



Legislation Details (With Text)

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CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Provide direction regarding potential short-term residential rental regulations.

DEPARTMENT: Transportation, Engineering and Development

SUBMITTED BY: Allison Laff, AICP, Deputy Director

BOARD/COMMISSION REVIEW:

Not required.

BACKGROUND:

Under new business at the February 4, 2020 meeting, City Council directed staff to prepare a report with potential options that could be used to regulate short-term rentals. This request was driven by a party held at a residential Airbnb on Super Bowl Sunday 2020 (as further described below); however, a similar incident also occurred at a residential Airbnb on New Year’s Eve 2018.

A Manager’s Memorandum(MM) providing an overview of potential short-term residential rental regulations was issued on March 12, 2020. Following its issuance, the City was faced with closures due to Covid-19 and no further Council direction was given regarding the potential regulations discussed in the MM.

City Council again raised this issue under new business at the June 2, 2020 City Council meeting following two short-term residential rental incidents occurring at 843 Santa Maria (same location as above complaint) and 404 Verbena Court, both of which occurred in late May 2020. In both instances, a party was held at the short-term rental and complaints were received regarding the number of people in attendance (particularly given social distancing guidelines), noise, late hour, and altercations. The Naperville Police were called for both incidents.

It should be noted that the Police Department recently conducted an analysis on police calls regarding loud parties at Airbnb properties. Data indicates in the past two years (2018 and 2019), police responded to 2 calls of a loud party at Airbnb properties (note: this would not include the most recent events described above). In that same two-year period, police responded to 178 calls of a loud party at single family and multi-family residential properties.

DISCUSSION:

Staff has researched ordinances adopted by Illinois communities in reference to short-term residential rentals, as well as the analysis that was completed in the preparation of these ordinances. This information, as well as industry findings and best practices, is included below.

Brief Overview of Short-Term Rentals

Short-term rentals came into prominence in 2007, largely as a result of the economic downturn, as a means for individuals to use their homes as a source of supplemental income. In a 2019 Shareable.net report, it is noted that 50-70% of all short-term rental listings are now whole house rentals and that 1/3 of all Americans have stayed in a short-term rental. The short-term rental market is currently a \$32 billion dollar industry.

The benefits associated with short-term rentals include tourism, economic benefit to property owners, and collection of municipal hotel taxes. However, nearby property owners often raise concerns related to the impact of short-term rentals on their properties, including noise, parties, transiency, and spillover parking.

Existing Naperville Regulations

The Naperville Municipal Code currently prohibits boarding houses in residential districts, but does permit the rental of up to 2 boarding rooms per owner occupied home or the rental of the whole structure under a single shared lease (see attached). The Code does not separately define “short-term rentals” nor does it regulate the minimum or maximum duration of stay at a residential rental.

Based on an Airbnb search, it appears that there are currently 300+ Naperville listings. Staff has not reviewed the Naperville listings on other hosting platform websites.

Illinois Community Regulations

The following list of Illinois community regulations is not exhaustive, but is based on staff’s preliminary research into short-term rental regulations.

Not every community has elected to adopt policies related to short-term rentals, including Mount Prospect, Arlington Heights, Buffalo Grove, Glencoe, Champaign

The following communities currently **prohibit short-term rentals** in residential neighborhoods: Deerfield, Lake County, Northbrook, Northfield, River Forest, Rosemont, Vernon Hills, Lombard, Wilmette and Winnetka.

The following communities regulate short-term rentals through their **existing rental registration and inspection programs**, but offer no additional zoning restrictions on such rentals: Highland Park, Joliet, Oak Lawn Prospect Heights.

The following communities have adopted local ordinances regulating short-term rentals in their

communities:

Regulation	Lake Bluff*	Danville	Tinley Park	Lincoln-wood	Evanston	Riverside	Carbondale
License Required	Yes	Yes	Yes	No	Yes	Yes	Yes
License Fee	\$250	\$50	\$50	-	\$50	-	-
Council Approval	No	No	No	-	Yes + notice	Yes	No
Inspection	No	Yes	Yes	-	Yes	Yes	Yes
Minimum Rental	2 days		24 hours	-	24 hours	24 hours	24 hours
Owner Occupied	Yes	Yes	Yes	-	No	Yes	No
Maximum # of Rentals Per Year	45 days per year or 15 bookings	-	1 rental per year	1 rental per year	-	60 days per year	-
Max. Occupants	-	-	1 family; 2 adults per sleeping room	-	-	1 person per 125 sq.ft.	-
Insurance Required	Yes	-	Yes	-	-	Yes	Yes
Hotel Tax	Yes	-	-	-	-	Yes	Yes
Parking Limits	Paved Surface	-	-	-	-	1 space per unit or guestroom	-
Fines for Violations	\$5,000	-	\$200-\$750	-	\$200-\$750	-	-

*2-year pilot program; up to 6 total licenses to be issued

“-”: not specified in ordinance

In addition to the regulations noted above, most towns with short-term rental restrictions also utilize the following recommended best practices:

- Prohibit the licensee from serving food or beverages to the guests.
- Require the licensee to keep a log of rental dates and guests.
- Require the licensee to have a local contact on file in the event that a problem occurs at the rental.

Potential Naperville Short-Term Rental Regulations

Based on the information gathered from Illinois communities and recommended best practices, staff recommends that Council consider the following steps if short-term residential rental regulations are desired.

Step 1: Define “Short-Term Rental”

Based on the ordinances reviewed, staff recommends defining a short-term rental as a *residential structure offered for rent for a period not to exceed 30 consecutive days, which rental excludes hotels, bed and breakfast establishments, and boarding rooms.*

Based on this definition, a house rented for longer than 30 days would continue to be permitted per this same Section. It should be noted longer-term residential rental options could continue to be facilitated through hosting platforms, such as Airbnb.

Step 2: Determine Applicable Regulations*

A menu of options are available to regulate short-term rentals, including:

- **Minimum Length of Stay:** While most communities require a 24-hour minimum length of stay, Council could consider a longer minimum length of stay in an effort to discourage the use of short-term rentals for parties or event venues (i.e., 3-5 days at minimum).
- **Maximum Occupancy:** Council could consider establishing a maximum occupancy per short-term rental through mechanisms such as maximum guests per structure; maximum guests per sleeping room; minimum square footage requirements per guest; or not allowing any guests other than those listed on the rental contract to occupy the short-term rental.
- **Maximum Number of Rentals Per Year:** Council could consider establishing a limit as to how many times per year or a maximum number of days per year that each short-term rental can be rented.
- **Owner Occupied Rental:** Council could consider requiring that (1) the short-term rental be the owner's primary residence and that proof be provided that the owner resides in the property for a certain number of months per year or (2) that only the owner of the home can rent the structure as a short-term rental (i.e., the owner cannot lease to another party who then leases the structure as a short-term rental).
- **Parking Regulations:** Council could consider establishing additional parking regulations for short-term rentals, including requiring all parking to be accommodated on-site or restricting rentals which would require the use of off-site parking.
- **Noise Regulations:** Council could consider establishing regulations for short-term rentals, such as "quiet hours" or limits on outdoor activity.
- **Fines:** Council could consider establishing fines specifically for violations of the short-term rental regulations.
- **Other Regulations:** Council could consider prohibiting the renter from serving food or beverages to guests; requiring that each short-term rental have minimum insurance coverage (in most examples, insurance was required at \$1 million per rental occurrence); and keeping a log of rental dates and guests for review upon request.

**Note: per a 2018 ordinance, hotel tax is currently applicable to Naperville rentals made through online rental companies.*

Step 3: Determine Approval and Enforcement Process

Most communities that regulate short-term rentals do so through an existing annual licensure process which generally includes an inspection of the rental premises. The City of Naperville does not currently have a rental registration or licensing process. Given that 300+ Naperville short-term rentals are currently listed on Airbnb alone, staff believes that it would be difficult to establish this requirement and undertake it annually with current staffing levels and resources. In addition, if established, significant effort will be required to get all existing short-term renters to comply with the licensing requirement.

Absent a licensing requirement, any short-term rental regulations that are adopted by the City would be posted online and provided to any individual who contacts the City for information. The City can also request that all short-term renters provide their contact information to the City. Compliance with the established regulations would then be enforced on a complaint basis and fines would be issued for violations. The City would not complete any building inspections of the short-term rental unless a

building permit is specifically pulled for that property.

Other Considerations

It is important to note that it will be challenging to enforce the short-term rental regulations noted above, particularly absent a licensing requirement. If a complaint is received, and it is determined that a violation of the City's ordinance has occurred and can be proven, the property owner will be issued an ordinance violation and fine; however, the regulations adopted will not likely allow the City to shut down a party in the moment. Furthermore, the citation issued will not prevent the property owner from continuing to operate a short-term rental at that property (i.e., there is no license to revoke).

While enacting a licensing program to govern short term rentals would give the City a more effective means of enforcement, developing and enforcing a licensing requirement would be a significant undertaking that would require additional staffing. Whether the limited complaints received regarding short-term rentals to date (in comparison to the 300+ listings that exist in Naperville today) justifies the cost and resources needed to implement such a program is a matter of policy. An alternative to full licensure would be to require the owners of short-term rental properties to register with the City and provide contact information if a need arises. If it is determined that someone who should have has failed to register, they could be cited with an ordinance violation. While this approach gives the City less leverage, it would provide information as to where short-term rentals are located (assuming compliance with registration requirements) and provide the City with contact information should a need arise.

Finally, it is important to note that the majority of short-term rentals have not been problematic to date. However, certain new regulations that could be enacted may also adversely impact those short-term rentals that have been operating without issue or concern to date.

Staff Recommendation

Overall, staff finds that the majority of short-term residential rentals operating within the City are generally doing so in a manner consistent with a residential neighborhood. Accordingly, if the City Council desires to create new regulations for short-term residential rentals, staff recommends that these regulations be aimed at addressing the egregious outliers, while allowing the compliant short-term residential rentals (majority) to continue operating.

Accordingly, should City Council support code amendments pertaining to short-term residential rentals, staff recommends the following:

- Create a definition for short-term residential rentals.
- Codify requirements regarding the minimum length of stay and maximum occupancy permitted at any short-term residential rental in an effort to minimize the ability for these rentals to be used for parties or event venues.
- Enforce these requirements on a complaint basis.
- Revisit additional regulations and enforcement techniques in the future if the above approach fails to address the problematic short-term rental properties.

Process

Any proposed amendments to create short-term rental regulations will require review and approval by the City Council following their drafting (3-4 month process). It should be noted that if City Council directs staff to initiate a short-term residential zoning amendment on June 16, 2020, there may be some delay in beginning this work due to other pending near-term projects (adult-use cannabis

regulations, 5th Avenue workshop, Master Land Use Plan update, etc.).

FISCAL IMPACT:

If the City Council recommends use of a licensing program for short-term residential rentals, additional staffing and financial resources would be required.