A. MANAGER’S MEMORANDUM

Source:  
1. TED Business Group

Subject:  
Short-Term Rentals: Information and Regulation Options

Action:  
FYI
DATE: March 12, 2020

TO: Doug Krieger, City Manager
    Bill Novack, Director – TED Business Group

FROM: Allison Laff, AICP, Deputy Director – TED Business Group
      Robert W. Marshall, Chief of Police

SUBJECT: Short-Term Rentals: Information and Regulation Options

PURPOSE:
To provide City Council with information regarding potential regulations pertaining to
short-term residential rentals.

BACKGROUND:
Under new business at the February 4, 2020 meeting, City Council directed staff to
prepare a report with potential options for regulating short-term rentals. This request was
most recently 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.

Police Response and Data Regarding Short-Term Rentals
On February 2, 2020 at 11:44 PM multiple police officers were dispatched to 843 Santa
Maria Drive for a report of a large, loud party that was getting out of control. The
department received several calls from neighbors, as well as from Dean Batogowski, one
of the tenants of the property which is utilized as an Airbnb. There were reports of at least
100 vehicles parked in and around the cul-de-sac, several bottles of alcohol scattered on
the property grounds, and numerous intoxicated individuals on the property; some who
were involved in confrontations. There was also a heavy smell of cannabis in the area.
One witness reported that an individual had walked from the property to place a firearm
inside a vehicle.

Police officers assisted Mr. Batogowski, and private security he hired for the event, to
disband as many as 200 individuals who were attending the party at 843 Santa Maria
Drive. Those leaving the property complied with the police officers’ lawful order to
disperse. Approximately 35 individuals who rented the Airbnb remained on the property.
Officers did not observe anyone driving under the influence as they left the area, nor were
any firearms observed. Essentially the disturbance was due to the noise created by the
large volume of people and vehicles. Police left the scene around 2:00 AM. It was later
learned that many of the individuals who left the property had returned and stayed until
approximately 4:00 AM, continuing to cause a noise disturbance in the neighborhood.
A total of five officers and two sergeants responded to the calls and spent a total of two hours addressing the situation. No arrests were made the night of the incident, but officers followed up on one domestic battery incident.

On February 21, 2020, Deputy Director Allison Laff and Chief Marshall met with the Mr. Batogowksi and Don Russell, the second tenant of the property. The purpose of the meeting was to discuss the incident which took place on February 2, 2020 at 843 Santa Maria Drive. Steve Malik is the owner of the property and has an 18-month lease with Mr. Batogowski and Mr. Russell to market the property as an Airbnb rental property, including special events.

Mr. Batogowski and Mr. Russell indicated that an individual, who did not reside in Naperville, had rented the property for two nights for a birthday/Superbowl party in which 30-35 individuals were to attend. Mr. Batogowski stated the party got out of control and he notified the police department. He then went to the property where he observed over 150 individuals and assisted the police in requiring the unwelcomed individuals to leave. Mr. Batogowski and Mr. Russell apologized for the disruption in the neighborhood, and assured Deputy Director Laff and Chief Marshall that preventative measures would be implemented going forward.

It should be noted that after the February 4, 2020 City Council meeting, the Police Department conducted an analysis on police calls of a loud party 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. In that same two-year period, police responded to 178 calls of a loud party at single family and multi-family residential properties.

DISCUSSION:
In response to City Council’s request under new business on February 4, 2020, staff has researched ordinances adopted by Illinois communities regarding this issue, 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 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 **do not currently have a policy** related to short-term rentals: Mount Prospect, Arlington Heights, Buffalo Grove, Glencoe, Champaign.

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

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Lake Bluff*</th>
<th>Danville</th>
<th>Tinley Park</th>
<th>Lincolnwood</th>
<th>Evanston</th>
<th>Riverside</th>
<th>Carbondale</th>
</tr>
</thead>
<tbody>
<tr>
<td>License Required</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>License Fee</td>
<td>$250</td>
<td>$50</td>
<td>$50</td>
<td>-</td>
<td>$50</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Council Approval</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>-</td>
<td>Yes + notice</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Inspection</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>-</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Rental</td>
<td>2 days</td>
<td>24 hours</td>
<td>-</td>
<td>24 hours</td>
<td>24 hours</td>
<td>24 hours</td>
<td></td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Maximum # of Rentals Per Year</td>
<td>45 days per year or 15 bookings</td>
<td>-</td>
<td>1 rental per year</td>
<td>1 rental per year</td>
<td>-</td>
<td>60 days per year</td>
<td>-</td>
</tr>
<tr>
<td>Max. Occupants</td>
<td>-</td>
<td>-</td>
<td>1 family; 2 adults per sleeping room</td>
<td>-</td>
<td>-</td>
<td>1 person per 125 sq.ft.</td>
<td>-</td>
</tr>
<tr>
<td>Insurance Required</td>
<td>Yes</td>
<td>-</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Hotel Tax</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
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 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 in whole for a period not to exceed 30 consecutive days*. Short-term rentals, as defined, would specifically exclude hotels and bed and breakfast establishments (which are currently regulated separately per the Code).

In addition, because the proposed language is specific to the short-term rental of the whole unit, boarding rooms would continue to be permitted in owner-occupied structures in accordance with Section 6-2-15 (Boarding Facilities) of the Naperville Municipal Code. In addition, a whole house rented for longer than 30 days would also continue to be permitted per this same Section. It should be noted that either of these 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.

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*2-year pilot program; up to 6 total licenses to be issued
**“-“: not specified in ordinance**

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<th>Carbondale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking Limits</td>
<td>Paved</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1 space per unit or guestroom</td>
<td>-</td>
</tr>
<tr>
<td>Fines for Violations</td>
<td>$5,000</td>
<td>-</td>
<td>$200-$750</td>
<td>-</td>
<td>$200-$750</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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- **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 in the event that a violation occurs. 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, the property owner will be identified and then 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.

**Next Steps**

If Council would like to proceed with any of the short-term rental regulation options noted above, direction should be provided to the City Manager. Any proposed amendments to the Zoning Code to create short-term rental regulations will require review by the Planning and Zoning Commission through a public hearing with final approval by City Council (3-4 month process).

**RECOMMENDATION:**

Include this information in the March 12, 2020 MM.