



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
February 13, 2018
7:00 PM**

Workshop Agenda Items:

1. Police Chief and Captain introductions
2. Energize NY agreement
3. Energize NY Local Law Amendments
4. Tree Preservation Local Law
5. Airbnb Legislation
6. Historic Preservation Local Law
7. Iannarelli Tax certiorari settlement
8. Upcoming Public Hearing to receive public comment on a proposed Local Law to amend Chapter 223 of the Code of the City of Beacon concerning the Fishkill Creek Development District (FCDD)
9. Upcoming Public Hearing to receive public comment on a proposed Local Law to amend Chapter 223 of the Code of the City of Beacon concerning Public Notice Signs

City of Beacon Workshop Agenda
2/13/2018

Title:

Police Chief and Captain introductions

Subject:

Background:

City of Beacon Workshop Agenda
2/13/2018

Title:

Energize NY agreement

Subject:

Background:

ATTACHMENTS:

Description	Type
Energize NY revised local law	Backup Material

LOCAL LAW NO. – 20

**A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM
IN THE _____**

Be it enacted by the [County/City/Town/Village] of _____ as follows:

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the _____ and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The _____ finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the _____ pursuant to the municipal agreement to be entered into between the _____ and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The _____ is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the _____”.

§2. Definitions

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the _____ to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the _____ tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the _____ taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the _____ that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the _____, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in the _____ may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the _____ offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the _____, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the _____, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

§5. Application criteria

Upon the submission of an application, EIC acting on behalf of the _____, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as the _____, or EIC acting on its behalf, may set from time to time.

§6. Opt-in, Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the _____ (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of _____, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the _____, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their _____ tax bill and shall be levied and collected at the same time and in the same manner as _____ property taxes, provided that such charge shall be separately listed on the tax bill. The _____ shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to _____.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the _____.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the _____ at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the _____ on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The _____ shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This local law shall take effect upon filing with the Secretary of State.

City of Beacon Workshop Agenda
2/13/2018

Title:

Energize NY Local Law Amendments

Subject:

Background:

ATTACHMENTS:

Description

Energize NY Loan Program

Type

Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO
AMEND CHAPTER 106, ARTICLE I OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to amend Chapter 106, Article of Code of the City of Beacon to amend the Sustainable Energy Loan Program in the City of Beacon.

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

SECTION 1. Chapter 106, Article I of the Code of the City of Beacon entitled “Energize NY Benefit Financing Program” is amended as follows:

§106-1. Legislative findings, intent and purpose; authority; title

- A. It is the policy of both the City of Beacon and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City of Beacon finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the City of Beacon pursuant to the municipal agreement to be entered into between the City of Beacon and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this article and fulfilling an important public purpose.
- B. The City of Beacon is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.

C. This article shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the City of Beacon”.

§ 106-2. Definitions

For purposes of this article, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

AUTHORITY

The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC

The Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the City of Beacon to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this article) and providing for repayment of such funds from monies collected by the City of Beacon ~~Tax Collector~~ tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the City of Beacon taxes.

ENERGY AUDIT

A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

ENERGY EFFICIENCY IMPROVEMENT

Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

QUALIFIED PROPERTY OWNER

An owner of residential or commercial real property located within the boundaries of the City of Beacon that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this article.

RENEWABLE ENERGY SYSTEM

An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

RENEWABLE ENERGY SYSTEM FEASIBILITY STUDY

A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§ 106-3 Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the City of Beacon, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this article, to finance the acquisition, construction and installation of renewable energy systems and energy efficiency improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, tThe funds provided shall not exceed the lesser of: (i) 10% of the appraised value of the real property where the renewable energy systems and/or energy efficiency improvements will be located, or (ii) the actual cost of installing the renewable energy systems and/or energy efficiency improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§ 106-4. Procedures for eligibility

- A. Any property owner in the City of Beacon may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City of Beacon offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City of Beacon, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in Subsection A of

§ 106-5 of this article. EIC may also request further information from the property owner where necessary to aid in its determination.

- C. If a positive determination on an application is made by EIC acting on behalf of the City of Beacon, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under § 106-6 of this article; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of energy efficiency improvements and/or renewable energy systems be deemed a qualified property owner.

§ 106-5. Application criteria

Upon the submission of an application, EIC acting on behalf of the City of Beacon, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed energy efficiency improvements and/or renewable energy systems are determined to be cost effective based on guidelines issued by the Authority;
- B. ~~(4) The proposed property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;~~
- C. ~~(2) The proposed energy efficiency improvements and/or renewable energy systems will generate an estimated annual cost savings greater than the annual charge payments; The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of renewable energy systems and energy efficiency improvements to be installed on the property as determined by EIC;~~
- D. ~~(3)~~ Sufficient funds are available from EIC to provide financing to the property owner;
- E. ~~(4)~~ The property owner is current in payments on any existing mortgage;
- F. ~~(5)~~ The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. ~~(6)~~ Such additional criteria, not inconsistent with the criteria set forth above, as the City of Beacon, or EIC acting on its behalf, may set from time to time.

§ 106-6. Opt-in: ~~E~~nergize NY ~~F~~inance ~~A~~greement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize NY Finance Agreement made by and

between the qualified property owner and EIC, acting on the behalf of the City of Beacon (the “Energize NY Finance Agreement”).

- B. Upon execution of the Eenergize NY Ffinance Aagreement, the qualified property owner shall be eligible to receive funds from EIC acting on behalf of City of Beacon, for the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements; provided the requirements of § 106-7 of this article have been met.
- C. The Eenergize NY Ffinance Aagreement shall include the terms and conditions of repayment set forth under § **106-8** of this article.

§ 106-7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for energy efficiency improvements unless determined to be appropriate through an energy audit as defined in § **106-2**.
- B. No funds shall be made available for a renewable energy system unless determined to be feasible through a renewable energy system feasibility study as defined in § **106-2**.
- C. The cost of such energy audit and/or renewable energy system feasibility study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§ 106-8. Terms and conditions of repayment

The Eenergize NY Ffinance Aagreement between the Qualified Property Owner and EIC acting on behalf of the City of Beacon, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their City of Beacon tax bill and shall be levied and collected at the same time and in the same manner as City of Beacon property taxes, provided that such charge shall be separately listed on the tax bill. The City of Beacon shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to the City of Beacon tax due date.
- B. The term of such repayment shall be determined at the time the Eenergize NY Ffinance Aagreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City of Beacon.

- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the City of Beacon at the time the ~~E~~nergize ~~NY~~ ~~F~~inance ~~A~~greement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§ 106-9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the City of Beacon on the installation and performance of renewable energy systems and energy efficiency improvements financed by such program.
- B. The City of Beacon shall verify and report on the installation and performance of renewable energy systems and energy efficiency improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

SECTION 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 106 of the City of Beacon Code is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 4. 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 5. Effective Date

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

City of Beacon Workshop Agenda
2/13/2018

Title:

Tree Preservation Local Law

Subject:

Background:

ATTACHMENTS:

Description

Tree Removal LL

Type

Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

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

A LOCAL LAW to 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 204 of the Code of the City of Beacon entitled “Sand and Gravel Excavation and Tree Removal” is amended as follows:

ARTICLE I. DEFINITIONS

§ 204-1 Definitions.

As used in this chapter, the following terms 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

EXCAVATION or GRADING

Excavation or grading by blasting or by use of power-assisted machinery or equipment. The excavation, grading, removal or processing of topsoil, clay, sand, gravel, rock or other earth materials; dumping, filling or depositing of such earth materials or fill of any kind.

SLASHING OF TREES

The cutting down, 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 DBH of six inches or more at height of three feet above ground.

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 down 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.

ARTICLE II. EXCAVATION AND GRADING PERMIT

§ 204-2 ~~Regulated activities: temporary permit.~~ Excavation or Grading Permit.

Excavation or Grading activities on any lot are regulated under this article and are permitted only under an Excavation or Grading Permit granted by the Building Inspector.

~~On any lot, excavation, grading or removal of topsoil, clay, sand, gravel, rock or other earth materials; dumping, 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 under §§ 204-3 through 204-9 or as one of the exemptions hereinafter specified. Within 20 days after the Building Inspector City Engineer 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.~~

§ 204-3 Application for ~~temporary permit~~ Excavation or Grading Permit.

Before any ~~temporary~~ permit for Excavation or Grading shall be granted, a written application shall be submitted to the Building Department ~~City Engineer~~, together with an application fee in accordance with the City of Beacon Fee Schedule, a cost estimate of the project and maps and plans, prepared by and bearing the seal of a land surveyor or professional engineer licensed to practice in the State of New York, showing the following:

- A. The area to be excavated or graded.
- B. Existing contour lines on the premises and proposed contour lines resulting from the intended excavation or removal, shown on a map drawn to a scale of not less than 100 feet to the inch and with a contour interval not to exceed two feet.
- C. Existing and proposed drainage on the premises.
- D. Existing state or federally regulated wetlands, rivers, streams or watercourses on or adjacent to the premises.
- E. Adjoining properties and streets.
- F. Proposed truck access to the property.
- G. Such additional information as the Building Inspector or City Engineer may deem necessary in order to decide upon such application.
- H. Erosion and sediment control to be employed during operations and restoration.

§ 204-4 Referral of application to City Engineer.

- A. Each application for an Excavation or Grading Permit shall be referred to the City Engineer by the Building Department within five days of the date of application. Within 30 days of the date of referral, the City Engineer shall forward its recommendation to the Building Inspector and shall indicate whether the application should be approve, disapproved or approved with modifications. The City Engineer shall take into consideration whether such excavation will result in the creation of any

sharp declivities, pits or depressions, soil erosion or fertilize problems, decrease property values, create any drainage or sewerage problems or other considerations which would impair the use of the property in accordance with the Zoning Ordinance.

- B. The applicant is responsible for reimbursing the City for the cost of professional review fees in connection with an application submitted to the City in accordance with the procedure set forth in § 223-61.1.

§ 204-45 Criteria for issuance of temporary permit for an Excavation or Grading Permit.

In acting on any application for an Excavation or Grading Permit, the Building Inspector shall take into consideration the recommendations of the City Engineer. The City Engineer Building Inspector may grant an temporary permit Excavation or Grading Permit for a limited period of time, not exceeding two years, if he or she shall determines find that such excavation will not result in the creation of any sharp declivities, pits or depressions, soil erosion or fertility problems, depressed land values nor create any drainage or sewerage problems or other conditions which would impair the use of the property, in accordance with the Zoning Ordinance, and that such excavation will be in harmony with the general purpose and intent of the Zoning Ordinance, and if the City Engineer Building Inspector further finds that the temporary permit Excavation or Grading Permit to be granted is capable of being completed within the time provided in the permit.

§ 204-56 Standards and conditions for issuance of a temporary permit for Excavation or Grading.

An temporary permit Excavation or Grading Permit shall be granted only subject to the following standards and conditions:

- A. That the premises shall be excavated and graded in conformity with the proposed contour plan, as approved.
- B. That slopes shall not exceed 30° to the horizontal or such lesser slope that the City Council may specify as necessary for the public health or safety, soil stability or for the reasonable use of the property after completion of the excavation.
- C. That no fixed machinery shall be erected or maintained in connection with the excavation and that no building shall be erected on the premises except temporary shelters for machinery and a field office.
- D. That there shall be no excavation or removal within 50 feet of any street or property line, except that, where the property to be excavated is considerably above street grade at the street line, removal may take place at a lesser distance from the street line if approved by the Building Inspector or City Engineer.

- E. That no regulated wetlands or required buffers be disturbed without proper state or federal approvals and that there shall be no sharp declivities, pits or depressions and that proper drainage will be provided to avoid stagnant water, soil erosion and water pollution.
- F. That after excavation or removal, the premises shall be cleared of debris within the time provided in the permit.
- G. That the top layer of arable soil for a depth of six inches shall be set aside and retained on the premises and shall be respread over the premises and that a suitable ground cover shall be planted and grown to an erosion-resistant condition, upon the completion of the excavation or removal, in accordance with the approved contour lines, and that such work shall be completed within the time provided for in the permit.
- H. If required by the Building Inspector or City Engineer, that the area to be excavated or a portion thereof shall be enclosed within a fence of such type, height and location as the Building Inspector City Engineer may specify.
- I. That the Building Inspector or City Engineer may establish a schedule to be filed with the records of such application and ~~temporary permit~~ Excavation or Grading Permit showing limitations on the day of the week or the hours of the day during which any work may be performed on the premises; limitations as to the size and type of machinery to be used on the premises; place and manner of disposal of excavated material; and requirements as to the control of dust, noise and lighting, if permitted, so as to prevent results injurious or offensive to the general public.
- J. That the Building Inspector City Engineer may require the applicant to submit periodic reports, prepared by and bearing the seal of a land surveyor or professional engineer licensed to practice in the State of New York, showing the status and progress of the excavation, and may require the applicant to pay to the City an inspection fee in an amount deemed necessary by the Building Inspector or City Engineer to defray the cost of inspection of the operation.

§ 204-6-7 Performance bond.

The applicant shall file with the City Clerk a performance bond, in form and with surety acceptable to the City Council, in such amount as the Building Inspector or City Engineer may deem sufficient to insure the faithful performance of the work to be undertaken.

§ 204-7 8 Revocation or suspension of Excavation or Grading Permit ~~temporary permits~~.

Any ~~temporary permit~~ Excavation or Grading Permit issued pursuant to the provisions of this ~~article~~ chapter may be revoked by the Building Inspector City Engineer, after written notice to the applicant, notice, in writing, and a hearing, for violation of any conditions of

the ~~temporary permit~~ Excavation or Grading Permit; violation of any provision of this ~~article~~ chapter, or any other law or ~~other~~ regulation relating to the work permitted; or the existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of another. Written notice shall be served by registered mail, return receipt requested, and by regular mail, to the applicant at the address shown on the application. The notice shall describe the reasons why the City is revoking the permit.

- ~~A. Notice. The notice shall describe the violation charged and may be either delivered personally or mailed postage prepaid to the address appearing on the application.~~
- ~~B. Suspension. Any temporary permit may be suspended for cause by the Building Inspector for a period not exceeding five days without a hearing. All work under any special permit shall be suspended following notice of hearing to revoke as provided for in this section.~~

§ 204-8 2 Exemptions.

~~An temporary permit~~ Excavation or Grading Permit is not required for conduct of one or more of the aforesaid regulated activities in the following cases, provided that the activity is conducted and completed in such a manner as to cause no danger to the public health and safety and no stagnant water, soil erosion, sedimentation, water pollution, excessive drainage runoff or flooding problems:

- A. In connection with a bona fide landscaping or other site improvement on a lot, provided that no fill is deposited within a watercourse, water body, swamp or other wetlands, and provided that disturbed areas are properly graded and reseeded or otherwise planted.
- B. In connection with the grading of land in or the construction and installation of roads, drainage and other improvements in a subdivision plat granted final approval by the Planning Board and only in accordance with plans as approved by the Planning Board.
- C. In connection with the construction, reconstruction, enlargement, moving or structural alteration of a building or other structure, including construction and installation of site improvements related thereto, for which an application for a certificate of occupancy and/or building permit shall have been approved by the Building Inspector, and only in accordance with plans accompanying such approved application or permit.
- D. In connection with a bona fide farming or forest management operation.
- ~~D. In connection with a bona fide landscaping or other site improvement on a lot, provided that no fill is deposited within a watercourse, water body, swamp or other wetlands, and provided that disturbed areas are properly graded and reseeded or otherwise planted.~~

§ 204-10. Appeals.

- A. The City Administrator shall hear and decide appeals from and review any order, denial, suspension or revocation made by the Building Inspector.
- B. Upon the denial of an application, or the suspension or revocation of a license, the applicant may, within 10 business days after receiving written notice, file a request, in writing, upon the City Administrator for review of said decision by the Building Inspector. Notice of the date, place and time of the hearing shall be given in writing by mail to the applicant at the address shown on the application. In the event that demand for a hearing is not made within the prescribed time or in the event that the applicant does not timely appear for the hearing, the Building Inspector's decision shall then be final and conclusive.
- C. The hearing shall commence no later than 30 days after the date on which the request was filed.
- D. The applicant shall be given an opportunity to present evidence why such denial of application, or such suspension or revocation of the license, shall be modified or withdrawn. The Building Inspector or his designated agent may also present evidence. Upon consideration of the evidence presented, the City Administrator shall sustain, modify or withdraw the decision of the Building Inspector or his designated agent.
- E. In the event the applicant is not satisfied with the decision of the City Administrator, such aggrieved party may file an Article 78 proceeding under the New York Civil Practice Law and Rules. The Article 78 proceeding must be filed within 30 days of the filing of the City Administrator's decision with the City Clerk of the City of Beacon and service of the same upon the applicant.

§ 204-9 11 Penalties for offenses.

Any person who shall violate any provision of this ~~article chapter~~ shall be liable to a fine of not more than ~~\$2350~~ or imprisonment for not exceeding 15 days, or both such fine and imprisonment.

ARTICLE II TREE REMOVAL PERMITS

§ 204-12 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

article to prevent the indiscriminate or unnecessary destruction of trees within the City of Beacon.

§ 204-13. 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) When Slashing of Trees is proposed or occurs.
- (3) Any threatened or endangered species of tree, regardless of size, as defined by the New York State Department of Environmental Conservation.

B. The approving authority for all applications under this article 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.

§ 204-14. Tree removal permit.

- A. Any person proposing to conduct or cause to be conducted an activity regulated by this article shall file an application for a permit with the approving authority as hereinafter provided prior to undertaking such cutting down or removal on a form provided by the Building Department.
- B. A tree removal permit may be granted if the Building Inspector determines in his sole discretion that removal of the tree(s) is warranted for the orderly maintenance, use or development of the Property in keeping with the purposes of this article.
- C. 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 such safeguards as appropriate to minimize the environmental impact of such removal operations.
 - (3) Require that the tree trunk, limbs, stump and any roots be removed from the ground.
 - (4) Require that the disturbed area be backfilled, replanted and/or reseeded.

- (5) Impose such additional conditions as the Building Inspector deems necessary to ensure compliance with the policies and provisions of this article.

§ 204-14. 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.

§ 204-15 Tree replacement.

- A. A tree removal permit shall require the planting of replacement 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>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 cut down 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 as determined by the Building Inspector, 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. If any of the replacement trees die within the one-year period from their planting, the applicant shall replace the dead tree(s).

§ 204-16 Revocation or suspension of a tree removal permit.

Any permit issued pursuant to this section may be revoked or suspended by the Building Inspector, after written notice to the applicant, for any violation of any conditions of the tree removal permit; violation of any provision of this article, or violation of any other law or regulation relating to the work permitted; or the existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of another. Written notice 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. The notice shall describe the reasons why the City is revoking the permit.

§ 204-17 Appeals.

- F. The City Administrator shall hear and decide appeals from and review any order, denial, suspension or revocation made by the Building Inspector.
- G. Upon the denial of an application, or the suspension or revocation of a license, the applicant may, within 10 business days after receiving written notice, file a request, in writing, upon the City Administrator for review of said decision by the Building Inspector. Notice of the date, place and time of the hearing shall be given in writing by mail to the applicant at the address shown on the application. In the event that demand for a hearing is not made within the prescribed time or in the event that the applicant does not timely appear for the hearing, the Building Inspector's decision shall then be final and conclusive.
- H. The hearing shall commence no later than 30 days after the date on which the request was filed.

- I. The applicant shall be given an opportunity to present evidence why such denial of application, or such suspension or revocation of the license, shall be modified or withdrawn. The Building Inspector or his designated agent may also present evidence. Upon consideration of the evidence presented, the City Administrator shall sustain, modify or withdraw the decision of the Building Inspector or his designated agent.
- J. In the event the applicant is not satisfied with the decision of the City Administrator, such aggrieved party may file an Article 78 proceeding under the New York Civil Practice Law and Rules. The Article 78 proceeding must be filed within 30 days of the filing of the City Administrator's decision with the City Clerk of the City of Beacon and service of the same upon the applicant.

§ 204-18 Penalties for offenses.

- A. Any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this article or who violates any condition attached to a tree removal permit, or who otherwise violates any of the provisions of this article 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 article or in violation of any condition attached to a tree removal permit or otherwise in violation of this article 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 article 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.

SECTION 2. 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 3. 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 therefrom.

SECTION 4. Effective Date

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

City of Beacon Workshop Agenda
2/13/2018

Title:

Airbnb Legislation

Subject:

Background:

ATTACHMENTS:

Description	Type
Short Term Rentals LL	Backup Material
Airbnb Legislation	Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO CREATE
SECTION 223-26.4 OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to create
Section 223-26.4 concerning
Short-Term Rentals.

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

SECTION 1. Chapter 223, Article III, Section 26.4 entitled “Short-Term Rentals,” of the Code of the City of Beacon is hereby created as follows.

§ 223-26.4 Short-Term Rentals

A. Findings. The City Council of the City of Beacon has determined that it is in the best interest of the City and its residents to restrict short-term rentals. The City Council finds that, in order to protect the health, safety and welfare of the City and its residents, it is necessary to restrict the rental of homes for terms shorter than 30 consecutive days, a practice which is growing in popularity with the advent of internet and social media-based programs that connect property owners and persons seeking short-term rentals. The City Council finds a reasonable likelihood of material disruption and adverse impact to residents if dwelling units in the City are allowed to be occupied by persons who are neither owners nor occupants for a duration that is insufficient to support an incentive to maintain the residence in a manner consistent with community standards. There is a greater tendency for Short-Term renters to fail to conduct themselves during their occupancy in a manner that respects neighbors and the community as would persons with longer standing relationships to their neighbors. In addition, studies have shown that short-term rentals are linked to increases in rent and housing costs because rental units are taken off the market and used as short-term rentals. Units are going to short-term renters rather than to permanent residents which results in a decrease in available housing stock within the City of Beacon. The City Council further finds that short-term rentals are inconsistent with the use of a residence for residential dwelling purposes. The City Council believes that the restrictions and requirements imposed herein further those objectives and the protection of the health, safety and welfare of the City and its residents.

B. Definitions. As used in this section, the following words shall have the meanings indicated:

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 mortgagee or lien holder.

OWNER-OCCUPIED

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

SHORT-TERM RENTAL

An entire dwelling unit, or a room or group of rooms or other living or sleeping space, or any other space, made available to rent, lease or otherwise assigned for a tenancy of less than 30 consecutive days. The term “short-term rental” does not include dormitories, hotel or motel rooms, bed and breakfast inns or lodging houses, as permitted and regulated by the International Residential Code and New York State supplement.

- C. 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.
- D. Short-term rentals shall be permitted in all residential districts as indicated in § 223-2A, subject to the requirements set forth in this section.
- E. Permit application.
 - (1) An application for a short-term rental permit shall be filed before the dwelling unit, or a room or group of rooms or other living or sleeping space, or any other space is advertised for short-term rental, and if the spaces are not advertised, then such permit shall be obtained before said space is leased or rented.
 - (2) Issuance of a short-term rental permit requires submission of an application to the Building Department and payment of the processing fee set forth in the City fee schedule.
 - (3) The form and content of the permit applications shall be as determined from time to time by the Building Department and shall contain such information and materials as the Building Department deems necessary to determine the sufficiency of the application. Such application shall contain, at a minimum:
 - (i) The name and address, e-mail address, and contact numbers of all property owners; and

- (ii) Government issued proof of residency of each owner with picture ID (driver's license, passport, etc.); and
 - (iii) A copy of the deed for the property to be used as a short-term rental and a copy of the most recent tax bill.
 - (iv) Copy of utility bill in owner's name.
 - (v) 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
 - (vi) The number of existing on-site parking spaces, and the number of available on-site parking spaces for short-term rentals;
 - (vii) Certification from a New York State licensed professional engineer or licensed architect, or certification from a fire sprinkler company, that the short-term rental property has a working fire sprinkler system installed; and
 - (viii) A signed and notarized certification in a form acceptable to the City Clerk by each property owner attesting to the fact 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, Residential and Building Codes or successor law; that the property is in compliance with all the provisions of this Article, the applicable provisions of the City Code, the International Fire, Building and Maintenance Codes; and the required building permits and certificates of occupancy are in place for all existing structures on the property; and
- (4) All permits issued pursuant to this section shall be for a period of two years and shall be renewable for subsequent two-year terms upon application, conformance with this section and payment of the permit fee.
- (5) 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 Building

Department in writing within 30 days of the occurrence of such change. Failure to do so shall be deemed a violation of this section.

- F. At the time of registering the dwelling unit, the owner shall indicate what host site(s) and other methods will be used to advertise the property. At the time an application for permit renewal is made, the owner shall provide a printout from all host sites detailing the number of days a unit was rented. A renewal permit shall be denied if an owner fails to provide such information or in the absence of listing on a host site, other information to establish the number of days rented annually, to the satisfaction of the Building Inspector.
- G. Inspection. Each short-term rental shall be inspected by the Building Department at the time of the initial application and prior to any permit renewal, to determine whether the short-term rental remains in compliance with the section. If the Building Inspector determines that the short-term rental space is not in compliance, the owner shall rectify all noncomplying elements and shall apply for reinspection with the Building Department, subject to an additional fee.
- H. 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 property used as a short-term rental shall be the principal residence of the owner at all times during the term of the permit.
- I. It shall be unlawful for the property owner to use, establish, maintain, operate occupy, rent or lease any portion of his or her property to as a short-term rental for a total of more than 100 days out of the calendar year.
- J. Presumptive Evidence. The presence or existence of the following shall create a rebuttable presumption that a property is being utilized as a short-term rental:
 - (1) 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
 - (2) The property is offered for lease or rent by the use of any other advertising mechanism for a period of less than 30 days.
- K. Revocation of a permit.
 - (1) The grounds upon which a permit can be revoked shall include but shall not be limited to:
 - (i) 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

- (ii) 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; or
 - (iii) Use of the property as a short-term rental 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.
 - (iv) Failure to comply or violating the conditions of the permit.
- (2) Any permit issued pursuant to this section may be revoked or suspended by the Building Inspector, after written notice to the owner. Written notice 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. The notice shall describe the reasons why the City is revoking the permit.

L. Appeals

- (1) The City Administrator shall hear and decide appeals from and review any order, denial, suspension or revocation made by the Building Inspector.
- (2) Upon the denial of an application, or the suspension or revocation of a license, the applicant may, within 10 business days after receiving written notice, file a request, in writing, upon the City Administrator for review of said decision by the Building Inspector. Notice of the date, place and time of the hearing shall be given in writing by mail to the applicant at the address shown on the application. In the event that demand for a hearing is not made within the prescribed time or in the event that the applicant does not timely appear for the hearing, the Building Inspector's decision shall then be final and conclusive.
- (3) The hearing shall commence no later than 30 days after the date on which the request was filed.
- (4) The applicant shall be given an opportunity to present evidence why such denial of application, or such suspension or revocation of the license, shall be modified or withdrawn. The Building Inspector or his designated agent may also present evidence. Upon consideration of the evidence presented, the City Administrator shall sustain, modify or withdraw the decision of the Building Inspector or his designated agent.
- (5) In the event the applicant is not satisfied with the decision of the City Administrator, such aggrieved party may file an Article 78 proceeding under the New York Civil Practice Law and Rules. The Article 78 proceeding must be filed

within 30 days of the filing of the City Administrator's decision with the City Clerk of the City of Beacon and service of the same upon the applicant.

M. Violations. Any owner who fails to obtain the permit required herein, or otherwise violates any provision of this section, shall be guilty of an offense which shall be punishable by a fine of not more than \$350 per offense. When a person has received written notice from the Building Inspector or has been served with a summons and complaint in an action to enjoin continuance of any violation, each day in excess of 10 days thereafter that he or she continues to be guilty of such violation shall constitute an additional, separate and distinct offense.

SECTION 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 223 of the City of Beacon Code is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 3. 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 4. Effective Date

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

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:

ARTICLE 7-D

SHORT-TERM RENTAL UNITS

17
18
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

291. Requirements of hosting platforms.

292. Regulations.

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

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

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

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

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

(b) collects a fee in connection with either:

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

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

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

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

(b) is not used to provide single room occupancy as defined by subdivision sixteen of section four of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the number of distinct addresses simultaneously advertised as 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-

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

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

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

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

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

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

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

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

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

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

(7) Information provided by a hosting platform to the commissioner shall be confidential. Such confidential information shall not be disclosed by the commissioner unless the hosting platform has given written consent to make such disclosure or there is an agreement between the hosting platform and the commissioner to make such disclosure. Notwithstanding any law to the contrary, information provided by a hosting platform shall not be subject to article six of the public officers law and shall not be provided to any other agency of the state, locality, or any other government entity or political subdivision.

§ 9. Section 1202 of the tax law is amended by adding a new subdivision (h) to read as follows:

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

§ 10. Section 1 of 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, is amended by adding a new subdivision 11 to read as follows:

(11) It is expressly recognized that any city agency administering the taxes authorized by this act is permitted to enter into voluntary agreements with any person or third party, including but not limited to hosting platforms, to permit such person, third party, or platform to collect and remit such taxes on behalf of the party or parties required to collect and remit them under the applicable statutes. The voluntary agreement shall be evinced by a signed, written agreement between the city agency responsible for administering the taxes and the person or third party assuming the obligation to collect and remit the taxes.

§ 11. This act shall take effect on the one hundred twentieth day 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.

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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

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EXHIBIT G

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

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

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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.

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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.

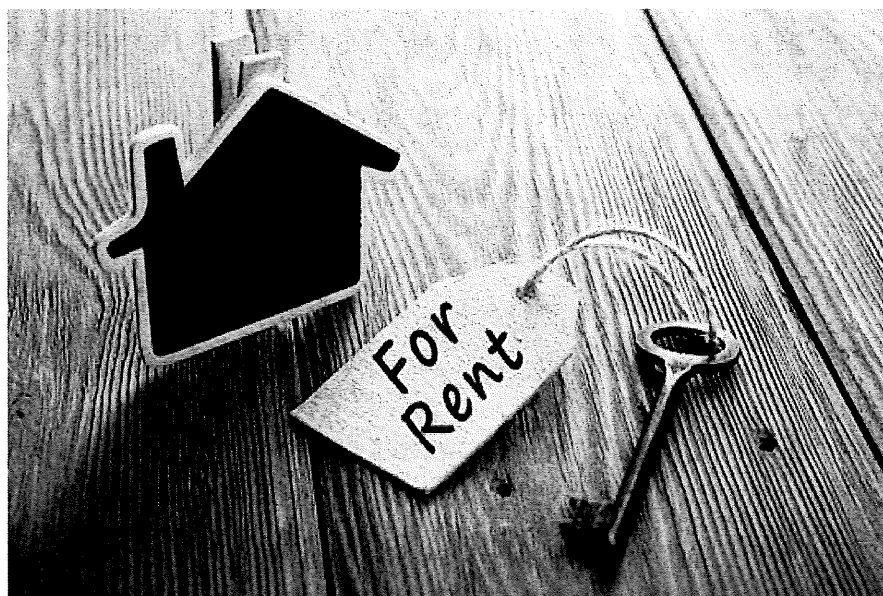
Permitting short-term rentals, while subjecting them to reasonable regulations, may be the only viable, long-term approach that municipalities have. Accordingly, municipalities should carefully consider how to best craft regulations that fit with the needs of both their constituents and communities.

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
2/13/2018

Title:

Historic Preservation Local Law

Subject:

Background:

ATTACHMENTS:

Description	Type
Historic Preservation Code Info	Backup Material
Historic Preservation LL	Backup Material

Chapter 134

HISTORIC PRESERVATION

GENERAL REFERENCES

Zoning — See Ch. 223.

§ 134-1. Purpose.

There exist within the City of Beacon landmarks, structures, buildings and districts of special historic significance which, by reason of their antiquity or uniqueness of architectural construction or design, are of particular significance to the heritage of the City, county, state or nation.

§ 134-2. Historic District.

- A. An Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purposes of encouraging the protection, enhancement, perpetuation and use of buildings and structures and appurtenant vistas having special historical or aesthetic value which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
- B. For the purposes of this chapter, the landmarks and the boundaries of such zone are established as shown on a map entitled "Historic District and Landmark Overlay Map," which is hereby incorporated as a part of this chapter and is attached hereto as Exhibit A.¹

§ 134-3. Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

ALTERATION — Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removal of any structure.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Planning Board indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the Zoning Board of Appeals authorizing an alteration, construction, removal or

1. Editor's Note: Exhibit A is on file in the City offices. A list of landmarks and historic districts added to the overlay zone since the adoption of the map is included in § 134-14 of this chapter.

demolition even though a certificate of appropriateness has previously been denied.

CONSTRUCTION — The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

DEMOLITION — Any act or process that destroys in part or in whole a landmark on a structure within an historic district.

EXTERIOR ARCHITECTURAL FEATURES — The design and general arrangement of the exterior of a structure open to view from a public way, public property or any part of any public building, including the kind and texture of building materials and number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. This term shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of any public building.

HISTORIC DISTRICT — An area designated as an "historic district" by action of the City Council in enacting this chapter and which contains within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

LANDMARK — A property or structure designated as a "landmark" by action of the City Council in enacting this chapter that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Beacon.

OWNER OF RECORD — The person, corporation or other legal entity issued as owner of a parcel according to the records of the Dutchess County Clerk.

REPAIR — Any change that is not construction, removal or alteration.

STRUCTURE — Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, walls, sidewalks, signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

§ 134-4. Certificate of appropriateness. [Amended 6-2-2014 by L.L. No. 9-2014]

No person shall carry out any exterior alteration of a landmark or property within an historic district without first obtaining a certificate of appropriateness from the Planning Board or a certificate of economic hardship from the Zoning Board. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, or for the installation of a temporary sign as described in § 223-15F of the Zoning Ordinance of the City of Beacon if located in a nonresidential district. Nothing in this chapter shall be construed to prevent the ordinary

maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material or outward appearance.

§ 134-5. Criteria for approval of a certificate of appropriateness.

- A. In reviewing an application and plans, the Planning Board shall give consideration to:
 - (1) The historic or architectural value or significance of the structure and its relation to the historic character of the surrounding area.
 - (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.
 - (3) The general compatibility of exterior design, arrangement, texture and material proposed.
- B. In applying the principle of compatibility, the Planning Board shall consider the following factors:
 - (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;
 - (2) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
 - (3) Texture and materials and their relation to similar features of other properties in the neighborhood.

§ 134-6. Designation of landmarks or historic districts.

- A. The City Council hereby designates the individual properties as landmarks as shown on the accompanying Historic District and Landmark Overlay Map because they:
 - (1) Possess special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;
 - (2) Are identified with historic personages;
 - (3) Embody the distinguishing characteristics of an architectural style;
 - (4) Are the work of a designer whose work has significantly influenced an age; or
 - (5) Because of unique location or singular physical characteristic, represent an established and familiar visual feature of the neighborhood.
- B. The City Council hereby designates the group of properties shown on the attached map as a historic district because they:

- (1) Contain properties which meet one or more of the criteria for designation of a landmark; and
 - (2) By reason of possessing such qualities, constitute a distinct section of the City.
- C. Notice of a proposed designation shall be sent by regular mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the City Council to consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.
- D. The City Council shall hold a public hearing prior to designation of any landmark or historic district. The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.
- E. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the offices of the Dutchess County Clerk for recordation.

§ 134-7. Certificate of appropriateness application procedure.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Planning Board. The application shall include:
- (1) The name, address and telephone number of the applicant.
 - (2) Sketches or other drawings showing the proposed changes.
 - (3) Descriptions or samples of materials to be used.
 - (4) (Where the proposal includes signs or lettering,) a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, if any, and a plan showing the sign's location on the property.
 - (5) Any other information which the Planning Board may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Planning Board. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Beacon.
- C. The applicant may consult with the Planning Board or its designated agent prior to submitting an application.

- D. Where site plan review or subdivision approval is also required for the application, the certificate of appropriateness procedure shall be conducted simultaneously with such review by the Planning Board.
- E. The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Failure by the Planning Board to take action within the prescribed period of time shall constitute approval.
- F. All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Planning Board's decision shall state the reasons for denying or modifying any application.

§ 134-8. Hardship criteria and application procedure.

- A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief to the Zoning Board of Appeals on the grounds of hardship. In order to prove the existence of hardship, the applicant must establish that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- B. The applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief to the Zoning Board of Appeals on the ground of hardship.
- C. The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application. The Zoning Board's review of said hardship application shall be in accordance with the procedures set forth in § 223-55C of Chapter 223, Zoning. Failure by the Zoning Board of Appeals to take action within the prescribed period of time shall constitute approval of the application.

§ 134-9. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It

shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Planning Board, the Building Inspector shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 134-10. Penalties for offenses.

- A. Failure to comply with any of the provisions of this local law shall be deemed a violation, and the violation is subject to the penalties provided in § 223-53 of Chapter 223, Zoning.
- B. The City Council is also authorized to institute any and all actions required to enforce this chapter. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 134-11. Fees.

- A. Each application for a certificate of appropriateness shall be accompanied by a fee, in an amount set by the City Council, payable to the City Clerk.
- B. The applicant may be charged a fee by the Planning Board for the actual cost of preparation and publication of each public notice of hearing on the application. Said fees shall also be fixed from time to time by resolution of the City Council.

§ 134-12. Uses permitted by special permit. [Amended 8-6-2001 by L.L. No. 12-2001; 3-18-2002 by L.L. No. 9-2002; 5-17-2010 by L.L. No. 4-2010]

Section 223-24.7 of Chapter 223, Zoning, of the City Code, enumerates the uses which may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone, and the process by which such uses may be permitted.

§ 134-13. Assessment abatement.

Any person who is granted a certificate of appropriateness and performs the work detailed in the application submitted to the Planning Board will not be subject to an increase in assessment for the subject property as a result of the improvements made to the buildings and structures on said property. This clause does not apply to applicants who also receive a special permit as set forth in § 223-18 of Chapter 223, Zoning.

§ 134-14. Additional areas.

In accordance with § 134-6, the following landmarks, properties and/or historic districts are added:

A. Properties added 5-17-1999 by L.L. No. 12-1999:

Parcel I.D.	Location	Owner Name
6054-13-126252	250 Howland Avenue	University Settlement Camp Society of New York
6054-17-047180	300 Howland Avenue	Craig House
6054-17-025161	310 Howland Avenue	Stephen Fleming and Donna Landstreet
6054-17-075135	330 Howland Avenue	Scenic Hudson
A portion of 6054-14-259407 as shown on map ²	150 Howland Avenue	Beacon Hills Development Corporation

B. The following landmarks and districts are hereby added to the Historic District and Landmark Overlay Zone. The attached map, entitled Proposed Additions to Historic District and Landmark Overlay Zone, and dated May 12, 2006, shows the respective location of each of the following:³ **[Added 4-3-2006 by L.L. No. 4-2006]**

- (1) Gateway to Mt. Beacon Park (Mount Beacon Incline Property; on National Register).
- (2) Peter Dubois House, 36 Slocum Road; on National Register.
- (3) Old Matteawan State Hospital buildings and grounds.
- (4) Fountain Square (East Main Street), including Leonard Street (Alice Judson House, Dr. Jennings/Leonard House, Catholic Church).
- (5) Byrnesville Cemetery, South Avenue (purported burial ground of Roger Brett).
- (6) H. W. Sargent's "Wodenethe": two gatehouses, South Avenue and Wodenethe Drive.
- (7) Methodist Cemetery, North Walnut Street.
- (8) Old stone houses (2), Overlook Avenue near Stone Street (houses date back to late 18th Century).
- (9) Old Tioronda Hat Shop and Madam Brett Park (site of original Brett mill), South Avenue, dates to 1879.
- (10) Peter Schenck House, adjoining Tallix property, Blackburn Avenue - Schenck Estate.

2. **Editor's Note: Refers to the proposed Zoning and Historic District and Landmark Overlay Zone Map prepared by Frederick P. Clark Associates, dated 3-25-1999.**

3. **Editor's Note: The map is on file in the City offices.**

- (11) Russell Avenue, from First Street to Union Street, cluster of historic homes; 1st Highland Hospital; Mayor Russell's House; Ticehurst Home dates to 1840s (excluding 40 Russell Avenue).
 - (12) Calvert Vaux House, South Avenue.
 - (13) Chrystie House, South Avenue.
 - (14) 1 East Main.
 - (15) 10 East Main
 - (16) South Street (excluding 32 South Street).
 - (17) North Street (excluding 19 North Street).
 - (18) St. Joachim's Church and Old Cemetery.
 - (19) St. John's Church.
 - (20) AME Zion Church, Academy Street.
 - (21) Springfield Baptist Church, Mattie Cooper Street Square.
 - (22) Fairview Cemetery. Washington Avenue.
 - (23) Northwest corner of Teller and Rombout Avenues, 2nd Empire brick home.
- C. Property added May 17, 2010, by L.L. No. 5 of 2010: **[Added 5-17-2010 by L.L. No. 5-2010]**

Parcel I.D.	Location	Owner Name
130200-6054-21-065892	11 Fishkill Avenue	Beacon School District

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO AMEND
CHAPTER 134 AND CHAPTER 223, SECTION 24.7 OF THE CODE OF
THE
CITY OF BEACON**

A LOCAL LAW to
amend Chapter 134
and Chapter 223,
Section 24.7 of the
Code of the City of
Beacon Historic
Preservation.

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

Section 1. Chapter 134 of the Code of the City of Beacon entitled “Historic Preservation” is hereby amended as follows:

§ 134-1. Purpose.

There exist within the City of Beacon landmarks, structures, buildings and districts of special historic significance which, by reason of their antiquity or uniqueness of architectural construction or design, are of particular significance to the heritage of the City, county, state or nation.

§ 134-2. Historic District.

- A. A Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purposes of encouraging the protection, enhancement, perpetuation and use of buildings and structures and appurtenant vistas having special historical or aesthetic value which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
- B. For the purposes of this chapter, the landmarks and the boundaries of such zone are established as shown on a map entitled "Historic District and Landmark Overlay Map,"

which is hereby incorporated as a part of this chapter and is attached hereto as Exhibit A.

§ 134-3. Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

ALTERATION

Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removal of any structure.

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Planning Board indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

CERTIFICATE OF ECONOMIC HARDSHIP

A certificate issued by the Zoning Board of Appeals authorizing an alteration, construction, removal or demolition even though a certificate of appropriateness has previously been denied.

CONSTRUCTION

The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

DEMOLITION

Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

EXTERIOR ARCHITECTURAL FEATURES

The design and general arrangement of the exterior of a structure open to view from a public way, public property or any part of any public building, including the kind and texture of building materials and number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. This term shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of any public building.

HISTORIC DISTRICT

An area designated as an "historic district" by action of the City Council in enacting this chapter and which contains within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

LANDMARK

A property or structure designated as a "landmark" by action of the City Council in enacting this chapter that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Beacon.

OWNER OF RECORD

The person, corporation or other legal entity issued as owner of a parcel according to the records of the Dutchess County Clerk.

REPAIR

Any change that is not construction, removal or alteration.

STRUCTURE

Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, walls, sidewalks, signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

§ 134-46.-Designation of landmarks or historic districts.

- A. The City Council may act upon its own initiative or upon petition from the owner of a proposed landmark, site, structure or property, the Planning Board, or historic preservation committee, to consider designation of a historic district or historic landmark, site, structure or property. All designated historic districts and landmarks shall be included in the HDLO. The City Council hereby designates the individual properties as landmarks as shown on the accompanying Historic District and Landmark Overlay Map because they:
- B. The City Council shall, upon investigation as it deems necessary, make a determination as to whether a proposed district or landmark meets one or more of the following criteria:
 - (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;

- (2) ~~Are~~ Is identified with historic personages or with important events in national, state or local history;
- (3) ~~Embody the distinguishing characteristics of an architectural style;~~ Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship;
- (4) ~~Are~~ Is the work of a designer whose work has significantly influenced an age; or
- (5) ~~Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.~~
- (5) Qualifies for inclusion on the State or National Registers of Historic Places.

~~B. The City Council hereby designates the group of properties shown on the attached map as a historic district because they:~~

- ~~(1) Contain properties which meet one or more of the criteria for designation of a landmark; and~~
- ~~(2) By reason of possessing such qualities, constitute a distinct section of the City.~~

B. Notice of a proposed designation shall be sent by certified mail or personal delivery ~~regular mail~~ to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the City Council to consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.

C. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the City of Beacon at least fourteen (14) calendar days prior to the date of such hearing.

D. The City Council shall hold a public hearing prior to designation of any landmark or historic district. The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.

E. In determining whether or not to designate a new historic landmark, the City Council shall consider the factors listed in § 134-6.B and any testimony or evidence presented during the public hearing.

F. The City Council shall make a decision within sixty (60) days of the conclusion of the hearing. If the City Council fails to act within sixty (60) days, or fails to extend the period in which to act, the designation shall be deemed to have been denied. A super majority vote of five (5) Council members is necessary to designate a new historic landmark if the property owner objects to such designation.

G. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the property owner, the City Clerk, the Planning Board, the Zoning Board, and the offices of the Dutchess County Clerk for recordation.

§ 134-~~125~~. Uses permitted by special permit.

Section 223-24.7 of Chapter 223, Zoning, of the City Code, enumerates the uses which may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone, and the process by which such uses may be permitted.

§ 134-~~6~~ ~~4~~ Certificate of appropriateness.

No person shall carry out any exterior alteration of a landmark or property within an historic district without first obtaining a certificate of appropriateness from the Planning Board or a certificate of economic hardship from the Zoning Board. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, public property, or public building, or for the installation of a temporary sign as described in § 223-15F of the Zoning Ordinance of the City of Beacon if located in a nonresidential district. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material or outward appearance.

§ 134-~~7~~ ~~5~~ Criteria for approval of a certificate of appropriateness or special permit in the HDLO.

A. Historic districts are living entities that have typically grown and accommodated change through multiple time periods. HDLO buildings are recognized as models for how to design high-quality, enduring structures that have gained in public appreciation over time, thereby serving as excellent examples for sustainable development. In reviewing an HDLO application and plans, the City Council or Planning Board shall give consideration to:

- (1) The historic or architectural value or significance of the structure and its relation to the historic character of the surrounding area.
- (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.

- (3) The ~~general~~ compatibility of exterior design in terms of scale, arrangement, texture and materials proposed, roof and cornice forms, spacing and proportion of windows and doors, exterior architectural details, signs, and street-front fixtures.
- B. In applying the principle of compatibility, the City Council or Planning Board shall consider use the following factors standards for new structures, additions, or alterations in the HDLO:
- (1) The ~~general~~ design, character, and appropriateness to the property of the proposed alteration or new construction.
- (a) Construction shall build on the historic context with applications required to demonstrate aspects of inspiration or similarities to adjacent HDLO structures or historic buildings in the surrounding area.
- (b) Compatibility does not imply historic reproduction, but new architecture shall also not arbitrarily impose contrasting materials, scales, colors, or design features.
- (c) The intent is to reinforce and extend the traditional patterns of the HDLO district, but new structures may still be distinguishable in up-to-date technologies and details, most evident in window construction and interiors.
- (d) Exterior accessory elements, such as signs, lighting fixtures, and landscaping, shall emphasize continuity with adjacent HDLO properties and the historic characteristics of the sidewalk and streetscape.
- (e) Parking shall be placed towards the rear of the property in an unobtrusive location with adequate screening from public views.
- (2) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
- (a) Any addition that is deemed necessary to an historic structure shall be placed toward the rear, or at least recessed, so that character-defining features are not damaged or obscured and so that the historic structure remains more prominent than the subsidiary addition.
- (b) The height of any new building in the HDLO shall not be more than 12 feet higher than an adjoining historic structure for a distance of at least 35 feet along the frontage from the historic structure.
- (c) Larger buildings or additions shall incorporate significant breaks in the facades and rooflines at intervals of no more than 35 feet.

- (3) ~~Texture and materials~~ Architectural and site elements and their relation to similar features of other properties in the ~~neighborhood~~ HDLO.
- (a) It is not appropriate to disrupt the relationship between an historic building and its front yard or landscape, including screening historic properties from traditional street views by high walls or hedges.
 - (b) Historic storefronts, porches, cornices, window and door surrounds, or similar architectural features shall not be enclosed, obscured, or removed so that the character of the structure is substantially changed.
 - (c) Deteriorated building features shall be repaired rather than being replaced and, if not repairable, shall be replicated in design, materials, and other historic qualities.
 - (d) New buildings in the HDLO shall have a top-floor cornice feature and first-floor architectural articulation, such as an architecturally emphasized entrance doorway or porch, to accent the central body of the building.
 - (e) Architectural features and windows shall be continued on all sides that are clearly visible from a street or public parking area, avoiding any blank walls, except in cases of existing walls or potential common property walls.
 - (f) New HDLO buildings shall have a front entrance door facing the primary street and connected to the sidewalk.
 - (g) Primary individual window proportions shall be greater in height than width, but the approving body may allow exceptions for storefront, transom, and specialty windows. Mirrored, reflective, or tinted glass and all-glass walls, except greenhouses, shall not be permitted. Any shutters shall match the size of the window opening and appear functional.
 - (h) Finish building materials should be wood, brick, traditional cement-based stucco, stone, smooth cast stone, smooth-finished fiber-cement siding, or other materials deemed acceptable by the approving body. Vinyl, aluminum or sheet metal siding or sheet trim, exposed concrete blocks or concrete walls, plywood or other similar prefabricated panels, unpainted or unstained lumber, synthetic rough-cut stone, synthetic brick, synthetic stucco, exterior insulation and finishing system (EIFS), direct-applied finish system (DAFS), and chain link, plastic, or vinyl fencing shall not be permitted.
 - (i) Materials and colors should complement historic buildings on the block. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible patterns, shall be prohibited.

- (j) Mechanical equipment and refuse containers shall be concealed from public view by approved architectural or landscaping elements and shall be located to the rear of the site. Window or projecting air conditioners shall not be permitted on the front façade of new buildings or additions.

§ 134-~~8~~7. Certificate of appropriateness application procedure.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Planning Board. The application shall include:
 - (1) The name, address and telephone number of the applicant.
 - (2) ~~Sketches or other~~ Scaled drawings showing the proposed changes.
 - (3) Descriptions or samples of materials to be used.
 - (4) ~~(Where the proposal includes signs or lettering,)~~ a scaled drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, if any, and a plan showing the sign's location on the property.
 - (5) Any other information which the Planning Board may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Planning Board. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Beacon.
- C. The applicant may consult with the Planning Board or its designated agent prior to submitting an application.
- D. Where site plan review or subdivision approval is also required for the application, the certificate of appropriateness procedure shall be conducted simultaneously with such review by the Planning Board.
- E. The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.2.B. Failure by the Planning Board to take action within the prescribed period of time shall constitute approval.

- F. All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Planning Board's decision shall state the reasons for denying or modifying any application.

§ 134-2 8. Hardship criteria and application procedure.

- A. ~~An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief to the Zoning Board of Appeals for a certificate of economic hardship to obtain relief from the requirements of this chapter. Upon receipt of an application for relief, the Zoning Board shall, within 45 calendar days thereafter, hold a public hearing. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.2.B. on the grounds of hardship. In order to prove the existence of hardship, the applicant must establish that:~~
- B. At the public hearing, the Zoning Board may hear testimony and entertain the submission of written evidence from the applicant and/or the public.
- C. To obtain a certificate of economic hardship, the applicant must prove the existence of economic hardship by establishing that:
- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- ~~B. The applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief to the Zoning Board of Appeals on the ground of hardship.~~
- C. The Zoning Board shall take into consideration the economic feasibility of alternatives to removal, alteration or demolition of a landmark or portion thereof, and balance the interest of the public in preserving the historic landmark or building, or portion thereof, and the interest of the owner in removing, altering or demolishing the landmark or portion thereof.
- D. The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application. ~~The Zoning Board's review of said hardship application shall be in accordance with the procedures set forth in § 223-55C of Chapter 223, Zoning.~~ Failure by the Zoning Board of Appeals to take action within the prescribed period of time shall constitute approval of the application.

- E. All decisions of the Zoning Board of Appeals shall be in writing. A copy shall be sent to the applicant, and a copy shall be filed with the City Clerk. The Board's decision shall state the reasons for approving or denying the application. If the Zoning Board of Appeals approves the application, the Board shall issue a certificate of economic hardship.

§ 134-~~10~~ 9. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Planning Board, the Building Inspector shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 134-~~11~~ 40. Penalties for offenses.

- A. Failure to comply with any of the provisions of this local law shall be deemed a violation, and the violation is subject to the penalties provided in § 223-53 of Chapter 223, Zoning.
- B. The City Council is also authorized to institute any and all actions required to enforce this chapter. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 134-~~12~~ 44. Fees.

- A. Each application for a certificate of appropriateness shall be accompanied by a fee, in an amount set by the City Council, payable to the City Clerk.
- B. The applicant may be charged a fee by the Planning Board for the actual cost of preparation and publication of each public notice of hearing on the application. Said fees shall also be fixed from time to time by resolution of the City Council.

§ 134-13. Assessment abatement.

Any person who is granted a certificate of appropriateness and performs the work detailed in the application submitted to the Planning Board will not be subject to an increase in assessment for the subject property as a result of the improvements made to the buildings and structures on said property. This clause does not apply to applicants who also receive a special permit as set forth in § 223-18 of Chapter 223, Zoning.

§ 134-~~14~~. ~~Additional areas.~~

~~In accordance with § 134-6, the following landmarks, properties and/or historic districts are added:~~

A. Properties added 5-17-1999 by L.L. No. 1999:

Parcel I.D.	Location	Owner Name
6054-13-126252	250 Howland Avenue	University Settlement Camp Society of New York
6054-17-047180	300 Howland Avenue	Craig House
6054-17-025161	310 Howland Avenue	Stephen Fleming and Donna Landstreet
6054-17-075135	330 Howland Avenue	Scenic Hudson
A portion of 6054-14-259407 as shown on map ^H	150 Howland Avenue	Beacon Hills Development Corporation

B. ~~The following landmarks and districts are hereby added to the Historic District and Landmark Overlay Zone. The attached map, entitled Proposed Additions to Historic District and Landmark Overlay Zone, and dated May 12, 2006, shows the respective location of each of the following:~~

- ~~(1) Gateway to Mt. Beacon Park (Mount Beacon Incline Property; on National Register).~~
- ~~(2) Peter Dubois House, 36 Slocum Road; on National Register.~~
- ~~(3) Old Matteawan State Hospital buildings and grounds.~~
- ~~(4) Fountain Square (East Main Street), including Leonard Street (Alice Judson House, Dr. Jennings/Leonard House, Catholic Church).~~
- ~~(5) Byrnesville Cemetery, South Avenue (purported burial ground of Roger Brett).~~
- ~~(6) H. W. Sargent's "Wodenethe": two gatehouses, South Avenue and Wodenethe Drive.~~
- ~~(7) Methodist Cemetery, North Walnut Street.~~
- ~~(8) Old stone houses (2), Overlook Avenue near Stone Street (houses date back to late 18th Century).~~
- ~~(9) Old Tioronda Hat Shop and Madam Brett Park (site of original Brett mill), South Avenue, dates to 1879.~~
- ~~(10) Peter Schenck House, adjoining Tallix property, Blackburn Avenue—Schenck Estate.~~

- ~~(11) — Russell Avenue, from First Street to Union Street, cluster of historic homes; 1st Highland Hospital; Mayor Russell's House; Ticehurst Home dates to 1840s (excluding 40 Russell Avenue).~~
- ~~(12) — Calvert Vaux House, South Avenue.~~
- ~~(13) — Chrystie House, South Avenue.~~
- ~~(14) — 1 East Main.~~
- ~~(15) — 10 East Main~~
- ~~(16) — South Street (excluding 32 South Street).~~
- ~~(17) — North Street (excluding 19 North Street).~~
- ~~(18) — St. Joachim's Church and Old Cemetery.~~
- ~~(19) — St. John's Church.~~
- ~~(20) — AME Zion Church, Academy Street.~~
- ~~(21) — Springfield Baptist Church, Mattie Cooper Street Square.~~
- ~~(22) — Fairview Cemetery. Washington Avenue.~~
- ~~(23) — Northwest corner of Teller and Rombout Avenues, 2nd Empire brick home.~~

~~C. Property added May 17, 2010, by L.L. No. 5 of 2010:~~

Parcel I.D.	Location	Owner Name
130200-6054-21-065896	211 Fishkill Avenue	Beacon School District

SECTION 2. Chapter 223, Section 24.7, Subsection D of the Code of the City of Beacon is hereby amended as follows

§ 223-24.7 Uses permitted by special permit in the Historic District and Landmark Overlay Zone

...

D. Findings

- (1) The City Council must make the following findings before special permit approval is granted:

- (a) Any exterior restoration shall maintain the architectural and historic integrity of the structure. Any new construction shall be compatible with neighboring structures.
 - (b) The proposed use is compatible with the neighborhood, and activities permitted within the structure can be adequately buffered from any surrounding residential homes.
 - (c) The resulting traffic generation will not overburden existing roads, and adequate parking can be provided without unduly destroying the landscape or the setting of the structure.
 - (d) The proposed use is appropriate to the structure, will aid in the preservation of the structure and will not result in undue alterations or enlargement of the structure.
- (2) These standards shall be in addition to the general special permit standards set forth in ~~§ 223-18 of this chapter~~ and the standards set forth in §.134-7.

Section 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 134 and Chapter 223 of the City of Beacon are otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4. 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 5. 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 6. Effective Date

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

City of Beacon Workshop Agenda
2/13/2018

Title:

Iannarelli Tax certiorari settlement

Subject:

Background:

ATTACHMENTS:

Description	Type
Resolution_Certiorari settlement	Backup Material
Iannarelli Ltr	Backup Material

**RESOLUTION RE: CERTIORARI SETTLEMENT -
Mtr. of Iannarelli v. City of Beacon, et al.
(Sup. Ct. Dutchess Co. Index No. 51762/17) -
SETTLEMENT OF 2017 TAX CERTIORARI PROCEEDING**

WHEREAS, a tax certiorari proceeding entitled *Mtr. of Iannarelli v. City of Beacon, et al.*, (Sup. Ct. Dutchess Cty. Index No. 51762/17, *et seq.*), is pending before the Supreme Court, Dutchess County (Hon. James V. Brands, J.S.C., presiding); and

WHEREAS, this proceeding involves the 2017 real property tax assessment of a homestead parcel located at 2 William Street, which is designated as Parcel No. 6054-48-399604 on the Tax Map of the City of Beacon; and

WHEREAS, a settlement has been reached by and between Petitioner Mary Iannarelli and the City of Beacon providing for a voluntary disposition of this proceeding; and

WHEREAS, the City of Beacon has obtained the advice and assistance of its counsel, Keane & Beane, P.C., with respect to this terms of settlement and duly considered same; and

WHEREAS, under the settlement terms, the City will be liable for a City tax refund equaling Seven Hundred Twenty-Two and 38/100 (\$722.38) Dollars;

NOW, THEREFORE, BE IT RESOLVED that the City Council accepts the settlement of this proceeding so that the following adjustment is made to the 2017 assessment of the aforementioned tax parcel:

<u>Year</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>
2017	\$251,100	\$165,000	\$86,100

BE IT FURTHER RESOLVED, that counsel for the City of Beacon, Keane & Beane, P.C., together with the City Administration, is hereby authorized to undertake such actions as are necessary to confirm and effectuate this settlement, including execution of the Consent Judgment incorporating the settlement terms.

Resolution No. _____ of 2018		Date: <u>2018</u>					
<input type="checkbox"/> Amendments		<input type="checkbox"/> On roll call				<input type="checkbox"/> 2/3 Required	
<input type="checkbox"/> Not on roll call.						<input type="checkbox"/> 3/4 Required	
Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy Casale					
Motion Carried							

**Attorney-Client Correspondence
Privileged and Confidential
Exempt From FOIL Disclosure**

February 1, 2018

Mr. Anthony Ruggiero
City Administrator
City of Beacon
1 Municipal Plaza
Beacon, New York 12508

Re: *Mtr. of Iannarelli v. City of Beacon, et al.*
(Sup. Ct. Dutchess Co. Index No. 51762/17)

Dear Anthony:

I write to present a proposed settlement of the above-referenced tax certiorari proceeding. This litigation is limited to one year (2017) and involves a residential/homestead parcel that was the subject of prior litigation. The prior litigation resulted in an adjusted 2016 assessment of the property involved in this case to a value of \$165,000. It is recommended that the 2017 proceeding be settled based upon this same value. The financial impact upon the City equals \$722.38.

This proceeding involves a residential parcel located at 2 William Street, which is designated as Parcel No. 6054-48-3996204 on the Tax Map of the City of Beacon. It was assessed at \$251,100 in 2017. This parcel was acquired by the petitioner-property owner, Ms. Mary Iannarelli, in March 2014 at a purchase price of \$105,000.

The 2015 and 2016 assessments at issue in the prior litigation equaled \$239,000 and \$243,000, respectively. In these earlier proceedings, Ms. Iannarelli contended these assessments should be reduced to the \$105,000 purchase price. As a result of an examination of this prior sale (including its distressed condition at that time), and improvements that had been made after it had been conveyed, the prior litigation was settled. The settled 2016 assessed value placed upon this parcel equaled \$165,000.

In 2017, the assessment was raised to \$251,100. This revised assessment was based upon market trends and assumptions concerning improvements made to these premises. Ms. Iannarelli, by her attorney, contested the 2017 assessment as excessive. Based upon an examination of the property, and consideration of the prior

Mr. Anthony Ruggiero
City Administrator
February 1, 2018
Page 2

settlement, it has been tentatively agreed that the 2017 assessment be reduced to the 2016 settled value of \$165,000. An analysis of this settlement is as follows:

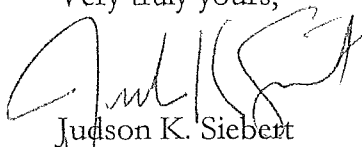
<u>Years</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>	<u>Tax Rate</u>	<u>Refund</u>
2017	\$251,100	\$165,000	\$86,100	\$8.39	\$722.38

I recommend City Council approval of this settlement. It will dispose of this case in exchange for a payment far less than the legal fees and costs that would be incurred in continuing to undertake pre-trial tasks and those that would be associated with a trial to defend the contested assessment. The settled value is equal to the 2016 settled assessment, and the City Assessor may again address this assessment in 2018. In addition, the settlement provides for a waiver of any interest on the refund amount, provided the refund is paid within sixty (60) days after an entered Consent Judgment (effectuating the settlement terms) is served upon the City. Interest would be imposed, as a matter of law, if this case were to be decided by the Court.

Based upon this recommendation, a proposed approving Resolution is enclosed for the City Council's consideration.

Please contact me with any questions you may have with regard to this matter.

Very truly yours,



Judson K. Siebert

JKS/lt

Enclosure

cc: Ms. Kathy Martin, Assessor
Nicholas M. Ward-Willis, Esq.

**RESOLUTION RE: CERTIORARI SETTLEMENT -
Mtr. of Iannarelli v. City of Beacon, et al.
(Sup. Ct. Dutchess Co. Index No. 51762/17) -
SETTLEMENT OF 2017 TAX CERTIORARI PROCEEDING**

WHEREAS, a tax certiorari proceeding entitled *Mtr. of Iannarelli v. City of Beacon, et al.*, (Sup. Ct. Dutchess Cty. Index No. 51762/17, *et seq.*), is pending before the Supreme Court, Dutchess County (Hon. James V. Brands, J.S.C., presiding); and

WHEREAS, this proceeding involves the 2017 real property tax assessment of a homestead parcel located at 2 William Street, which is designated as Parcel No. 6054-48-399604 on the Tax Map of the City of Beacon; and

WHEREAS, a settlement has been reached by and between Petitioner Mary Iannarelli and the City of Beacon providing for a voluntary disposition of this proceeding; and

WHEREAS, the City of Beacon has obtained the advice and assistance of its counsel, Keane & Beane, P.C., with respect to this terms of settlement and duly considered same; and

WHEREAS, under the settlement terms, the City will be liable for a City tax refund equaling Seven Hundred Twenty-Two and 38/100 (\$722.38) Dollars;

NOW, THEREFORE, BE IT RESOLVED that the City Council accepts the settlement of this proceeding so that the following adjustment is made to the 2017 assessment of the aforementioned tax parcel:

<u>Year</u>	<u>Assessment</u>	<u>Revised Assessment</u>	<u>Reduction</u>
2017	\$251,100	\$165,000	\$86,100

BE IT FURTHER RESOLVED, that counsel for the City of Beacon, Keane & Beane, P.C., together with the City Administration, is hereby authorized to undertake such actions as are necessary to confirm and effectuate this settlement, including execution of the Consent Judgment incorporating the settlement terms.

City of Beacon Workshop Agenda
2/13/2018

Title:

Upcoming Public Hearing to receive public comment on a proposed Local Law to amend Chapter 223 of the Code of the City of Beacon concerning the Fishkill Creek Development District (FCDD)

Subject:

Background:

ATTACHMENTS:

Description	Type
FCD Bulk Regs Draft Local Law	Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO AMEND
CHAPTER 223, SECTION 41.14 OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to amend Chapter 223, Section 41.14, Subsection A of the Code of the City of Beacon, concerning Bulk Regulations in the Fishkill Creek Development (FCD) District.

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

SECTION 1. Chapter 223, Section 41.14, Subsection A of the Code of the City of Beacon is hereby amended as follows:

§ 223-41.15 Bulk Regulations

- A. Minimum size of FCD site: ~~four~~ two acres. Notwithstanding the above, the owner of less than ~~four~~ two acres of land may apply for approval of a FCD project, where such land is adjacent to a proposed, approved or constructed Fishkill Creek development project.

SECTION 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 223 Section 41.14 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 3. 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 4. Effective Date

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

City of Beacon Workshop Agenda
2/13/2018

Title:

Upcoming Public Hearing to receive public comment on a proposed Local Law to amend Chapter 223 of the Code of the City of Beacon concerning Public Notice Signs

Subject:

Background:

ATTACHMENTS:

Description

Sign Notice LL

Type

Backup Material

DRAFT LOCAL LAW NO. ____ OF 2018

**CITY COUNCIL
CITY OF BEACON**

**PROPOSED LOCAL LAW TO AMEND
CHAPTER 223, SECTION 61.3 OF THE CODE OF THE
CITY OF BEACON**

A LOCAL LAW to
amend Chapter 223,
Section 61.3 to the
Code of the City of
Beacon, concerning
Public Notice Signs.

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

SECTION 1. Chapter 223, Section 61.3 of the Code of the City of Beacon entitled “Hearing Notice Requirements” is hereby amended as follows:

Prior to any public hearing required for applications for approval of a site development plan, special permit, subdivision, or any public hearing before the Board of Appeals, the applicant shall comply with the following notice requirements at its sole cost and expense:

- A. ~~The City shall submit a notice of public hearing. Notice of hearing shall be timely submitted to the official City newspaper for publication in said newspaper at least five days before such hearing. Prior to the public hearing, the applicant shall submit to the City a signed affidavit of publication setting forth the details of the publication, including the date of publication, name of the newspaper and a copy of the notice of hearing published. The applicant shall reimburse the City for the cost of such publication.~~
- B. Notice of hearing shall be sent by the applicant, by certified mail to all property owners within a distance of 250 feet of the subject property on both sides of the street on which the subject property fronts, to the adjoining property owner or owners to the rear of the property affected, and to all non-owner occupants of the property affected at least ten (10) days before the hearing. For purposes of notice, a property shall be deemed to have non-owner occupants when the primary owner mailing address on file with the City of Beacon Tax Assessor, is different than the property address. In such case, a notice shall be mailed to the property addressed to the occupant, and if a multifamily dwelling, then to all individual dwelling units on the property. Prior to the

public hearing, the applicant shall submit to the secretary of the applicable board ~~City~~ a signed affidavit of mailing setting forth details of the mailing, including date of mailing, names and addresses to whom the mailing was sent, a copy of the notice of hearing, and the certified mail receipts.

C. Public notice signs.

- (1) The applicant shall post one notification sign on the subject property no later than fourteen (14) days prior to the initial public hearing and any continued public hearing thereafter. The applicant shall update said sign at least fourteen (14) days prior to every public hearing which the applicant's matter will be heard. The Building Inspector may require, in his or her discretion, the applicant to post an additional public notice sign, based on topography of the surrounding land, parcel size and shape, or any other factors the Building Inspector, in his or her discretion, feels may impact effective public notice.
- (2) Such sign shall be at least three feet by four feet in size, consist of sturdy and serviceable material containing a white background with black letters and be placed in a location visible from the most commonly traveled street or highway upon which the property fronts, or in the case of a corner lot on both streets, but in no case more than 20 feet back from the front lot line. Such sign shall read as follows, in legible lettering with the heading at least five inches in height and the content at least two inches in height:

<p style="text-align: center;"><u>PUBLIC NOTICE</u></p> <p style="text-align: center;"><u>A PUBLIC HEARING FOR A [application type] APPLICATION WILL BE HELD BY THE CITY OF BEACON [City Council, Planning Board, or Zoning Board of Appeals]</u></p> <p style="text-align: center;"><u>ON [insert date] AT [insert time] P.M.</u></p> <p style="text-align: center;"><u>AT THE CITY OF BEACON CITY HALL, 1 MUNICIPAL PLAZA, BEACON, NY</u></p> <p style="text-align: center;"><u>ADDITIONAL INFORMATION IS AVAILABLE AT THE BEACON BUILDING DEPARTMENT</u> <u>(845) 838-5026</u></p>

- (3) In the event that the applicant shall appear before more than one board, the sign shall be appropriately revised to reflect the time and place of each board's meeting. At least two working days before the public hearing, the applicant shall also submit to the secretary of the applicable board a signed affidavit certifying to the fact and date of said posting.

- (4) The applicant shall, in good faith, maintain the public notice sign in good condition throughout the posting period
- (5) The applicant shall remove the notification sign within five days of the adoption of any resolution concerning the application.

SECTION 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 223 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 3. 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 4. Effective Date

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