



CITY OF BEACON, NEW YORK
ONE MUNICIPAL PLAZA
BEACON, NY 12508

Mayor Randy Casale

Councilmember Lee Kyriacou, At Large

Councilmember George Mansfield, At Large

Councilmember Terry Nelson, Ward 1

Councilmember John E. Rembert, Ward 2

Councilmember Jodi M. McCredo, Ward 3

Councilmember Amber J. Grant, Ward 4

City Administrator Anthony Ruggiero

**City Council Workshop Agenda
January 29, 2018
7:00 PM**

Workshop Agenda Items:

1. Presentation by Dutchess County Planning for Beekman Street
2. HVEA Crosswalks Presentation
3. Budget Amendments
4. Appointments
5. West End Lofts Waiver
6. Fire Station Change Orders
7. Request for subordination agreement - 6 State Street
8. Discussion - Tree Preservation LL
9. Gross vs. Build-able Acreage for all zoning districts
10. Airbnb Legislation
11. Executive Session: personnel and contract negotiations

City of Beacon Workshop Agenda
1/29/2018

Title:

Presentation by Dutchess County Planning for Beekman Street

Subject:

Background:

City of Beacon Workshop Agenda
1/29/2018

Title:

HVEA Crosswalks Presentation

Subject:

Background:

City of Beacon Workshop Agenda
1/29/2018

Title:

Budget Amendments

Subject:

Background:

ATTACHMENTS:

Description

Budget Amendments

Type

Cover Memo/Letter

Council Budget Amendments
February 5, 2018 Meeting

1. Amend the 2017 General Law Budget to account for November 2017 legal bills. Below is the proposed budget amendment:

Transfer to:

A 1420-450442-	PBA/POLICE UNION MATTERS	\$ 10,574
A 1420-450454-	EMPLOYEE DISCIPLINE	<u>7,313</u>
		<u>\$ 17,887</u>

Transfer from:

A 1990-400001-	CONTINGENCY FUND	<u>\$ 17,887</u>
----------------	------------------	------------------

2. Amend the 2017 Police Budget to the payout of unused accumulated time to the former Police Chief. Below is the proposed budget amendment:

Transfer to:

A 3120-190000-	SEVERANCE/RETIREMENT PAY	<u>\$ 19,046</u>
----------------	--------------------------	------------------

Transfer from:

A 3120-101000-	REGULAR SALARIES	<u>\$ 19,046</u>
----------------	------------------	------------------

3. Amend the 2018 General Highway Budget to cover the cost of 5 Beacon Gateway signs. Below is the proposed budget amendment:

Transfer to:

A -05-5110-417900-	SIGNS AND POSTS	<u>\$ 16,058</u>
--------------------	-----------------	------------------

Transfer from:

A -01-1990-400001-	CONTINGENCY FUND	<u>\$ 16,058</u>
--------------------	------------------	------------------

Respectfully submitted,
Susan K. Tucker CPA

City of Beacon Workshop Agenda
1/29/2018

Title:

Appointments

Subject:

Background:

ATTACHMENTS:

Description	Type
Jerry Landisi Committee Application	Backup Material
Matthew Dubetsky	Backup Material
Ali Muhammad	Backup Material

Committee Application



Submit Forms:
One Municipal Plaza, Suite One
Beacon, NY 12508

Phone: (845) 838-5010
FAX: (845) 838-5012
Email: cityofbeacon@cityofbeacon.org

Name	JERRY LANDISI
Address	140 N. WALNUT ST. BEACON, NY
Phone Number	845-831-7198 Home
Alternate Phone	845-222-2999 Cell
Email Address	PTTJL@OPTONLINE.NET
Committee You are Interested In	<input type="checkbox"/> Board of Assessment Review <input checked="" type="checkbox"/> Board of Ethics <input type="checkbox"/> Conservation Advisory Committee <input type="checkbox"/> Emergency Management Committee <input type="checkbox"/> Human Relations Commission <input type="checkbox"/> Planning Board <input type="checkbox"/> Recreation Committee <input type="checkbox"/> Traffic Safety Committee <input type="checkbox"/> Zoning Board of Appeals <input type="checkbox"/> Any of the above <input type="checkbox"/> Other
Available number of Hours per week (for Committee work)	6
Occupation	Retired
Employer	Retired
Work Address	NA
Work Phone	NA

Education

- ☐ Some High School
☒ High School Diploma
☐ Some College
☐ Associates Degree
☐ Bachelor's Degree
☐ Master's Degree
☐ Doctorate Degree

Interest & Skills

Politics / Volunteering to help organizations/people

**Areas of Expertise
(business & civic)**

MANAGING people, TRAINING others.
Delegating

Reference**Reference Name**

JAMES FARMER

Address

40 ALTA DR. WAPPINGER FALLS NY

Phone

845-831-1312

Email Address

JMF4@optonline.net.

Relationship

Friend

Committee Application



Submit Forms:
One Municipal Plaza, Suite One
Beacon, NY 12508

Phone: (845) 838-5010
FAX: (845) 838-5012
Email: cityofbeacon@cityofbeacon.org

Name

MATTHEW DUBETSKY

Address

66 SOUTH BRITT ST BEACON

Phone Number

914 474 7478

Alternate Phone

Email Address

MD2997@GOL.COM

Committee You are
Interested In

- ☐ Board of Assessment Review
☐ Board of Ethics
☐ Conservation Advisory Committee
☐ Emergency Management Committee
☐ Human Relations Commission
☐ Planning Board
☐ Recreation Committee
☒ Traffic Safety Committee
☐ Zoning Board of Appeals
☐ Any of the above
☐ Other

Available number of
Hours per week (for
Committee work)

ANY

Occupation

RETIRED COB EMPLOYER

Employer

Work Address

Work Phone

Education

- ☐ Some High School
☒ High School Diploma
☐ Some College
☐ Associates Degree
☐ Bachelor's Degree
☐ Master's Degree
☐ Doctorate Degree

Interest & Skills

Areas of Expertise
(business & civic)

former DPW WORKER WITH MUCH
EXPERIENCE IN STREETS & SIGNS

Reference

Reference Name

Address

Phone

Email Address

Relationship

Committee Application



Submit Forms:
One Municipal Plaza, Suite One
Beacon, NY 12508

Phone: (845) 838-5010
FAX: (845) 838-5012
Email: cityofbeacon@cityofbeacon.org

Name

Ali T. Muhammad

Address

30 Green Street

Phone Number

845-245-5741

Alternate Phone

Email Address

Standwithali@gmail.com

Committee You are
Interested In

- ☐ Board of Assessment Review
- ☐ Board of Ethics
- ☐ Conservation Advisory Committee
- ☐ Emergency Management Committee
- ☒ Human Relations Commission
- ☐ Planning Board
- ☐ Recreation Committee
- ☐ Traffic Safety Committee
- ☐ Zoning Board of Appeals
- ☐ Any of the above
- ☐ Other

Available number of
Hours per week (for
Committee work)

As many as needed

Occupation

County Gov't Exec Aide

Employer

Dutchess County

Work Address

22 Market Place Poughkeepsie, NY

Work Phone

Education

- ☒ Some High School
☒ High School Diploma
☒ Some College
☐ Associates Degree
☐ Bachelor's Degree
☐ Master's Degree
☐ Doctorate Degree

Interest & Skills

Human Rights

Areas of Expertise
(business & civic)

Civil

Reference

Reference Name

Edward McNair

Address

3 Hubert St, Beacon NY 12508

Phone

845-240-5927

Email Address

Relationship

Friend / former co-worker

City of Beacon Workshop Agenda
1/29/2018

Title:

West End Lofts Waiver

Subject:

Background:

ATTACHMENTS:

Description	Type
West End Lofts Waiver Request	Cover Memo/Letter
Affordable-Workforce Housing	Backup Material



34 Clayton Boulevard, Suite A
Baldwin Place, New York 10505
Telephone: 845.306.7705
Fax: 845.306.7707

January 15, 2017

Mr. Anthony Ruggiero, City Manager
City of Beacon
1 Municipal Plaza
Beacon, NY 12508

Dear Mr. Ruggiero,

I'm writing to respectfully request that our development West End Lofts be granted a waiver from the Common Council in regards to Article 223-41.8. This provision in your code indicates that 10% of all units in an apartment complex greater than 10 units must be affordable to those at or below 70% of Dutchess County's Area Median Income ("AMI").

The West End Lofts development has structured it's rents so that 69% of the units are below 70% of Dutchess County's AMI. The remaining units in West End Lofts are affordable to households between 73% and 95% of Dutchess County's AMI. Below is a breakdown of the number units at West End Lofts and the affordability limits.

Six (6) units at or below 50% of AMI ;
Forty-Four (44) Units at or below 60% of AMI;
Three (3) units at or below 73% of AMI;
Nine (9) units at or below 92% AMI;
Ten (10) units at or below 97% AMI.

These rents will be restricted for a period of fifty (50) years and there will be Regulatory Agreement filed at the Dutchess County Clerk's office to memorialize this regulation.

Please contact me if you have any questions.

Sincerely yours,


Ken Kearney



ARTICLE IVB
Affordable-Workforce Housing
[Added 11-15-2010 by L.L. No. 15-2010; amended 5-1-2017 by
L.L. No. 6-2017]

§ 223-41.8. Findings.

The City Council of the City of Beacon acknowledges the high cost of housing compared to average earnings in the City and county, and this trend has grown more noticeable as land and housing values have increased in recent years. Maintaining and ensuring a balanced mix of housing types and sizes that are affordable to a range of incomes is essential to ensuring the long-term health of the community. Such balanced housing stock enables a variety of residents to live and work in the City, maintain family ties, and participate in community services, such as emergency services. Balanced housing is also essential to attracting and maintaining an adequate workforce, a healthy business environment, and a balanced tax base that supports local services and the quality of life. The primary purpose of this article is to allow the City to maintain an appropriate mix of housing choices by creating a required number of quality new or rehabilitated below-market-rate (BMR) units in future renovation and development. The goal is not to offer a limited number of high-end units for a few qualified households, but to provide as many quality affordable and workforce housing units as possible, integrated throughout the City.

§ 223-41.9. Provision of BMR units.

To achieve the purposes above, the approval authority shall require that 10% of all projects containing 10 or more apartment dwellings and/or attached dwellings (townhouses), as defined in § 223-63 of this chapter, shall be comprised of below-market-rate units as defined and regulated in this article. Any fraction at or above 0.5 shall be rounded up to the nearest whole number, and any fraction below 0.5 shall be rounded down. Subject to the Planning Board's approval, developer shall provide BMR units mixed throughout the same building(s). Units designated as BMR units must remain affordable for a minimum of 50 years from date of initial certificate of occupancy for rental properties and from date of original sale for owner-occupied units.

§ 223-41.10. Below-market-rate units.

- A. Finishes, amenities, size, distribution and mix. BMR units shall have exterior finishes comparable to the market-rate units within

the development. Interior finishes and amenities for the BMR units shall be comparable to the market-rate units within the development, subject to approval by the Planning Board. The timing of the construction of the BMR units shall be in conjunction with the construction of the market rate units in the project. Further, the BMR units shall be provided in a mix of unit types in the same proportion as all other units in the development unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the City of Beacon.

B. Minimum gross floor area.

(1) The size of the BMR multifamily units may be smaller than the market rate units, but notwithstanding other provisions of this chapter, the minimum gross floor area per dwelling unit shall not be less than the following:

- (a) Studio/efficiency unit: 350 square feet.
- (b) One-bedroom unit: 600 square feet.
- (c) Two-bedroom unit: 800 square feet.
- (d) Three-bedroom unit: 1,000 square feet.
- (e) Four-bedroom unit: 1,200 square feet.

(2) An applicant may seek approval from the Planning Board to construct units smaller than the minimum gross floor area set forth above, only if the applicant constructs more units than it is required to construct pursuant to this chapter.

C. Occupancy standards. The minimum and maximum occupancy of a BMR unit shall be as follows:

Number of Bedrooms	Minimum Number of Persons	Maximum Number of Persons
Studio/efficiency	1	2
1	1	3
2	2	4
3	3	6
4	4	8

D. For townhouse developments containing BMR units, frontage, building size and lot size may be reduced by up to 25% for the BMR units.

- E. BMR unit eligible household. Households must meet the criteria established in § 223-63 of this chapter, within the definition of "BMR unit eligible household." Rental households shall be required to requalify with respect to said criteria on an annual basis.
- F. Maximum rent and sales price.
 - (1) Rental units: The monthly rent including utilities for BMR units shall not exceed 30% of the figure that represents 70% of the Dutchess County's current area median income.
 - (2) For-sale units: The maximum gross sales price for a BMR unit shall not exceed 30% of the figure that represents 90% of the Dutchess County's current area median income. This figure will be based on the sum of principal, interest, taxes, and insurance, based on industry-standard mortgage underwriting guidelines for a thirty-year fixed rate mortgage, prevailing interest rates, and a down payment of 5%.
 - (3) All projects approved by the Planning Board prior to the effective date of this chapter may continue to set a monthly rent including utilities for BMR units not to exceed 30% of 100% of the Dutchess County area median annual income for the household size that will occupy such unit as set forth in Subsection C income for its household size [based on the United States Census and as updated by the Department of Housing and Urban Development (HUD)].
 - (4) In the event the owner of the BMR unit governed by Subsection F(1) above, demonstrates to the satisfaction of the City Administrator or its designee that after a good faith effort it is not able to rent a BMR unit pursuant to Subsection F(1), it may instead comply with Subsection F(3) above, until the unit is next offered for rent.
- G. Categories of priority in descending order of priority.
 - (1) Households applying for BMR units shall be selected on the basis of the following categories of priority:
 - (a) Volunteer emergency responders for the City of Beacon who have served at least five years.
 - (b) City of Beacon municipal employees.
 - (c) Employees of the Beacon School District.
 - (d) All other residents of the City of Beacon.

- (e) Other persons employed in the City of Beacon.
 - (f) All others.
- (2) Within each of the above categories, the following special groups shall receive priority in the following order:
 - (a) Priority for rental units shall be established for all eligible households as defined in § 223-63, whose aggregate gross annual income is between 70% and 80% of the Dutchess County area median annual income.
 - (b) Priority for all for-sale units shall be established for all eligible households as defined in § 223-63, whose aggregate gross annual income is between 90% and 100% of the Dutchess County area median annual income.
- H. The deed, certificate of occupancy and/or rental agreement, as appropriate, for each BMR dwelling unit shall contain language, satisfactory to the City Attorney in form and substance, which states that the subject dwelling is a below-market-rate unit as defined in § 223-63 of the Code of the City of Beacon, New York, and is subject to all restrictions and limitations as set forth therein.
- I. Resale. In the case of owner-occupied BMR units, the title to said property shall be restricted so that in the event of any resale by the homeowner or any successor, the resale price shall not exceed the maximum sales price for said unit, as determined in Subsection F, plus the depreciated value of capital improvements based on their estimated life for up to 5% of the price of the unit. Units designated as BMR units must remain affordable for a minimum of 50 years from date of original sale for owner-occupied units.
- J. Lease of a BMR unit.
 - (1) Individual BMR unit owners may lease their units to BMR eligible unit households, as defined in § 223-63, for a period not exceeding two years, with the consent of the City Administrator or its designee.
 - (2) Applicants for rental BMR units, if eligible and if selected for occupancy, may sign a lease for a term of no more than two years. As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered renewal leases for a term of no more than two years

each. Renewal of a lease shall be subject to the conditions of federal, state or county provisions that may be imposed by the terms of the original development funding agreements for the development or to the provisions of other applicable local law.

- (3) If a resident's annual gross income should subsequently exceed the maximum income then allowable, said resident may complete their current lease term and shall be offered a market-rate housing unit in the development at the termination of such lease term. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for BMR unit they occupy but shall not be offered a renewal of the lease beyond that expiration of said term. Tenants who again become eligible for a BMR unit during the one-year term shall be eligible for a renewal of their lease term.
- K. Implementing regulations. The City Council may, by resolution, adopt specific regulations to foster the efficient and equitable implementation of this chapter.
- L. Administration. The City Council shall be responsible for administering these regulations and may designate a board, commission or other organization to monitor compliance.
- M. Developer incentives. For every one BMR unit provided as part of the overall development, the developer shall have the right to 0.5 additional market rate unit above the maximum number otherwise permitted under applicable provisions of this chapter. Any fraction at or above 0.5 shall be rounded up to the nearest whole number, and any fraction below 0.5 shall be rounded down. The Planning Board may grant up to 10 additional units. District building height requirements must be maintained, but the Planning Board may modify lot area per unit, setbacks, building coverage, number of units per building, and parking requirements to accommodate the bonus unit or units.
- N. Waiver. Upon request of an applicant before the Planning Board, the City Council may modify or waive specific provisions of this article, if it finds that the proposal meets the primary purpose of § 223-41.8 and the project will result in more BMR units than is required pursuant to this chapter.

City of Beacon Workshop Agenda
1/29/2018

Title:

Fire Station Change Orders

Subject:

Background:

ATTACHMENTS:

Description	Type
Change Order Fire Station	Backup Material

AIA DOCUMENT G702 (facimile)

CONTRACTOR

	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>
	<input type="checkbox"/>
R	<input checked="" type="checkbox"/>

GCC CHANGE ORDER #:	1
DATE:	12/14/2017
ARCHITECTS PROJECT #:	N.A.
CONTRACT DATE:	9/27/2016
CONTRACT FOR:	GCC
ORIGINAL COMPLETION DATE:	11/27/2016

The Contract is Changed As Follows:

QUANTITY	ITEM	UNIT COST	TOTAL
1	Contract Sum Fee Reduction per Parties Agreement	\$ (15,100.14)	\$ (15,100.14)
		\$ -	\$ -
		\$ -	\$ -
		Subtotal	\$ (15,100.14)
		Markup	\$ -
		Total	\$ (15,100.14)

[illegible]

Not valid until signed by the Owner, Architect and Contractor.

The original (Contract Sum) (Guaranteed Maximum Price) was	\$	141,711.30
Net change by previously approved Change Orders	\$	-
The (Contract Sum) (Guaranteed Maximum Price) prior to this Change Order was	\$	141,711.30
The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased) (unchanged) by this Change Order in the amount of	\$	(15,100.14)
The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be	\$	126,611.16
The Contract Time will be (increased) (decreased) (unchanged) by 0		N/A
The date of Substantial Completion as of the date of this Change Order therefore is		N/A

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

By: [Signature]
Date: 12/14/17

By: [Signature]
Date: 12-28-2017

By: _____

Date: _____

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) made as of the __28__ day of December 2017 between Cornerstone Restoration (Cornerstone), having offices at 73 Market Street, Yonkers, New York 10710 and the City of Beacon (the City), having offices at One Municipal Plaza, Beacon, New York 12508.

WHEREAS, on or about September 27, 2016, Cornerstone entered into a contract with the City wherein Cornerstone would provide labor, materials and other services in connection with the exterior painting, general construction and structural repairs, roof repairs and EIFS repairs at existing firehouses within the City of Beacon (to wit: Beacon Engine Station One, Mase Hook and Ladder and Lewis Tompkins Hose Station Two) for a total contract sum of One Hundred Forty-One Thousand Seven Hundred Eleven and 30/100 (\$141,711.30) Dollars (the "Contract");

WHEREAS, a dispute has developed between Cornerstone and the City pertaining to Cornerstone's performance under the Contract and the City's payment to Cornerstone of amounts due under the Contract;

WHEREAS, Cornerstone and the City are desirous of settling and resolving their respective disputes and claims as set forth herein;

NOW, Cornerstone and the City, with the intent to be bound, agree as follows.

1. The City hereby terminates the Contract for convenience.
2. Notwithstanding any applications for payment, change order requests or claims of any name or nature which may or could have been submitted to the City by Cornerstone, the City agrees to pay and Cornerstone agrees to accept the sum of

\$16,000.00, in full satisfaction of all outstanding applications for payment, requisitions, change orders or claims, by whatever name known, which have been or could have been filed by Cornerstone with respect to the Contract. Said payment, when fully paid, shall constitute Final Payment to be paid to Cornerstone pursuant to the Contract.

3. Cornerstone shall, upon receipt and full execution of the Change Order Document, return three (3) original copies reducing the net sum for the Contract by \$15,100.14 which acceptance shall not be unreasonably withheld. Cornerstone shall further, upon receipt and full execution of this Agreement, return three (3) original copies. which acceptance shall not be unreasonably withheld showing a balance due Cornerstone of \$16,000.00.

4. Provided no liens are filed against the City with respect to the Contract, the City shall process the requisition(s) referenced in Paragraph 3 within twenty (20) days of the latter of (a) its receipt of the final requisition(s) referenced in Paragraph 3; (b) its receipt of the change orders referenced in Paragraph 3; (c) approval of this Agreement by the City Council; and (d) full execution of this Agreement.

5. Cornerstone represents and warrants that all subcontractors and materialmen that performed work pursuant to the Contract have been paid or will be paid from the proceeds of this Agreement.

6. This Agreement represents the full agreement and understanding of the parties and all prior agreements, understandings and representations, both oral and written, are merged herein.

7. Cornerstone for itself, its predecessors, successors, officers, directors, principals, employees, agents, heirs, trustees, legal representatives and assigns hereby forever releases and discharges the City, its elected officials, officers, directors, principals, employees, agents, administrators, trustees, legal representatives and assigns from any and all claims, demands, causes of action and liabilities of any kind whatsoever (upon any legal or equitable theory, whether contractual, common law, statutory, federal, state, local or otherwise), whether known or unknown, by reason of any act, omission, transaction or occurrence that Cornerstone ever had, now has or hereafter can, shall or may have against the City, for, upon or by reason of any act, omission, transaction or occurrence arising out of or in any way connected with the Contract.

8. It is specifically understood and agreed that this Settlement Agreement is a compromise of disputed claims and is not, and shall in no way be construed as, an admission of liability or wrongdoing by either party.

9. Cornerstone represents and warrants that neither it nor any affiliate, principal, officer, agent or legal representative of it has commenced any action or proceeding or asserted any claim in any court or before any administrative agency (whether public, quasi-public or private) against the City. Cornerstone further represents and warrants that neither it nor any affiliate, principal, officer, agent or legal representative of it will commence any action or proceeding or assert any claim in any court or before any administrative agency (whether public, quasi-public or private) against the City in connection with the Contract.

10. It is the express intention of the parties that this Agreement and any questions concerning its validity, construction or performance shall be governed by the laws of the State of New York, without regard to conflict of law or choice of law rules. Any action to enforce this Agreement shall be brought in the Supreme Court of the State of New York, County of Dutchess. The parties hereby consent to such jurisdiction and specifically to the personal jurisdiction of the referenced court over each party and waive any objection they now or may hereafter have to such jurisdiction and venue.

11. Should any provisions of this Agreement require interpretation or construction, it is agreed by the parties that the entity interpreting or construing this Agreement shall not apply a presumption that the provisions hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the Agreement, it being agreed that all parties have participated in the preparation of all provisions of this Agreement.

12. The parties further stipulate and agree that this Agreement may be executed in counterparts and by facsimile or email which signatures shall be given the same effect as original signatures by the parties.

CORNERSTONE RESTORATION

By: 
Matthew Riaz, Chief Operating Officer

CITY OF BEACON

By: _____
Anthony J. Ruggiero, City Administrator

Attachment:

- Attachment A – Change Order #1

City of Beacon Workshop Agenda
1/29/2018

Title:

Request for subordination agreement - 6 State Street

Subject:

Background:

ATTACHMENTS:

Description	Type
6 State Street	Backup Material

MEMORANDUM

TO: City of Beacon City Council
FROM: Nicholas M. Ward-Willis
RE: 6 State Street
DATE: January 22, 2018

In 2016 the City of Beacon acquired title to the single family home located at 6 State Street. The City listed it for sale on a multiple listing service with a real estate broker and received and approved an offer to convey the house to Barry Sewing. The house was conveyed on February 14, 2017 along with the City's standard terms and conditions including the unit remain owner occupied for five years. At the time the property was sold it was understood that Mr. Sewing was purchasing it for his daughter and he may later on request title be transferred from him to his daughter.

As per the attached letter Mr. Sewing has now made that request to the City Administrator (as authorized under the terms and conditions of the Contract approved by the City Council to approve the property being conveyed to "an approved transferee" which Mr. Sewing's daughter and her husband are). Thus, no action is required by the City Council with respect to transferring the property from Mr. Sewing to his daughter. However, Mr. Supple's attached letter indicates that Ms. Sewing and her husband will be obtaining a loan and the lender is requesting the City's right of reversion be subordinated to the lender's mortgage. In essence, the lender wants guarantee that should it foreclose on the mortgage and take title to the property, and sell it, that the purchaser will not be subject to the City's requirement the unit be owner occupied. The City has previously granted requests to subordinate its rights of reversions on prior properties in recognition that a commercial lender will not lend on properties where its mortgage rights could be subverted by the City's right of reversion.

Accordingly, this matter is on for the City Council's workshop agenda for discussion. Please let me know should you have any questions.

SUBORDINATION AGREEMENT

AGREEMENT, made the _____ day of January, 2018 between The City of Beacon with an address of One Municipal Plaza, Beacon, New York 12508, hereinafter designated as ("The City") and PrimeLending, A PlainsCapital Company, with an address of 18111 Preston Road, Suite 900, Dallas, Texas 75252, hereinafter designated as ("Prime"):

WHEREAS, The City now is the beneficiary of restrictive covenants as reserved in the following deed: Anthony Reggiero, City Administrator of the City of Beacon to Barry Sewing dated February 14, 2017 and recorded in the Dutchess County Clerk's Office in Document No. 02-2017-1259 on February 16, 2017.

WHEREAS, Brittany Sewing and Max DeFrancisco, the Contract Vendees of the premises from Barry Sewing are about to purchase the premises and to execute and deliver a mortgage for the sum of \$150,000.00 and interest, and covering premises located at 6 State Street, Beacon, New York 12508, County of Dutchess, State of New York, and more fully described in Schedule A hereto; and

WHEREAS, Prime has refused to accept the mortgage unless the restrictive covenants held by The City be subordinated in the manner hereinafter mentioned

WHEREAS, The City is willing to subordinate the restrictive covenants to the provisions of the mortgage in order to facilitate execution of the mortgage;

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound hereby The City agrees as follows:

1. The City's rights, interests, claims and remedies under the restrictive covenants subordinate to the rights of the mortgage holder to enforce the terms of the mortgage with the same force and effect as if the mortgage had been executed and recorded prior to the execution and recording of the deed reserving the restrictive covenants.
2. The City agrees that in the event of a foreclosure of the Mortgage or a transfer in lieu of foreclosure of any portion of the property, the purchaser at any such foreclosure or the transferee under any deed in lieu of foreclosure shall take title to the property free from such restrictive covenants,
3. This Agreement shall be binding upon and inure to the benefit of Prime and their successors and assigns until said Mortgage is paid off or satisfied or until such restrictive covenants have expired.
4. This Agreement may not be amended or modified except by an instrument in writing agreed to by Prime and The City.

5. This Agreement shall be construed and enforced in accordance with the laws of New York.

IN WITNESS WHEREOF, the said City of Beacon has duly executed this Agreement the day and year above first written.

IN PRESENCE OF:

STATE OF NEW YORK)
COUNTY OF DUTCHESS) ss.:
_____)

On the _____ day of _____, 2018, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(signature and office of individual taking acknowledgment)

R&R:

Paul B. Supple, Esq.
Lyons & Supple, Esqs.
5 Cliff Street
P.O. Box 227
Beacon, NY 12508

BRITTANY SEWING & MAX DeFRANCISCO

**6 State Street
Beacon, New York 12508**

January 15, 2018

Re: 6 State Street, Beacon, New York

To Whom it May Concern:


This will serve to advise that my father, Barry Sewing purchased the above-noted property on our behalf to help us renovate same. Now that the house has been renovated we would like to be able to repay my father, Barry Sewing. In order to accomplish that the Bank requires the property to be transferred into our name to obtain financing.

I was born and raised in Beacon and would love to have the opportunity to do the same for our daughter. We already occupy the premises and plan to so as our residence for a long time to come. I am a stay at home mom and my husband works locally as Customer Service Parts Representative for Orange County BMW.

As always, should you have any questions or require anything additional please contact me.

Very truly yours,


BRITTANY SEWING


MAX DeFRANCISCO

5102.45
RW VI
#37

LYONS & SUPPLE

Counselors at Law
5 Cliff Street
P.O. Box 227
Beacon, New York 12508-0227

(845) 831-1234
Fax (845) 831-2268

John L. Supple
Gregory D. Supple *
Paul B. Supple

*NY & CAL BAR
James J. Lyons, Retired

Wappingers Falls Office
92 E. Main St., P.O. Box 46
Wappingers Falls, N.Y. 12590-0046
(845) 297-0600
(845) 297-8877

() Wappingers
Please reply to: (x) Beacon

January 9, 2018

Nicholas Ward-Willis, Esq.
Keane & Beane, P.C.
445 Hamilton Avenue
Suite 1500
White Plains, NY 10601

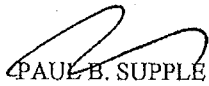
RE: Barry Sewing from City of Beacon
Property: 6 State Street, Beacon, NY 12508

Dear Mr. Ward-Willis:

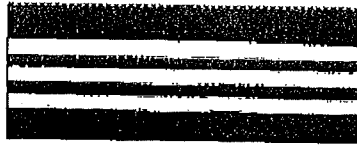
Enclosed herewith please find a copy of the Deed to Barry Sewing in regard to the above-noted transaction. Per our discussion Barry Sewing purchased the above-noted property for his daughter and son-in-law. Brittany and her husband are trying to obtain financing from PrimeLending for \$150,000.00. I am enclosing a copy of paragraph 8 of Schedule B - Terms and Conditions Sale which discloses a restriction on transfers. We believe that Brittany is an "Approved Transferee" under such conditions. We therefore ask permission to convey the property to Brittany and her husband, Max DeFrancisco. To enable Brittany and her husband to obtain financing we need an approval for the transfer as well as a Subordination City Restrictions to PrimeLending.

As always, should you have any questions or require anything additional please do not hesitate to contact this office.

Very truly yours,


PAUL B. SUPPLE
PBS:fin
Enc.

Via email



Dutchess County Clerk Recording Page

Record & Return To:

LYONS & SUPPLE
5 CLIFF ST

BEACON, NY 12508

Date Recorded: 2/16/2017
Time Recorded: 3:34 PM

Document #: 02 2017 1259

Received From: RG AGENCY

Grantor: BEACON CITY
Grantee: SEWING BARRY

Recorded In: Deed
Instrument Type:

Tax District: City of Beacon

Examined and Charged As Follows :

Recording Charge: \$205.00
Transfer Tax Amount: \$260.00
Includes Mansion Tax: \$0.00
Transfer Tax Number: 4724

Number of Pages: 7

*** Do Not Detach This Page
*** This is Not A Bill

Red Hook Transfer Tax:

RP5217: Y
TP-584: Y

County Clerk By: cca
Receipt #: 5638
Batch Record: 33

Bradford Kendall
County Clerk



0220171259

QUITCLAIM DEED

(INDIVIDUAL OR CORPORATION)
FORM 8009

ckb 75-
130
200
465

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY
ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

THIS INDENTURE, made the 14th day of February, 2017

between

ANTHONY RUGGIERO, City Administrator of the City of Beacon, a Municipal
Corporation, having its offices at One Municipal Plaza, Suite One, Beacon, New York 12508 ✓

party of the first part, and

Barry Sewing
~~BRITANNY SEWING and MAX DEFRANCISCO~~; residing at 44 Talbot Avenue, Beacon, New
York 12508 ✓

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten dollars (10.00), lawful
money of the United States, paid by the party of the second part, does hereby remise, release and
quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second
part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, ✓
situate, lying and being in the City of Beacon, County of Dutchess and State of New York, more
particularly described in Schedule "A" attached hereto.

SUBJECT to Terms and Conditions of Sale annexed hereto as Schedule "B" and made a part
hereof.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any
streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in
and to said premises, *TO HAVE AND TO HOLD* the premises herein granted unto the party of the
second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the
party of the first part will receive the consideration for this conveyance and will hold the right to receive
such consideration as a trust fund to be applied first for the purpose of paying the costs of the
improvement and will apply the same first to the payment of the cost of the improvement before using
any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so
requires.

Title No. RGD 21193

Schedule A
(description)

All that certain piece, plot or parcel of land situate lying and being in the CITY OF BEACON, ✓
COUNTY OF DUTCHESS, State of New York, known and designated as Lot No. 18 on the
northeasterly side of State Street, as shown on a certain map entitled, "Map of Section C,
Meconto Estate" made by W. R. Scofield, C.E., dated July 30, 1921 and filed in the
Dutchess County Clerk's Office as Map No. 1221 bounded and described as follows:

BEGINNING at a point in the easterly line of State Street, said point being a capped iron rod
found at the northwesterly corner of Lot No. 17, as shown on the said map;

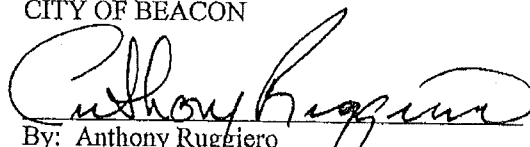
THENCE along the said easterly line of State Street North $31^{\circ} 55' 00''$ West 40.00 feet to a
point;

THENCE along the southerly and westerly lines of lands now or formerly CMP Acquisition
Corp. (Liber 1939, cp 145) the following two courses: North $57^{\circ} 40' 00''$ East 100.00 feet to a
concrete monument found and South $31^{\circ} 55' 00''$ East 40.00 feet to a point;

THENCE along the northerly line of the said Lot No. 17 South $57^{\circ} 40' 00''$ West 100.00 feet
to the point or place of BEGINNING.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

CITY OF BEACON


By: Anthony Ruggiero
Title: City Administrator

STATE OF NEW YORK

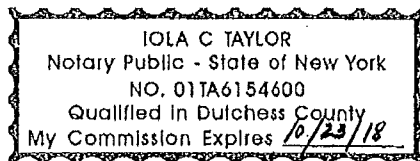
)

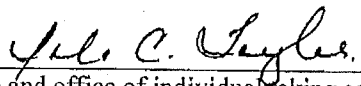
) ss.:

COUNTY OF DUTCHESS

)

On the 14th day of February, 2017, before me, the undersigned, personally appeared ANTHONY RUGGIERO personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.




(signature and office of individual taking acknowledgment)

Quitclaim Deed

Grid No: 6055-72-498198

Return By Mail To:

Paul B. Supple, Esq.
Lyons & Supple
5 Cliff Street
Beacon, New York 12508

RECORDED AT REQUEST
OF RG AGENCY
PO BOX 431
PEEKSKILL, NY 10566
914-739-2700
RETURN BY MAIL TO

RbD21193

Schedule B – Terms and Conditions of Sale

I. Condition of Property

1. All Property is sold in an "AS IS" condition and the Seller makes no representation, express or implied, as to the condition of the Property, warranty of title, or suitability for a particular use.
2. The Property is sold subject to: (1) any facts a survey or inspection of the Property would disclose; (2) applicable zoning/land use/building regulations/easements of record; (3) federal or state taxes, liens, and judgments which may not have been extinguished from land by foreclosure proceedings; (4) easements, covenants, conditions, and rights-of-way of record.
3. The Property will NOT be delivered at Closing "broom clean" and Seller shall have no obligation to remove any personal property present on the Property and Purchaser shall be responsible to remove any personal property or debris.
4. The Purchaser acknowledges that the second floor attic space in the Property was converted to unauthorized habitable space by a prior owner and agrees not to use the second floor attic as habitable space without first obtaining the proper authorization from the City of Beacon Building Department.
5. Except as specifically provided for in this Contract, the Seller makes no representation and gives no warranties as to the environmental conditions of the Property.
 - a. For the purposes of these conditions, "Environmental Laws" mean Federal, State and local laws and regulations, common law, orders, and permits governing the protection of the environment, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq. as amended (CERCLA); the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901, et seq.; the Clean Water Act, 33 U.S.C. 1251, et seq.; the Clean Air Act, 42, U.S.C. 7401, et seq.; the Toxic Substance Control Act, 15 U.S.C. 300f through 300j; et seq. and any amendments thereto together with any other similar laws regulating the environment existing at the time or coming into existence in the future.
 - b. Purchaser acknowledges that it is taking the Property subject to all environmental conditions existing at the Property.
 - c. Purchaser agrees to indemnify, defend, and hold harmless the Seller from all liability for any claims relating to any contamination, or violations of any Environmental Laws, as defined above regardless of whether relating to conditions existing prior to or following Closing, including reasonable attorneys' fees.
 - d. The representatives and warranties contained in this Paragraph shall survive Closing.

II. Post-Closing Obligations

6. Within 14 days of the Closing, the Property shall be secured and the Property shall comply with Sections 107.2, 302, 303 and 307 of the Property Maintenance Code of the State of New York and Chapter 92 of the City of Beacon Code
7. The Purchaser shall be responsible upon delivery of the Deed for securing all vacant property pending rehabilitation. The building(s) shall be boarded or otherwise secured to prevent unauthorized entry or use.
8. The City acquired the Property in an In Rem tax foreclosure proceeding and selected Purchaser on the basis of Purchaser's assurance that the Property would remain owner-occupied for no less than five (5) years and not leased. The City relied on this assurance which furthers the City's policy of maintaining a stabilized housing stock and promoting homeownership. Therefore, the Property is being sold upon the condition that the Property will be exclusively occupied by the Purchaser or an Approved Transferee (as hereinafter defined) within nine (9) months of the Closing and such exclusive occupancy shall continue for a period of five (5) years from the date of Closing (the "Exclusive Occupancy Period"). During the Exclusive Occupancy Period, the Property shall not be permitted to be sold or transferred except to an Approved Transferee and the Property, either in whole or in part, shall not be permitted to be leased. An "Approved Transferee" is an individual or individuals who have provided adequate assurances to the City Administrator that they intend to utilize the Property as an owner-occupied residence for such individual or individuals themselves and the City Administrator has granted its written approval designating such individual or individuals as Approved Transferees, such approval not to be unreasonably withheld. The deed shall contain language to this effect.
9. The Property shall be sold subject to these Post-Closing Obligations and compliance with those conditions within the timeframes, as outlined herein. These Post-Closing Obligations are covenants that shall run with the land and be binding to the fullest extent permitted by law and in equity. These Post-Closing Obligations shall inure to the Benefit of the City and shall be enforceable against Purchaser and its successors and assigns. If such specific conditions are not satisfied within the specified times outlined herein, the property shall revert to the City, free and clear of any and all claims, encumbrances or other liens. This possibility of reverter shall be set forth in the Deed and shall be binding upon any successor owner of the Property until such time as all conditions have been satisfied.
10. If Purchaser fails to comply with any of the conditions set forth in these Post-Closing Obligations, the City shall provide Purchaser a Notice of Failure to Comply with Conditions of Sale. Purchaser shall have thirty (30) days after receipt of such Notice to comply. If Purchaser has failed to correct the condition that is set forth in the Notice by the end of thirty (30) days or as such time as may be extended in writing by the City, the City Council and City of Beacon shall at its regularly scheduled meeting, adopt a Resolution declaring Purchaser to be in default. Purchaser agrees that upon receipt of a certified copy of the Resolution adopted by the City Council declaring Purchaser to be in default of these Conditions of Sale, Purchaser shall, within ten (10) days execute a deed conveying the property to the City at no cost. In the event Purchaser fails to execute the deed, the City shall have the right to commence an action in Supreme Court, Dutchess County compelling

Purchaser to execute the deed and convey the property to the City. Purchaser shall be responsible for all legal fees and expenses incurred by the City in preparing the Notice, Resolution and costs associated with any litigation. Once the conditions set forth in these Conditions of Sale have been fulfilled, Purchaser may request a waiver of reversionary interest from Seller and Purchaser shall pay Seller's attorneys \$500 for preparation of such waiver

III. Miscellaneous Matters

11. Purchaser may order title from any title insurance company licensed in the State of New York but any encumbrance to which title is not to be subject shall not be an objection to title if RG Agency Title Insurance, having an address at P.O. Box 431, 1000 N. Division St., Peekskill, New York 10566, phone number (914) 739-2700, email: rgagency@optonline.net, (or such other title insurance company as Seller shall designate), is or would be willing, in a fee policy issue by it to Purchaser without any additional cost or expense to Purchaser, to insure Purchaser that it will not be collected out of the Property if it is a lien or will not be enforced against the Property if it is not a lien.
12. All sales shall be final and without recourse, and in no event shall the Seller be liable for any defects in title for any cause whatsoever. No claim, demand or suit of any nature shall exist in favor of the Purchaser, his/her heirs, successors or assigns, against the Seller arising from this sale. The acceptance of the Deed by Purchaser shall be deemed full performance and discharge of every agreement and obligation on the part of Seller to be performed, except those, if any, which are herein specifically stated to survive the delivery of the Deed
13. Purchaser is aware that the Seller acquired the subject Property pursuant to an In Rem tax foreclosure proceeding and it is the intent of the Seller to have the Property restored to the Tax Roll. In the event that the Property is not presently on the Assessment Roll and assessed real property taxes, Purchaser agrees to pay its proportionate share of city, county and school taxes at Closing in an amount equal to that which it would have been apportioned if the Property were on the City's Assessment Roll. If the Property is not listed on the Assessment Roll (or will not be listed when the Assessment Roll is next published), Purchaser shall make no objection to the Property being restored to the Assessment Roll and the Property being assessed omitted taxes, which shall be Purchaser's obligation to pay. In no event shall the Seller be responsible for the payment of any property taxes.

5. If (a) Escrow Agent shall have received a notice of objection as provided for in paragraph 4 within the time therein prescribed or (b) any other disagreement or dispute shall arise between the parties or any other persons resulting in adverse claims and demands being made for the Deposit, whether or not litigation has been instituted, then and in any such event, Escrow Agent shall refuse to comply with any claims or demands on it, and shall continue to hold the Deposit until Escrow Agent receives either (x) a written notice signed by both parties directing the disbursement of the Deposit, or (y) a final non-appealable order of a court of competent jurisdiction, entered in an action, suit or proceeding in which Seller and Purchaser are parties, directing the disbursement of the Deposit, in either of which events Escrow Agent shall then disburse the Deposit, in accordance with such direction. Escrow Agent shall not be or become liable in any way or to any person for its refusal to comply with any such claims and demands unless and until it has received such direction. Upon compliance with such direction, Escrow Agent shall be released of and from all liability hereunder.

6. Notwithstanding the foregoing, Escrow Agent shall have the following rights in the circumstances described in clause (a) or (b) of paragraph 5:

(a) If Escrow Agent shall have received a notice signed by either party advising that a litigation between the parties over entitlement to the Deposit has been commenced, Escrow Agent may, on notice to the parties, deposit the Deposit with the clerk of the court in which such litigation is pending; or

(b) Escrow Agent may, on notice to the parties, take such affirmative steps as it may, at its option, elect in order to terminate its duties as Escrow Agent, including, but not limited to, the deposit of the Deposit with a court of competent jurisdiction and the commencement of an action for interpleader, the reasonable costs of which shall be borne by whichever of the parties is the losing party. Upon the taking by Escrow Agent of the action described in clause (a) or (b) of this paragraph 6, Escrow Agent shall be released of and from all liability hereunder.

7. Seller and Purchaser shall jointly and severally hold harmless and indemnify Escrow Agent from and against any and all costs, expenses and liabilities (including, without limitation, reasonable attorneys' fees and disbursements) resulting from or incurred in connection with the performance of Escrow Agent's duties hereunder or any dispute arising under this Agreement, except for Escrow Agent's gross negligence or willful misconduct, and except that, as between Seller and Purchaser, the loser of any dispute over entitlement to the Deposit shall bear the costs and expenses of Escrow Agent in connection therewith. With respect to the foregoing indemnity, reasonable attorneys' fees shall include, but not be limited to, the fair value of legal services, if any, rendered by Escrow Agent to itself. Escrow Agent is acting hereunder as a depository only and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it or for any notice or demand given to it or for the form of execution of such instrument, notice or demand, or for the identification, authority or rights of any person executing, depositing or giving the same or for the terms and conditions of any instrument, pursuant to which the parties may act.

8. Escrow Agent shall not have any duties or responsibilities, except those set forth in this Exhibit and shall not incur any liability (a) in acting upon any signature, notice, demand, request, waiver, consent, receipt or other paper or document believed by Escrow Agent to be genuine and Escrow Agent may assume that any person purporting to give it any notice on behalf of

any party in accordance with the provisions hereof has been duly authorized to do so, or (b) in otherwise acting or failing to act under this Exhibit except in the case of Escrow Agent's gross negligence or willful misconduct. Escrow Agent shall not be responsible for any interest on the Deposit except as is actually earned, or for the loss of any interest resulting from the withdrawal of the Deposit prior to the date interest is posted thereon or for any loss caused by the failure, suspension, bankruptcy or dissolution of the institution in which the Deposit is deposited.

9. Seller and Purchaser acknowledge that Escrow Agent is acting solely as stakeholder at the request of Seller and Purchaser and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and that Escrow Agent shall not be liable to either of the parties, except for its gross negligence or willful misconduct.

10. Purchaser acknowledges and agrees that Escrow Agent may represent Seller in the transaction contemplated by this Agreement and in any dispute arising hereunder.

11. Escrow Agent may act or refrain from acting in respect of any matter referred to in this Exhibit in full reliance upon, and with the advice of, counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

12. Escrow Agent may resign upon ten (10) days written notice to Seller and Purchaser for any reason or no reason at all. Upon such event, if Seller and Purchaser do not jointly approve of and appoint a successor to Escrow Agent within such ten (10) day period by delivering notice thereof to Escrow Agent, Escrow Agent may petition a court of competent jurisdiction to name a successor. Upon joint approval and appointment of a successor to Escrow Agent by Seller and Purchaser, Escrow Agent shall promptly deliver the Deposit to such successor.

13. The provisions of this Exhibit shall survive the termination of this Agreement.

City of Beacon Workshop Agenda
1/29/2018

Title:

Discussion - Tree Preservation LL

Subject:

Background:

ATTACHMENTS:

Description	Type
Tree Preservation LL	Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO ADD
CHAPTER 202 AND AMEND CHAPTER 204 OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to add Chapter 202 to the Code of the City of Beacon and amend Chapter 204 of Code of the City of Beacon, concerning Tree Preservation and Tree Removal.

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. Chapter 202 entitled “Tree Preservation” is hereby added to the Code of the City of Beacon as follows:

Chapter 202. Tree Preservation

§ 202-1. Purpose

The City Council finds that it has been established that trees stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, provide oxygen, yield advantageous microclimatic effects, temper noise and, further, that unusual, large and old trees have unique aesthetic and historic values. Indiscriminate removal of trees causes deprivation of these benefits and disrupts the City’s ecological systems. It is, therefore the purpose of this chapter to prevent the indiscriminate or unnecessary destruction of trees within the City of Beacon.

§ 202-2. Applicability.

No tree regulated under this chapter shall be cut or removed from any land in the City without having first obtained a tree removal permit.

§ 202-3. Definitions.

For the purposes of this chapter, the following terms, phrases and words shall have the meanings indicated:

APPLICANT

Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including a municipal corporation, governmental agency or subdivision thereof, filing an application pursuant to this chapter.

COMMUNITY TREE BANK

City-owned lands or City right-of-way lands to be designated by resolution of the City Council as receiver sites for off-site mitigation plantings to satisfy tree replacement requirements which cannot be met on-site.

DBH (DIAMETER AT BREAST HEIGHT)

The diameter or caliper of a tree measured at a point 4 ½ feet above ground, or at the highest measurable point of the remaining stump if less than 4 ½ feet, on the uphill side of the tree.

DEAD TREE

A tree that lacks vitality, is lifeless and without foliage.

TREE

A living, woody plant with an erect perennial trunk and a definitely formed crown of foliage.

TREE REMOVAL

Any act which will cause a tree to be cut or removed or to die within a one-year period.

TREE REMOVAL PERMIT

A permit granted pursuant to the requirements of this chapter which allows the removal of one or more trees.

§ 202-5. Tree removal permit required; approving authority.

A. A tree removal permit will be required before removing:

(1) Any tree eight inches or more in DBH.

(2) Any tree six inches or more in DBH growing on slopes of over 20%.

- (3) Any threatened or endangered species of tree, regardless of size, as defined by the New York State Department of Environmental Conservation.
 - (4) Three or more trees with a DBH of six inches or greater on a lot, within any twelve-month period.
- B. Exceptions. Notwithstanding the foregoing, no permit shall be required for the removal of:
- (1) The business and operation of commercial nurseries, fruit orchards, and tree farms.
 - (2) Removal of trees as part of an active agricultural activity on a lot located within a designated agricultural district.
 - (3) Removal of trees or any tree whose angle of growth makes then a hazard to structures, roads, or human life as determined by the Highway Superintendent, Building Inspector, City Engineer, or other duly authorized representative of the City.
 - (4) Removal of trees which appear to cause structural damage to buildings or foundations as determined by the Building Inspector, the City Engineer, or other duly authorized representative of the City.
 - (5) Removal of any tree under an actual or ongoing emergency condition when such tree removal is necessary for the protection and preservation of life or property.
 - (6) Permitted forest management activities on properties covered under § 480-a of the Real Property Tax Law.
 - (7) Trees directed to be removed by municipal, county, state, or federal authority pursuant to law.
- C. The approving authority for all applications under this chapter shall be the Building Inspector. Where tree cutting or removal is proposed in connection with any site plan, subdivision approval, or special use permit approval submitted to the Planning Board, trees shall be cut or removed from the subject property only in conjunction with an approved final subdivision plat, final site plan, or final special use permit approval, in which case a separate tree removal permit shall not be required. The Planning Board shall consider the criteria listed in § 202-6.A and may impose conditions as set forth in §§ 206-6.B and 202-9.
- D. The removal or pruning of trees in any highway, sidewalk or public place is not subject to the provisions of this chapter and shall be regulated in accordance with § 203-2.

§ 202-6. Tree removal permit

A. Unless otherwise indicated herein, a tree removal permit may be granted if the Building Inspector determines that the application meets one or more of the following criteria:

- (1) The continued presence of such tree or trees is likely to cause danger to persons or property upon the property for which removal is sought or upon adjoining or nearby property.
- (2) The location of the designated tree or trees prevents compliance with state, county or local standards for sight lines, driveways or intersections.
- (3) The location of the tree or trees prevents the property owner from undertaking otherwise approved construction or alteration because the location of the designated tree or trees substantially interferes with a permitted use of the property and the construction or alteration cannot be reasonably modified to accommodate the designated tree or trees; written explanation may be required describing how the designated tree or trees interferes with construction or alteration and why the construction or alteration cannot be modified reasonably to accommodate the designated tree or trees.
- (4) The area where such tree or trees are located has a cut, depression, or fill of land, or the topography of the land is of such a character as to be injurious or dangerous to such tree or trees, or to tree or trees located nearby.
- (5) The designated tree or trees, due to death, disease, blight, infestation, storm damage, accident or other condition, causes undue hardship for the property owner to maintain.
- (6) The tree is dead, or so substantially diseased that it constitutes a danger to person, property or other trees.
- (7) The removal of the tree is consistent with good silvicultural, horticultural or vegetation management and will not have an adverse visual or ecological impact.

B. The Building Inspector may, as a condition of granting a permit:

- (1) Require the reasonable relocation of proposed foundation walls, driveways, grading, surface and subsurface improvements or drainage systems to preserve specific trees.
- (2) Require that each tree to be cut or removed be marked at one point low enough on the trunk to be visible after removal of the tree so as to permit subsequent inspection. Notwithstanding the above, where the use of a sampling technique has been approved, trees less than 22 inches in diameter at breast height need not be marked.

- (3) Require such safeguards as appropriate to minimize the environmental impact of such removal operations.
- (4) Require that the tree trunk, limbs, stump and any roots remaining above grade be removed to approximately two feet or less.
- (5) Require that the disturbed area be backfilled, replanted and/or reseeded.
- (6) Impose such additional conditions as the Building Inspector deems necessary to ensure compliance with the policies and provisions of this chapter.

§ 202-7. Permit application.

- A. Any person proposing to conduct or cause to be conducted a regulated activity specified regulated by this Chapter shall file an application for a permit with the approving authority as hereinafter provided prior to undertaking such cutting or removal. Such application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address and City Tax Map designation of the property on which the tree(s) is/are located.
 - (3) The number and size in DBH of trees to be cut or removed.
 - (4) The purpose of the tree removal.
 - (5) Methods of removal
 - (6) Color photographs or slides showing the areas and environment where trees are to be removed, with sufficient detail to identify the remaining trees in the area after work is completed.
 - (7) Application fee to be set in a fee schedule determined by the City Council, except when the applicant is the City of Beacon.
 - (8) A boundary and topographic survey may be required by the Building Inspector, if the Building Inspector, within his or her discretion, determines that the proposed tree removal is significant enough to have potential impacts on neighboring properties. The survey shall be prepared by a New York State-licensed professional land surveyor of that section to be disturbed, showing location of any water bodies, water courses, and site improvements as well as all trees six inches DBH or greater, indicating those trees to be cut or removed and those trees to be preserved, their species and their diameter. Trees shall have numbering and tagging. The numbering and tagging shall be both in the field as well as illustrated on the plan.

§ 202-8. Inspection; Indemnification

Any site for which an application for a tree removal permit has been submitted shall be subject to inspection by the approving authority or its designated representatives upon notice to the property owner and applicant at any reasonable time, including weekends and holidays. The applicant, by making application for such permit, shall be deemed to have given its consent to such inspection. The applicant shall indemnify and hold the City harmless against any damage or injury that may be caused by or arise out of any entry onto the subject property in connection with the process of the application, during construction or performance of the work or within one year after the completion of the work.

§ 202-9. Tree replacement and reforestation.

- A. The Building Inspector shall require the planting of a replacement tree or trees as prescribed in the following table.

Tree Replacement Schedule

<u>DBH of Existing Tree Removed</u>	<u>Number of Replacement Trees (3 inch caliper)</u>
<u>Less than 6 inches</u>	<u>1</u>
<u>Between 6 and 12 inches</u>	<u>3</u>
<u>Between 12 and 18 inches</u>	<u>4</u>
<u>Between 18 and 24 inches</u>	<u>5</u>
<u>Between 24 and 30 inches</u>	<u>6</u>
<u>Between 30 and 36 inches</u>	<u>10</u>
<u>36 inches or greater</u>	<u>The equivalent of 3 inch caliper trees or greater needed to equal the DBH of the cur or removed tree</u>

- B. Replacement tree(s) shall be of nursery grade quality, balled and burlapped and located on site. Where replacement trees are required, but not suitable for the particular site prescribed due to the size of the site, the City may deposit the trees into a community tree bank. Trees deposited into the community tree bank shall be utilized for planting on public land.

- C. The type of replacement tree(s) shall be the same as the species, cut or removed from the site, if noninvasive, as approved by the Building Inspector. The Building Inspector may require the planting of other native species so as to promote plant diversity and enhance local habitats. All planting shall be done within one planting season.
- D. The planting of all replacement trees shall be done by or supervised by a person with horticultural training in tree care and planting methods as retained by the applicant/developer. Said expert shall certify that the planting of the replacement trees was conducted in compliance with standards established by American Association of Nurseryman.
- E. Newly planted replacement trees shall be monitored for a period of one year to ensure the health of the trees by a person with horticultural training in tree care and planting methods as retained by the applicant/developer. If any of the replacement trees die within the one-year period from their planting, the developer/applicant shall replace the dead tree(s)

§ 202-10. Penalties for offense.

- A. Any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this chapter or who violates any condition attached to a tree removal permit, or who otherwise violates any of the provisions of this chapter shall be guilty of an offense punishable by a fine of not more than \$350. Each tree cut or removed without a tree removal permit required by this chapter or in violation of any condition attached to a tree removal permit or otherwise in violation of this chapter shall constitute a separate offense subject to the \$350 penalty. For a second and each subsequent violation within a one-year period, the violator shall be guilty of an offense punishable by a fine of not more than \$1,000 or a term of imprisonment of not more than 15 days, or both.
- B. Each violation of the provisions of this chapter shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition, the court may order or direct a violator to replace any or all trees cut or removed illegally, with a size and type selected by the Building Inspector. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Building Inspector.

§ 202-11. Appeals.

- A. Any applicant aggrieved or affected by the determination of the Building Inspector with respect to an application for a tree removal permit may, within 10 business days of such determination, appeal to the Zoning Board of Appeals, stating the reason for such appeal. The Zoning Board of Appeals shall conduct a public hearing on the appeal within 60 calendar days of receipt of such appeal and shall, based upon the standards contained herein and the facts of the matter, deny, grant or grant with conditions the permit being sought. Notice of said public hearing shall be provided by the applicant in accordance with § 223-61.3 of the City of Beacon Zoning Code. Upon appeal, the Building Inspector's approval shall be suspended.
- B. Any person or persons jointly or severally aggrieved by a decision of the Zoning Board of Appeals pursuant to this chapter may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice and Law and Rules.

SECTION 2. The Title of Chapter 204 of the Code of the City of Beacon entitled "Sand and Gravel Excavation and Tree Removal" is hereby amended as follows:

Chapter 204: Sand and Gravel Excavation and Tree Removal

SECTION 3. Chapter 204, Section 1 of the Code of the City of Beacon entitled "Definition" is hereby amended as follows:

§ 204-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EXCAVATION or GRADING

Excavation or grading by blasting or by use of power-assisted machinery or equipment.

~~SLASHING OF TREES~~

~~The cutting, grubbing or other removal of any three or more live trees in any calendar year, when such trees are located within less than 100 feet of each other and have a caliper of six inches or more at height of three feet above ground.~~

SECTION 4. Chapter 204, Section 2 of the Code of the City of Beacon entitled "Regulated activities; temporary permit" is hereby amended as follows:

§ 204-2. Regulated activities, temporary permit.

On any lot, excavation, grading or removal of topsoil, clay, sand, gravel, rock or other earth materials; dumping; and filling or depositing of such earth materials or fill of any kind; ~~and slashing of trees~~ are activities regulated under this chapter and are permitted only under a temporary permit granted by the ~~City Engineer~~ Building Inspector under §§ ~~204-3~~ through

204-9 or as one of the exemptions hereinafter specified. Within 20 days after the ~~City Engineer~~ Building Inspector has granted a temporary permit under this chapter, the City Council may, at its discretion, approve, modify and approve or disapprove the temporary permit. Any failure by the City Council to take action within said twenty-day period shall be deemed to be an approval by the City Council.

SECTION 5. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 204 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 6. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 7. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Workshop Agenda
1/29/2018

Title:

Gross vs. Build-able Acreage for all zoning districts

Subject:

Background:

ATTACHMENTS:

Description	Type
Buildable Acreage LL Changes	Backup Material
Memo_K&B_Buildable_Lot_Area	Backup Material

The footnote "q." shall be added to Section 223-17 C, Schedule of Regulations for Residential Districts, after "Lot Area per Dwelling Unit" in the column heading and the following shall be added to the list of footnotes:

q. For all R1 zoning districts involving a parcel over 3 acres and for all RD zoning districts, the lot area per dwelling unit calculation shall first deduct any lot area with slopes over 20 percent, covered by surface water, within a federal regulatory floodway, or within a state or federally regulated wetland.

MEMORANDUM

TO: Anthony Ruggiero
Tim Dexter
John Clarke

FROM: Keane & Beane, P.C.

RE: Calculating Buildable Lot Area

DATE: January 24, 2018

The City Council is considering adopting legislation concerning how the City will calculate minimum lot area. At this time, the following language is proposed to be included in the Schedule of Regulations for Residential Districts, § 223-17 of the Code of the City of Beacon:

For all R1 zoning districts involving a parcel over 3 acres and for all RD zoning districts, the lot area per dwelling unit calculation shall first deduct any lot area with slopes over 20 percent, covered by surface water, within a federal regulatory floodway, or within a state or federally regulated wetland.

Please note that the proposed language has already been added to § 223-41.14.B of the Code of the City of Beacon concerning bulk regulations in the Fishkill Creek Development (FCD) District, adopted December 18, 2017 by local law 19 of 2017. The City may want to consider also adding this restriction to the actual text of the City Code, as it did with the FCD District regulations, to make this restriction easier to locate and follow.

Please find below a chart of how other municipalities in Dutchess County regulate minimum lot size. Most municipalities specifically exclude wetland and watercourses in lot area calculations. However, there are a few municipalities that also exclude step slopes.

Municipality	Language	Code Section
Town of Fishkill	<p>In determining compliance with minimum lot area and shape requirements of this chapter, the following shall apply:</p> <p>A. Land subject to easements for drainage facilities and underground public utilities may be included, but street or highway, easement for vehicular access, private right-of-way for vehicles or easement for aboveground utility transmission lines may not be included.</p> <p>B. Land in a zoning district having a higher lot area requirement shall not be used to satisfy a lot area requirement in a zoning district having a lesser lot area requirement; and land in a residence district shall not be used to satisfy a lot area requirement in any other district.</p>	§ 171-26
Town of Pine Plains	<p>A. Applicability. These provisions shall apply to any subdivision, site plan, or special use permit application proposing the development of residential uses.</p> <p>B. Calculation. Wherever the phrase "lot area," "minimum lot area," or "minimum lot size" or a similar term appears in this Zoning Law, such phrase shall be deemed to be based upon net acreage after exclusion of the following lands:</p> <ol style="list-style-type: none"> (1) The one-hundred-year floodplain as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary Maps as those maps now exist or as they may be amended from time to time. (2) Wetlands, including New York State designated wetlands, but excluding the one-hundred-foot buffer, and wetlands regulated by the U.S. Army Corps of Engineers or any successor agency, all as those wetlands now exist or as may be found to exist. (3) Lands covered by natural or constructed water bodies, including, without limitation, retention and detention basins. (4) (4) Steep topography in excess of 25% slopes. For topography between the slope ranges of 15% and 25%, 50% of said land area shall be excluded from the calculation of minimum lot area. 	§ 275-16.

Town of Wappinger	Net Lot Area is defined as the gross area of a property minus 100% of the area of wetlands, lands within the one-hundred-year floodplain, and areas of steep slopes in excess of 25% when measured over a distance of 50 feet.	§ 240-5
Town of Pawling	Lot Area is defined as the total area within the property lines, excluding external roads. The property line adjacent to the road, for the purpose of this chapter, shall be deemed to be not less than 25 feet from the center line of a minor road, nor less than 30 feet from the center line of a collector road, nor less than 40 feet from the center line of a major road, nor less than 60 feet from the center line of an arterial highway. To calculate the lot area, not more than 10% of the minimum area required by the Town Code may be comprised of land which is under water or subject to periodic flooding.	§ 111-3
Union Vale	<p>A. No more than 25% of the required minimum lot area for any lot in any zoning district may be fulfilled by land which is included within either a designated wetland as delineated by the New York State Department of Environmental Conservation in accordance with Article 24 of the Environmental Conservation Law or any other wetland area subject to jurisdiction by the U.S. Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act, which lies under water or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the Federal Emergency Management Agency and set forth within Article II of the chapter as the Flood-Fringe Overlay District (FF-O) District. In other terms, any lot must include dry upland area of not less than 75% of the minimum lot area for the zoning district.</p> <p>B. In the RD-10 District, not less than 50% of the required minimum lot area for the zoning district shall be provided through contiguous dry upland area. In all other zoning districts, not less than 60% of the required minimum lot area shall be provided through contiguous dry upland area.</p> <p>C. All minimum front, side and rear yard requirements set forth within the District Schedule of Area and Bulk Regulations must be satisfied by measurement wholly on dry land, except that for purposes of this subsection, land which is covered by a stream less than 10 feet in average width at mean water level or land covered by a pond not more than 2,000 square feet in surface area at normal high-water level shall not be considered as being under water.</p>	§ 210-22

Town of Clinton	At least 75% of the required minimum lot area for any lot in any district shall be fulfilled by land which is not within a designated wetland, as regulated by the New York State Department of Environmental Conservation and by land which is not under water. Land completely under water shall not be used in the calculation of the maximum number of dwelling units permitted in a subdivision. All minimum front, side and rear yard requirements must be satisfied by measurement from the flagged wetland boundary or the mean high water mark for surface water, whichever is more restrictive. However, for purposes of this section, land which is covered by a stream less than five feet in average width at mean water level, or land covered by a pond not exceeding 150 square feet in surface area at normal high water level, shall not be considered as being under water.	§ 250-26
Town of Rhinebeck	No more than 25% of the required minimum lot area in a conventional subdivision, for any lot in any district, may be fulfilled by land which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, regulated by the United States Army Corps of Engineers and/or the Town of Rhinebeck, which lies under water, or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the FF-O District. When calculating the dimensional standards to be applied in a conservation subdivision, no more than 25% of the house lot area may be fulfilled by land which is included within a designated wetland, as delineated by the New York State Department of Environmental Conservation, regulated by the United States Army Corps of Engineers and/or the Town of Rhinebeck, which lies under water, or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the FF-O District. All minimum front, side and rear yard requirements must be satisfied by measurement wholly on dry land, except that, for purposes of this section, land which is covered by an isolated pond not exceeding 150 square feet in surface area at normal high water level shall not be considered as being under water. Chapter 120 of the Town Code, the Town of Rhinebeck Freshwater Wetlands Law, also imposes additional requirements and may require issuance of a wetlands permit by the Town Planning Board. Applicants for development should consult Chapter 120 and, as applicable, state and federal agency requirements, to obtain a complete understanding of the regulations in place on sites containing freshwater wetlands.	§ 125-32
Town of Dover	In computing minimum lot sizes pursuant to the Dimensional Table, the area of wetlands shall be subtracted from total acreage in the lot area calculation.	§ 145-40.A

**City of Beacon Workshop Agenda
1/29/2018**

Title:

Airbnb Legislation

Subject:

Background:

ATTACHMENTS:

Description	Type
LL previously introduced in 2015 (for discussion purposes only)	Backup Material
Short Term Rentals John Clarke	Backup Material
Airbnb Legislation	Backup Material

LOCAL LAW NO. ____ OF 2015

**CITY COUNCIL
CITY OF BEACON, NEW YORK**

**LOCAL LAW AMENDING THE
ZONING CHAPTER OF THE CITY CODE WITH RESPECT TO
BED-AND-BREAKFAST ESTABLISHMENTS AND TOURIST HOMES**

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. TITLE

This local law shall be entitled, "A Local Law Amending the Zoning Chapter of the City Code with Respect to Bed-and-Breakfast Establishments and Tourist Homes."

SECTION 2. INTENT AND PURPOSE

The City Council believes that it is reasonable and appropriate to update and amend the provisions of the Zoning chapter of the City Code with respect to bed-and-breakfast establishments and tourist homes. This local law is determined to be an exercise of the police powers of the City to protect the public health, safety and welfare of its residents.

SECTION 3. ZONING CHAPTER AMENDMENTS

- 1. The following definitions in Section 223-63 shall be revised to read as follows:**

BED-AND-BREAKFAST ESTABLISHMENT (B&B)

A detached one-family dwelling unit that also contains a maximum of three to five guest rooms; where repeated short-term lodging with or without food and drink is provided or offered to transient guests for compensation, ~~and where the owner resides on the same parcel. Seating for food and beverage service shall be limited to the maximum occupancy of the bed and breakfast establishment. The lodging provided shall be for periods of less than two weeks in duration. The maximum number of guest bedrooms at a bed and breakfast establishment shall be six, except that the approval authority may, at its discretion, allow additional guest bedrooms up to a maximum of 10.~~ The term "bed-and-breakfast establishment" shall not include "hotel," "inn," "boardinghouse," "rooming house," "tourist home" or "single room occupancy building" for the purposes of this chapter.

TOURIST HOME

A dwelling that contains a maximum of one or two guest rooms where repeated short-term lodging with or without food and drink is, except a hotel, boardinghouse or rooming house, as defined elsewhere in this chapter, in which overnight accommodations are provided or offered tofor transient guests for compensation. The term “tourist home” shall not include “bed-and-breakfast establishment,” “hotel,” “inn,” “boardinghouse,” “rooming house” or “single room occupancy building” for the purposes of this chapter.

2. The following new definition shall be added to Section 223-63:

OWNER

In instances where owner-occupancy is required, an “owner” is any person, partnership, corporation or beneficiary of a trust which is listed on the deed of a property.

3. Section 223-24.4 shall be revised to read as follows:

§ 223-24.4 Bed-and-breakfast establishments.

- A. The minimum number of guest bedrooms at a bed-and-breakfast establishment shall be three, the maximum number of guest bedrooms shall be five, and the maximum number of guests shall be 10 at any given time. In the residential zoning districts enumerated in § 223-2A of this chapter the minimum lot size for the establishment of this use shall be as shown in the following table40,000 square feet.:

<u>Maximum Number of Guest Bedrooms</u>	<u>Minimum Lot Size (square feet)</u>
<u>3 or 4</u>	<u>15,000</u>
<u>5</u>	<u>20,000</u>

- B. In the residential zoning districts enumerated in § 223-2A of this chapter the number of off-street parking spaces provided shall be in accordance with § 223-26F. Said off-street parking accessory to this use shall be screened from adjacent residential properties to the satisfaction of the approval authority. Notwithstanding the above, in other zoning districts the parking requirement in § 223-26F may be modified or eliminated by the approval authority, in its discretion, based upon information submitted by the applicant or otherwise in the public record, demonstrating that there is sufficient public parking available within 800 feet of the site to meet the foreseeable parking needs of the proposed use and surrounding uses.

- C. The outward appearance of the use shall be that of a one-family dwelling and there shall be no indication of the bed-and-breakfast establishment from the exterior of the building, except for the sign. ~~A separate entrance into the building for the bed and breakfast use shall not be permitted.~~
- D. Seating for food and beverage service shall be limited to the maximum occupancy of the bed-and-breakfast establishment.
- E. The lodging provided for any particular guest shall not exceed~~be for~~ periods of less than 30 days~~two weeks~~ in duration during any 60-day period.
- ~~F. The maximum number of guest bedrooms at a bed and breakfast establishment shall be six, except that the City Council may, at its discretion, allow additional guest bedrooms up to a maximum of 10 where the Council determines that the size and shape of the lot on which the establishment is proposed can accommodate the additional patrons and parking.~~
- F. There shall be no kitchen facilities in the guest bedrooms except for a coffee maker and a small refrigerator.
- G. The bed-and-breakfast establishment shall be owner-occupied, and an owner shall reside in the B&B as his/her primary residence. An owner or an employee of the bed-and-breakfast establishment shall be on premises the majority of the time while a guest is on the premises of said establishment.
- H. The bed-and-breakfast establishment shall have a valid New York State sales tax identification number. Said establishment shall maintain a current register of all guests.
- I. Only bed-and-breakfast establishments which have been approved by the City in accordance with this section may advertise said lodging.
- J.G. Renewal inspections.—Each bed-and-breakfast establishment shall be inspected by the Building Department every two years in order to determine whether the establishment remains in compliance with this section. Upon a satisfactory inspection report, the bed-and-breakfast establishment owner shall be reissued a certificate of occupancy for the bed-and-breakfast operation. In the event that the inspection indicates that the bed-and-breakfast establishment is no longer in compliance, said~~the~~ certificate of occupancy shall be revoked until the violations are cured.

4. In the Schedule of Regulations for Residential Districts associated with Section 223-17C the following new Permitted Principal Use shall be added and shall read as follows:

23. Tourist home, subject to § 223-26.4.

5. The following new Permitted Principal Use in the CMS Central Main Street District in Section 223-41.18A shall be added and shall read as follows:

(24) Tourist home – site plan review not required.

6. The following Permitted Principal Use in the L Linkage District in Section 223-41.21A shall be amended to read as follows:

(9) ~~Reserved.~~ Tourist home – site plan review not required.

7. Section 223-25A shall be amended to read as follows:

A. Approval required. No building permit shall be issued, other than for interior alterations, and no change in type of use, as categorized in § 223-26F hereof, shall be permitted, other than one-family dwellings and tourist homes, except in conformity with an approved site development plan, and no certificate of occupancy for such structure or use shall be issued until all the requirements for such approval and any conditions attached thereto have been met. The continued validity of any certificate of occupancy shall be subject to continued conformance with such approved plan and conditions. Revisions of such plans shall be subject to the same approval procedure.

8. A new Section 223-26.4 shall be added and shall read as follows:

§ 223-26.4 Tourist homes.

A. The operation of a tourist home shall not commence until the operator has registered the tourist home with the Building Department and has obtained a certificate of occupancy for the tourist home from said department.

B. The maximum number of guest rooms in a tourist home shall be as shown in the following table:

<u>Type of Home</u>	<u>Maximum Number of Guest Bedrooms</u>
<u>2 or 3-Bedroom</u>	<u>1</u>
<u>4-Bedroom and Larger</u>	<u>2</u>

- C. In the residential zoning districts enumerated in § 223-2A of this chapter no tourist home shall be located on a lot which is within 500 feet of another lot occupied by such an establishment.
- D. There shall be no indication of the tourist home from the exterior of the building.
- E. There shall be no kitchen facilities in the guest bedrooms except for a coffee maker and a small refrigerator.
- F. The lodging provided for any particular guest shall not exceed 14 days in duration during any 30-day period.
- G. The tourist home shall be owner-occupied or, with the written consent of the landlord, may be renter-occupied. Said owner or renter shall reside in the tourist home as his/her primary residence. A home shall not qualify to become a tourist home if any of said owners or renters is also an owner or renter of an existing tourist home. Notwithstanding the definition of "owner" in this chapter, a tourist home shall not be owned or rented by a partnership or corporation.
- H. An operator of the tourist home shall be on premises for the majority of the time while a guest is on the premises of said tourist home.
- I. Only tourist homes which have been approved by the City in accordance with this section may advertise said lodging.
- J. Each tourist home shall be inspected by the Building Department every two years in order to determine whether the establishment remains in compliance with this section. Upon a satisfactory inspection report, the tourist home owner shall be reissued a certificate of occupancy for the tourist home operation. In the event that the inspection indicates that the tourist home is no longer in compliance, said certificate of occupancy shall be revoked until the violations are cured.

9. **In the Section 223-26F, the following listed use and parking requirement shall be revised to read as follows:**

Use	Minimum Off-Street Parking
Bed-and-breakfast establishment; rooming house or boardinghouse	1 space for each guest sleeping room, plus 2 spaces for the dwelling unit, plus 1 space for each nonresident employee

10. Section 223-24.1B shall be revised to read as follows:

- B. Owner occupancy required. ~~An~~The owner of the single-family lot upon which an accessory apartment is located shall occupy at least one of the dwelling units on said lot.

SECTION 4. RATIFICATION, READOPTION AND CONFIRMATION

Except as specifically modified by the amendments contained herein, the Zoning chapter of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 5. NUMBERING FOR CODIFICATION

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

SECTION 6. SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 7. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

Dated: _____, 2015

To: Mayor Casale and the City Council
From: John Clarke, City Planner
Date: January 24, 2018
Re: Short-Term Rentals

Short-term rentals in the City are operating largely under the radar and without legal status. Potential problems with short-term rentals that might be addressed by the Council include the following issues:

- Unregulated commercial-type use in residential zoning districts;
- Compliance with fire, building, and health codes and the need for periodic inspections;
- Unfair competition with local hotels and bed and breakfasts (no room taxes, extra insurance, etc.);
- Impacts on neighbors, such as parking, noise, trash, or security concerns;
- Absentee owners with no contact for complaints or emergencies;
- Possible effects on adjacent property values; and
- Replacement of more stable and affordable rental units.

As online short-term rentals become more numerous and profitable, some municipalities have noticed a decline in traditional rental units, thereby increasing overall rents to higher levels. In more successful tourist-oriented cities, investors have been buying up multiple houses and converting them to exclusively short-term rentals. This is certainly not the only reason for a shortage of affordable housing, but it is becoming a contributing factor.

The first step is to begin to track the number of short-term rentals advertising on the main websites to understand the number and locations of regularly rented units in Beacon. The City has small lots with houses close together, so potential impacts on neighbors are more likely and immediate. Communities all over the country have been upgrading their codes to address the growing demand for short-term rentals. They typically offer lower rates than other regulated lodging options and also allow some residents to earn extra money to be able to afford where they live. Most short-term renters prefer entire home locations with no on-site hosts.

The City should, at the very least, require permits and annual inspections for fire and safety compliance. Permitting should also be coordinated with the County to allow for the collection of room occupancy taxes. Beacon could require owner-occupancy for any short-term rentals, which would begin to address the absentee-owner issue and the problem of investors taking multiple properties out of the housing market. Municipalities can also require on-site resident hosts or local managers with contact numbers to deal with complaints or emergencies.

Other short-term rental issues that should be decided as part of any adoption process include:

1. Limits on the number of rooms and the number of total guests;
2. Maximum days a year that rooms or houses may be rented (difficult to monitor and enforce);
3. Whether a guest room can be in an accessory building;
4. Any separation requirement from existing short-term rentals;
5. Administrative review, site plan, or special permit approval to address parking location, lighting, screening, and other site issues.
6. Delay in enforcement for a certain number of months so as not to disrupt current bookings and to give time for the permitting process.

I understand that a draft amendment for Bed and Breakfasts and Tourist Homes that addressed most of these questions was considered in 2015. The Council could start by reviewing that draft document and begin to make decisions on the extent of regulation that is appropriate for the City.

MEMORANDUM

TO: City of Beacon City Council

FROM: Keane & Beane, P.C.

RE: Short Term Rental Legislation

DATE: January 18, 2018

The City Council has been considering whether to adopt legislation to regulate Airbnb rentals or other short term rentals. Please find attached the following documents for the Council's consideration:

EXHIBIT	Article	Description
A	New York State Bill No. S07182	This legislation regulates short-term rental units; authorizes short-term rental units and requires short-term rental units and requires short-term rental hosts to register each unit with the division of housing and community renewal; establishes that occupancies of a short-term rental unit shall be subject to taxes and fees.
B	Town of Huntington, Chapter 160, Article IV. Short Term Rentals	The Town of Huntington requires owners of short-term rental properties to obtain permits and sets forth conditions and restrictions pertaining to the use of property for short-term rentals.
C	City of Beacon Code Section 223-24.4. Bed-and breakfast establishments	This is a provision in the current City of Beacon Code that regulates bed and breakfast establishments. It is important to review and differentiate bed and breakfast facilities from short-term rentals.
D	City of Beacon Code Section 223-20. Hotels	It is also important to review the definition of Hotel as it compares to Bed and Breakfasts and Short-Term Rentals.

E	N.Y. Appeals Court Ruling on Short-Term Rental Lodging May Have Implications for Airbnb and Other “Sharing Economy” Companies (January 8, 2016), Ballard Spahr, LLP, Legal Alert	Property owner brought an Article 78 proceeding and action for a declaratory judgment to review determination of Town's Zoning Board of Appeals (ZBA) requiring owner to obtain special use permit for renting out residence. The Appellate Division held that the property owners use of his property for short-term lodging did not fall within the definition of activities requiring a special use permit, and the Town Code at the time did not otherwise expressly prohibit the property owner from renting his residence to vacationers. The town had not updated its ordinances to address the ramifications of the emerging “sharing economy.”
F	<i>In the Matter of Fruchter v. Zoning Board of Appeals of the Town of Hurley</i> , 133 A.D.3d 1174 (3d Dep’t 2015).	
G	Mark A. Cuthbertson, <i>The Municipal Official’s Guide to Short-Term Rental Regulations</i> , The New York Law Journal (October 20, 2017)	
H	Alexis Brachel, <i>5 Legal and Regulatory Considerations for Short-Term Rentals</i> , Wolters Kluwer (July 12, 2017)	
I	<i>Five things every local government leader needs to know about short-term vacation rentals</i> , Host Compliance	

Cc: Anthony Ruggiero
Tim Dexter
John Clarke

EXHIBIT A

S07182 Text:

STATE OF NEW YORK

7182

IN SENATE

(Prefiled)

January 3, 2018

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the multiple dwelling law and the tax law, in relation to the regulation of short-term rental units; and to amend chapter 161 of the laws of 1970, relating to enabling any city having a population of one million or more to impose and collect taxes on the occupancy of hotel rooms in such city, in relation to authorizing any city agency administering certain taxes to enter into voluntary agreements to permit the collection and remittance of such taxes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subparagraph 1 of paragraph a of subdivision 8 of section 4
- 2 of the multiple dwelling law, as amended by chapter 225 of the laws of
- 3 2010, is amended to read as follows:
- 4 (1) (A) occupancy of such dwelling unit for fewer than thirty consec-
- 5 utive days by other natural persons living within the household of the
- 6 permanent occupant such as house guests or lawful boarders, roomers or
- 7 lodgers; ~~or~~
- 8 (B) incidental and occasional occupancy of such dwelling unit for
- 9 fewer than thirty consecutive days by other natural persons when the
- 10 permanent occupants are temporarily absent for personal reasons such as
- 11 vacation or medical treatment, provided that there is no monetary
- 12 compensation paid to the permanent occupants for such occupancy; or
- 13 (C) occupancy of such dwelling as a short-term rental unit pursuant to
- 14 article seven-D of this chapter.
- 15 § 2. The multiple dwelling law is amended by adding a new article
- 16 seven-D to read as follows:
- 17 ARTICLE 7-D
- 18 SHORT-TERM RENTAL UNITS
- 19 Section 288. Definitions.
- 20 289. Short-term rental units authorized.
- 21 290. Registration.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11126-01-7

1 291. Requirements of hosting platforms.

2 292. Regulations.

3 § 288. Definitions. For the purposes of this article, the following
4 terms shall have the following meanings:

5 1. "Short-term rental unit" means an entire dwelling unit, or a room,
6 group of rooms, other living or sleeping space, or any other space, made
7 available for rent by guests for less than thirty consecutive days.

8 2. "Short-term rental host" means an owner or tenant of a short-term
9 rental unit who rents such unit to guests.

10 3. "Hosting platform" means a person or entity who, pursuant to an
11 agreement with a short-term rental host:

12 (a) provides a platform for compensation through which unaffiliated
13 third party short-term rental hosts can offer to rent short-term rental
14 units; and

15 (b) collects a fee in connection with either:

16 (i) providing the forum in which, or by means of which, the offer of
17 occupancy of a short-term rental unit is accepted; or

18 (ii) providing the forum in which a short-term rental host can list or
19 advertise space in a short-term rental unit.

20 § 289. Short term rental units authorized. 1. A short-term rental host
21 may operate a dwelling unit as a short-term rental unit provided such
22 dwelling unit:

23 (a) is registered in accordance with section two hundred ninety of
24 this article;

25 (b) is not used to provide single room occupancy as defined by subdi-
26 vision sixteen of section four of this chapter;

27 (c) includes a conspicuously posted evacuation diagram identifying all
28 means of egress from the unit and the building in which it is located;

29 (d) includes a conspicuously posted list of emergency phone numbers
30 for police, fire, and poison control; and

31 (e) is insured for at least two hundred fifty thousand dollars to
32 protect against third party claims of property damage or bodily injury
33 that arise out of the operation of a short-term rental unit. Insurance
34 provided by hosting platforms can satisfy this requirement.

35 2. A short-term rental host may only operate a rent-stabilized dwell-
36 ing unit as a short-term rental unit if the annual rent generated from
37 short-term rent does not exceed the annual legal rent for the unit as
38 defined by the division of housing and community renewal; provided
39 however, that a violation of this subdivision shall not be a ground for
40 eviction under the rent stabilization code unless the short-term rental
41 host has received two prior violations under the rent stabilization
42 code.

43 3. A short-term rental host may not operate a dwelling unit as a
44 short-term rental unit if the unit is a rent-controlled unit subject to
45 the local emergency rent control act or chapter seven of subtitle 5 of
46 title nine of New York's compilation of codes, rules, and regulations,
47 an income-based public housing unit, or a dwelling unit paid for with
48 vouchers or other monetary subsidies, in whole or in part, from a
49 government entity.

50 4. A short-term rental host shall not operate more than one class A
51 multiple dwelling unit as a short-term rental unit unless the units are
52 at the same address, including apartment number, if applicable.

53 5. Occupancies of a short-term rental unit shall be subject to taxes
54 and fees pursuant to articles twenty-eight and twenty-nine of the tax
55 law and applicable local laws.

1 6. Short-term rental hosts shall maintain records related to guest
2 stays for one year, including the date of each booking and the identity
3 and number of guests, and records related to their registration as
4 short-term rental hosts with the division of housing and community
5 renewal.

6 7. Hosting platforms shall maintain records related to guest stays for
7 one year, including the date of each booking and the identity and number
8 of guests. Hosting platforms shall make all relevant records available
9 to the division of housing and community renewal consistent in response
10 to valid legal process.

11 § 290. Registration. 1. Short-term rental hosts shall be required to
12 register each short-term rental unit with the division of housing and
13 community renewal.

14 2. Registrations shall be valid for two years, after which time the
15 short-term rental host may renew his or her registration in a manner
16 prescribed by the division of housing and community renewal. The divi-
17 sion of housing and community renewal may revoke the registration of a
18 short-term rental host upon a determination that the short-term rental
19 host has violated any provision of this article at least three times in
20 two calendar years, and may determine that the short-term rental host
21 shall be ineligible for registration for a period of up to twelve months
22 from the date the third violation is determined to have occurred.

23 3. The division of housing and community renewal shall set a fee for
24 short-term rental registration not to exceed one hundred dollars, with
25 revenue dedicated to enforcement of short-term rental laws.

26 4. Hosting platforms are authorized to facilitate the registration
27 process by collecting the required information and transmitting it to
28 the division of housing and community renewal for processing.

29 § 291. Requirements of hosting platforms. Hosting platforms shall:

30 1. create a dedicated means by which complaints can be submitted by
31 short-term rental hosts, guests, and community members. These means
32 shall be available twenty-four hours a day, seven days a week.

33 2. provide the division of housing and community renewal and the New
34 York city mayor's office of special enforcement with anonymized statis-
35 tics on a quarterly basis regarding the short-term rental of properties
36 on their platforms in cities with a population of one million or more.
37 Such report shall be submitted within thirty days following the end of
38 each calendar quarter in which it operates as a hosting platform in a
39 manner to be determined by the division of housing and community
40 renewal. The information to be disclosed shall include:

41 (a) statistics regarding each short-term rental unit that was rented
42 on the platform during the previous quarter, including city, borough,
43 zip code, listing type (such as whether the listing is for an entire or
44 shared property), the number of nights rented for the reporting period,
45 the number of nights rented for the calendar year, and the total amount
46 of revenue submitted to the short-term rental host in connection with
47 the rental of the unit in question. Information regarding the number of
48 nights rented shall be reported in ranges of twenty-five. Information
49 regarding the total amount of revenue shall be reported in ranges of ten
50 thousand dollars; and

51 (b) statistics regarding each short-term rental host who rented a
52 short-term rental unit on the platform during the previous quarter,
53 including:

54 (i) the number of distinct addresses simultaneously advertised as
55 short-term rentals during the prior reporting period for each short-term

1 rental host simultaneously advertising more than one distinct address as
2 a short-term rental during the reporting period; and
3 (ii) the number of such distinct addresses simultaneously rented as
4 short-term rentals during the reporting period for each short-term
5 rental host simultaneously advertising more than one distinct address as
6 a short-term rental during the reporting period. Hosting platforms
7 shall not have the obligation to disclose any listing or host-level
8 information if the disclosure could reasonably lead to the identifica-
9 tion of a specific property or short-term rental host.
10 3. maintain records of all transactions in cities with a population of
11 a million or more for a period of twelve months.
12 4. inform short-term rental hosts of the registration requirement and,
13 if requested to do so, collect and transmit the required information to
14 the division of housing and community renewal on behalf of the short-
15 term rental host.
16 § 292. Regulations. The division of housing and community renewal
17 shall promulgate regulations necessary and appropriate to enforce this
18 article, including regulations to facilitate the registration of short-
19 term rental hosts and to facilitate information sharing between and
20 among the division, hosting platforms, and other enforcement agencies.
21 § 3. Section 304 of the multiple dwelling law is amended by adding a
22 new subdivision 1-b to read as follows:
23 1-b. a. Every person who shall violate or assist in the violation of
24 any provision of sections two hundred eighty-nine or two hundred ninety
25 of this chapter shall be guilty of an offense, and any person found to
26 have committed three or more offenses of such sections may be prohibited
27 from operating a short-term rental unit for a period of one year.
28 b. The maximum fine for violating subdivision four of section two
29 hundred eighty-nine of this chapter shall be one thousand dollars for a
30 first offense; four thousand dollars for the second offense; and seven
31 thousand five hundred dollars for the third or any subsequent offense.
32 The maximum fine for violating subdivision two of section two hundred
33 eighty-nine of this chapter shall be the difference between the annual
34 rent generated by the short-term rental and the annual legal rent, plus
35 an additional fine of fifty dollars for the first offense, one hundred
36 dollars for the second offense, and two hundred fifty dollars for the
37 third offense. The maximum fine for violating subdivision three of
38 section two hundred eighty-nine of this chapter shall be the amount of
39 revenue generated from the short-term rental plus an additional fine of
40 fifty dollars for the first offense, one hundred dollars for the second
41 offense, and two hundred fifty dollars for the third offense. The maxi-
42 mum fine for all other provisions of sections two hundred eighty-nine or
43 two hundred ninety of this chapter shall be fifty dollars for a first
44 offense; one hundred dollars for the second offense; and two hundred
45 fifty dollars for the third or any subsequent offense.
46 c. Any violation under this subdivision shall not be a crime and the
47 penalty or punishment imposed therefor shall not be deemed for any
48 purpose a penal or criminal penalty or punishment, and shall not impose
49 any disability upon or affect or impair the credibility as a witness, or
50 otherwise, of any person convicted thereof.
51 § 4. Subdivision (c) of section 1101 of the tax law, as added by chap-
52 ter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended by
53 section 2 and paragraph 8 as added by section 3 of part AA of chapter 57
54 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the
55 laws of 1965, is amended and two new paragraphs 9 and 10 are added to
56 read as follows:

1 (c) When used in this article for the purposes of the tax imposed
2 under subdivision (e) of section eleven hundred five, and subdivision
3 (a) of section eleven hundred four, the following terms shall mean:

4 (1) Hotel. A building or portion of it which is regularly used and
5 kept open as such for the lodging of guests. The term "hotel" includes
6 an apartment hotel, a motel, boarding house or club, whether or not
7 meals are served, and short-term rental units.

8 (2) Occupancy. The use or possession, or the right to the use or
9 possession, of any room in a hotel. "Right to the use or possession"
10 includes the rights of a room remarketer as described in paragraph eight
11 of this subdivision.

12 (3) Occupant. A person who, for a consideration, uses, possesses, or
13 has the right to use or possess, any room in a hotel under any lease,
14 concession, permit, right of access, license to use or other agreement,
15 or otherwise. "Right to use or possess" includes the rights of a room
16 remarketer as described in paragraph eight of this subdivision.

17 (4) Operator. Any person operating a hotel. Such term shall include a
18 room remarketer and such room remarketer shall be deemed to operate a
19 hotel, or portion thereof, with respect to which such person has the
20 rights of a room remarketer.

21 (5) Permanent resident. Any occupant of any room or rooms in a hotel
22 for at least ninety consecutive days shall be considered a permanent
23 resident with regard to the period of such occupancy.

24 (6) Rent. The consideration received for occupancy, including any
25 service or other charge or amount required to be paid as a condition for
26 occupancy, valued in money, whether received in money or otherwise and
27 whether received by the operator ~~[or]~~, a hosting platform, a room
28 remarketer or another person on behalf of ~~[either]~~ any of them. Rent
29 shall not include a separately stated fee or similar charge paid by the
30 occupant to the hosting platform for: (i) providing the forum in which,
31 or by means of which, the offer of occupancy is accepted, including an
32 internet website or similar forum; (ii) arranging for the exchange of
33 information or messages between the occupant and the operator of the
34 hotel; or (iii) facilitating payment between the occupant and the opera-
35 tor of the hotel.

36 (7) Room. Any room or rooms of any kind in any part or portion of a
37 hotel, which is available for or let out for any purpose other than a
38 place of assembly.

39 (8) Room remarketer. A person who reserves, arranges for, conveys, or
40 furnishes occupancy, whether directly or indirectly, to an occupant for
41 rent in an amount determined by the room remarketer, directly or indi-
42 rectly, whether pursuant to a written or other agreement. Such person's
43 ability or authority to reserve, arrange for, convey, or furnish occu-
44 pancy, directly or indirectly, and to determine rent therefor, shall be
45 the "rights of a room remarketer". A room remarketer is not a permanent
46 resident with respect to a room for which such person has the rights of
47 a room remarketer. This term does not include a hosting platform.

48 (9) Short-term rental unit. A room, group of rooms, or other living or
49 sleeping space, or any other space let to occupants, including but not
50 limited to private dwellings, residences, or buildings used as resi-
51 dences.

52 (10) Hosting platform. A person or entity who, pursuant to an agree-
53 ment with an operator of a hotel:

54 (i) provides a platform for compensation through which an unaffiliated
55 third party hotel operator offers to rent space in a hotel; and
56 (ii) collects a fee in connection with either;

1 (A) providing the forum in which, or by means of which, the offer of
2 occupancy of a hotel room is accepted; or

3 (B) providing the forum in which a hotel operator can list or adver-
4 tise space in a hotel for occupancy.

5 § 5. Subdivision (e) of section 1105 of the tax law is amended by
6 adding a new paragraph 3 to read as follows:

7 (3) The rent for every occupancy of a room or rooms in a hotel offered
8 for rent through a hosting platform, as defined in paragraph ten of
9 subdivision (c) of section eleven hundred one of this article, regard-
10 less of whether it is furnished, limited to a single family occupancy,
11 or provides housekeeping, food, or other common hotel services, includ-
12 ing, but not limited to, entertainment or planned activities.

13 § 6. Subdivision (a) of section 1104 of the tax law, as added by chap-
14 ter 3 of the laws of 2004, is amended to read as follows:

15 (a) Imposition. In addition to any other fee or tax imposed by this
16 article or any other law, on and after April first, two thousand five,
17 there is hereby imposed within the territorial limits of a city with a
18 population of a million or more and there shall be paid a unit fee on
19 every occupancy of a unit in a hotel in such city subject to tax under
20 paragraphs one through three of subdivision (e) of section eleven
21 hundred five of this part at the rate of one dollar and fifty cents per
22 unit per day, except that such unit fee shall not be imposed upon (1)
23 occupancy by a permanent resident or (2) where the rent per unit is not
24 more than at the rate of two dollars per day.

25 § 7. Subdivision 1 of section 1131 of the tax law, as amended by chap-
26 ter 576 of the laws of 1994, is amended to read as follows:

27 (1) "Persons required to collect tax" or "person required to collect
28 any tax imposed by this article" shall include: every vendor of tangible
29 personal property or services; every recipient of amusement charges;
30 [and] every operator of a hotel[-]; and hosting platforms where the
31 hosting platform voluntarily consents to assume the tax collection and
32 remittance responsibilities of an operator of a hotel unless relieved of
33 such obligation pursuant to paragraph four of subdivision (1) of section
34 eleven hundred thirty-two of this part. Said terms shall also include
35 any officer, director or employee of a corporation or of a dissolved
36 corporation, any employee of a partnership, any employee or manager of a
37 limited liability company, or any employee of an individual proprietor-
38 ship who as such officer, director, employee or manager is under a duty
39 to act for such corporation, partnership, limited liability company or
40 individual proprietorship in complying with any requirement of this
41 article; and any member of a partnership or limited liability company.
42 Provided, however, that any person who is a vendor solely by reason of
43 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision
44 (b) of section eleven hundred one shall not be a "person required to
45 collect any tax imposed by this article" until twenty days after the
46 date by which such person is required to file a certificate of registra-
47 tion pursuant to section eleven hundred thirty-four of this part.

48 § 8. Section 1132 of the tax law is amended by adding a new subdivi-
49 sion (1) to read as follows:

50 (1)(1) A hosting platform may enter into a voluntary agreement with
51 the commissioner, under which the hosting platform shall collect and
52 remit taxes on occupancies of rentals of hotels on or after the effec-
53 tive date of the voluntary agreement; provided however, that when a
54 hosting platform enters into such a voluntary agreement, it shall be
55 required to (i) collect from the occupants the applicable taxes arising
56 from such occupancies; (ii) comply with all the provisions of this arti-

1 cle and article twenty-nine of this chapter and any regulations adopted
2 pursuant thereto; (iii) register to collect tax under section eleven
3 hundred thirty-four of this part; and (iv) retain records and informa-
4 tion as required by the commissioner and cooperate with the commissioner
5 to ensure the proper collection and remittance of tax imposed,
6 collected, or required to be collected under this article and article
7 twenty-nine of this chapter.

8 (2) In carrying out the obligations imposed under this section, a
9 hosting platform shall have all the duties, benefits, and entitlements
10 of a person required to collect tax under this article and article twen-
11 ty-nine of this chapter with respect to the occupancies giving rise to
12 the tax obligation, including the right to accept a certificate or other
13 documentation from an occupant substantiating an exemption or exclusion
14 from tax, as if such hosting platform were the operator of the hotel
15 with respect to such occupancy, including the right to receive the
16 refund authorized by subdivision (e) of this section and the credit
17 allowed by subdivision (f) of section eleven hundred thirty-seven of
18 this part.

19 (3) No hosting platform shall be required to list any operator of a
20 hotel on any return required to be filed under this article and article
21 twenty-nine of this chapter or under any regulations adopted pursuant
22 thereto. Audits of any hosting platform shall be conducted solely on the
23 basis of the tax identification number associated with each hosting
24 platform and shall not be conducted directly or indirectly on any opera-
25 tor of a hotel or any occupant to whom occupancy is rented from an opera-
26 tor of a hotel, nor shall any hosting platform be required to disclose
27 any personally identifiable information relating to any operator of a
28 hotel or occupant to whom occupancy is rented from an operator of a
29 hotel.

30 (4) An operator of a hotel is not a person required to collect tax for
31 purposes of this part with respect to taxes imposed upon occupancies of
32 hotels if:

33 (i) the operator of the hotel can show that the occupancy was facili-
34 tated by a hosting platform who is registered to collect tax pursuant to
35 section eleven hundred thirty-four of this part; and

36 (ii) the operator of the hotel accepted from the hosting platform a
37 properly completed certificate of collection in a form prescribed by the
38 commissioner certifying that the hosting platform has agreed to assume
39 the tax collection and filing responsibilities of the operator of the
40 hotel; and

41 (iii) any failure of the hosting platform to collect the proper amount
42 of tax with respect to such occupancy was not the result of the operator
43 of the hotel providing incorrect information to the hosting platform,
44 whether intentional or unintentional.

45 This provision shall be administered in a manner consistent with
46 subparagraph (i) of paragraph one of subdivision (c) of this section as
47 if a certificate of collection were a resale or exemption certificate
48 for purposes of such subparagraph, including with regard to the
49 completeness of such certificate of collection and the timing of its
50 acceptance by the operator of the hotel; provided however, that with
51 regard to any occupancies sold by an operator of the hotel that are
52 facilitated by a hosting platform who is affiliated with such operator,
53 the operator shall be deemed liable as a person under a duty to act for
54 such hosting platform for purposes of subdivision one of section eleven
55 hundred thirty-one of this part.

1 (5) The commissioner may, in his or her discretion, (i) develop stand-
2 ard language, or approve language developed by a hosting platform, in
3 which the hosting platform obligates itself to collect the tax on behalf
4 of all the operators of hotels; and (ii) provide by regulation or other-
5 wise that the inclusion of such language in an agreement between a host-
6 ing platform and the commissioner as provided for in paragraph one of
7 this subdivision shall, upon notice to the operator, have the same
8 effect as an operator's acceptance of a certificate of collection from a
9 hosting platform under paragraph four of this subdivision.

10 (6) In the event an operator of a hotel is a room remarketer, and all
11 other provisions of this subdivision are met such that a hosting plat-
12 form is obligated to collect tax, and does in fact collect tax as
13 evidenced by the books and records of such hosting platform, then the
14 provisions of subdivision (e) of section eleven hundred nineteen of this
15 article shall be applicable.

16 (7) Information provided by a hosting platform to the commissioner
17 shall be confidential. Such confidential information shall not be
18 disclosed by the commissioner unless the hosting platform has given
19 written consent to make such disclosure or there is an agreement between
20 the hosting platform and the commissioner to make such disclosure.
21 Notwithstanding any law to the contrary, information provided by a host-
22 ing platform shall not be subject to article six of the public officers
23 law and shall not be provided to any other agency of the state, locali-
24 ty, or any other government entity or political subdivision.

25 § 9. Section 1202 of the tax law is amended by adding a new subdivi-
26 sion (h) to read as follows:

27 (h) It is expressly recognized that any county authorized and
28 empowered to impose hotel, motel, or occupancy taxes pursuant to subpart
29 A of part one of this article has the authority to permit the county
30 agency that administers such taxes to enter into voluntary agreements
31 with any person or third party, including but not limited to hosting
32 platforms, to permit such person, third party, or platform to collect
33 and remit such taxes on behalf of the party or parties required to
34 collect and remit them under the applicable statutes. The voluntary
35 agreement shall be evinced by a signed, written agreement between the
36 county agency that administers such taxes and the person or third party
37 assuming the obligation to collect and remit the taxes.

38 § 10. Section 1 of chapter 161 of the laws of 1970, relating to enabl-
39 ing any city having a population of one million or more to impose and
40 collect taxes on the occupancy of hotel rooms in such city, is amended
41 by adding a new subdivision 11 to read as follows:

42 (11) It is expressly recognized that any city agency administering the
43 taxes authorized by this act is permitted to enter into voluntary agree-
44 ments with any person or third party, including but not limited to host-
45 ing platforms, to permit such person, third party, or platform to
46 collect and remit such taxes on behalf of the party or parties required
47 to collect and remit them under the applicable statutes. The voluntary
48 agreement shall be evinced by a signed, written agreement between the
49 city agency responsible for administering the taxes and the person or
50 third party assuming the obligation to collect and remit the taxes.

51 § 11. This act shall take effect on the one hundred twentieth day
52 after it shall have become a law.

EXHIBIT B

Town of Huntington, NY
Thursday, January 18, 2018

Chapter 160. Registration and Permitting of Property

Article IV. SHORT TERM RENTALS

[Added 7-11-2017 by L.L. No. 29-2017^[1]]

[1] *Editor's Note: This local law also repealed former Art. IV, Denial and Revocation Proceedings, added 5-10-2016 by L.L. No. 22-2016, and the content of said article (§§ ~~160-36~~ through 160-47) was moved to Art. III, Residential Rental Permits, at the direction of the Town. This local law also redesignated former §§ 160-48 and 160-49 as §§ ~~160-72~~ and ~~160-73~~, respectively.*

§ 160-48. Definitions.

As used in this article, the following words shall have the meanings indicated:

ASSEMBLY

Shall include but not be limited to a wedding, bachelor or bachelorette party, or similar party activity.

DIRECTOR

The Director of the Department of Public Safety or his or her designee.

DWELLING UNIT

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

OWNER

An individual or group of individuals who are in possession of and have a fee interest in real property. The term "owner" shall not include a business entity or association, a trustee, receiver or guardian of an estate, or a mortgagee or lien holder.

OWNER-OCCUPIED

A one or two family house or multiple dwelling building used by the owner as his or her or their principal residence (domicile).

ROOM OR ROOMS

A bedroom or group of bedrooms in a one or two family house or multiple dwelling building used for short term rentals, where there are no provisions for eating or cooking, but may include the use of private or shared bathroom facilities.

SHORT TERM RENTAL

Can be comprised of dwelling unit(s), a room, or a group of rooms legally established within one or two family residences that are owner-occupied, including one-family, owner-occupied residences having valid accessory apartment permits, where the dwelling unit(s), room or group of rooms are rented, leased or otherwise assigned for a tenancy of less than thirty (30) consecutive days, and where no meals are served. The term "short term rental" does not include mixed-use buildings, multiple dwelling buildings, dormitories, hotel or motel rooms, bed and breakfast inns, or boarding or lodging houses.

§ 160-49. Prohibited Acts.

- (A) Permit required. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any property as a short term rental without first having obtained a short term rental permit. The failure or refusal to obtain a short term rental permit shall be deemed a violation of this Article.
- (B) Owner-occupancy. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any property as a short term rental if the property is not owner occupied. The failure of the owner to occupy the property as his principal residence (domicile) shall be deemed a violation of this Article.
- (C) Advertisement. An application for a short term rental permit shall be filed before the room(s) or dwelling unit(s) are advertised for short term rental, and if the spaces are not advertised, then such permit shall be obtained before the room(s) or dwelling unit(s) are leased or rented. The short term rental permit number shall be noted on the advertisement. Any person who advertises the space for rent or lease, or rents the room(s) or dwelling unit(s) as short term rentals without first having obtained a short term rental permit shall be deemed to be in violation of this Article.
- (D) Signage. It shall be unlawful to place signage on property advertising or identifying any portion of the property as a short term rental. Any person who violates the provisions of this section shall be deemed to be in violation of this Article.
- (E) Parking. All vehicles attributable to short term rentals shall be parked on-site in parking spaces provided for such purpose when the vehicles are not in use. All parking shall comply with the provisions of § 160-54(5). Any person who violates the provisions of this section shall be deemed to be in violation of this Article.
- (F) Permitted number of days. It shall be unlawful for the property owner to use, establish, maintain, operate, occupy, rent or lease any portion of his property as a short term rental for more than one hundred and twenty (120) days out of a calendar year. A property owner may apply to the Director for a hardship exemption. Any person who violates the provisions of this section shall be deemed to be in violation of this Article.
- (G) Number of bedrooms. It shall be unlawful for the property owner to use, establish, maintain, operate, occupy, rent or lease more than two (2) bedrooms within a dwelling unit. Any person who violates the provisions of this section shall be deemed to be in violation of this Article.
- (H) Cooking and sleeping facilities. It shall be unlawful to have cooking facilities in rooms used for short term rental, except for those premises having a valid accessory apartment permit pursuant to Chapter 198. There shall not be any rooms for overnight guests other than in the main building on the lot. Any person who violates the provisions of this section shall be deemed to be in violation of this Article.
- (I) Assembly. It shall be unlawful for a short term rental property to be utilized for assembly between 10:00pm and 7:00am. Any person who violates the provisions of this section shall be deemed in violation of this article.
- (J) Conditions and restrictions. It shall be unlawful for a property owner to violate, fail, neglect or refuse to fully comply with any condition, restriction or requirement of the short term rental permit. Any person who violates the provisions of this section shall be deemed to be in violation of this Article.

§ 160-50. Presumptive Evidence.

The presence or existence of any of the following shall create a rebuttable presumption that a property is being utilized as a short term rental:

- (A) The property is offered for lease or rent on a short term rental website, including but not limited to Airbnb, HomeAway, VRBO and similar websites; or
- (B) The property is offered for lease or rent by the use of any other advertising mechanism for a period of less than thirty (30) days.

§ 160-51. Term of Permit.

A short term rental permit shall be valid for a period of one (1) year from the date of issuance unless sooner terminated or revoked.

§ 160-52. Application for permit.

- (A) Application. Applications for short term rental permits shall be on forms provided by the Department of Public Safety and signed by each property owner. A non-refundable application fee of fifty (\$50.00) dollars per property shall be payable upon application. In no instance shall the filing of an application and payment of fees be construed as to exonerate the property owner of responsibility for compliance with the building, housing, fire and maintenance requirements of any local, county, state or federal agency having jurisdiction. Each application shall include the following:
- (1) The name and address, e-mail address, and contact numbers of all property owners; and
 - (2) Government issued proof of residency of each owner with picture ID (driver's license, passport, etc.); and
 - (3) The property address; the total number of dwelling units located within the building; the total number of bedrooms and bathrooms inside the building; the total number of dwelling units and individual bedrooms proposed for short term rental use; the location of each such dwelling unit or individual bedroom within the building; and the number of persons to be accommodated in each short term rental area; and
 - (4) The number of existing on-site parking spaces, and the number of available on-site parking spaces for short term rentals; and
 - (5) A signed and notarized certification in a form acceptable to the Director of Public Safety by each property owner attesting to the fact that no meal service is being provided; that the owner resides at the property and it is the owner's domicile (primary residence); that the property is fit for human habitation and safe; that the property owner will comply with all of the conditions and restrictions of the permit; that no portion of the area used for short term rentals will utilize a cellar or attic, or any portion thereof, as habitable space unless it meets the requirements of the International Fire and Building Code or successor law; that the property is in compliance with all the provisions of this Article, the applicable provisions of the town code, the International Fire, Building and Maintenance Codes; and the required building permits, certificates of occupancy and/or letters- in-lieu are in place for all existing structures on the property; and
 - (6) Such other information and/or documentation deemed necessary by the Director.
- (B) Duty to amend. If the status of the information changes during the course of any calendar year, it is the responsibility of the owner to submit such changes to the Department of Public Safety in writing within thirty (30) days of the occurrence of such change. Failure to do so shall be deemed a violation of this article.

§ 160-53. Renewal of permit.

A short term rental permit may be renewed by application to the Department of Public Safety as in the case of an original permit application, with payment of a non-refundable renewal fee of twenty-five (\$25) dollars and the production of any documents deemed necessary by the Director. All applications for a renewal of a permit shall be filed before the expiration of the original permit. A property owner whose permit has expired and has failed to file for a renewal of the permit shall be required to pay the amount of fifty (\$50) dollars as in the case of an original application, and a late fee of twenty-five (\$25) dollars. A permit may only be renewed by the same owner for the same property upon the payment of the requisite fees.

§ 160-54. Issuance of permit; conditions and restrictions.

- (A) Transferability. Short term rental permits are not transferable. Any person who transfers a permit or uses a permit that has been transferred shall be in violation of this Article.
- (B) Authority of Director. The Director may issue a permit upon such restrictions and conditions he deems reasonable and necessary under the circumstances.
- (C) Conditions and restrictions of permit. All permits issued pursuant to this Article shall be subject to the following conditions and restrictions, whether or not they are itemized on the permit:
- (1) The property used for short term rental shall be the principal residence (domicile) of the owner at all times during the term of the permit; and
 - (2) There shall be no signage on the property advertising or identifying the short term rental; and
 - (3) The property shall have no commercial-type lighting outside the building; and
 - (4) All outward appearances of the property in which the short term rental will be located must remain as it was before the permit was issued. A new entrance (doorway) shall not be installed by the applicant to accommodate the short term rental. Landscaping around the house may be changed to accommodate the new use; and
 - (5) Sufficient on-site parking must be provided. Said parking shall be in a driveway or behind the main residence on the property that is under review for the permit. Accommodations for one (1) car per short term rental stay and two (2) cars for the owner's family shall be the minimum off-street parking to be provided; and
 - (6) Every bedroom in a short term rental occupied by one (1) person shall contain at least seventy (70) square feet of floor area and every bedroom in a short term rental occupied by more than one (1) person shall contain at least fifty (50) square feet of floor area for each occupant thereof. Children under five (5) years of age shall not be included in the definition or calculation of occupancy; and
 - (7) No more than two bedrooms with separate or shared bathrooms within a dwelling unit shall be utilized for a short term rental; and
 - (8) There shall be no cooking facilities in rooms, except for those premises having a valid accessory apartment permit pursuant to Chapter 198. There shall not be any rooms for overnight guests, other than in the main building on the lot. There shall be no structural alterations that prevent the building from being used as a residence; and
 - (9) No more than a total of one hundred twenty (120) days of short term rentals shall occur within a calendar year; and
 - (10) Traffic attributed to the short-term rental must not result in significant adverse impacts to existing traffic patterns nor create a hazard to pedestrians in the neighborhood; and
 - (11) Compliance with the Provisions of Chapter 141 (Noise), Chapter 117 (Waste Management), and Chapter 124 (Housing Standards and Property Maintenance) of the Huntington Town Code shall be required; and
 - (12) There shall be no assembly at the short term rental property between 10:00pm and 7:00am; and
 - (13) The property owner shall maintain a registry of the names and dates of occupancy of the short-terms rental occupants. This registry may be produced for review upon request of the Director.
- (D) Notification Requirements. The Director shall provide a packet of information with the issuance with each permit summarizing the restrictions, guidelines, and requirements applicable to the short term rental use. The property owner of the short term rental shall provide a copy of the information packet to the occupant(s) of the short term rental property.

§ 160-55. Denial of application; Procedure.

See Article III § 160-28 of this Chapter as to procedure for denial of application.

§ 160-56. Final order.

See Article III § 160-29 of this Chapter as to final order.

§ 160-57. Reapplication for a permit.

Once an application has been denied, no reapplication for a permit or a renewal of the permit shall be accepted for filing until the applicant has remedied the conditions that formed the basis for denial to the satisfaction of the Town.

§ 160-58. through § 160-60. (Reserved)

§ 160-61. Basis for denial of a permit.

An application for the issuance of a short term rental permit, or renewal thereof, may be denied under the following circumstances.

- (A) Failure of the owner to file a full, true and complete application; or
- (B) Failure of the property to be owner-occupied as the owner's principal residence (domicile); or
- (C) Occupancy of the property or the short term rental area(s), by the persons using the premises, creates a hazard or public nuisance or other condition which negatively impacts the use and/or enjoyment of surrounding properties, or threatens the peace and good order, or quality of life in the surrounding community.

§ 160-62. Revocation of a permit.

The grounds upon which a permit can be revoked shall include but shall not be limited to:

- (A) The permit was issued in error, or issued in whole or in part as a result of a false, untrue, or misleading statement on the permit application or other document submitted for filing, including but not limited to the schematic or certification; or
- (B) The permit has been issued and the Town either has or is in the process of suspending or revoking the certificate of occupancy or letter in lieu for the rental property; or
- (C) A short term rental permit has been issued and the owner fails to continue to occupy the premises on a continuous basis as his primary residence (domicile); or
- (D) Failure to comply or violating the conditions and restrictions of the permit as established by the Director or Town.

§ 160-63. Revocation or suspension of the certificate of occupancy or letter in lieu for rental property.

See Article III § 160-37 of this Chapter as to such revocation or suspension.

§ 160-64. Written notice.

- (A) Written notice of the Town's intention to revoke a permit shall be served by registered or certified mail, return receipt requested, and by regular mail, to the applicant at the address shown on the application. If the notice is returned by the Post Office as undeliverable for any reason, as long as it was properly addressed, service of the notice shall be valid. Said notice shall state that the applicant is entitled to be represented by legal counsel at the hearing and may present the testimony of witnesses and such other evidence in his or her own behalf as may be deemed relevant or necessary.

§ 160-65. Conduct of hearing.

- (A) At the administrative hearing the applicant shall be entitled to be represented by legal counsel and provided with an opportunity to be heard. He may present the testimony of witnesses, experts and other evidence in his own behalf as he deems necessary and relevant. The code officer or other person may appear and give testimony or submit evidence in support of the proposal to revoke the permit. All hearings shall be recorded and may be adjourned by the Hearing Officer upon good cause shown.
- (B) Administrative Hearing Officer. The Hearing Officer shall consider the evidence presented and shall submit his or her findings in writing within fifteen (15) days of the close of the hearing or sooner. A copy of the Hearing Officer's report shall be filed with the Department of Public Safety and Huntington Town Clerk and served on the applicant or applicant's attorney in the same manner as the original notice. The Hearing Officer's report shall be final as to the Town of Huntington.

§ 160-66. Final order.

The failure of the applicant or his attorney to appear at the administrative hearing shall result in the automatic revocation of the short term rental permit. The order of revocation shall be mailed to the applicant or his attorney in the same manner as the original notice.

§ 160-67. Effect of Revocation.

If a permit is revoked, no application for a new permit will be accepted for filing until the applicant has remedied the conditions that formed the basis of the revocation to the satisfaction of the Director, if applicable. Once remedied, the applicant will have to apply for a new permit and pay a one-hundred and fifty (\$150) dollar application fee.

§ 160-68. through § 160-71. (Reserved)

EXHIBIT C

City of Beacon, NY
Thursday, January 18, 2018

Chapter 223. Zoning

Article III. General Regulations

§ 223-24.4. Bed-and-breakfast establishments.

[Added 3-18-2002 by L.L. No. 9-2002]

- A. The minimum lot size for the establishment of this use shall be 40,000 square feet.
- B. Off-street parking accessory to this use shall be screened from adjacent residential properties.
- C. The outward appearance of the use shall be that of a one-family dwelling and there shall be no indication of the bed-and-breakfast establishment from the exterior of the building, except for the sign. A separate entrance into the building for the bed-and-breakfast use shall not be permitted.
- D. Seating for food and beverage service shall be limited to the maximum occupancy of the bed-and-breakfast establishment.
- E. The lodging provided shall be for periods of less than two weeks in duration.
- F. The maximum number of guest bedrooms at a bed-and-breakfast establishment shall be six, except that the City Council may, at its discretion, allow additional guest bedrooms up to a maximum of 10 where the Council determines that the size and shape of the lot on which the establishment is proposed can accommodate the additional patrons and parking.
- G. Renewal inspections. Each bed-and-breakfast establishment shall be inspected by the Building Department every two years in order to determine whether the establishment remains in compliance with this section. Upon a satisfactory inspection report, the bed-and-breakfast establishment owner shall be reissued a certificate of occupancy. In the event that the inspection indicates that the bed-and-breakfast establishment is no longer in compliance, the certificate of occupancy shall be revoked until the violations are cured.

EXHIBIT D

City of Beacon, NY
Thursday, January 18, 2018

Chapter 223. Zoning

Article III. General Regulations

§ 223-20. Hotels.

[Amended 6-17-2013 by L.L. No. 11-2013]

- A. Permitted uses. If a site is to be used for a hotel, use of the site and any buildings or structures on the site shall be limited to usual hotel activities and accessory uses incidental to the operation of a hotel and of the same general character, provided that all such accessory uses shall be planned as an integral part and located on the same site with the hotel.
- (1) Such accessory uses may include the following:
 - (a) Dining facilities providing food and drink.
 - (b) Newsstands, gift shops and other shops.
 - (c) Recreation facilities which shall be for the exclusive use of guests or members.
 - (d) Employees' quarters and facilities.
 - (e) Spa facilities.
 - (f) Conference center facilities.
 - (2) All hotels shall include the following:
 - (a) A lobby, registry desk, manager's office and public rest room facilities.
 - (b) Off-street parking facilities.
 - (c) Access to all guest rooms from an interior hallway.
- B. Screening. Outdoor parking areas and recreational facilities shall be screened with fencing, landscaping and/or buildings on all sides toward adjoining residential lots. Where hotel buildings are set back less than 100 feet from one-family residential lots, such buildings shall be suitably screened with planting.
- C. Minimum off-street parking.
- (1) For hotel rooms: One parking space shall be provided for each hotel guest room.
 - (2) For restaurants, bars and other public rooms, and for recreation facilities and other permitted uses, other than lobbies: The number of parking spaces required in accordance with § 223-26 of this chapter shall be provided.
 - (3) For employees: One parking space shall be provided for each employee for the maximum number of employees working at the hotel at any one time.
- D. No kitchen facilities. There shall be no kitchen facilities in the hotel rooms except for a coffeemaker, a microwave oven and a small refrigerator.

EXHIBIT E

January 8, 2016

N.Y. Appeals Court Ruling on Short-Term Rental Lodging May Have Implications for Airbnb and Other “Sharing Economy” Companies

by Andrew J. Petrie and Christopher W. Payne

The New York Appellate Division’s recent decision that blocked a municipality’s attempt to regulate a homeowner’s renting out of his individual residence as short-term lodging demonstrates challenges that may face municipalities and the commercial hospitality industry in trying to curtail such uses in the new “sharing economy.”

While the ruling in *In the Matter of Fruchter v. Zoning Board of Appeals of the Town of Hurley* hinged on specific definitions in town zoning ordinances, the ruling has wider potential implications for the tension between emerging economies and local land use law. The Court’s clarification of the rights of municipalities to use zoning ordinances to regulate short-term rental lodging in residences potentially extends to “sharing economy” companies such as Airbnb, Inc., HomeAway, and VRBO.

Citing a ruling in an earlier case, the Appellate Division held that, because Fruchter’s use of his residence did not fall within the definition of activities requiring a special use permit, and the Town Code does not otherwise “expressly prohibit[] petitioner[] from renting [his] residence to vacationers[,] . . . we cannot say that petitioner[s]’ decision to do so placed [his] otherwise obviously residential structure outside the Town’s definition of a [residential one-family dwelling].”

Fruchter owns a two-bedroom, single-family residence located in an area zoned A-4 residential, which he considers his permanent residence. In 2012, he began listing the property on unspecified Internet sites, offering to rent it for terms ranging from one night to a month to an entire season. Fruchter asserted that he always rented the entire residence and did not stay there when it was rented, and that he did not serve or offer any food or beverages.

Hurley’s code enforcement officer issued an order to remedy to Fruchter for illegally operating a bed-and-breakfast or hotel. Fruchter appealed to the town’s Zoning Board of Appeals. The board determined that, under the Town Code, his short-term rentals were not allowed unless he obtained a special use permit. Fruchter then commenced a combined Civil Practice Law and Rules (CPLR) article 78 proceeding (used to appeal decisions of New York state or local agencies to the state courts) and action for declaratory judgment in the Supreme Court (New York’s state trial court). The Supreme Court dismissed his petition, and declared that his due process and equal protection rights had not been violated.

Fruchter appealed, contending that the Town Code did not require a special use permit for the type of short-term rentals he provides.

Emphasizing the importance of the specific language of the ordinance, the Appellate Division noted that while the courts were generally deferential to Zoning Board of Appeals’ determinations, it need not be deferential where addressing, as here, a purely legal interpretation of a zoning law or ordinance. In that latter circumstance, it noted “zoning restrictions are in derogation of the common law . . . [and they] are strictly construed against the regulating municipality.”

The Court noted the town had not updated its ordinances to address the ramification of the emerging “sharing economy.” As such, “[t]he issue thus distills to whether the rentals removed the property from the definition of residential one-family dwellings and whether such activity fits under another definition in the Town Code.” The Appellate Division found these rentals did not remove his property from the definition of a single family residence, and did not fit within the definitions of a hotel, motel, or bed-and-breakfast. Accordingly, the Court vacated the Zoning Board of Appeals’ determination. (It did find, however, that the Supreme Court correctly found there had been no denial of Fruchter’s due process or equal protection rights.)

The clash between the emerging sharing economies and the language of local land use ordinances affects both homeowners’ rights and the hospitality industry’s responses to these new competitors. This case provides useful guidance to municipalities drafting ordinances, homeowners seeking to participate in the sharing economy, homeowners’ associations seeking to

regulate owner uses of property to residential uses, and hospitality industry members seeking to challenge non-conforming competitors.

Attorneys in Ballard Spahr's New York office represent clients in all aspects of real estate transactions and disputes. The firm's practice groups dedicated to Real Estate and Construction Litigation and Resort and Hotel regularly counsel clients in New York and nationally on transactions and disputes involving the hospitality industry. For more information or questions about the New York ruling or other real estate issue, please contact Andrew J. Petrie, who is admitted to practice in New York state courts as well as other state and federal courts, at 303.299.7339 or petrica@ballardspahr.com, Michael Pollack at 212.346.8030 or pollackmv@ballardspahr.com, or Resort and Hotel Practice Group Leader Christopher W. Payne at 303.299.7345 or payne@ballardspahr.com.

Copyright © 2016 by Ballard Spahr LLP.

www.ballardspahr.com

(No claim to original U.S. government material.)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, including electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the author and publisher.

This alert is a periodic publication of Ballard Spahr LLP and is intended to notify recipients of new developments in the law. It should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own attorney concerning your situation and specific legal questions you have.

EXHIBIT F

133 A.D.3d 1174

Supreme Court, Appellate Division,
Third Department, New York.

In the Matter of David FRUCHTER, as
Trustee of the Healy Family Trust, Appellant,
v.

ZONING BOARD OF APPEALS OF the
TOWN OF HURLEY, et al., Respondents.

Nov. 25, 2015.

Synopsis

Background: Property owner brought article 78 proceeding and action for a declaratory judgment to review determination of town's zoning board of appeals (ZBA) requiring owner to obtain special use permit for renting out residence. The Supreme Court, Melkonian, J., dismissed petition. Owner appealed.

[Holding:] The Supreme Court, Appellate Division, Lahtinen, J.P., held that owner's use of property did not require special use permit.

Reversed.

West Headnotes (3)

[1] Zoning and Planning

⚙ Construction by board or agency

Zoning and Planning

⚙ Decisions of boards or officers in general

Judicial review of a determination of a zoning board of appeals is generally deferential, and that body is accorded reasonable discretion in interpreting an ordinance that addresses an area of zoning where it is difficult or impractical for a legislative body to lay down a rule which is both definitive and all-encompassing; however, where the issue presented is one of pure legal interpretation of the underlying zoning law or ordinance, deference is not required.

3 Cases that cite this headnote

[2] Zoning and Planning

⚙ Strict or liberal construction in general

Since zoning restrictions are in derogation of the common law they are strictly construed against the regulating municipality.

2 Cases that cite this headnote

[3] Zoning and Planning

⚙ Hotels, lodging, and short-term rentals

Activity of property owner in renting out two-bedroom single-family residence for one night, one month, or entire season, did not fit neatly into definitions in town code of either bed and breakfast or hotel, and thus use did not fall within definition of activities requiring special use permit; property was not owner-occupied dwelling in which only rooms were being rented as provided in definition of bed-and-breakfast, and residence did not have common exterior entrance or entrances as set forth in definition of hotel, and town code did not otherwise expressly prohibit rental of residence.

1 Cases that cite this headnote

Attorneys and Law Firms

****702** Law Offices of Jeffrey P. Siegel, Woodstock (Jeffrey P. Siegel of counsel), for appellant.

Law Offices of John J. Darwak, Shokan (John J. Darwak of counsel), for respondents.

Before: LAHTINEN, J.P., GARRY, EGAN JR. and CLARK, JJ.

Opinion

LAHTINEN, J.P.

***1174** Appeal from a judgment of the Supreme Court (Melkonian, J.), entered June 2, 2014 in Ulster County, which dismissed petitioner's application, in a combined

proceeding pursuant to CPLR article 78 and action for a declaratory judgment, to, among other things, review a determination of respondent Zoning Board of Appeals of the Town of Hurley requiring petitioner to obtain a special use permit.

Petitioner owns and considers as his permanent residence a two-bedroom single-family residence located on about four acres in the Town of Hurley, Ulster County. The residence is in an area zoned A-4 residential. In 2012, he began listing the property on the Internet offering to rent it for terms ranging from one night to a month or an entire season. According to petitioner, he always rents the entire residence, he does not stay there when the residence is rented, and he does not serve or offer any food or beverages. Respondent Glenn Hofstatter, the code enforcement officer for the Town, issued petitioner an order to remedy for illegally operating a bed-and-breakfast or *1175 hotel. Petitioner appealed to respondent Zoning Board of Appeals of the Town of Hurley (hereinafter ZBA), which determined that, under the Town Code, petitioner's short-term rentals were not allowed unless he obtained a special use permit. He commenced this combined CPLR article 78 proceeding and action for declaratory judgment. Supreme Court dismissed the petition and declared that petitioner's due process and equal protection rights were not violated. Petitioner appeals contending that the Town Code does not require a special use permit for the type of short-term rentals that he provides.

[1] [2] Judicial review of a determination of a zoning board of appeals is generally deferential (*see Matter of Meier v. Village of Champlain Zoning Bd. of Appeals*, 129 A.D.3d 1364, 1365, 11 N.Y.S.3d 743 [2015]), and that body is accorded reasonable discretion in interpreting an ordinance that addresses an area of zoning "where it is difficult or impractical for a legislative body to lay down a rule which is both definitive and all-encompassing" (*Matter of Frishman v. Schmidt*, 61 N.Y.2d 823, 825, 473 N.Y.S.2d 957, 462 N.E.2d 134 [1984]). However, where, as here, " 'the issue presented is one of pure legal interpretation of the underlying zoning law or ordinance, deference is not required' " (*Matter of Albany Basketball & Sports Corp. v. City of Albany*, 116 A.D.3d 1135, 1137, 983 N.Y.S.2d 337 [2014], *lv. denied* **703 23 N.Y.3d 907, 2014 WL 2934459 [2014], quoting *Matter of Subdivisions, Inc. v. Town of Sullivan*, 92 A.D.3d 1184, 1185, 938 N.Y.S.2d 682 [2012], *lv. denied* 19 N.Y.3d 811,

2012 WL 3931116 [2012]). Since "zoning restrictions are in derogation of the common law ... [they] are strictly construed against the regulating municipality" (*Matter of Saratoga County Economic Opportunity Council, Inc. v. Village of Ballston Spa Zoning Bd. of Appeals*, 112 A.D.3d 1035, 1036, 977 N.Y.S.2d 419 [2013]; *see FGL & L Prop. Corp. v. City of Rye*, 66 N.Y.2d 111, 115, 495 N.Y.S.2d 321, 485 N.E.2d 986 [1985]).

[3] Petitioner's activity does not fit neatly into the definitions in the Town Code. The Town Code does not appear to have been updated to consider the ramifications from the emergence of the so-called "sharing economy," which includes the type of house sharing or short-term rentals recently made popular by various platforms on the Internet (*see generally The Rise of the Sharing Economy*, *The Economist*, March 9, 2013, <http://www.economist.com/news/leaders/21573014> [accessed Oct. 26, 2015]; Jamila Jefferson-Jones, *Airbnb and the Housing Segment of the Modern "Sharing Economy"*, 42 *Hastings Const. L.Q.* 557 [2015]; *cf. Matter of Atkinson v. Wilt*, 94 A.D.3d 1218, 1219, 941 N.Y.S.2d 798 [2012]). Residential uses of one-family dwellings are permitted *1176 in the relevant A-4 district under the Town Code. And, absent the challenged short-term rentals, petitioner's property is undisputedly a one-family dwelling. The issue thus distills to whether the rentals removed the property from the definition of residential one-family dwellings and whether such activity fits under another definition in the Town Code.

Although the ZBA did not determine the category of use that petitioner's activity constituted under the Town Code, it upheld Hofstatter's determination, which had labeled the use as either a bed and breakfast or hotel. However, petitioner's use of the property does not fall under the definitions in the Town Code of either of these. Petitioner's residence, among other things, did not have "a common exterior entrance or entrances" as set forth in the definition of a hotel. Moreover, since petitioner always rented the entire premises and he did not remain on the premises when rented, it was not an "owner-occupied dwelling" in which only "rooms" were being rented as provided in the definition of a bed-and-breakfast. Although the definitions of "dwelling" and "residences" excluded various activities, including motel, hotel and "transient" occupancy, the term transient is not defined and, when considered in the context of the entire Town Code, does not clearly apply to petitioner's activity.

Fruchter v. Zoning Bd. of Appeals of Town of Hurley, 133 A.D.3d 1174 (2015)

20 N.Y.S.3d 701, 2015 N.Y. Slip Op. 08689

Inasmuch as petitioner's use does not fall within the definition of activities requiring a special use permit, and the Town Code does not otherwise "expressly prohibit[] petitioner[] from renting [his] residence to vacationers[.] ... we cannot say that petitioner[s] decision to do so placed [his] otherwise obviously residential structure outside the Town's definition of a [residential one-family dwelling]" (*Matter of Atkinson v. Wilt*, 94 A.D.3d at 1221, 941 N.Y.S.2d 798). We do, however, agree with Supreme Court that petitioner failed to establish a denial of due process or equal protection.

ORDERED that the judgment is modified, on the law, without costs, by reversing so much thereof as dismissed the petition; petition granted to the extent of annulling the determination of respondent Zoning Board of Appeals of the Town of Hurley; and, as so modified, affirmed.

GARRY, EGAN JR. and CLARK, JJ., concur.

All Citations

133 A.D.3d 1174, 20 N.Y.S.3d 701, 2015 N.Y. Slip Op. 08689

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

EXHIBIT G

Menu

Search

[\(/newyorklawjournal/search/\)](http://newyorklawjournal.com/search/)**New York Law Journal** [\(/newyorklawjournal/\)](http://newyorklawjournal.com/)POWERED BY LAW.COM [\(/\)](http://www.law.com/)

promoCode=NY&source=https://www

PROMOCODE=NY&SOURCE=HTTPS

[Publications \(/publications\)](http://newyorklawjournal.com/publications/)[Law Topics \(/topics\)](http://newyorklawjournal.com/topics/)[Cases \(/newyorklawjournal/case-digests/\)](http://newyorklawjournal.com/case-digests/)[Business of Law \(/newyorklawjournal/business-of-law/\)](http://newyorklawjournal.com/business-of-law/)[Columns \(/newyorklawjournal/columns/\)](http://newyorklawjournal.com/columns/)[Editorials \(/newyorklawjournal/editorials/\)](http://newyorklawjournal.com/editorials/)[People & Community \(/newyorklawjournal/people-and-community/\)](http://newyorklawjournal.com/people-and-community/)

The Municipal Official's Guide to Short-Term Rental Regulations

By Mark A. Cuthbertson | October 20, 2017 at 02:03 PM

f

in

t

G+

<http://www.law.com/newyorklawjournal/almID/1202801000826/>*Mark A. Cuthbertson ()*

Local governments often have to regulate rental properties, driven by constituents concerned about the impact that both long and short-term tenants will have on the quality of life in their communities. With the rise of homestay companies like AirBnB, there has been an explosion in the number of short-term rentals (i.e., rentals for less than 30 days), putting many municipalities under pressure from both sides to reexamine their regulatory schemes. This pressure comes from both those who would like to avail themselves to homestay companies as a source of revenue, and those who have concerns about the impact of allowing such uses.

This column will examine the arguments for and against short-term rentals, using AirBnB as an example, and discuss different regulatory tools available to municipal officials to regulate such activity.

Homestay Companies

Homestay companies like AirBnB provide a peer-to-peer platform for property owners (or "hosts") to list and rent accommodations to other individuals. Such rentals can range from an entire single-family home to a spare couch, on anywhere from a nightly to monthly basis. Hosts set their own prices, and the company takes a percentage fee from both host and renter (or "guest") for each transaction.

Trending Stories

1 **Meet These Women GCs Who Are Transforming the Legal World**

[\(/corpcounsel/sites/corpcounsel.com/files/2017/10/20/Meet-These-Women-GCs-Who-Are-Transforming-the-Legal-World.pdf\)](http://corpcounsel.com/sites/corpcounsel.com/files/2017/10/20/Meet-These-Women-GCs-Who-Are-Transforming-the-Legal-World.pdf)[CORPORATE COUNSEL \(/CORPCOUNSEL/\)](http://corpcounsel.com/)

2 **Weil, King & Spalding Add Kirkland Bankruptcy Partners**

[\(/americanlawyer/sites/americanlawyer.com/files/2017/10/20/Weil-King-Spalding-Add-Kirkland-Bankruptcy-Partners.pdf\)](http://americanlawyer.com/sites/americanlawyer.com/files/2017/10/20/Weil-King-Spalding-Add-Kirkland-Bankruptcy-Partners.pdf)[THE AMERICAN LAWYER \(/AMERICANLAWYER/\)](http://americanlawyer.com/)

3 **Millennial Lawyers Explain Why They Flock to New York Midsize Firms**

[\(/newyorklawjournal/sites/newyorklawjournal.com/files/2017/10/20/Millennial-Lawyers-Explain-Why-They-Flock-to-New-York-Midsize-Firms.pdf\)](http://newyorklawjournal.com/sites/newyorklawjournal.com/files/2017/10/20/Millennial-Lawyers-Explain-Why-They-Flock-to-New-York-Midsize-Firms.pdf)[NEW YORK LAW JOURNAL \(/NEWYORKLAWJOURNAL/\)](http://newyorklawjournal.com/)

4 **Male Clients Disfavor Women Partners**

[\(/americanlawyer/sites/americanlawyer.com/files/2017/10/20/Male-Clients-Disfavor-Women-Partners.pdf\)](http://americanlawyer.com/sites/americanlawyer.com/files/2017/10/20/Male-Clients-Disfavor-Women-Partners.pdf)[THE AMERICAN LAWYER \(/AMERICANLAWYER/\)](http://americanlawyer.com/)

5 **2017's Top 10 Troubled Lawyers and Judges in Texas**

[\(/texaslawyer/sites/texaslawyer.com/files/2017/10/20/2017s-Top-10-Troubled-Lawyers-and-Judges-in-Texas-2.pdf\)](http://texaslawyer.com/sites/texaslawyer.com/files/2017/10/20/2017s-Top-10-Troubled-Lawyers-and-Judges-in-Texas-2.pdf)[TEXAS LAWYER \(/TEXASLAWYER/\)](http://texaslawyer.com/)

The AirBnB model has proved incredibly popular. In 2016, AirBnB was valued at \$31 billion. The company reported over three million listings in 191 countries, and nearly two million guests stayed with 48,600 hosts in New York state alone.

Benefits and Criticisms

To advocates of AirBnB, short-term rentals benefit all involved. The median earnings for a host in New York are \$5,468, and \$9,800 for hosts on Long Island. This supplemental income can offset rent, property taxes, or just put extra money in an owner's pockets. For hosts, AirBnB is an alternative to traditional hotels that can better fit a guest's needs for cost or location. Thus, advocates claim short-term rentals are good for both users and the economy.

Critics see matters differently. Common complaints include excessive noise, large public gatherings, reduced parking availability, and other impacts affecting quality of life. Critics also allege that homestay companies adversely impact local housing stock and rental prices, as some investors will buy multiple homes or apartments for full-time use as short-term rentals. As a result, many municipalities are reexamining how they regulate short-term rentals.

Regulatory Responses

Municipalities have adopted a wide range of regulations for short-term rentals. At one extreme, municipalities like the Town of Hempstead have imposed a total ban on short-term rentals. At the other end of the spectrum, some municipalities have opted against imposing short-term rental regulations at all. Yet many municipalities take a middle road, allowing some short-term rentals subject to certain limitations. The hope is that with thoughtful regulation, users can continue to reap the benefits of homestay companies, while mitigating any negative impacts.

Very often, a regulation will be adopted requiring that any rented dwellings be owner-occupied (i.e., the owner's primary residence). This serves two purposes. First, an owner-occupancy requirement limits the ability of individuals to purchase multiple properties for use as short-term rentals, and may mitigate the impact short-term rental regulations have on local housing stock and rental prices. In addition, owner-occupancy creates a level of accountability as the owner can observe the guests and respond to complaints from authorities or neighbors if prohibited or disruptive conduct occurs. A less restrictive version of this requirement allows the owner to be absent from the property, provided that a local contact is available at all times to address complaints.

Another requirement commonly used to regulate short-term rentals are durational limits. Such limits can include caps on the length of any individual rental, limits on the number of consecutive days a dwelling may be rented out, or aggregate limits on how many days per month or year that the dwelling may be used as a short-term rental. Durational limits primarily serve to protect the residential character of a neighborhood, ensuring that residences do not become full-time commercial uses.

Finally, municipalities can regulate short-term rentals through permit conditions, which are undoubtedly the broadest and most versatile regulatory tool that municipalities have at their disposal. Specifically, a municipality may require that property owners acquire rental permits, and then condition the issuance and

renewal of such permits on the property owner's compliance with various regulations. By doing so, municipalities can address many of the quality of life concerns expressed by local property owners. Permit requirements can also provide ancillary benefits to a municipality, such as information about the properties being used as short-term rentals.

The specific permit conditions imposed by a municipality can vary between jurisdictions. However, as many municipalities are confronted with similar issues regarding short-term rentals, there is significant overlap in the broad strokes of their regulatory responses. For example, municipalities nearly always include some form of noise restrictions on short-term rentals. These noise limits can be applied generally or limited to specific hours of the day (e.g., 10:00 p.m. to 8:00 a.m.), and even vary between weekdays and weekends. Moreover, the noise limit can be framed objectively, using volume as measured in decibels, or using a discretionary standard based upon reasonableness in light of the particular time and location.

Another common permit condition is a limitation on assembly. Regulations may prohibit certain types of gatherings, such as wedding parties, or generally limit the number of non-residents on the property. One approach caps the number of guests that a tenant can invite to the property. Alternatively, the property owner can be prohibited from having a certain number of non-residents on the property at any given time. This can also be coupled with limits on the number of rentals per property at any given time, and off-street parking requirements to blunt the impact of multiple guests with respect to on-street parking.

Municipalities can also benefit financially from imposing permit requirements. The clearest example is additional revenue raised by permit application and renewal fees. Such fees can range from modest amounts to substantial annual fees of \$300 or more, based upon the administrative expense of the program and whether the municipality wishes to deter the number of renters.

Finally, the permit application process itself can provide a significant amount of information. A municipality can use this information to track the number and distribution of short-term rentals in its jurisdiction, and, if necessary, limit the issuance of new permits to stop or slow the growth in short-term rentals.

The Bottom Line

For some municipalities, the favored approach to homestay companies will always be a flat-out prohibition on short-term rentals. There is an attractive simplicity in banning short-term rentals, or even avoiding the issue entirely by declining to impose regulations. However, such options inherently require rejecting one side's viewpoint in favor of another. Given the strong emotions that homestay companies evoke on both sides, an absolutist approach will often not end debate on the issue.

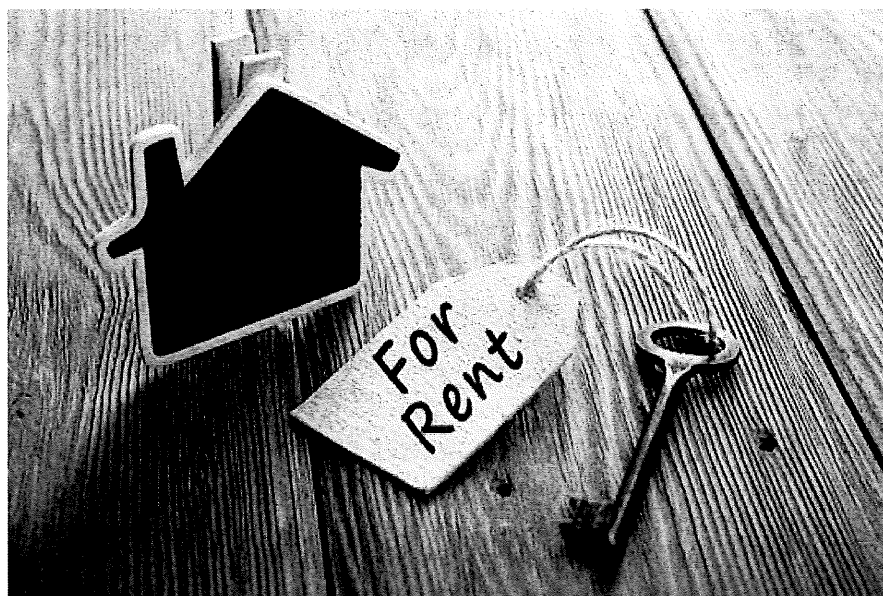
Permitting short-term rentals, while subjecting them to reasonable regulations, may be the only viable, long-term approach that municipalities have. Accordingly, municipalities should carefully consider how to best craft regulations that fit with the needs of both their constituents and communities.

EXHIBIT H

5 Legal and Regulatory Considerations for Short-Term Rentals

Alexis Brachel, Senior Manager, Business Licenses
July 12, 2017

Share     



Short-term rental business opportunities such as Airbnb, HomeAway and VRBO are a great way for homeowners to earn money. Whether you're looking to subsidize your income or defray the costs of owning a second home or vacation property, it's a hot market. According to Research and Markets, the global vacation rental market will reach \$169.7 billion by 2019.

But as short-term rentals have grown beyond a cottage industry, regulators are playing catch-up. Spurred by complaints from neighboring residents and the traditional hotel industry, cities are enacting laws to regulate short-term rentals across the nation. The fines for non-compliance can be substantial. Last year, the city of Miami Beach, FL, issued fines of \$1.59 million from the period March through August alone, with fines for a first violation starting at \$20,000.

With such costly and ever-evolving regulatory dynamics, it's important that property owners understand the legal considerations for short-term rentals. Below are answers to five commonly asked questions about the laws and regulations that govern short-term rental businesses:

1. What's the Definition of a Short-Term Rental?

Sounds straightforward, right? You rent a room or your entire property to a guest for a short period of time. However, it's not quite that simple. The definition of a short-term rental can vary based on two key factors:

- **The Type of Structure**

Each city or county has varying definitions of what constitutes a "short-term rental property".

In Nashville, TN, for example, a short-term rental property (STRP) is defined as "a residential dwelling unit, containing more than four sleeping rooms, that is used and/or advertised through an online marketplace for rent for transient occupancy by guests."

However, head on over to the Rockies where in Denver, CO you'll come across a different definition of a short-term rental: "the rental of a shared room, a single room, multiple rooms or an entire property for a period ranging from 1-29 days."

The definition is important because it doesn't just impact how you rent out your space, but also the types of licenses and permits you need and other laws that may apply. Check with your city or county website to find out more.

- **Length of Stay**

How long you open your property to renters is also key in defining it as a short-term rental or not.

In the Nashville example above, the length of stay must be limited to a period between 1-29 days. However, in Santa Monica, CA, short-term rental regulations are much stricter and prohibit the rental of an entire unit for less than 30 days. Similarly, in New Jersey, the state government recently moved to regulate short-term rentals to require a minimum stay of 30 consecutive days so as to avoid a negative impact on the quality of life in residential neighborhoods.

2. What Are the Legal Restrictions for Short-Term Rentals?

In addition to regulating the type of structure and length of stay, there are several other legal restrictions that short-stay rental

businesses are subject to. Again, these vary by city and/or state.

Here are just some of the common restrictions:

- **Prohibition of Short-Term Rental** – Some cities completely prohibit short-term rentals. In California, the City of Santa Barbara defines short-term rentals as “hotels” that can only operate in designated zones and then only if all necessary approvals are obtained. In San Diego, short-term rentals are prohibited in any zone.
- **Limits to the Number of Rental Properties in a Location** – Large cities and tourist destinations tend to have strict rules, such as placing limits on the number of short-term rentals in any given zone. For example, New Orleans, LA, bans short-term rentals in the French Quarter, except for certain areas. The city even has the cooperation of Airbnb and city enforcement officers to track down violations and complaints.
- **Multiple Dwelling Laws** – New York City has some of the toughest restrictions on short-term lets. To prevent disruption to residents and help prop up its hotel industry, New York’s Multiple Dwelling Law (MDL) only permits rentals of less than 30-days in “Class A” multiple dwellings (buildings with three or more families living independently) if a permanent resident is present. Violations are up to \$2,500 a day. Another law makes it illegal to advertise a rental that is prohibited by the MDL.

Be sure to check the laws in your city or state. If you intend to rent condo or co-op space, consult your association rules to see if anything limits your ability to rent space as well as HOA bylaws or timeshare ownership rules. If you rent your property from a landlord, be sure to get his ok too.

3. What Licenses and Permits are Required?

Here’s a checklist of what licenses or permits you may need to obtain:

- **A General Business License.** If you’re operating any sort of a business, including renting property, your city or county will likely require you to obtain a license or permit.
- **Short-Term Rental License** – You may also need a short-term rental license or permit. Applications typically require you to attest that the property meets health and safety requirements (such as smoke detectors and fire extinguishers), is up to code, compliant with zoning laws and that adjoining properties have been notified. Proof may also be required that the unit being rented is your primary or secondary residence.

Check your local government website for details or refer to the “Getting Started” information through your online rental company

(Airbnb, VRBO, etc.) for license and permit requirements in your area.

4. What About Zoning Rules?

We've mentioned zoning laws already, don't skip this important step in your business planning. If your property is not zoned for short-term rentals, your options are very limited. Don't take the risk, all it takes is a complaint from a disgruntled neighbor to trigger a cease and desist notice from the zoning department.

5. How to Pay Taxes on Short-Term Rentals?

Taxes are a critical part of regulatory compliance. In addition to paying income tax and self-employment taxes, some local governments impose a short-term rental occupancy tax (lodging or hotel tax). It's a good idea to consult your tax advisor to see which tax deductions you can claim. For example, the IRS lets you claim rental expenses for property and rooms rented (such as rental fees charged by short-term rental companies) if you meet certain criteria. Be sure to keep thorough records of all rental periods and any expense incurred throughout the year.

Conclusion

The laws and regulations that govern the short-term rental market are constantly changing. As demand grows, more and more cities and vacation destinations are taking steps to protect residential neighborhoods and guests alike.

It's a fluid situation and many state and local lawmakers are trying to ease regulations. In Texas, senators are working to prevent Texas cities from banning short-term rentals of less than 30-days and bring state-wide uniformity to laws. As short-term renting becomes mainstream, expect other states to follow suit.

EXHIBIT I

Five things every local government leader needs to know about short-term vacation rentals

The rise and growth of short-term rental platforms has created plenty of debate amongst local governments, the hotel industry, the real estate lobby and local residents about what to do with it. From a local government perspective, there is no single universal regulatory approach that works, but a number of key factors to consider in developing a strategy. In this short article, you'll find five of the most important facts local government officials need to know about short-term vacation rentals.

1. IT'S ALREADY BIGGER THAN THE HOTEL INDUSTRY

Short-term vacation rental platforms, like Airbnb, Homeaway and Flipkey, have been emerging in the last ten years and growing rapidly since their inceptions. The biggest player in the field, Airbnb, has been valued at \$30 billion surpassing major hotel chains such as Hilton, Marriott and Intercontinental. And by all indications, there's no end in sight to the growth of the short-term vacation rentals industry.

In the early phases, short-term vacation rentals were mainly used by some early-adapting millennials looking for an authentic and cheap way to travel, by now it is serving around 5 million guests in different segments ranging from business travelers to young families with children. Some property owners are even turning residential housing into vacation rentals making a full-time business out of short-term rentals. With the huge success of the platform, Airbnb is now expanding its services even further into new markets and is expected to hit the milestone of one million bookings a year worldwide by 2025. Meanwhile other platforms such as HomeAway continue to grow as well with an expected rate of 24% in revenue annually.

2. SHORT-TERM RENTALS IMPACT COMMUNITIES OF ALL SIZES

For some cities the arrival of short-term vacation rentals is seen as a way to stimulate tourism, for local families to generate some extra income and for the city as a whole to benefit from increased tourism spending. For other cities it has been accompanied with stories about neighborhood-related challenges and reductions in long-term rental availability, especially in urban areas. One of the major impacts of short-term vacation rentals is that they are moving visitors into residential areas that were never meant for such an influx of travellers. In this respect popular tourist destinations like San Francisco, New York, Barcelona and Berlin have been battling with Airbnb because of the impacts on the housing market. At the same time nuisance related complaints and commercialization of neighborhoods are fueling the debate even more.

Short-term vacation rentals however are not only found in bigger cities, they are present in all types of places creating an impact on each and every one of them. At the moment over 1000 local governments in the United States have more than 100 unique short-term vacation rental listings and it's not just

vacation destinations and big cities, but increasingly small towns and rural areas as well. Whether the impact is considered positive or negative, big or small, it is definitely something you can't ignore.

3. IT AFFECTS HOUSING AVAILABILITY AND AFFORDABILITY

What has sparked most of the debate is the effects of short-term vacation rentals on the housing market. Visitors are now staying in apartments or houses reducing already diminished long-term rental stocks. As a consequence, housing affordability also becomes an issue. New York for example claims that short-term rentals have reduced housing stocks by 10% and in San Francisco short-term rentals are being blamed for driving housing prices up and availability down. Smaller cities like Madison and Long Beach City have also been wrestling with similar issues on housing availability and affordability.

4. THEY OPERATE IN A VAGUE AREA OF THE LAW

The pace at which the short-term vacation rental industry is growing is far greater than government's ability to regulate. Many existing ordinances related to accommodation were developed long before the existence of websites like Airbnb - as a result short-term vacation rentals are operating in many communities with no concrete laws, and even for those with updated regulations, many don't have an effective way to enforce these rules or collect taxes.

Several cities have come up with ways of regulating short-term vacation rentals in the form of restricting or sometimes even banning short-term vacation rentals from the city. But those cities that have taken a firm stance banning short-term vacation rentals have faced legal action from Airbnb. Santa Monica, CA for example was sued by Airbnb after instituting a ban. Best practice is quickly becoming to pass fair regulations that balance the rights of homeowners, while protecting neighborhoods from common short-term vacation rental issues like parking, noise and diminishing long-term rental stocks.

5. THE SHORT-TERM RENTAL INDUSTRY WON'T SHARE LISTINGS INFORMATION

Companies such as Airbnb, Flipkey and Homeaway refuse to share listings data with governments citing host privacy concerns. Unless local governments are prepared to make major investments in staff, to comb through listings to identify non-complying hosts and drive through city streets to identify them - enforcing short-term rental regulations becomes a nearly impossible task.

Not even major cities have succeeded in obtaining listings information. San Francisco for example gets data from Airbnb about the amount of listings per person but does not get insights to the number of hosts or where they are located. In Amsterdam listings are removed from the website automatically after the rental limit of 60 days has been reached, but no other information is shared. Without address data, all local governments have to go on is pictures on a listing and a rough idea of where that property is located.

City of Beacon Workshop Agenda
1/29/2018

Title:

Executive Session: personnel and contract negotiations

Subject:

Background:

ATTACHMENTS:

Description	Type
Executive Session	Backup Material
Executive Session	Backup Material