standards include code compliance, maximum occupancy based on floor area per occupant and the number of beds, off-street parking requirements, and signage specifications. Conditions of operations address the contents of the rental agreement, posting of the property within the unit with all the conditions of use, and details of fire safety and maintenance, even including a prohibition on the use of extension cords.

Miami Beach, Florida, prohibits STRs in all single-family homes and in many multifamily buildings in certain zoning districts.

Registering all these STRs can be burdensome. Since May 1, 2015, Nashville has issued 1,000 permits, and staff estimates the city still has 800 illegal hotels and motels (Bailey 2015). Wait times for all types permits went from 30 minutes to four hours because of all the STR registrations (Bailey 2015).

THE MAKINGS OF WORKABLE PROGRAM

Overarching issues to consider include the nature of the activity you aim to regulate, the management structure of the STR, and the limits on STR use.

What Is the Nature of the Activity You Will Regulate?

Presumably, hosting a STR is a private enterprise and almost certainly not a commercial lodging business. It is a type of lodging that is largely advertised online, through social media, and on bulletin boards. How will you draw the line between that modest, private activity and a commercial operation?

How Is It Managed?

Does the host have to be the owner, and does the host need to be there during the rental? If not, will you regulate differently in terms of numbers of units allowed, number of days per year, or terms of occupancy?

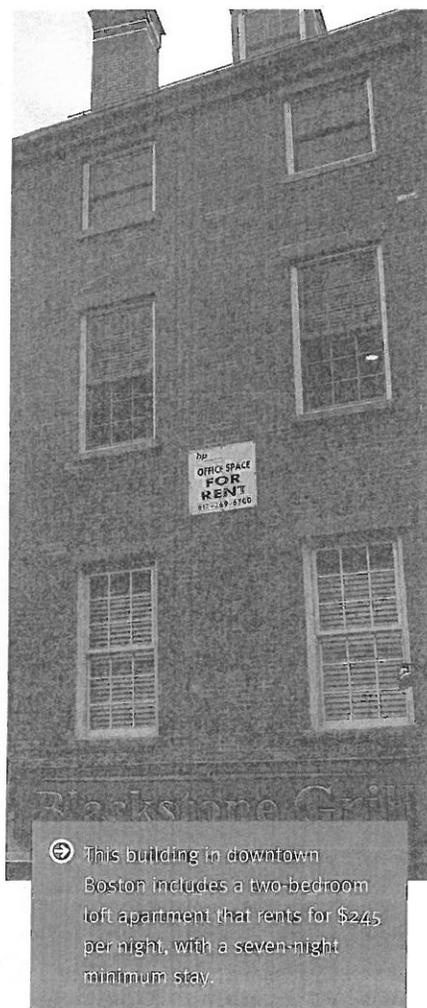
What Is the Limit of Use?

Will you require the host to live in the residence at least some minimum number of days per year? Will you limit rentals to some maximum number of days per year? Will you define STR as a rental of 30 consecutive days or less and not regulate longer rentals in any way? Will you regulate whole-house, exclusive-use rentals differently, for example by only regulating when the house is rented for less than a week or two weeks? And will you regulate renting of rooms on a different schedule, for example by including room rentals only if they are less than one month and otherwise not regulating longer room rentals, which may be covered by zoning anyway, possibly under the definition of a rooming house? There are so many questions to be answered and so many lines to be drawn.

A checklist of considerations for hosts and public officials for planning, regulation, and operation might include current zoning requirements; applicable codes (sanitation, health, building, occupancy among many); business licensing; business organization (none, limited liability corporation, general or limited liability partnership, Subchapter S, etc.); home owners association covenants and restrictions; other easements, covenants, restrictions on the land; lodging to be offered (room, whole house, host-occupied, length of stay); 911 marking at the street; emergency notifications; food service (permitted? licensed?); federal, state, and local taxes; safety inspections; fire, smoke, CO₂, and other detectors; fire extinguishers; child safety; parking; insurance; emergency notifications; water and septic; safe hot water temperature; electrical and plumbing in good repair; pest/vermin-free (especially bed bugs); ventilation, heat, air conditioning adequate; no hazards; no mold or excessive moisture; working doors, windows, and screens; adequate means of egress; linen sanitation; and pool and spa maintenance.

YOU'VE MADE YOUR BED . . .

So goes the idiom from the French as early as 1590: "Comme on fait son lit, on le trouve" (As one makes one's bed, so one finds it). In planning for and regulating STRs, you will indeed be the ones making the bed, and you will have to lie in it. There are benefits and burdens in how you permit STRs and many considerations to be weighed. If you start with life-safety issues first, you can be quite certain the most important aspect of this rapidly emerging sharing economy phenomenon will be addressed. After that, it is the usual planning and politics.



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