

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KEEP CHICAGO LIVABLE, an	)	
Illinois not-for-profit corporation, and	)	
BENJAMIN THOMAS WOLF,	)	
as an individual and on behalf of all	)	
others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	NO. 1:16-cv-10371
	)	
	)	
THE CITY OF CHICAGO, a	)	
Municipal corporation,	)	
	)	
Defendant.	)	

**CLASS ACTION COMPLAINT**  
**FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF,**

NOW COME plaintiffs KEEP CHICAGO LIVABLE, an Illinois not-for-profit corporation (“KCL”) and BENJAMIN THOMAS WOLF, as an individual and on behalf of all others similarly situated (“Wolf”, and together with KCL, “Plaintiffs”), by and through their respective undersigned attorneys, and complain of and seek declaratory judgment and injunctive relief against defendant THE CITY OF CHICAGO, a municipal corporation (“Defendant” or the “City”), as follows:

## INTRODUCTION

1. This complaint is brought by KEEP CHICAGO LIVABLE, a non-profit formed by Chicago residents, and BENJAMIN THOMAS WOLF, as an individual and as a putative class action representative on behalf of all others similarly situated, regarding the constitutionality of the City of Chicago's new Shared Housing Ordinance, as described below.

2. The Shared Housing Ordinance, which purports to attempt to regulate the phenomenon of home sharing on internet sites such as Airbnb, HomeAway, FlipKey and VRBO, in fact operates as a *de facto* and in some cases outright ban on the use of internet home sharing services, and violates the constitutional rights of Chicagoans to speak and communicate freely and anonymously on the internet, to use their own property, to have privacy, and to not be subject to arbitrary and discriminatory enforcement of the laws.

3. The new law also violates the Stored Communications Act, 18 U.S.C. 2701, *et seq.*, by requiring third-party internet service providers to provide reports to the City of its users' personal information, electronic communications, transactional history and other stored electronic information, without a search warrant or a "2703(d)" order finding that there are "specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic information, or the records or other information sought, are relevant and material to an ongoing criminal investigation." 18 U.S.C. § 2703(d).

4. Even worse, this new law is designed as a particularly cruel trap for the

unwary – in this case, more than 6,000 Chicagoans. The rules and regulations come with fines of between \$3,000 to \$5,000 *per day per violation*. These penalties are buried inside 57 pages of dense and impenetrable legalese that the City knew, or should know, that ordinary citizens would never read or fully understand.

5. With this law, the City of Chicago creates a new power for itself unprecedented in the United States: the power to force its citizens to forfeit their anonymity and register before they participate socially on the internet. The Shared Housing Ordinance also marks the first time that the City of Chicago (or upon information and belief, any local or state government in the United States) has ever attempted to force a third-party internet provider (“ISP”) to divulge the confidential transactional and user information of the ISP’s subscribers, without a warrant, without court supervision and without the user’s consent.

6. Because this law goes into full effect on or about December 19, 2016, Plaintiffs request that this Honorable Court expedite a hearing on both class certification and/or as to whether a preliminary injunction should issue so that the myriad Constitutional issues can be examined and implementation of this law can be put on hold.

#### **PARTIES, JURISDICTION AND VENUE**

7. Plaintiff KEEP CHICAGO LIVABLE is a grassroots not-for-profit corporation in the State of Illinois, formed by hosts, for hosts, and made up of hosts. Plaintiff’s principal place of business is at 125 South Clark Street, Floor 17, in Chicago, Cook County, Illinois.

8. The purpose of Keep Chicago Livable is to educate other Chicago owners and

renters as to their rights and duties to participate in home sharing and to assist them with compliance with both state and local law as well as internally developed “best practices” for responsible home sharing.

9. Plaintiff BENJAMIN THOMAS WOLF is an individual citizen who resides in the City of Chicago, Cook County, State of Illinois.

10. Mr. Wolf has participated on Airbnb as a host and/or as a guest from time to time since 2012, and owns property in the City of Chicago that he either has used in the past for Airbnb purposes or that he intends to use for such purposes in the future.

11. The City of Chicago is a municipal corporation in the State of Illinois.

12. Plaintiffs institute these proceedings and invokes the jurisdiction of this Court under and by virtue of 28 U.S.C. § 1331, 28 U.S.C § 1343(a)(3), 28 U.S.C. § 1367(a), 28 U.S.C. § 2201(a), and 42 U.S.C. § 1983, because Plaintiffs seek a declaratory judgment as to the meaning of the Shared Housing Ordinance, to the extent any comprehensible meaning can be ascertained, and its constitutionality, under the United States Constitution and the Illinois Constitution of 1970.

13. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b) because all parties reside in this judicial district.

### **BACKGROUND**

14. Sharing one’s home is one of the oldest and most personal forms of hospitality. The very notion of having a home is inextricably intertwined with the ability

to host and to shelter friends, family and guests. Hospitality between a host and guest has always been on mutually agreeable, private, largely customary terms – some accommodations for short periods of time, for close families and friends and/or for very distinguished guests are provided free of charge and without any expectation of recompense, whereas other accommodations are provided upon mutually acceptable terms and conditions with a guest, ranging from an exchange of favors or the performance of chores, to the outright payment of cash or other consideration.

15. While the custom of hosting has not changed substantially over time, technology has facilitated a global phenomenon that has made “home sharing” safer, more convenient and more rewarding for all involved. There are several different internet platforms that offer the ability for “guests” and “hosts” to make arrangements for accommodations under a variety of different pretenses, from private housing clubs, vacation rentals, short-term rentals, sublets, roommate finders, corporate housing, to bed-and-breakfasts.

16. The growth of this phenomenon (through platforms such as Airbnb) has led to a reaction by municipalities, including the City of Chicago, based largely out of fear and misunderstanding, mixed with economic protectionism from the hotel and motel industry.

#### **A. How Sites Such As Airbnb Works**

17. Although there are many different internet-based platforms that facilitate “home sharing,” one of the most popular is Airbnb. Accordingly, this section of the

Complaint focuses on how Airbnb works.

18. Airbnb serves as a platform that facilitates a social interaction between a host and a guest to arrange for a stay. While most of the “stays” booked on Airbnb are short-term, it is entirely possible to arrange for a longer-term stay of weeks if not months through Airbnb.

19. Sites such as Airbnb are membership or subscriber-based sites, where the economic transactions can only occur between a person and Airbnb if the putative members (both host and guest) agree to Airbnb’s Terms of Service (*see* <http://www.airbnb.com/terms>).

20. There are three related but distinct transactions that occur on sites such as Airbnb: a pair of parallel economic transactions (between host and Airbnb, and between guest and Airbnb), and a social transaction, directly between host and guest.

21. A would-be “host” creates a “listing” that contains a profile of their home and themselves, as well as their own “house rules” and building rules and amenities. A “listing” is akin to a Facebook profile, but for one’s own home.

22. While basic information about “listings” can be viewed by non-members (or members of the general public), such “listings” do not reveal the full name of the host, contact information for the host, or the address of the space. Additionally, non-members cannot communicate with the host without requesting to book, and prior to the host accepting such request.

23. On the right-hand side of a “listing” are interactive boxes for a potential guest

to input his or her ideal “check in” and “check out” dates, as well as identifying the number of guests, and a “Request to Book” button that states that “Your credit card won’t be charged yet.”

24. Hosts have two options in terms of making their space available for “booking” by member-guests. First, a “host” can turn on a feature called “insta-booking,” which allows the host’s space to be reserved or booked immediately by a member-guest. Second, the “host” can turn off or limit the “insta-booking” feature, which means that an interested member-guest can only “request to book.” As a default setting, the “insta-booking” feature is turned off.

25. A non-member could also save a particular listing to a “wish list” (and view how many other travelers saved that particular listing to a “wish list”), email or Facebook messenger this listing to someone else, or even “Pin” a particular “dream listing” to a “Pinterest” page.

26. Airbnb also provides the ability for bidirectional reviews, of the host by the guest, and vice versa. Reviews of a host and of a listing – including star ratings from 1 to 5 and narratives – are visible to anyone.

27. A would-be guest that views a desirable listing commits to pay money to Airbnb, in exchange for Airbnb making its member-hosts available for communication and potential booking, and further in exchange for a set of dispute resolution mechanisms, support services, accounting services and payout procedures if a booking is consummated.

28. If a member-guest requests to book a host's listing, the member-guest typically will write a short note explaining who the member is, why the member is visiting the city, and what the member likes about the host and the listing. The member also has the option to request a special offer, or to suggest a lower or even a higher price.

29. Provided that "insta-booking" is turned "off," a host that receives a request for a booking has the option to accept the request, decline the request, ask for additional information or even propose a "special offer" including different dates, or higher or lower prices.

30. A guest pays Airbnb at the time of a confirmed booking, including any additional security deposits or fees, but a host does not receive a payout until a certain time period after the guest enters the home, provided that neither the guest nor the host has reported an objectionable condition or situation to Airbnb and terminated the booking.

31. No express contract arises between host and guest, and no money changes hands between host and guest. Rather, per the express Airbnb Terms of Service, the host makes a commitment to Airbnb to provide a guest with a limited license (not a lease) to enter and use the listing for the limited duration of the confirmed booking.

32. Even after a particular booking is confirmed, both the host and the guest have the ability to cancel or modify such booking and in some cases receive a full refund.

33. A host receives a payout upon satisfaction of the host's commitment to Airbnb to fulfill the host's obligations to reserve the space for the guest on the dates



requested and to otherwise provide satisfactory hospitality to the guest.

34. Thus, while the economic transactions and the social transaction are clearly related insofar as the economic transactions are contingent upon a successful social interaction, platforms such as Airbnb serve to facilitate this social interaction.

## **B. Chicago's Shared Housing Ordinance**

### **1. An Overview**

35. On June 22, 2016, the Chicago City Council passed an ordinance amending Titles 2, 3, 4 and 17 of the Municipal Code regarding Shared Housing Units and Vacation rentals (the "Shared Housing Ordinance"). Shortly after passage, the Chicago Tribune described the new law as "dizzily complex."<sup>1</sup>

36. A true and correct copy of this new ordinance, referred to herein as the "Shared Housing Ordinance," is attached hereto as *Exhibit 1*.

37. By its express terms, the Shared Housing Ordinance takes full effect "150 days following its passage and publication." Upon information and belief, this law was "published" in the Journal of Proceedings for the City Council on or around July 20, 2016, and therefore the law takes full effect on or about December 19, 2016.

### **2. The City Created a New Registration Power for Itself.**

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<sup>1</sup> John Byrne, "Airbnb rules easily pass Chicago City Council despite vocal opposition," Chicago Tribune, June 22, 2016, available at <http://www.chicagotribune.com/news/local/politics/ct-chicago-city-council-airbnb-rules-met-20160622-story.html> (last viewed Oct. 29, 2016).

38. The Shared Housing Ordinance creates a new “registration” power for the City, which is a power of general applicability, and specifically applies it to previously anonymous activity on the internet. SHO, § 2-25-050(b)(10).

39. With the power to register comes the power to suspend or revoke registration, and thereby to ban or control the activity.

40. The registration required by the City under the Shared Housing Ordinance is a pre-requisite to the ability of a person to put up and maintain a listing of a “Shared Housing Unit” on internet platforms such as Airbnb.

### **3. The New Law Is Incomprehensible**

41. Under the Shared Housing Ordinance, the City apparently contemplates that all hosts participating in internet home sharing should either register as a “Shared Housing Unit” or license as a “Vacation Rental.”

42. However, the definitions of “vacation rental” and “shared housing unit” are functionally indistinguishable. The term “vacation rental” is defined as “a dwelling unit that contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests.” SHO, §4-6-300(a). The term “Shared Housing Unit” is defined as “a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests.” SHO, §4-14-010.

43. Each definition of “vacation rental” and “shared housing unit” excludes “guest suites.” SHO, §4-6-300(a); 4-14-010. A “guest suite” is defined as “a dwelling unit

that is available for rent or for hire for transient occupancy solely by the guests or family members of residents of the building which contains the dwelling unit, and is not offered, advertised or made available for rent or hire to members of the general public.” SHO, §4-6-300(a).

44. Under this definition of “guest suite,” a host using Airbnb who has the “Insta-Booking” function turned off, and who is selective about which guests to invite to stay at his or her listing, is operating a “guest suite” that is not subject to regulation under the Shared Housing Ordinance, because the dwelling unit is not being offered, advertised or made available for rent or hire to members of the general public.

45. The City Council did not explain how the City should distinguish between “guests ... of the resident” and “members of the general public,” nor is it possible to explain such a distinction because all “guests ... of the resident” are by definition also “members of the general public.”

46. The Shared Housing Unit creates two separate regulatory regimes for platforms such as Airbnb. The Shared Housing Ordinance regulates both “intermediaries” (presumably, such as Airbnb) <sup>2</sup> and “advertising platforms”

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<sup>2</sup> An “intermediary” is defined as “any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists shared housing units on its platform.” SHO, § 4-13-100.

(presumably, such as TripAdvisor or VRBO)<sup>3</sup> in similar but distinct ways.

47. Unlike “Advertising Platforms,” “Intermediaries” are required by the City to make mandatory reports and disclosures to the City about each of its registered hosts, including their name, address, and transaction history, without having to first obtain a search warrant or a court order and without the consent of the host.

48. Further, “intermediaries” are deputized by the City to educate their members as to the new rules and affirmatively police their own listings. *See* SHO, § 4-13-215; 4-13-220(e), (f) and (h).

49. Additionally, unlike “Advertising Platforms,” each “intermediary” is required to “bulk register” its hosts with the City “on behalf of the owner or tenant” – regardless of whether the host consents to such “bulk registration” and disclosure of the host’s personal information to the City, without notice to the host that such disclosure is being made, and even if such host has chosen to alternatively license as a “vacation rental” or “bed-and-breakfast.” SHO, § 4-13-230(a).

50. Whether a platform such as Airbnb or VRBO (or a new platform) is an

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<sup>3</sup> An “advertising platform” is defined as “any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists licensed bed-and-breakfast establishments, vacation rentals or hotels on its platform or dwelling units that require a license under this Code to engage in the business in the business of short term residential rental.” SHO, § 4-13-100.

“intermediary” or “advertising platform” is itself indeterminate because it depends on whether the platform “primarily” serves as a platform for hosts of “shared housing units” or for licensees of “vacation rentals.” Thus, if in Year 1, a platform such as Airbnb obtains a license as an “intermediary,” it may be required or allowed in a later year to obtain a separate license as an “advertising platform” based solely on a shift in the registration and/or licensing patterns of the majority of its users.

51. The City Council does not define what it means for a website or platform to “primarily” list “shared housing units” or “vacation rentals” on its website, which is an indeterminacy that is further compounded by the virtually identical definitions of “shared housing unit” and “vacation rental” in the law.

**4. The Shared Housing Ordinance Does Not Just Regulate Home Sharing; In Many Cases It Operates As An Outright Ban.**

52. The Shared Housing Ordinance operates as an outright ban on Airbnb activity for certain homeowners and renters in Chicago.

53. In Section 4-13-270(c) of the Shared Housing Ordinance, the City has the duty to maintain a “prohibited buildings list,” identifying the addresses of all buildings whose owners, including a homeowners’ association or board of directors, have notified the City that no vacation rentals or shared housing units are permitted to operate.

54. The notification to the City of this intent may be made by an agent for the homeowner’s association, such as a property manager, or by a single board member.

55. There is no requirement that the unit owners in a condominium or homeowner's association be informed that their building is being placed on the "prohibited buildings list."

56. There is no requirement that a vote be held by the homeowner's association or condominium board to authorize the placement of the building onto the City's prohibited buildings list.

57. There is no requirement that the determination by the homeowner's association, condominium board, or one of its directors or agents be correct that the bylaws and declaration prohibit the operation of vacation rentals and/or shared housing units.

58. There is no requirement that an amendment to the condominium instruments be passed pursuant to the bylaws if the bylaws and/or Declaration currently allow vacation rental and/or shared housing unit activity.

59. Rather, even where such activity is legally allowed and part of the title purchased by a homeowner, a single member of a condominium association, or even a single property manager, could submit a notification to the City to place the building on the "prohibited buildings list," and thereby divest all unit owners of their rights to participate in home sharing on internet sites such as Airbnb.

60. Further, the consequence of having one's building placed on a prohibited building's list is not that booking transactions are disallowed. Rather, the consequence is that a unit owner cannot maintain a listing at all for that building – even if the unit owner

simply wanted to retain the ability for others to view his or her many positive reviews or see pictures of his or her unit.

61. Failure to remove a listing for a dwelling unit in a building placed on a prohibited buildings list can subject the unit owner to fines of up to \$3,000 per day the listing is online – even if the unit owner never received any notice that the building had been placed on the “prohibited buildings list,” and even if the condominium instruments allow such activity.

62. The “prohibited buildings list” provision not only empowers individual members or agents of a homeowner or condominium association to arbitrarily and without notice divest unit owners of their rights, but it also shifts the burden and expense of enforcing purported condominium rules from the local community to the taxpayers in general.

63. Additionally, the “prohibited building list” provision empowers landlords to change the terms of their contractual leases with their tenants, insofar as the landlord and tenant did not affirmatively negotiate and agree to a specific ban on Airbnb and other related home sharing activity. By simply notifying the City that a building should be placed on the “prohibited buildings list,” a landlord could rewrite the rental agreement to ban home sharing activity, without providing the tenant any consideration. Further, as with homeowners’ associations, the landlord would then shift the costs of monitoring and enforcement of the private, contractual lease terms from himself or herself to the taxpayers

in general.

64. The Shared Housing Ordinance also creates “maximum caps” on the number of listings – not active bookings, but merely internet listings – that can be online on any internet platform at any one time, depending on the type of building. For two-to-four dwelling unit buildings, the new law limits the number of permissible listings to one – only one owner or tenant may maintain a listing on a home sharing internet platform at any time, and the second owner or tenant who wishes to so list his or her home may not create or maintain such a listing. For buildings with five or more dwelling units, the “maximum cap” is 25 percent of the total number of units, or a maximum of six, internet listings that can be online at any one time. Thus, the seventh homeowner or renter in a large high-rise building is banned from not only sharing his or her home with guests but from maintaining a listing on the internet for that possibility.

65. The Shared Housing Ordinance also divests completely innocent third parties from their rights to use home sharing services, even if they were not the licensee or registrant deemed ineligible by a violation of the Shared Housing Ordinance. Section 4-14-090(d) states that “[i]f a shared housing unit registration under this chapter is revoked, such revocation shall remain in effect for a period of at least two years from the date of revocation and thereafter until such time as a new owner or tenant, as applicable, other than a family member of the person whose registration was revoked, occupies the dwelling unit.”

66. Similarly, Section 4-14-050(i), for instance, states: “Following notice of a final



determination of ineligibility under Section 4-14-030(b), it shall be unlawful for any shared housing host to rent or to allow any family members to rent any shared housing unit identified in such notice that the commissioner has determined is ineligible for listing on any platform.”

67. Thus, a family member of a unit owner whose “shared housing unit” registration is revoked could not sublease the unit and attempt to register his or her own Airbnb listing for this two-year period, even if the family member is completely innocent of the violations that led to the revocation of the registration.

**5. The Shared Housing Ordinance Requires Disclosures By Chicagoans Who Never Intend To Use Services Like Airbnb, And/Or Who May Not Even Have Heard Of Airbnb.**

68. The Shared Housing Ordinance requires new disclosures for all property owners and their real estate brokers wishing to sell or lease their home or unit, even if such property owners are unaware of what Airbnb or other internet home sharing sites are, and even if such property owners have no intention of ever listing their home on or using sites such as Airbnb.

69. Section 4-6-300(f)(13) of the Shared Housing Ordinance states:

(13) Disclosure and acknowledgement – Required

(1) A building or dwelling unit owner, or agent thereof, shall not execute an oral or written lease, contract to lease, or accept any money or other valuable consideration in an application for an oral or written lease for a dwelling unit without disclosing to the tenant or applicant in written form if the building or dwelling unit owner knows that:

- (i) The dwelling unit being leased is licensed by the City of Chicago as a vacation rental;
- (ii) The dwelling unit being leased is ineligible under Section 4-13-260(a) to be rented as a shared housing unit or vacation rental.

(2) The tenant or applicant shall be required to execute a receipt acknowledging that these written disclosures have been made.

(3) All owners of residential dwelling units and buildings (and their agents) shall, at the time of any offering for sale of said residential dwelling units and buildings, or in the case where improved real property is held under trust the sale of real property which forms the corpus of the trust or the transfer of the beneficial interest in such property, including contract sale, be required to disclose to the purchaser or prospective purchaser if the owner knows:

- (i) The dwelling unit being leased is licensed by the City of Chicago as a vacation rental;
- (ii) The dwelling unit being leased is ineligible under Section 4-13-260(a) to be rented as a shared housing unit or vacation rental.

(2) The purchaser or prospective purchaser shall be required to execute a receipt acknowledging that these written disclosures have been made.

70. A substantially similar provision exists in the "Shared Housing Unit" section of the Shared Housing Ordinance at Section 4-14-040(d).

71. Because a unit or house can be placed deemed to be ineligible under the Shared Housing Ordinance by a misinformed property manager or condominium board director or simply by the Airbnb activity of other neighbors, a property owner (especially of a condominium unit) or his or her real estate agent could be found to have made a material omission in the course of a lease or sale, and thereby be found to be liable simply

for not obtaining a written receipt from the tenant or prospective purchaser about a disclosure that property owner or agent had no reason to think needed to be made.

**6. The Shared Housing Ordinance Places Impossible Burdens On Hosts.**

72. If an individual host elects to register as a “Shared Housing Unit” (or is involuntarily or incorrectly “bulk registered” as a “Shared Housing Unit” by an “intermediary”), such host is required to make certain mandatory disclosures, such as name, address, building information and contact information, and also provide “any other information that the commissioner may reasonably require in connection with the issuance or renewal of a registration under this chapter,” as a pre-requisite to obtaining a registration number, which the host is then required to place inside his or her listing. SHO, § 4-14-020(b).

73. Additionally, a person who elects to register as a “shared housing unit” host must submit an attestation that “the host has reviewed and understood the requirements of this ordinance.” SHO, § 4-14-020(c)(1); § 4-13-215. The Shared Housing Ordinance also provides that “[t]he attestation required under this subsection (c) shall be deemed an attestation to the city within the meaning of the False Statements Ordinance, Chapter 1-21 of this Code, regardless of the method by which such attestation is submitted or transmitted to the department.” SHO, § 4-14-020(c)(2).

74. Neither the City of Chicago nor Airbnb (or any other “intermediary”) has offered to pay for or otherwise made arrangements for hosts and Chicagoans to have

independent legal counsel to advise them as to how the Shared Housing Ordinance applies to them.

75. The City of Chicago has offered to hold classes for interested hosts, where the City would be providing legal advice to hosts without disclosing the City of Chicago's conflict of interest to such hosts.

76. If a person refuses to sign or agree to such an attestation, the Intermediary is barred from allowing such a person to list on the website and such person is ineligible to register as a Shared Housing Host.

77. Each person who elects to register as a "shared housing host" must perform a "zoning review, as provided by the commissioner in rules, to ensure that the location of the shared housing unit is in compliance with the Chicago Zoning Ordinance." SHO, § 4-14-020(d)(1).

78. Additionally, each person who elects to register as a "shared housing host" must also perform a review of the City's "prohibited building list ... to ensure that the shared housing unit is not located at an address identified on that list." SHO, § 4-14-020(d)(2).

79. Each person who elects to register as a "shared housing host" must also perform a review of the "restricted residential zone list" to "ensure that the shared housing unit is not located in a restricted residential zone." SHO, § 4-14-020(d)(3).

80. The Commissioner assigns a unique "registration number" to "each

approved shared housing unit registered with the department.” SHO, § 4-14-020(e).

81. Each person who is assigned such a registration number has a duty to “promptly post the registration number in a conspicuous place in all applicable listings on any platform.” SHO, § 4-14-020(f).

82. The registration of a shared housing unit is “non-transferable.” SHO, § 4-14-020(i).

83. Failure to list a registration number in a listing “shall create a rebuttable presumption that the shared housing unit is being operated without the proper registration.” SHO, § 4-14-040(b)(4).

84. Any person who fails to list such a registration number in his or her listing is at risk of being deemed ineligible to be a “shared housing host” and is further subject to fines of “not less than \$1,500 nor more than \$3,000.00 for each offense” where “[e]ach day that a violation continues shall constitute a separate and distinct offense.” SHO, § 4-14-090(a).

85. If a person elects to be a “shared housing unit” host, such shared housing unit “shall be deemed to be a public accommodation within the meaning of Section 2-160-070” which is the Chicago Human Rights Ordinance.

86. The Shared Housing Ordinance states that “[i]t shall be unlawful for any person that owns, leases, rents, operates, manages or in any manner controls such public accommodation to withhold, deny, curtail, limit or discriminate concerning the full use

of such public accommodation by any individual because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income in violation of Section 2-160-070." SHO, § 4-14-040(c).

87. Thus, a woman who prefers to host only female Airbnb guests will now be in violation of the Chicago Human Rights ordinance if she elects to register as a "shared housing unit," and even if she rents to a man, she would also be in violation of this provision if she refuses to let this man sleep in her bed or enter into her bedroom or her private bathroom ("full use of such public accommodation").

88. The Shared Housing Ordinance enumerates several specific "operating requirements" for any person who elects to register as a "shared housing unit" host. SHO, § 4-14-040(b). Among other requirements, such registrant must:

- A. ***Sanitize Dishes, Pots, Pans and Utensils*** – all dishes, utensils, pots, pans and other cooking utensils must be "clean[ed] and sanitize[d]" between guests, and any food, beverages and alcohol must be disposed of if left behind by guests.
- B. ***"Snitch" Law*** – each host must "immediately notify and cooperate with the police department if the shared housing host knows or suspects that any criminal activity, egregious condition or public nuisance is taking place in the shared housing unit."
- C. ***Posting Contact Information and Evacuation Diagram*** – the real name and phone number of a "local contact person" and an "evacuation diagram identifying all means of egress from the shared housing unit and the building in which it is located" must be posted "in a conspicuous place near the entrance of the shared housing unit."

- D. ***Food Handling Safety*** – “Each shared housing host that provides food to guests shall comply with all applicable food handling and licensing requirements of this code and board of health regulations.” The reference to “food handling and licensing requirements” is a reference to the 68-page “Food Code” for commercial kitchens established by the Chicago Department of Health.
- E. ***Maintenance of Records*** – each registered host must keep, for 3 years, records of all guests, including (i) name, (ii) contact information, (iii) signature and (iv) dates of accommodation. Each host is also required to make these registry records available for inspection to “any authorized city official ... upon request.”

89. In addition to the mandatory “operating requirements,” the Shared Housing Ordinance enumerates several “unlawful acts” that are now prohibited and subject to fines of up to \$5,000. SHO, § 4-14-050. For example:

- A. **Criminal Activity, Nuisances, Egregious Conditions** – if a shared housing host “permit[s]” any criminal activity, public nuisance or egregious condition, such registered host is liable to a fine “of not less than \$2,500.00 nor more than \$5,000.00 for each offense” where “[e]ach day that a violation continues constitutes a separate and distinct offense.”
- B. **Misrepresentation of Material Facts** – if any shared housing host misrepresents any material fact regarding the shared housing unit in a listing, that is unlawful.
- C. **Service of Alcohol – Prohibited** – it is unlawful for any shared housing host to “serve or otherwise provide alcohol to any guest or invitee of any guest.”
- D. **Violation of Condominium or Cooperative Building Restrictions** – this provision makes it unlawful to list a unit on the internet or to rent a shared housing unit if the HOA has “adopted by-laws prohibiting the use of the dwelling unit as a shared housing unit or vacation rental, in any combination.”

- E. Violation of Rental Restrictions** – it is unlawful for a person who elects to register as a “shared housing host” to list a unit that is subject to a lease restriction.
- F. Not Primary Residence – Single Family Home** – it is unlawful to list a single family home that is not the “primary residence” of a shared housing host, unless the host is on active military duty, unless the Commissioner has granted an adjustment or unless it was previously licensed as a vacation rental as of June 22, 2016.
- G. Not Primary Residence – Two to Four Dwelling Units** – it is unlawful for a person to list a unit on any “platform” or to rent a shared housing unit that is located in a building with two to four dwelling units, unless the unit is (1) the shared housing host’s primary residence, and (2) is the only dwelling unit that is or will be used as a shared housing unit or vacation rental, unless the owner is on active military duty, has obtained a Commissioner’s adjustment or was previously licensed as a vacation rental.
- H. High Rise Maximum Cap** – for buildings with five or more dwelling units, it is unlawful to list or rent a shared housing unit where “more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as shared housing units or vacation rentals,” absent a Commissioner’s Adjustment.
- I. Failure to Remove Listing** – it is unlawful for a host to fail to remove a listing from the internet if the Commissioner has made a final determination of ineligibility

90. A registration as a “Shared Housing Unit” (or a license as a “vacation rental”) may be revoked by the Commissioner for the Department of Business and Consumer Affairs for the following enumerated reasons:

- A. Situs of one or more egregious conditions* - among an obvious “parade of horrors,” an “egregious condition” is also defined as including “the use of a shared housing unit by a guest for commercial purposes, including, but



not limited to, holding out the unit to members of the general public as the location of a party, amusement, or event.”

- B. *Situs of three or more “objectionable conditions”* – for the purpose of this section, “objectionable conditions” include, *inter alia*, “excessively loud noise” which is defined as “any noise, generated from within or having a nexus to the rental of a shared housing unit, between 8:00 P.M. and 8:00 A.M., that is louder than the average conversational level at a distance of 100 feet or more, measured from the property line of the shared housing unit.”
  - C. *Situs of three or more “nuisance conditions”* – measured during a 12-month period, and including outside of the boundaries of a shared housing unit or vacation rental (including the parking facility, the premises generally or “on adjacent property.” In a post-deprivation hearing, this “nuisance condition” may be proved with “any evidence on which a reasonably prudent person would rely ... without regard to the formal or technical rules of evidence.”
  - D. *Scofflaw or Problem Landlord* – again, this could be a building problem, not a shared housing unit host problem.
  - E. *Threat to public health, safety or welfare* – this is confusing because the first element for immediate suspension or revocation of a registration is the Commissioner’s good cause to believe in an “imminent threat to public health, safety or welfare.” This particular second element allows the Commissioner to suspend or revoke a registration solely upon that “good cause to believe” in the first prong.
  - F. *Unlawful discrimination* – any finding that a host declined a guest for discriminatory reasons is grounds for revocation of the right of the host to list an advertisement on an intermediary platform.
91. Findings of violations of any of the foregoing could result in fines of \$3,000 per day per violation.
92. Section 4-14-100 authorizes the Commissioner to grant an adjustment to

allow the operation of a shared housing unit in (i) a single family home or a unit in a two-to-four dwelling unit building that is not the shared housing host's primary residence or (ii) in a building containing two-to-four dwelling units, an increase in the number of dwelling units that may be used as shared housing units.

93. In order to allow such an adjustment, the Commissioner must find that such an adjustment is necessary to "eliminate an extraordinary burden on the applicant in light of unique or unusual circumstances and would not detrimentally impact the health, safety or general welfare of surrounding property owners or the general public."

94. Enumerated factors that the Commissioner "may consider" with respect to an application for an adjustment include:

- A. "the relevant geography"
- B. "the relevant population density"
- C. "the degree to which the sought adjustment varies from the prevailing limitations"
- D. "the size of the relevant building and the number of units contemplated for proposed use"
- E. "the legal nature and history of the applicant"
- F. "the measures the applicant proposes to implement and maintain quiet and security"
- G. "any extraordinary economic hardship to the applicant, due to special circumstances, that would result from a denial"
- H. "any police reports or other records of illegal activity or municipal code

violations at the location” (note: not convictions – complaints) and

I. “whether the affected neighbors support or object to the proposed use.”

SHO, § 4-14-100(a).

95. Additionally, upon a written request for an adjustment, the Commissioner “shall notify the affected alderman and solicit a recommendation based on the alderman’s analysis of the relevant factors, and may seek additional information or supplementary proof from the applicant, and may also solicit information from the community.” SHO, § 4-14-100(c).

96. The “commissioner’s adjustment” provision of the Shared Housing Ordinance is an invitation for graft, favoritism and discriminatory treatment towards political opponents, disfavored persons or non-supporters of particular aldermen. The enumerated standards that the Commissioner “may consider” are purely discretionary and extraordinarily broad such that virtually any favored request for an adjustment could be admitted, and any disfavored request for an adjustment could be denied, using the enumerated language. Coupled with the mandate that the Commissioner must “solicit a recommendation” from the local alderman, Chicagoans’ rights to share their home with their own guests is subject to the whims of the local alderman, whose input will likely have inordinate weight with the Commissioner. To put it bluntly, the new Shared Housing Ordinance turns Chicago’s citizens into serfs, and transforms our neighborhoods into tiny aldermanic fiefdoms.

**7. The Vacation Rental Licensing Changes Are Also Burdensome And Impracticable.**

97. With respect to “vacation rentals,” a host who elects to obtain a license as a “vacation rental” must submit an application that is similar to the application to register as a “Shared Housing Unit,” but that also contains additional sworn attestations, including attestations that (in a two-to-four dwelling unit building) that the licensed unit “is the only dwelling unit that is or will be used as a vacation rental or shared housing unit” or (for buildings containing five or more dwelling units) that “no more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as vacation rentals or shared housing units, in any combination.” (Emphasis added).

98. It is unlikely that the average person would know what his or her neighbors are doing with their units, given the many different home sharing internet rental platforms available out there, and it is virtually impossible for a person to predict the future actions or intentions of one’s neighbors, to the extent such person has multiple neighbors that are not immediate friends or family.

99. Additionally, as a prerequisite to obtaining a “vacation rental” license, a host must obtain commercial general liability insurance of up to \$1 million that names the City of Chicago as an additional insured – even if the host books guests through Airbnb (which has its own \$1 million guarantee).

100. Upon information and belief, there are presently no commercially available insurance products in the Chicago market that offer a CGL policy for shared housing situations where the host lives in the unit with the guest.

101. Further, with respect to “vacation rentals,” the Shared Housing Unit authorizes the Chicago Building Commissioner to “mandate an inspection of any vacation rental, at any time and in any manner, including third-party reviews, as provided for in rules promulgated by the building commissioner.” The law also states that “[i]f the licensee provides food to his guests in the vacation rental, the board of health may inspect the vacation rental in accordance with rules promulgated by the board of health.” SHO, 4-6-300(e).

**8. The Shared Housing Ordinance Contains Hair-Trigger Rules That Make Violations Unavoidable.**

102. The Shared Housing Ordinance also empowers neighbors of a property owner to ban home sharing activity as a “shared housing unit” or a “vacation rental.” In a condominium association, an agent of the Condominium Association (including, for example, a property manager) is empowered to submit a statement to the City of Chicago attesting that home sharing activity is prohibited by the Condominium Association, even if there was never a vote to amend the bylaws or the Declaration or to submit such a statement.

103. Additionally, because “excessive loud noise” is defined in a way that any

noise that is reportedly audible after 8:00 p.m. and has some “nexus” to home sharing activity could result in suspension or revocation of a registration or license, the law empowers neighbors to specifically target and harass property owners who are suspected of hosting guests in their own home that they met through the internet.

104. Further, the “maximum caps” for two-to-four dwelling unit buildings and for buildings with five or more dwelling units could be triggered by a neighbor or a small group of neighbors who dislike the idea of a property owner’s home sharing activities to create fake “listings” on the same site as the legally registered or licensed listing, such that the “maximum caps” are intentionally breached and all listings in that building are therefore deemed to be illegal.

#### CLASS ACTION ALLEGATIONS

105. Plaintiffs incorporate their allegations in paragraphs 1 through 104 as if fully stated herein.

106. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff Wolf brings this action as a class action and seeks certification of the claims and certain issues in this action on behalf of a Class defined as:

##### Subclass 1: Hosts

**All Chicago residents who (A) own or lease property in the City of Chicago and (B) (i) who list their property or a room in their property on the internet through platforms such as Airbnb, VRBO, TripAdvisor, HomeAway, Flipkey, and other online platforms or intermediaries used primarily to facilitate “home sharing,” for transient occupancy in exchange for consideration, or (ii) who wish to so list their property on such internet sites**

or platforms in the future.

**Subclass 2: Guests**

**All persons what have ever been a guest of a Chicago resident who owns or leases property in the City of Chicago and who has listed his or her property or a room in such property on the on the internet through platforms such as Airbnb, VRBO, TripAdvisor, HomeAway, Flipkey, and other online platforms or intermediaries used primarily to facilitate “home sharing,” for transient occupancy in exchange for consideration**

107. Plaintiffs reserve the right to amend this Class definition if further investigation and discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified. Excluded from the Class are Defendant, any aldermen on the City Council, governmental entities, public bodies, any of Defendant’s departments or agencies, and any officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns of any of Defendants’ departments, agencies or public bodies. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

108. The class of past, present and future hosts on Airbnb and other home sharing internet sites is so numerous, and the identities of such persons is hidden anonymously, such that joinder of all members of the Class and any subclass is impracticable.

109. The questions of law and fact raised herein are common to all members of the Class and any subclass, as all members of the Class and any subclass are subject to being similarly affected by constitutional infirmities of the Shared Housing Ordinance as

presently drafted.

110. The claims and defenses of Plaintiff Wolf are typical of the claims or defenses of the Class.

111. Plaintiffs will fairly and adequately protect the interests of the Class.

112. Prosecuting separate actions by or against individual class members will create the risk of inconsistent and varying adjudications and would establish incompatible standards of conduct for Defendant.

113. Additionally, adjudications of the constitutionality of the Shared Housing Ordinance with respect to individual class members will, as a practical matter, be dispositive of the interests of the other members not parties to the individual adjudications, or would substantially impair or impede their ability to protect their interests.

114. Plaintiff Keep Chicago Livable issued a letter to all 50 aldermen on the Chicago City Council, as well as to the Mayor of Chicago, highlighting the various constitutional and practical infirmities with the Shared Housing Ordinance identified herein, and requested a meeting to discuss these concerns. A true and correct copy of the open letter sent on September 15, 2016 is attached hereto as *Exhibit 2*. Plaintiffs received no substantive response to this letter.

115. Accordingly, the City has refused to act on grounds that apply generally to the class to fix this defective law, such that injunctive relief and/or declaratory relief is appropriate with respect to the class as a whole.



116. The common questions of law and fact as to how Airbnb works and whether the Shared Housing Ordinance is constitutional or not predominate over any questions affecting only individual members, such that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

**COUNT I**

**DECLARATORY JUDGMENT**  
**FIRST AMENDMENT – PRIOR RESTRAINT ON FREE SPEECH**

117. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

118. The First Amendment to the United States Constitution provides that “Congress shall make no law ... abridging the freedom of speech, or of the press.” The prohibitions in the First Amendment have been applied to states and localities through the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and under the “incorporation doctrine.”

119. It is well-settled that prior restraints on non-commercial speech are typically unconstitutional, with some very narrow and inapplicable exceptions.

120. Even prior restraints on commercial speech are only permissible if subject to procedural safeguards, which are absent here.

121. The pre-registration requirement for Shared Housing Units is an impermissible prior restraint on free speech, regardless of whether a particular listing is

deemed to be “commercial speech” or not.

122. Prior to the Shared Housing Ordinance, Section 2-25-050 of the Chicago Municipal Code defined the general powers and duties of the Department of Business Affairs and Consumer Protection (the “DBACP”) as including the creation and enforcement of a licensing regime for businesses operating in the City of Chicago.

123. The Shared Housing Ordinance amends Section 2-25-050(b)(10) to create a brand new power for the DBACP: the power to require citizens to register with the City, and also to suspend registrations, regardless of whether such persons were engaged in a trade or business.

124. The Shared Housing Ordinance operates in substantial part by requiring all persons who wish to post and maintain a listing for a “Shared Housing Unit” to first register and obtain a registration number, where such registration includes disclosure to the City of the person’s identifying information and subjects such registrant to a host of restrictions and rules, including a commitment to serve as a “public accommodation” for anyone interested in being a guest in the person’s private home.

125. Absent such registration, the Shared Housing Ordinance empowers the City to order that a listing for a “Shared Housing Unit” be removed and to subject a person with such a listing to daily fines of up to \$3,000 per day that the listing remains on the internet.

126. By creating a new registration power for itself independent from the pre-existing business licensing, the City is admitting that “Shared Housing Units” are not

commercial businesses in nature.

127. By making registration a pre-requisite to posting and maintaining a listing for a “Shared Housing Unit” on sites such as Airbnb, the City is directly targeting and creating a prior restraint on non-commercial speech, and thereby limiting a fully protected social interaction between host and guest by conflating and confusing that interaction with the parallel economic transactions between the host/guest and Airbnb.

128. The primary purpose for many hosts on platforms such as Airbnb is not necessarily to obtain a profit. Hosts enjoy sharing their homes with guests for many reasons that have nothing to do with making a profit, such as making new friends, learning about different cultures, showing off one’s home and city to a newcomer or simply out of empathy for a traveler who could not otherwise afford to stay in a downtown hotel.

129. Further, the mere posting of a listing by a host does not propose a commercial transaction. Rather, it describes the space and the host, and invites fellow members to make an offer at or below the suggested price.

130. For many hosts, the motivation behind setting a suggested price in their Airbnb listings is as much customary and social as it may be economic: it is customary for a guest to offer to compensate a host sharing his or her home with some form of gratuitous payment or consideration. To put it another way, it would be considered rude or inconsiderate in most if not all cultures (including Chicago) for a guest that is not immediate family or a close friend to enjoy a host’s hospitality for an extended period of time and to

not offer some form or amount of compensation for the inconvenience.

131. Further, the suggested price serves the social function of defining up-front what a host thinks would be an “inconsiderate” gratuity for a guest’s imposition and enjoyment of hospitality, which helps avoid a possible misunderstanding at the end of the stay that might create hard feelings.

132. In this sense, the motivation behind suggesting a nightly rate in the listing is akin to two relative strangers on a dinner date agreeing to split the bill or “go Dutch” before meeting, to reduce the risk and cost involved with the arrangement, to avoid an awkward end-of-dinner conversation, and thereby to facilitate a smooth, enjoyable interaction during the dinner and possibly thereafter.

133. There are many non-commercial reasons that a person might create a host listing, other than for the purpose of generating nightly income or proposing a commercial transaction. Airbnb provides a simple platform for a person to post pictures of and information about their space (and Airbnb even provides a free professional photographer), and Airbnb provides market data, in the form of suggestions as to pricing recommendations that are variable according to the season, neighborhood and demand. Thus, a person interested in renting out their home long-term as a furnished rental could use their Airbnb listing as a convenient way to market to potential long-term tenants, or to learn market data about demand for their neighborhood.

134. Additionally, an active “host listing” can serve as valuable reputational

currency for a person who intends on using Airbnb as a guest, because hosts typically like to provide hospitality to other fellow hosts, especially those who are well-reviewed.

135. There are also many non-commercial reasons that a person might browse Airbnb listings, without intending to actually book a room as a guest. For example, a visitor to a new city could focus on particular neighborhoods and view actual homes in that neighborhood to get information about market prices, local hotspots, and even to glean aesthetic design or lifestyle information.

136. Thus, it is overly simplistic and incorrect to assume that the mere posting of a listing on the internet is the *sine qua non* of operating a commercial business or proposing a commercial transaction, or that such a listing is motivated solely or even primarily for economic reasons.

137. The registration requirement for “Shared Housing Units” under the Shared Housing Ordinance censors, chills and penalizes a significant amount of primarily noncommercial speech, denies a free exchange of information to consumers of information, and is not narrowly tailored to advance a compelling State interest.

138. Further, there are no procedural safeguards to ensure that the registration requirement or penalties associated with not registering as a “Shared Housing Unit” will not censor, chill or penalize non-commercial speech. To the contrary, the Shared Housing Ordinance requires that a third-party intermediary, such as Airbnb, “bulk register” all listings with the City “on behalf of” the host – regardless of whether or not the host consents

to being included in such “bulk registration,” without notice to the host or any opportunity to object or be heard, and even if the host has taken other measures, such as licensing as a “vacation rental” or qualifies under an exception to the law.

139. While the direct issue in this case involves Airbnb or home sharing on the internet, the power created by the Shared Housing Ordinance is of general applicability, and the target of this registration power strikes at the very heart of modern public discourse: the ability to communicate anonymously on the internet without government intermediation or permission. The City’s purpose in enacting this registration requirement is to bring Airbnb hosts out of the shadows and make them disclose all of their personal information to the Government, as a precondition to their speech activity. Even if some aspect of this speech activity could be characterized as commercial speech, a substantial portion of this speech activity is non-commercial speech.

140. Given that municipalities around the United States and even worldwide are enacting restrictions and laws targeting Airbnb activity, there is a political component to the speech being targeted by the Shared Housing Ordinance: members of nonprofit organizations such as Keep Chicago Livable use Airbnb bookings and their credibility as Airbnb “Superhosts” as a means to organize politically to both understand these laws, seek to educate lawmakers as to possible reforms or changes, and to organize to prevent new laws from being enacted that infringe on fundamental rights. Airbnb hosting and home sharing also serves as a demonstration to a skeptical general public that Airbnb guests are

peaceable, law-abiding, beneficial to local businesses and citizens, and not an existential threat to local communities.

141. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. KEEP CHICAGO LIVABLE is unable to perform its function of educating and advising hosts and putative hosts as to their proper rights and duties under this new law, while the aforementioned constitutional questions remain unresolved. This injury can be redressed by the requested relief of a declaratory judgment.

142. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. Mr. Wolf and other present and future hosts that are similarly situated members of the CLASS are unable to know how and to what extent they are required to comply with the aforementioned provisions of the Shared Housing Ordinance, while the aforementioned constitutional questions remain unresolved. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF, individually and on behalf of those similarly situated to him, respectfully request

and pray for a declaratory judgment that (1) the provisions of the Shared Housing Ordinance pertaining to registration of Shared Housing Units, including but not limited to the amendments or changes to Sections 2-25050(b)(10), 4-6-180(a), 4-6-290(a) of the Chicago Municipal Code, and the relevant portions (or the entirety) of Chapters 4-13, 4-14 and 4-16 of the Shared Housing Ordinance, be deemed unconstitutional, stricken and deemed void and unenforceable *ab initio*, that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

## COUNT II

### DECLARATORY JUDGMENT FIRST AMENDMENT – COMPELLED SPEECH

143. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

144. Even if the mere posting of a listing on Airbnb is deemed “commercial speech” such that the registration requirement is not prohibited as an unconstitutional prior restraint on free speech, the Shared Housing Ordinance violates the First Amendment right against abridgments of the Freedom of Speech because it compels speech that is nonfactual and/or controversial.

145. The Shared Housing Ordinance contains numerous provisions that require



hosts to include information in their listing that has no consumer protection function and that requires a host to attest to non-factual opinions sanctioned by the Government.

146. For example, the requirement that all listings contain license or registration numbers serves no substantial consumer protection function. The sole or primary purpose of the license number listing requirement is to reduce the administrative cost of enforcement for the City, which upon information and belief, will be using computer “trolling” software to identify listings that do not contain license numbers.

147. Upon information and belief, the City has taken steps so that a consumer that sees a listing with a license number has no way to make a public records or FOIA request for relevant information about the registrant or licensee or the licensed unit related to that license number.

148. This purported administrative change was apparently made after an initial outcry from hosts that the license number listing requirement would make their homes targets for “cat burglars” or otherwise subject them to harassment or crime, which also shows that the license number listing requirement was not “noncontroversial.”

149. This license number listing requirement is distinct from a requirement that businesses post their license at the point of sale, because a listing is not the terminal “point of sale” for an Airbnb transaction. Rather, while listings can be viewed by anyone, the point of sale for an Airbnb transaction occurs after the guest and host meet in person. An intermediary home sharing platform merely facilitates this in-person meeting, but the

transaction is for the most part not consummated and money is not transferred to the host until and unless the guest is satisfied with the actual accommodations.

150. The requirement that “Shared Housing Unit” hosts and “vacation rental” licensees post, in a conspicuous place by the front of the dwelling unit, a sign containing the license or registration number, and the name and telephone number of the local contact person, is also impermissible compulsory speech because while it is factual, and is at the point of the actual transaction, it is not “non-controversial.” Such information subjects a host or the local contact person to the risk of identity theft – not necessarily by the guest, who would already have such information in the confirmation of the reservation, but from third party passerby’s and other visitors who would be able to readily view such conspicuously posted information from just outside the entrance to the dwelling unit.

151. In order for a person to register a “Shared Housing Unit,” the Shared Housing Ordinance requires the applicant to sign an attestation that they have “read and understood” the entire 57-page Shared Housing Ordinance.

152. This attestation requirement forces a person who most likely does not have legal training to not only render a legal opinion, but to do so in a manner that is apparently intended to waive such person’s right to later claim that the law was incomprehensible. Especially with this “dizzily complex” and arguably incomprehensible law, this attestation requirement presents Shared Housing Unit hosts with an impermissible Hobson’s Choice: either submit a false statement to the City in exchange for a registration,

or continue to operate without a registration number.

153. The “Shared Housing Unit” registration also requires that a person who may not be sophisticated in real estate law investigate and attest that the unit is a lawfully established dwelling unit, is not subject to HOA or rental restrictions, is not impermissibly zoned, is not on a prohibited buildings list and is not contained within a restricted residential zone. Each of these separate required statements each independently violate the compelled speech prohibition, because each of these attestations requires a person to render a legal opinion and subjects the applicant to sanction if incorrect.

154. If a person wishes to license as a “vacation rental,” there are other similarly impermissible attestation requirements. An applicant for a “vacation rental” that lives in a two-to-four dwelling unit building must sign an attestation that (1) the applicant is the only person with a listing on any of the myriad internet home sharing sites or platforms and (2) that in the future, such applicant will be the only person to have such a listing on any of these sites. Similarly, for a “vacation rental” license applicant who lives in a high-rise building, such applicant must attest to (1) what his or her neighbors are doing in terms of listing activity and (2) what his or her neighbors will do in the future. These compulsory opinions are not only unconstitutional – they are impossible to make and thus entirely worthless, other than to put the applicant into a perjury trap.

155. The Shared Housing Ordinance requires “Shared Housing Unit” registrants and “Vacation Rental” licensees to affirmatively report to and cooperate with the police if

they know or suspect that any criminal activity, “egregious condition” or public nuisance is taking place in or around the dwelling unit. This mandatory reporting and cooperation with police requirement is unconstitutional forced speech, especially because a requirement based on a mere suspicion of not only criminal activity, but of non-criminal activity that could possibly bother a neighbor, requires a person to render an opinion and then disclose it to the authorities, and to waive any right to privacy from the police.

156. Further, because the Shared Housing Ordinance makes it unlawful for a host to permit any criminal activity, egregious condition or public nuisance to occur in a dwelling unit, and subjects the host to fines of up to \$5,000 per offense, the mandatory reporting and cooperation requirement forces a host to confess to a civil penalty of up to \$5,000 per offense, and thereby waive any right against self-incrimination.

157. Such mandatory speech also endangers the host and the host’s property in his or her home, because it forces a confrontation with a guest that involves the authorities.

158. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. KEEP CHICAGO LIVABLE is unable to perform its function of educating and advising hosts and putative hosts as to their proper rights and duties under this new law, while the aforementioned constitutional questions remain unresolved. This injury can be redressed by the requested relief of a declaratory judgment.

159. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. Mr. Wolf and other present and future hosts that are similarly situated members of the CLASS are unable to know how and to what extent they are required to comply with the aforementioned provisions of the Shared Housing Ordinance, while the aforementioned constitutional questions remain unresolved. This injury can be redressed by the requested relief of a declaratory judgment

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF respectfully request and pray for a declaratory judgment that the following provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the First Amendment: Chicago Municipal Code Sections 4-6-290(a)(7), 4-6-290(a)(8)(i), 4-6-300(b)(5), 4-6-300(b)(6), 4-6-300(b)(7), 4-6-300(b)(9), 4-6-300(b)(10), 4-6-300(c)(10), 4-6-300(f)(4), 4-6-300(f)(7), 4-6-300(f)(8), 4-6-300(f)(10), 4-6-300(h)(1), 4-6-300(h)(3), 4-6-300(h)(9), 4-6-300(h)(10), 4-6-300(h)(11), 4-13-260(a), 4-14-020(a), 4-14-020(b)(6), 4-14-020(c)(1), 4-14-020(c)(2), 4-14-020(d), 4-14-020(f), 4-14-020(g), 4-14-020(h), 4-14-030(a), 4-14-040(a)(4), 4-14-040(b)(3), 4-14-040(b)(4), 4-14-040(b)(6), 4-14-040(b)(8), and 4-14-040(b)(9), and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as

authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

**COUNT III**

**DECLARATORY JUDGMENT**  
**FIRST AMENDMENT – CONTENT-BASED RESTRICTION**

160. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

161. The Shared Housing Ordinance specifically targets and is intended to regulate home sharing to the extent that the host and guest meeting on the internet on one of the private internet platforms or intermediaries.

162. By discriminating against home sharing to the extent that it occurs on the internet, or to the extent that the regulations only apply to those who post listings on the internet for their dwelling units, the Shared Housing Ordinance is unconstitutional content-based discrimination under the First Amendment.

163. The regulated speech does not concern an illegal activity, as it was always legal to share one's home with invited guests, and it is legal to post a listing on sites such as Airbnb.

164. The Shared Housing Ordinance does not target misleading speech.

165. The City of Chicago's interest in restricting home sharing on the internet is not substantial, and several provisions of the Shared Housing Ordinance do not directly

advance whatever government interest there is in such regulation.

166. The Shared Housing Ordinance is not narrowly tailored to serve the City of Chicago's legitimate interests.

167. Additionally, plaintiff KEEP CHICAGO LIVABLE is suffering the present and continuing injury of not being able to properly advise its host-members as to whether they may have an actionable takings claim for just compensation from the City of Chicago if and/or when the law takes effect, because there is a dispute about whether the Shared Housing Ordinance takes away a compensable property right under the Takings Clause.

168. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF, individually and on behalf of those similarly situated to him, respectfully request and pray for a declaratory judgment that the aforementioned portions (or the entirety) of Chapters 4-13, 4-14 and 4-16 of the Shared Housing Ordinance, be deemed unconstitutional, stricken and deemed void and unenforceable *ab initio*, that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

COUNT IV

DECLARATORY JUDGMENT

FOURTH AMENDMENT – UNREASONABLE SEARCHES AND SEIZURES

169. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

170. The Fourth Amendment to the United States Constitution states: “The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

171. The Fourth Amendment applies to the States and localities through the Fourteenth Amendment and the incorporation doctrine.

172. In *City of Los Angeles v. Patel*, 135 S. Ct. 2443 (2015), the United States Supreme Court affirmed a facial challenge brought under the 4<sup>th</sup> Amendment by a group of hotel operators and upheld the striking down of a City of Los Angeles ordinance that required the operators to obtain and keep records about their guests and that such records “shall be made available to any officer of the Los Angeles Police Department for inspection ... at a time and in a manner that minimizes any interference with the operation of the business.”

173. The Shared Housing Ordinance requires that for either “Shared Housing



Units” and “Vacation Rentals,” the host must not only maintain a physical book containing the name, contact information and ink-signatures of each guest that stays with the host for a period of 3 years, but that “upon request by any authorized city official, shall make such records available for inspection by such city official during regular business hours or in the case of an emergency.” See SHO §§ 4-6-300(f)(2), (3) and §§ 4-14-040(b)(8), (9).

174. These provisions of the Shared Housing Ordinance clearly violate the Fourth Amendment as set forth in *City of Los Angeles v. Patel*, 135 S. Ct. 2443 (2015). The Fourth Amendment does not allow city officials to view a private home-owner’s records of his or her guests on demand.

175. Additionally, with respect to “vacation rental” licensees, the Shared Housing Ordinance states that “[t]he building commissioner is authorized to mandate an inspection of any vacation rental, at any time and in any manner, including third-party reviews, as provided for in rules promulgated by the building commissioner.” See SHO § 4-6-300(e)(1). The same provision also states that “[i]f the licensee provides food to his guests in the vacation rental, the board of health may inspect the vacation rental in accordance with rules promulgated by the board of health.” See SHO § 4-6-300(e)(2).

176. Further, for shared housing hosts who maintain more than one unit, Section 4-16-230(a) states that “[t]he building commissioner is authorized to mandate an inspection of any shared housing unit operated by a shared housing operator at least once every two years at a time and in manner, including third-party reviews, as provided for in rules and

regulations promulgated by the building commissioner.”

177. These provisions of the Shared Housing Ordinance independently violate the Fourth Amendment and *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523 (1967), *overruled on other grounds in Califano v. Sanders*, 430 U.S. 99 (1977). In *Camara*, a tenant refused to consent to a warrantless inspection of his property and then sued to enjoin prosecution for violation of a housing code. The San Francisco building inspectors were acting pursuant to a San Francisco ordinance that allowed them to enter a building without a warrant and check for possible building code violations. The Supreme Court held that a warrantless search of residential property by municipal inspectors violated the Fourth Amendment protection against unreasonable searches and seizures. *Id.* at 528-534.

178. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

179. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS

WOLF respectfully request and pray for a declaratory judgment that the aforementioned provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the Fourth Amendment, and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

**COUNT V**

**DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**  
**STORED COMMUNICATIONS ACT – 18 U.S.C. § 2701, et seq.**

180. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

181. The Stored Communications Act, 18 U.S.C. § 2701, *et seq.*, was enacted to extend the protections of the Fourth Amendment to electronic communications and records generated, stored and transmitted through and by third-party internet service providers such as Airbnb.

182. The Shared Housing Ordinance requires an “intermediary” to “bulk register” its shared housing hosts with the City, and thereby to disclose to a government entity the personal information (including name, address, contact information and other information) provided by the user / member / subscriber to Airbnb’s website and stored with Airbnb to the City.

183. The Shared Housing Ordinance does not require that the user / member / host consent to such “bulk registration,” nor does it require that Airbnb and other internet service providers ask such hosts for consent.

184. Under the Shared Housing Ordinance, an intermediary is required to provide biweekly “registration reports” to the City divulging the names, addresses, contact information and other information regarding its registered shared housing hosts. SHO, § 4-13-230(c).

185. Every two months, an intermediary is required to provide anonymized data to the City regarding the total number of listings, the total numbers of nights booked, the amount of rent paid by guests, the total tax paid by the intermediary, a cumulative tally of the number of nights each unit is booked during the calendar year, and a notation indicating each listing that the City has determined is ineligible, but is still listed on the platform. SHO, § 4-13-240(a).

186. Additionally, an intermediary is required to report the total number of “shared housing units that have been rented for more than 30 nights, along with a notation indicating which of the listings have been deemed ineligible. SHO, § 4-13-240(b).

187. Further, an intermediary is required, every two months, to submit separate reports to each Alderman “on ward specific basis” about the listings and bookings in each ward. SHO, § 4-13-240(c).

188. Although these aggregate reports are permitted to be “submitted in an

anonymized form,” if the City “reasonably determines” that a host or a listing is “operating in violation” of the Shared Housing Ordinance or “any other applicable provision of this Code, including, but not limited to, the Chicago Zoning Ordinance,” (or is otherwise the scene of a crime), the City may subpoena the intermediary for “de-anonymized” data. SHO, § 4-13-240(f).

189. Upon information and belief, the City has developed a sophisticated computer interface with Airbnb, so that Airbnb can electronic send this detailed information to the City, and the City can view all of the names, addresses, and other information about each of the registered hosts. Additionally, upon information and belief, the City of Chicago is allocating money to hire three full-time “Airbnb enforcers” whose job will be to sit at a desk, using this computer interface and Airbnb’s own website, and find “Shared Housing Unit” hosts to cite for violations or deem ineligible.

190. The “bulk registration” and reporting requirements are illegal under Section 2702 of the federal Stored Communications Act, because such disclosures of private electronically stored records are required to be made notwithstanding the absence of any voluntary and knowing consent of each shared housing host.

191. Additionally, the reporting requirements and de-anonymization procedures in the Shared Housing Ordinance for intermediaries clearly violates Section 2703 of the Stored Communications Act, because it allows the City to view de-anonymized data regarding a shared housing unit’s owner and transaction history without the consent of the

host, without prior notice to the host, without a valid search warrant, and without a court order containing a finding based upon “specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic information, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d).

192. Because the Shared Housing Ordinance is not a criminal statute, investigations of suspected violations of the Shared Housing Ordinance cannot, by definition, be criminal investigations, absent some other suspected criminal predicate act. Therefore, the standard set forth in the Shared Housing Ordinance for de-anonymizing data – that the City “reasonably determines” that a host or a listing is “operating in violation” of the Shared Housing Ordinance – is facially insufficient under Section 2703(d) of the Stored Communications Act.

193. Section 2707(a) of the Stored Communications Act states: “Except as provided in section 2703(e), any provider of electronic communications service, subscriber, or other person aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.”

194. Section 2707(b) of the Stored Communications Act states: “**Relief.** – In a civil action under this section, appropriate relief includes: (1) such preliminary and other

equitable or declaratory relief as may be appropriate; (2) damages under subsection (c); and (3) a reasonable attorney's fee and other litigation costs reasonably incurred."

195. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to whether the registration and disclosure requirements and de-anonymization procedures of the Shared Housing Ordinance violate the federal Stored Communications Act, and are therefore void and unenforceable *ab initio*. This injury can be redressed by a declaratory judgment and injunctive relief.

196. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to whether the registration and disclosure requirements and de-anonymization procedures of the Shared Housing Ordinance violate the federal Stored Communications Act and are therefore void and unenforceable *ab initio*. This injury can be redressed a declaratory judgment and injunctive relief.

197. The CLASS reserves its right to seek statutory damages from the City and any of its officers and agents to the extent that the City has obtained any unauthorized data or information regarding "hosts" or "guests" at Shared Housing Units from any Intermediaries.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS

WOLF respectfully request and pray for a declaratory judgment that the aforementioned provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the Stored Communications Act, 18 U.S.C. 2701 et seq., and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 28 U.S.C. 2707(b)(3), and for such other and further relief as is just and equitable be entered.

**COUNT VI**

**DECLARATORY JUDGMENT**

**FIFTH AMENDMENT – TAKINGS CLAUSE (ANTICIPATORY REMEDY)**

198. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

199. The Takings Clause of the Fifth Amendment to the United States Constitution states “nor shall private property for public use, without just compensation.”

200. The Fifth Amendment Takings Clause applies to the States and localities through the Fourteenth Amendment and the incorporation doctrine.

201. While the Shared Housing Unit's regulation and prohibitions on home sharing on the internet does not necessarily deprive a unit owner of all economically viable use of a unit (which can still be enjoyed as a residence, rented out long-term or sold), the Shared Housing Ordinance takes from a private homeowner two essential or core property rights: the right to exclude, and the right to permit.



202. By declaring all registered “Shared Housing Units” and licensed “Vacation Rentals” to be “public accommodations,” the Shared Housing Ordinance removes the ability of a private homeowner to exclude others from his or her home, simply because that homeowner maintained a listing on a home sharing platform.

203. This declaration marks a clear departure from what has been called the “Mrs. Murphy Boarding House Exemption” that can be found in the Fair Housing Act and the 1964 Civil Rights Act, which excludes from the definition of “public accommodation” any building with four or fewer rental units where the owner occupies one of them. (“Mrs. Murphy” is a hypothetical elderly widow who has converted a portion of her home into a rental apartment to supplement her income.)

204. The right to exclude the outside world from one’s property and the right to permit invited guests of one’s own choosing onto that property are two sides of the same coin. By purporting to ban the ability of owners to host guests of their own choosing without prior permission from the government, the Shared Housing Ordinance takes away the essential property right of being able to host guests of one’s own choosing.

205. Where an essential property right is taken away, a *per se* taking exists, and no proof of loss of all economically viable use is required. *See, e.g., Kaiser Aetna v. United States*, 444 U.S. 164 (1979); *see also Horne v. U.S. Dep’t of Ag.*, 135 S. Ct. 2419 (2015); *Hodel v. Irving*, 481 U.S. 704 (1987).

206. Additionally, the Shared Housing Ordinance allows for takings of these

property rights for non-public or private uses. In particular, by empowering neighbors to shut down hosts by manufacturing “excessively loud noise” complaints based solely on the allegation of an audible sound coming from a shared home, or manufacturing other hair-trigger violations, the Shared Housing Ordinance simply transfers a unit owner’s property rights to his or her neighbors.

207. The Shared Housing Ordinance also takes private property for non-public uses by taking private prohibitions contained in contract or in local condominium bylaws and making them illegal and punishable by law (including fines and prohibitions on future rental and speech activity), and enforceable with taxpayer money.

208. The Shared Housing Ordinance contains no available remedy against such takings, which are inchoate and have uncertain or unknown value. Especially for new hosts or owners who have never listed their homes on home sharing sites in the past, but may wish to in the future, such hosts or putative hosts will be unable to establish the amount of just compensation in a court of law, because of the “new business rule” which prohibits an award of damages based on speculation about the profitability of a new enterprise.

209. Additionally, plaintiff KEEP CHICAGO LIVABLE is suffering the present and continuing injury of not being able to properly advise its host-members as to whether they may have an actionable takings claim for just compensation from the City of Chicago if and/or when the law takes effect, because there is a dispute about whether the Shared Housing Ordinance takes away a compensable property right under the Takings Clause.

210. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

211. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF respectfully request and pray for a declaratory judgment that the aforementioned provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the Fifth Amendment, or that a declaration be entered that because of the foregoing provisions, the CLASS is entitled to just compensation from the City of Chicago and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

**COUNT VII**

**DECLARATORY JUDGMENT**  
**EIGHTH AMENDMENT – EXCESSIVE FINES CLAUSE**

212. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

213. The Eighth Amendment to the United States Constitution states: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

214. The Eighth Amendment applies to the States and localities through the Fourteenth Amendment and the incorporation doctrine.

215. The Shared Housing Ordinance contains fines of \$3,000 per day against individuals who post a listing on an internet home sharing platform, and fail to take down such listing after the City determines that it is ineligible. The procedure set forth in the Shared Housing Ordinance requires the City to notify only the shared housing intermediary or advertising platform, who is then required to notify the host. However, it is entirely possible that a host could have placed a listing and forgotten about it and/or changed his or her email address, such that a notice sent by email is either ignored, not seen or moved to a “spam” or “junk mail” folder.

216. The Shared Housing Ordinance also contains fines of up to \$3,000 per day per violation for offenses including (1) providing food or wine to guests, (2) not having

“sanitized” utensils, (3) not having clean towels, (4) failure to get a guest who booked on the internet to hand-sign with ink-and-paper his or her signature in some other physical book, (5) having a dog, cat or other pet at the same time that there is food available in the same “Shared Housing Unit” or “vacation rental”, (6) failure to post an evacuation diagram of every single exit not only from the dwelling unit, but from the entire building, and other minor infractions that are alleged to have occurred.

217. The Shared Housing Ordinance also contains fines of up to \$5,000 per day per violation for offenses committed by guests or others affiliated with guests, even if such offenses occur outside of the dwelling unit and outside of the knowledge or control of the host. Offenses possibly subject to \$5,000 fines including permitting an “egregious condition” to occur, which includes allowing a guest to join a private TV watching party in the dwelling unit where the price of admission is “BYOB,” or hosting a political event at an Airbnb location where the invitees are limited to donors to the candidacy of the guest.

218. Additionally, the Shared Housing Ordinance contains sanctions beyond monetary fines that include forfeitures of the right of hosts found to have committed violations or to be ineligible under the Shared Housing Ordinance to rent, or to allow family members to rent, the dwelling unit long-term. *See* SHO 4-6-300(h)(4) and 4-14-050(i).

219. The Shared Housing Ordinance contains punitive fines that are grossly disproportional to the gravity of the offenses, and are therefore unconstitutional, unenforceable and void *ab initio*.

220. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

221. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF respectfully request and pray for a declaratory judgment that the aforementioned provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the Eighth Amendment of the United States Constitution, and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered.

### **COUNT VIII**

#### **DECLARATORY JUDGMENT** **FOURTEENTH AMENDMENT – DUE PROCESS CLAUSE**

222. Plaintiffs incorporate by reference the allegations contained in paragraphs 1

through 116 as if fully set forth herein.

223. Section 1 of the Fourteenth Amendment to the United States Constitution states in pertinent part: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws.”

224. As noted by the Supreme Court in *Grayned v. City of Rockford*, 408 U.S. 104 (1972), “Vague laws may trap the innocent by not providing fair warning... a vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application.... [W]here a vague statute ‘abut[s] upon sensitive areas of basic First Amendment freedoms,’ it operates to inhibit the exercise of [those] freedoms.’ Uncertain meanings inevitably lead citizens to ‘steer far wider of the unlawful zone’ . . . than if the boundaries of the forbidden areas were clearly marked.” *Id.* at 108-109.

225. A law that does not provide the kind of notice that would enable persons or ordinary intelligence to understand what conduct is prohibited, or that authorizes arbitrary or even discriminatory enforcement, is impermissibly vague in violation of the rights of all citizens to Due Process provided under the Fourteenth Amendment.

226. The Shared Housing Ordinance is overbroad and vague, and reaches a substantial amount of constitutionally protected conduct.

227. The Shared Housing Ordinance does not clearly distinguish between a “Shared Housing Unit” and a “Vacation Rental.”

228. The Shared Housing Ordinance contains an exception for “guest suites” that would seemingly apply to any host who is selective about which guests to invite and when, and is therefore not making the space available to members of the general public.

229. If the statutory definition of “guest” contained in the Shared Housing Ordinance is used in the definition of “guest suite”, the Shared Housing Ordinance is literally incomprehensible.

230. Additionally, the SHO provides ambiguously that if a host “provides food” to a guest, the host must then “comply with all applicable food handling and licensing requirements of the [Food Code] and board of health regulations.”

231. The Shared Housing Ordinance does not define what it means for a host, who lives in the dwelling unit as his or her primary or secondary residence, to “provide food” to a guest.

232. Typically, most homes have food in the pantry or refrigerator, and very few homes have padlocks on the pantry and refrigerator doors.

233. If providing food means having food available, then hosts must make substantial, impracticable renovations to their home to meet the health code standards for commercial kitchens, including installing grease traps, vents, dishwashing machines and a separate hand-washing sink in the kitchen area. Additionally, a host that has food in the



refrigerator would have to get rid of his or her dog, cat or other pet, because the Food Code prohibits such animals in the food preparation area.

234. Further, the Food Code states that “[n]one of the operations connected with a food establishment shall be conducted in any room used as living or sleeping quarters.” Thus, arguably, if a host has food in his or her refrigerator, the host cannot actually host a guest under the Shared Housing ordinance.

235. The Shared Housing Ordinance does not define which portions of the 68-page Food Code are “applicable” to a Shared Housing Unit or Vacation Rental that “provides food” to a guest.

236. A vacation rental license (or a shared housing unit registration) can be revoked if there are three or more “objectionable conditions”.

237. An “objectionable condition” includes “excessive loud noise,” which means “any noise, generated from within *or having a nexus to* the rental of the shared housing unit, *between 8:00 p.m. and 8:00 a.m.* that is louder than the average conversational level at a distance of 100 feet or more, measured from the property line of the vacation rental.

238. The standard of conduct – noise that is louder than the “average conversational level at a distance of 100 feet *or more*” - is incomprehensible, unless it simply means any noise, not only because there is no such thing as an “average conversational level,” but also because the “average conversational level” at an infinite distance (100 feet or more) is imperceptible – even at 100 feet, it is most likely

imperceptible.

239. The SHO makes it illegal for a host to list a room or a home on a home sharing site depending on the listing activities of his or her neighbors, even though the neighbors may be listing on a different home sharing site and most likely are anonymous to each other.

240. For owners in 3-flats (two to four dwelling unit buildings), only one such host may list at any given time.

241. For owners in high-rise buildings (5 or more dwelling units), the maximum cap for listings is 6 units, or 25% of the number of dwelling units, whichever is less.

242. Once this maximum cap is exceeded, all listings are deemed illegal and subject to \$3,000 per day fines.

243. There is no public, central website or information source where a host can determine how many other listings there are at any given time in the building, on the myriad of different internet platforms that facilitate home sharing.

244. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

245. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated

individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of material portions of the Shared Housing Ordinance. This injury can be redressed by the requested relief of a declaratory judgment.

WHEREFORE, Plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF respectfully request and pray for a declaratory judgment that the aforementioned provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* as overbroad and impermissibly vague in violation of the Due Process Clause in the Fourteenth Amendment of the United States Constitution, and that injunctive relief be entered against the City of Chicago from enforcing these provisions, that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988, and for such other and further relief as is just and equitable be entered

**COUNT IX**

**DECLARATORY JUDGMENT**

**4% ADDITIONAL SURCHARGE – ILLINOIS CONSTITUTION**

246. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

247. In Section 3-24-020 of the Chicago Municipal Code, as amended by the Shared Housing Ordinance, the definition of "hotel accommodation" includes both vacation rentals and shared housing units in the same category as rooms held out to the public as inns, motels, bed-and-breakfast establishments and hotels.

248. Section 3-24-030(B) of the Shared Housing Ordinance creates a new “surcharge ... upon the rental or leasing of any hotel accommodations at any vacation rental or shared housing unit ... at a rate of four percent of the gross rental or leasing charge”.

249. This new “surcharge” or tax was imposed “[i]n addition to the tax imposed” under Section 3-24-030(A), which was the City of Chicago’s pre-existing “hotel operator occupation tax” on hotel accommodations “at a rate of four and one-half percent of the gross rental or leasing charge.”

250. Unlike most of the Shared Housing Ordinance, which would not go into effect until 150 days after publication (or December 19, 2016), the new 4% “surcharge” was set to “immediately accrue” upon passage of the Shared Housing Ordinance in June 2016.

251. Upon information and belief, the City of Chicago has been collecting this 4% additional surcharge, in addition to the pre-existing 4.5% HOOT, on all vacation rental and shared housing unit activity since July 2016.

252. This new 4% surcharge is unconstitutional under Article IX, Section 2 of the Illinois State Constitution of 1970, which provides “[i]n any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly.”

253. Under the Chicago Municipal Code, as amended by the Shared Housing Ordinance, a room in a motel or hotel is taxed by the City of Chicago at a rate of 4.5% of the charge.

254. However, under the Chicago Municipal Code, as amended by the Shared Housing Ordinance, a room in a vacation rental or a shared housing unit is taxed by the City of Chicago at a rate of 8.5% of the charge, even though “vacation rentals” and “shared housing units” are defined within the same category as “hotel accommodations.”

255. Further, the additional 4% surcharge violates Section 6(e) of Article VII and Section 1 of Article IX of the Illinois Constitution.

256. Section 6(e) of Article VII prohibits a home rule unit from “impos[ing] taxes or measured by income or upon occupation” without express authorization from the Illinois General Assembly.

257. Section 1 of Article IX of the Illinois Constitution states that “[t]he General Assembly has the exclusive power to raise revenue by law except as limited or otherwise provided in this Constitution.”

258. The Illinois General Assembly has authorized home rule units to impose and collect “hotel operator occupation tax” under the Hotel Operators Occupation Tax Act, 35 ILCS 145/1 *et seq.* However, Sections 3(a) and (b) of the Hotel Operators Occupation Tax Act only authorize a tax “imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel” at a maximum rate of 6% of 94% of the gross rental receipts from such renting, leasing or letting (excluding any taxes imposed under Section 13(c) of the Metropolitan Pier and Exposition Authority Act).”

259. The additional 4% surcharge on vacation rentals and shared housing units not

only discriminates between “hotel accommodations” but because the maximum rate is 8.5% and is charged against the entire gross receipts from vacation rental and shared housing unit activity, violates Section 6(e) of Article VII and Section 1 of Article IX of the Illinois Constitution.

260. There is a substantial and continuing controversy between plaintiff KEEP CHICAGO LIVABLE and the CITY OF CHICAGO as to the constitutionality and thus enforceability of the additional 4% surcharge imposed only upon “vacation rentals” and “shared housing units” in the Chicago Municipal Code as amended by the Shared Housing Ordinance.

261. There is also a substantial and continuing controversy between plaintiff BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, and the CITY OF CHICAGO as to the constitutionality and thus enforceability of the additional 4% surcharge imposed only upon “vacation rentals” and “shared housing units” in the Chicago Municipal Code as amended by the Shared Housing Ordinance.

WHEREFORE, plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, respectfully request and pray for a declaratory judgment that the aforementioned additional 4% surcharge provisions of the Shared Housing Ordinance be stricken as unconstitutional, unenforceable and void *ab initio* in violation of the Illinois

Constitution of 1970, that injunctive relief be entered against the City of Chicago from enforcing these provisions and ordering the City of Chicago to issue refunds to all hosts and guests in the class who have been charged this illegal surcharge, and that reasonable attorneys' fees and costs be awarded as authorized under 42 U.S.C. 1988 or any applicable State law, and for such other and further relief as is just and equitable be entered.

**COUNT X**

**INJUNCTIVE RELIEF**

**VIOLATION OF ILLINOIS TRADE SECRETS ACT, 765 ILCS 1065/1 et seq.**

262. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 and 182 through 189 as if fully set forth herein.

263. The Shared Housing Ordinance requires Airbnb to divulge the trade secrets of its hosts and guests – including each host's name, private contact information, customer lists and transaction history – to the City of Chicago, without each host's prior, knowing and voluntary consent.

264. Upon information and belief, the City of Chicago and Airbnb have developed a computer interface that allows the City of Chicago to view all of these proprietary trade secrets of the Airbnb hosts in Chicago in real-time, without court supervision and with only the slightest pretense.

265. The Shared Housing Ordinance conditions Airbnb's eligibility to operate its business in the City of Chicago upon Airbnb's compliance with the City of Chicago's

reporting scheme, and thus upon Airbnb's misappropriation of its hosts' proprietary trade secrets.

266. The Illinois Trade Secrets Act, 765 ILCS 1065/1 *et seq.*, provides for injunctive relief against such "misappropriation" of trade secrets, and further allows for damages for actual losses or measured by a misappropriator's unauthorized disclosure or use of a trade secret.

267. Upon information and belief, this system of misappropriation of trade secrets will go into full effect on or about December 19, 2016, to the extent it has not already.

WHEREFORE, plaintiffs KEEP CHICAGO LIVABLE and BENJAMIN THOMAS WOLF, individually, and the putative CLASS of similarly situated individuals he represents, respectfully request and pray that the CITY OF CHICAGO be enjoined from further viewing, accessing or obtaining the confidential trade secrets of Airbnb and other shared housing hosts in Chicago from third party intermediaries or advertising platforms, absent a criminal search warrant, court order, or express, voluntary and knowing consent by each such possessor of trade secrets, and further that all title to the source code for any software programs or computers designed to interface between Airbnb and other intermediaries or advertising platforms and the City of Chicago and that contain trade secrets or any information derived from trade secrets be transferred over to plaintiffs, or catalogued and destroyed, and that all persons who have had access to such records be enjoined from participating in any enforcement activities of any kind against shared



housing activities, with the exception of emergency situations, or pursuant to express court order, that Plaintiffs be granted their reasonable attorneys' fees and costs, and for such other and further relief as is just and equitable.

Respectfully submitted,

KEEP CHICAGO LIVABLE, an Illinois not-for-profit corporation, and BENJAMIN THOMAS WOLF, individually and on behalf of those similarly situated,

\s\ Shorge Kenneth Sato

One of their Attorneys

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**JURY DEMAND**

A jury of 12 is hereby demanded by Plaintiffs for all issues of fact triable by a jury.

(Published by the Authority of the City Council of the City of Chicago)

COPY



**JOURNAL of the PROCEEDINGS  
of the  
CITY COUNCIL  
of the  
CITY of CHICAGO, ILLINOIS**

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Regular Meeting -- Wednesday, June 22, 2016

at 10:00 A.M.

(Council Chamber -- City Hall -- Chicago, Illinois)

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OFFICIAL RECORD.

VOLUME I

**RAHM EMANUEL**  
Mayor

**SUSANA A. MENDOZA**  
City Clerk

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** Section 2-25-050 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

**2-25-050 Powers and duties of the department.**

*(Omitted text is unaffected by this ordinance)*

(b) Powers and duties of the commissioner and the department. The powers and duties of the commissioner and department shall be as follows:

*(Omitted text is unaffected by this ordinance)*

(10) To require the production and examination of books, papers, records and documents pertinent to any license, registration or permit or lack thereof, or to any license, registration or permit application or lack thereof, or to any license, registration or permit fee or business tax paid or required to be paid under this Code, and to issue and enforce subpoenas therefor, as well as to institute investigations, inquiries or hearings and to take testimony and proof under oath at such hearings;

*(Omitted text is unaffected by this ordinance)*

**SECTION 2.** Chapter 3-24 of the Municipal Code of Chicago is hereby amended by adding a new Section 3-24-035, by deleting the language stricken through and by inserting the language underscored, as follows:

**3-24-020 Definitions – Construction.**

A. For the purpose of this chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed in this section:

*(Omitted text is unaffected by this ordinance)*

4. “Hotel accommodations” means, ~~except as otherwise provided in this paragraph,~~ a room or rooms in any building or structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, bed-and-breakfast establishment, vacation rental; as defined in Section 4-6-300, shared housing unit as defined in Section 4-14-010, dormitory or similar place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals. The term “hotel accommodations” shall not include (i) an accommodation which a person occupies, or has the right to occupy, as his domicile and permanent residence; (ii) any temporary

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~~accommodation provided in any building or structure owned or operated, directly or indirectly, by or on behalf of a not-for-profit medical institution, hospital, or allied educational institution; or (iii) an accommodation in a bed-and-breakfast establishment that is licensed under Section 4-6-290.~~

*(Omitted text is unaffected by this ordinance)*

**3-24-030 Tax imposed.**

A. There is hereby imposed and shall immediately accrue and be collected a tax, as herein provided, upon the rental or leasing of any hotel accommodations in the City of Chicago, at the rate of four and one-half percent of the gross rental or leasing charge.

B. In addition to the tax imposed under subsection A of this section, there is hereby imposed and shall immediately accrue and be collected a surcharge, as herein provided, upon the rental or leasing of any hotel accommodations at any vacation rental or shared housing unit in the City of Chicago, at the rate of four percent of the gross rental or leasing charge. The purpose of this surcharge is to fund supportive services attached to permanent housing for homeless families and to fund supportive services and housing for the chronically homeless. Up to eight percent of the revenue from the surcharge shall be used for the City's administration and enforcement of Section 4-6-300 and Chapter 4-14 of the Code, as needed. The remaining revenue from the surcharge shall be used to fund supportive services attached to permanent housing for homeless families and supportive services and housing for the chronically homeless. The surcharge is a part of the tax imposed by this Chapter, and all references to the tax shall be deemed to include the surcharge.

**3-24-035 Exemptions.**

The tax imposed by this Chapter shall not apply to:

- A. an accommodation which the lessee or tenant (as the term "lessee or tenant" is used in Sections 3-24-040 and 3-24-050) occupies, or has the right to occupy, as his domicile and permanent residence;
- B. any temporary accommodation provided in any building or structure owned or operated, directly or indirectly, by or on behalf of a not-for-profit medical institution, hospital, or allied educational institution; or
- C. an accommodation in a bed-and-breakfast establishment that is licensed under Section 4-6-290.

*(Omitted text is unaffected by this ordinance)*

**SECTION 3.** Section 4-4-281 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

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**4-4-281 License and registration rescission.**

The commissioner shall have the power to rescind any license or registration erroneously issued by the department. To rescind a license or registration, the commissioner shall: (1) send notice by first class mail to the licensee or registrant, as applicable, identifying the basis for the proposed rescission; (2) set forth a date and time, which shall be no sooner than ten calendar days after notice is mailed, for the licensee or registrant to appear before the commissioner to contest the proposed rescission; and (3) inform the licensee or registrant that such licensee or registrant is entitled at such hearing to present evidence in opposition to the proposed rescission. Following the hearing, the commissioner shall affirm or reverse the decision to rescind the license. If the licensee or registrant fails to appear at such hearing, the license or registration, as applicable, shall be deemed to be rescinded. The commissioner's decision, which shall be in writing, shall be mailed to the licensee at least five days before the effective date of the rescission. The commissioner's decision shall be final and may be appealed as provided by law.

**SECTION 4.** Section 4-5-010 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

**4-5-010 Establishment of license fees.**

*(Omitted text is unaffected by this ordinance)*

- (36) Short Term Residential Rental Intermediary (4-13). . . . . \$10,000.00, plus a \$60.00 per unit fee for each short term residential rental listed on its platform
- (37) Short Term Residential Rental Advertising Platform (4-13). . . . . \$10,000.00, if the intermediary has 1,000 or more short term residential rentals listed on its platform; or \$5,000.00, if the intermediary has 999 or fewer short term residential rentals listed on its platform
- (38) Shared Housing Unit Operator (4-16). . . . . \$250.00

**SECTION 5.** Section 4-6-180 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

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**4-6-180 Hotel.**

(a) *Definitions.* As used in this section:

“Hotel” means any building or structure kept, used, maintained as, advertised or held out to the public to be an inn, hotel, motel, family hotel, apartment hotel, lodging house, dormitory or other place, where sleeping or rooming accommodations are furnished for hire or rent, and in which seven or more sleeping rooms are used or maintained for the accommodation of guests, lodgers or roomers. The term “hotel” shall not include “single-room occupancy buildings,” or “bed-and-breakfast establishments”, “vacation rentals” or “shared housing units” licensed or registered, or required to be licensed or registered, by the city as defined in Section 13-4-010.

*(Omitted text is unaffected by this ordinance)*

**SECTION 6.** Section 4-6-290 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

**4-6-290 Bed-and-breakfast establishment.**

(a) *Definitions.* As used in this section:

*(Omitted text is unaffected by this ordinance)*

“Bed-and-breakfast establishment” or “establishment” means an owner-occupied single-family residential building, or an owner-occupied, multiple-family dwelling building, or an owner-occupied condominium, townhouse or cooperative, in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by registered guests. The term “bed-and-breakfast establishment” does not include single-room occupancy buildings as that term is defined in Section 13-4-010; shared housing units registered pursuant to Chapter 4-14 of this Code; or vacation rentals licensed pursuant to Section 4-6-300. If the bed-and-breakfast establishment is a single-family residential building located on a lot that includes a principal house and an accessory building that was being used for residential purposes as of January 16, 2003, the accessory building shall be considered to be part of the establishment. The term “guests” does not include members of the owner's family within the meaning of the Chicago Zoning Ordinance; nor does it include persons who have signed a lease to use and occupy residential property unless the leased residential property is held out by its owner, or by any person acting on the owner's behalf, to be a bed-and-breakfast establishment.

*(Omitted text is unaffected by this ordinance)*

“Short term residential rental intermediary” or “intermediary” has the meaning ascribed to that term in Section 4-13-100.

“Short term residential rental advertising platform” or “advertising platform” has the meaning ascribed to that term in Section 4-13-100.

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*(Omitted text is unaffected by this ordinance)*

(f) *Legal duties.* Each licensee engaged in the business of bed-and-breakfast establishment shall have a duty to:

*(Omitted text is unaffected by this ordinance)*

(vi) an evacuation diagram identifying all means of egress from the establishment shall be posted in a conspicuous place on the inside panel of each guest room door; and

(6) obtain a valid certificate in food handling and sanitation issued by the department of health;

(7) conspicuously display the bed-and-breakfast establishment's license number in every advertisement of any type in connection with the rental of the bed-and-breakfast establishment or any sleeping room within such establishment. Failure to comply with this requirement shall create a rebuttable presumption that the bed-and-breakfast establishment is being operated without the proper license;

(8) If the bed-and-breakfast establishment is listed on any short term residential rental intermediary platform or short term residential rental advertising platform, a licensee under this section shall have the following duties:

(i) not to list, or permit any person to list, on such platform any bed-and-breakfast establishment unless the listing includes the bed-and-breakfast establishment's license number;

(ii) not to rent, or permit any person to rent, and not to book for future rental, or permit any person to book for future rental, any bed-and-breakfast establishment that is not properly licensed by the city;

(iii) following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), not to rent or allow any family member to rent, and not to book for future rental or permit any family member to book for future rental, any portion of any bed-and-breakfast establishment identified in such notice that the commissioner has determined is ineligible for listing on any platform. Any person who violates this subsection (f)(8)(iii) shall be fined not less than \$500.00 nor more than \$1,000.00 for renting or booking for future rental such bed-and-breakfast establishment or any portion thereof within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting or booking for future rental such bed-and-breakfast establishment or any portion thereof on or after the 15th calendar day and before the 28<sup>th</sup> calendar day of the date on which such notice is sent; and \$5,000.00 for renting or booking for future rental such bed-and-breakfast establishment or any portion thereof on or after the 28<sup>th</sup> calendar day of the date on which such notice is sent. Each day that a violation continues after such 28<sup>th</sup> calendar day shall constitute a separate and distinct offense;

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(iv) following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), remove the ineligible listing from the platform in accordance with rules prescribed by the commissioner. Notwithstanding the penalty provided for in subsection (i) of this section, and in addition to any other penalty provided by law, any person who fails to comply with this subsection (f)(8)(iv) shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which such notice is sent; and not less than \$2,500.00 nor more than \$5,000.00 for failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15<sup>th</sup> calendar day shall constitute a separate and distinct offense.

(g) *Prohibited acts.* It shall be unlawful for any person engaged in the business of bed-and-breakfast establishment to:

*(Omitted text is unaffected by this ordinance)*

(7) violate Section 2-160-070 in connection with the listing for rental, or rental of, the bed-and-breakfast establishment or any portion thereof.

**SECTION 7.** Section 4-6-300 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

**ARTICLE XXX. VACATION RENTALS (4-6-300 et seq.)**

**4-6-300 Vacation rentals.**

(a) *Definitions.* As used in this section:

“Applicant” means a natural person; ~~or~~ any partner, if a general partnership; any general partner, if a limited partnership; any principal officer, if a corporation; any managing member, if a limited liability company; any owner of 25% or more of the applicant; ~~or,~~ in the case of a cooperative building, a lessee with a proprietary lease of a cooperative in a cooperative building.

“Board of directors” means the board of directors of a cooperative building.

“Building containing two to four dwelling units” includes, but is not limited to, a duplex or rowhouse comprising two to four connected dwelling units.

“Building containing five or more dwelling units” includes, but is not limited to, a rowhouse comprising five or more connected dwelling units.

“Cooperative building” means a multiple-dwelling complex owned by a cooperative corporation, stock in which affords the owner thereof the right to possess or occupy a particular cooperative allocated to that stock within the complex. This right of possession or occupancy is



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granted through a proprietary lease or similar arrangement, and, unlike the owner of a condominium, the owner of the cooperative stock does not hold legal title to his or her individual cooperative.

“Cooperative” is means an individual dwelling unit within a cooperative building.

“Dwelling unit” has the meaning ascribed to that term in section Section 17-17-0248.

“Egregious condition” has the meaning ascribed to that term in Section 4-14-010.

“Guest” means any person who rents a vacation rental for transient occupancy by such person. The term “guest” does not include members of the owner’s household, as that term is defined in Section 17-17-2070.

“Guest suite” means a dwelling unit that is available for rent or for hire for transient occupancy solely by the guests or family members of residents of the building which contains the dwelling unit, and is not offered, advertised or made available for rent or hire to members of the general public. As used in this definition, the term “family members” has the meaning ascribed to that term in Section 4-14-010.

“Homeowners association” means the association of all the unit owners, acting pursuant to bylaws through its duly elected board of managers. For purposes of this definition, “unit owner” means the person or persons whose estates estate or interest in the unit, individually or collectively, is an aggregate fee simple absolute ownership of a the unit, or in the case of a leasehold condominium, the lessee or lessees of a unit whose leasehold of the unit expires simultaneously with the lease.

“Local contact person” means a person authorized as an agent of the owner who: (1) is designated for service of process; (2) is authorized by the owner to take remedial action and respond to any violation of this Code; and (3) maintains a residence or office located in the City.

“Owner” means any person who owns 25% or more of the interest in a dwelling unit. shall include, for For purposes of this chapter Section 4-6-300 only, the term “owner” includes a person who is a lessee of a cooperative pursuant to a proprietary lease.

~~“Owner occupied dwelling unit” means a dwelling unit that a person who owns 25% or more of the interest in the dwelling unit; or, in the case of a cooperative building, is a lessee of a cooperative pursuant to a proprietary lease, resides in the dwelling unit as his or her domicile or permanent place of residence; provided that a dwelling unit for which an owner or lessee (i) is absent from the dwelling unit overnight for any longer period of time not to exceed 120 days within a 12 month period; or (ii) is on active military duty for any length of time; and (iii) appoints a designated agent or employee to manage, control and reside in the dwelling unit during the owner’s or lessee’s absence is considered owner occupied.~~

“Primary residence” has the meaning ascribed to that term in Section 4-14-010.

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“Shared housing unit” has the meaning ascribed to that term in Section 4-14-010.

“Shared housing unit operator” means any person licensed or required to be licensed under Chapter 4-16 of this Code.

“Single family home” means any building that: (i) contains one dwelling unit only; and (ii) is located on its own lot; and (iii) is not attached to any other dwelling unit.

“Transient occupancy” means any occupancy on a daily or nightly basis, or any part thereof, for a period of 30 or fewer consecutive days has the meaning ascribed to that term in Section 4-6-290.

“Vacation rental” means a dwelling unit that is not an owner-occupied dwelling unit and contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests. The term “guests” does not include members of the owner's household, as that term is defined in section 17-17-0270. The term “vacation rental” shall not include: (i) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in Section 13-4-010; (ii) hotels, as that term is defined in Section 4-6-180; (iii) a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are paid on a monthly basis; or (iv) corporate housing; (v) guest suites; or (vi) shared housing units registered pursuant to Chapter 4-14 of this Code. For purposes of this definition:

(1) “tenant” and “rental agreement” have the same meaning ascribed to those terms in section Section 5-12-030;

(2) “corporate housing” means a dwelling unit owned or leased by a business entity that is available for rent or for hire for transient occupancy solely by the business entity's officers, employees, family members of the officers or employees, consultants, vendors or contractors. “Family members” means an officer's or employee's (i) mother, father, spouse, brother or sister (including blood, step or half), son or daughter (including blood, step or half), father in law, mother in law, daughter in law, son in law, brother in law, sister in law, grandparents or grandchildren; (ii) court-appointed legal guardian or a person for whom the employee or officer is a court-appointed legal guardian; or (iii) domestic partner or the domestic partner's mother, father, brother or sister (including blood, step, or half), or son or daughter (including blood, step or half) has the meaning ascribed to that term in Section 4-14-010.

(b) *Application -- Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, a renewal of, a regulated business license authorizing the owner of a dwelling unit to rent or lease such dwelling unit as a vacation rental shall be accompanied by the following information:

(1) a statement as to whether the applicant owns the vacation rental identified in the license application;

(1) a statement as to whether the dwelling unit identified in the license application is a: (i) single family home, and, if so, whether the home is the applicant's primary

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residence; or (ii) building containing two to four dwelling units, and, if so, whether the dwelling unit is the applicant's primary residence; or (iii) building containing five or more dwelling units;

(2) a statement setting forth: (i) the address of the building in which the vacation rental is located; (ii) if the building contains two or more dwelling units, the location of the vacation rental within the building, including, if applicable, the floor of the building on which the vacation rental is located and the vacation rental unit number, unit letter or similar unit identification; (iii) the total number of sleeping rooms within the vacation rental; and (iv) the ownership owner(s) of the vacation rental;

(3) the name, address and contact information of a local contact person;

(4) an affidavit from the local contact person identified in the license application attesting that such local contact person: (1) is designated for service of process; (2) is authorized by the owner to take remedial action and respond to any violation of this Code; and (3) maintains a residence or office located in the City;

(5) an attestation that the vacation rental is a lawfully established dwelling unit within the meaning of Section 17-17-0248, which contains six or fewer sleeping rooms;

~~(5) if the dwelling unit is subject to restrictions imposed by a homeowners association or board of directors, an affidavit executed by a duly authorized representative of the homeowners association or the board of directors (1) attesting an attestation that the homeowners association or board of directors has not adopted bylaws prohibiting the use of approved the dwelling unit identified in the license application for use as a vacation rental or shared housing unit, in any combination; and (2) specifically identifying all other dwelling units in the building approved for use as vacation rentals; and (3) attesting that the association's or board's bylaws are in compliance with the requirements set forth in items (i) through (iv), inclusive, of subsection (e)(5) of this section;~~

(7) if the dwelling unit is subject to a rental agreement, an attestation that the owner of the building in which the dwelling unit is located has not prohibited use of the dwelling unit as a vacation rental or shared housing unit, in any combination;

(8) if the dwelling unit is a single family home, an attestation that such home is the applicant's or licensee's primary residence. Provided, however, that if the owner of the single family home is on active military duty, the affidavit shall include a statement attesting to such fact and to whether the owner has appointed a designated agent or employee to manage, control and reside in the single family home during such owner's absence while on military duty. If the single family home is not the applicant's or licensee's primary residence, an attestation as to whether: (a) the applicable commissioner's adjustment under Section 4-6-300(1) permitting otherwise has been obtained; or (b) the applicant or licensee, as applicable, held a valid vacation rental license, as of June 22, 2016, for the single family home;

(9) if the dwelling unit is located in a building containing two to four dwelling units, inclusive, an attestation that such dwelling unit: (i) is the applicant's or licensee's primary

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residence; and (ii) is the only dwelling unit in the building that is or will be used as a vacation rental or shared housing unit, in any combination. Provided, however, that if the owner of the single family home is on active military duty, the affidavit shall include a statement attesting to such fact and to whether the owner has appointed a designated agent or employee to manage, control and reside in the single family home during such owner's absence while on military duty. If the dwelling unit is not the applicant's or licensee's primary residence or is not the only dwelling unit in the building that is or will be used as a vacation rental or shared housing unit, in any combination, an attestation as to whether: (a) a commissioner's adjustment under Section 4-6-300(l) permitting otherwise has been obtained, or (b) the applicant or licensee, as applicable, held a valid vacation rental license, as of June 22, 2016, for the dwelling unit;

(10) if the dwelling unit is located in a building containing five or more dwelling units, an attestation that: (i) no more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as vacation rentals or shared housing units, in any combination; and (ii) if the dwelling unit identified in the license application is licensed as a vacation rental, such dwelling unit will not exceed the limit set forth in item (i) of this subsection (b)(10);

(611) a statement as to whether, within two years of the date of application or renewal, the applicant or licensee, as applicable, has ever had a license to engage in the business of vacation rental, bed-and-breakfast establishment, hotel or shared housing unit operator, or a shared housing unit registration under Chapter 4-14 of this Code, suspended or revoked for cause;

(712) a statement as to whether, within two years of the date of application or renewal, the applicant or licensee, as applicable, has ever had a license for a vacation rental, bed-and-breakfast establishment, hotel or shared housing unit operator, or a shared housing unit registration under Chapter 4-14 of this Code, for the dwelling unit identified in the license application has ever been suspended or revoked for cause;

(813) proof of insurance, as required under subsection (f)(1) of this section; and

(14) a statement as to whether the applicant or licensee, as applicable, held a valid vacation rental license for the unit identified in the license application as of June 22, 2016, and if so, the applicable license number.

(c) *License issuance and renewal – Prohibited when.* No regulated business license to engage in the business of vacation rental shall be issued to the following persons:

(1) any applicant or licensee, as applicable, who does not own the vacation rental identified in the license application;

(2) any applicant or licensee, as applicable, who license to engage in the business of vacation rental has been revoked for cause within two years of the date of application or renewal;

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~~(3) any applicant or licensee, as applicable, if, within two years of the date of application or renewal, a license for vacation rental for the dwelling unit identified in the license application has been revoked for cause;~~

~~(4) any applicant or licensee, as applicable, who makes any false, misleading or fraudulent statement in the license application, or misrepresents any fact in the license application, or uses any scheme or subterfuge for the purpose of evading any requirement of this section;~~

(1) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is not a lawfully established dwelling unit within the meaning of Section 17-17-0248, which contains six or fewer sleeping rooms;

~~(52) any applicant or licensee, as applicable, if the homeowners association or board of directors of the building in which the vacation rental dwelling unit is located has failed to adopt bylaws which: (i) approve the use of the premises for vacation rentals; and (ii) restrict the number of dwelling units in the building that may be licensed as vacation rentals to six or less units and specifically identify those dwelling units; (iii) authorize the homeowners association or board of directors to act as the local contact person for the owner of the vacation rental; and (iv) authorize access by city officials to the common areas of the building in which the vacation rental is located adopted bylaws prohibiting use of the dwelling unit as a vacation rental or shared housing unit, in any combination;~~

(3) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is subject to a rental agreement prohibiting the use of the dwelling unit as a vacation rental or shared housing unit, in any combination;

(4) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is a single family home, and such home is not the applicant's or licensee's primary residence. Provided, however, that this prohibition shall not apply if: (i) the owner of the single family home is on active military duty and such owner has appointed a designated agent or employee to manage, control or reside in the single family home during such owner's absence while on military duty; or (ii) the applicable commissioner's adjustment under Section 4-6-300(1) permitting otherwise has been obtained; or (iii) the applicant or licensee, as applicable, held a valid vacation rental license, as of June 22, 2016, for the single family home identified in the license application.

(5) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is located in a building containing two to four dwelling units, inclusive, and (i) such dwelling unit is not the applicant's or licensee's primary residence; or (ii) more than one unit in the building is currently used as a vacation rental or shared housing unit, in any combination. Provided, however, that the prohibition set forth in item (i) shall not apply if the applicant or licensee is on active military duty and has appointed a designated agent or employee to manage, control and reside in the dwelling unit during such person's absence while on military duty. Provided further, that the prohibitions set forth in items (i) or (ii) shall not apply if: (a) the applicable commissioner's adjustment under Section 4-6-300(1) permitting otherwise has been

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obtained; or (b) the applicant or licensee, as applicable, held a valid vacation rental license, as of June 22, 2016, for the dwelling unit identified in the license application;

(6) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is located in a building containing five or more dwelling units and more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as a vacation rental or shared housing unit, in any combination, if the dwelling unit identified in the license application is licensed as a vacation rental;

(7) any applicant or licensee, as applicable, if the dwelling unit identified in the license application is located at an address identified on the prohibited buildings list maintained pursuant to Section 4-13-270(c);

(8) any applicant or licensee, as applicable, whose license to engage in the business of vacation rental, bed-and-breakfast establishment, hotel or shared housing unit operator or whose shared housing unit registration under Chapter 4-14 has been suspended or revoked for cause within two years of the date of application or renewal;

(9) any applicant or licensee, as applicable, whose license to engage in the business of vacation rental, bed-and-breakfast establishment, hotel or shared housing unit operator for the dwelling unit identified in the license application, or whose shared housing unit registration under Chapter 4-14 for the dwelling unit identified in the license application, has been suspended or revoked for cause;

(10) any applicant or licensee, as applicable, who makes any false, misleading or fraudulent statement in the license application, or misrepresents any fact in the license application, or uses any scheme or subterfuge for the purpose of evading any requirement of this section;

(611) any applicant or licensee, as applicable, who has violated any applicable federal, state or local law or regulation promulgated thereunder;

(12) any applicant or licensee, as applicable, whose vacation rental is located in a restricted residential zone, and (ii) such vacation rental was not a legally established use within the meaning of Section 4-17-070 as of the effective date of the ordinance establishing such restricted residential zone.

(7) any applicant or licensee, as applicable, if issuance of a license under this section will violate the prohibition set forth in subsection (d)(1) of this section.

(d) Other license requirements.

(1) No more than six dwelling units within any building shall be licensed as a vacation rental at the same time or one-quarter of the total dwelling units in the building, whichever is less, shall be used as vacation rentals or shared housing units, in any combination.

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Provided, however, that this prohibition shall not apply if a commissioner's adjustment under Section 4-6-300(l) permitting otherwise has been obtained.

(2) A separate license shall be required for each dwelling unit used as a vacation rental.

(e) *Department duties – Inspections.*

(1) The building commissioner is authorized to mandate an inspection of any vacation rental, at any time and in any manner, including third-party reviews, as provided for in rules and regulations promulgated by the building commissioner.

(2) If the licensee provides food to his guests in the vacation rental, the board of health may inspect the vacation rental in accordance with rules and regulations promulgated by the board of health.

(f) *Legal duties.* ~~Any licensee engaged in the business of vacation rental shall have a duty to:~~

(1) *Insurance – Required.* Each licensee engaged in the business of vacation rental shall have a duty to obtain: (i) homeowner's fire, hazard and liability insurance; and (ii) commercial general liability insurance, with limits of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage arising in any way from the issuance of the license or activities conducted pursuant to the license. ~~The licensee shall maintain the insurance required under this subsection (f)(1) in full force and effect for the duration of the license period;~~ Each policy of insurance shall: (A) be issued by an insurer authorized to insure in the State of Illinois; (B) name the City of Chicago as additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license; and (C) be maintained in full force and effect for the duration of the license period.

(2) *Registration records – Required.* Each licensee engaged in the business of vacation rental shall have a duty to maintain current guest registration records which contain the following information about each guest: (i) name, (ii) address, (iii) signature, and (iv) dates of accommodation.

(3) *Maintenance of records – Required.* Each licensee engaged in the business of vacation rental shall have a duty to keep the guest registration records required under subsection (f)(2) of this section on file for three years and, upon request by any authorized city official, to make such records available for inspection by such city official during regular business hours or in the case of an emergency.

(4) *License number in advertisements – Required.* Each licensee engaged in the business of vacation rental shall have a duty to print or to cause the licensee's license number to be printed, in legible type, (i) in every advertisement of any type for any vacation rental that the licensee or the licensee's agent places or causes to be placed in connection with a vacation rental; (ii) on every application for a building permit made by or on behalf of the licensee; and (iii) if

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the licensee advertises the vacation rental on a primary website established, operated or maintained by such licensee, on such website. Failure to comply with the requirements of this subsection (f)(4) shall create a rebuttable presumption that the business of vacation rental is being operated without a license.

(5) Soaps and clean linens – Required. Each licensee engaged in the business of vacation rental shall have a duty to provide guests with soap, clean individual bath cloths and towels, and clean linen. All linens, bath cloths and towels shall be kept in good repair and changed between guests.

(6) Sanitized utensils – Food disposal – Required. Each licensee engaged in the business of vacation rental shall have a duty to clean and sanitize the vacation rental and all dishes, utensils, pots, pans and other cooking utensils between guests and to dispose of all food, beverages and alcohol left by the previous guests.

(7) Posting – License number – Local contact person – Required. Each licensee engaged in the business of vacation rental shall have a duty to post in a conspicuous place near the entrance of the vacation rental, the vacation rental license and the name and telephone number of the local contact person.

(8) Posting – Evacuation diagram – Required. Each licensee engaged in the business of vacation rental shall have a duty to post in a conspicuous place on the inside entrance door of each vacation rental an evacuation diagram identifying all means of egress from the vacation rental and the building in which the vacation rental is located.

(9) Food handling safety – Required. If the licensee provides food to guests, such licensee shall have a duty to comply with all applicable food handling and licensing requirements of this Code and board of health regulations.

(10) Notification to police of illegal activity – Required. If a licensee knows or suspects that any criminal activity, egregious condition or public nuisance is taking place in the vacation rental, such licensee shall have a duty to immediately notify and cooperate with the Chicago police department.

(11) Smoke and carbon monoxide detectors – Required. Each licensee engaged in the business of vacation rental shall have a duty to ensure that the vacation rental is in compliance with applicable laws regarding the installation and maintenance of functioning smoke and carbon monoxide detectors.

(12) Compliance with tax laws – Required. Each licensee shall have a duty to comply with all applicable federal, state and local laws and regulations regarding collection and payment of taxes, including hotel accommodation taxes.



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(13) Disclosure and acknowledgment – Required.

(1) A building or dwelling unit owner, or agent thereof, shall not execute an oral or written lease, contract to lease, or accept any money or other valuable consideration in an application for an oral or written lease for a dwelling unit without disclosing to the tenant or applicant in written form if the building or dwelling unit owner knows that:

(i) The dwelling unit being leased is licensed by the City of Chicago as a vacation rental;

(ii) The dwelling unit being leased is ineligible under Section 4-13-260(a) to be rented as a shared housing unit or vacation rental.

(2) The tenant or applicant shall be required to execute a receipt acknowledging that these written disclosures have been made.

(3) All owners of residential dwelling units and buildings (and their agents) shall, at the time of any offering for sale of said residential dwelling units and buildings, or in the case where improved real property is held under trust the sale of real property which forms the corpus of the trust or the transfer of the beneficial interest in such property, including contract sale, be required to disclose to the purchaser or prospective purchaser if the owner knows that:

(i) The dwelling unit being sold is licensed by the City of Chicago as a vacation rental;

(ii) The dwelling unit being sold or the building is ineligible under Section 4-13-260(a) to be a shared housing unit or vacation rental.

(4) The purchaser or prospective purchaser shall be required to execute a receipt acknowledging that these written disclosures have been made.

(g) Prohibited acts. It shall be unlawful for any licensee engaged in the business of vacation rental to;

(1) Rental under 10 hours – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to rent or to lease any vacation rental by the hour or for any period of fewer than 24 ten consecutive hours;

(2) Multiple rentals within 10 hour period – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to rent or to lease any vacation rental more than once within any consecutive 24 ten hour period, as measured from the commencement of one rental to the commencement of the next;

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(3) Advertising hourly rate – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to advertise an hourly rate or any other rate for a vacation rental based on a rental period of fewer than 24 ~~ten~~ consecutive hours;

(4) Criminal activity, egregious condition, nuisance – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to permit any criminal activity, egregious condition or public nuisance to take place in the vacation rental. In addition to any other penalty provided by law, any person who violates this subsection (g)(4) shall be subject to a fine of not less than \$2,500.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense;

(5) Exceeding maximum occupancy – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to exceed the maximum occupancy limit of no more than one person per 125 feet of floor area of the dwelling unit for which the license is issued. The occupancy ~~limitations~~ limitation set forth in this subsection (g)(5) are is the absolute maximums maximum limitation. The actual allowed capacity shall be based on the applicable provisions of the building code;

(6) Service of alcohol – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to serve or otherwise provide alcohol to any guest or invitee of a guest;

(7) Multiple or overlapping bookings – Prohibited. It shall be unlawful for any licensee engaged in the business of vacation rental to rent the vacation rental in multiple transactions for the same or overlapping time periods.

(h) Vacation rentals listed on a platform. If a vacation rental is listed on any short term residential rental intermediary platform or short term residential advertising platform within the meaning of Chapter 4-13 of this Code, a licensee under this section shall have the following duties:

(1) Listing without license number – Prohibited. Such licensee shall not list, or permit any person to list, on such platform any vacation rental unless the listing includes the vacation rental's license number;

(2) Rental without license – Prohibited. Such licensee shall not rent, or permit any person to rent, or book for future rental, or permit any person to book for future rental, any vacation rental which is not properly licensed by the city;

(3) Descriptive information on listing – Required. Such licensee shall include in any listing on such platform(s), the following information about the vacation rental: (A) the licensee's cancellation and check-in and check-out policies; and (B) a statement on: (i) whether the vacation rental is wheelchair or ADA accessible; (ii) whether the vacation rental has any parking availability or restrictions; and (iii) the availability of, or restrictions on, the use of any recreational facilities or other amenities applicable to guests; and (C) a description of the

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vacation rental, including the number of sleeping rooms and bathrooms; and (D) the applicable license number;

(4) *Rental of ineligible units by licensee or licensee's family members – Prohibited.* Following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), such licensee shall not rent, or allow any family member to rent, any vacation rental identified in such notice that the commissioner has determined is ineligible for listing on any platform. Any person who violates this subsection (h)(4) shall be fined not less than \$500.00 nor more than \$1,000.00 for renting such vacation rental within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting such vacation rental on or after the 15th calendar day and before the 28<sup>th</sup> calendar day of the date on which such notice is sent; and \$5,000.00 for renting such vacation rental on or after the 28<sup>th</sup> calendar day of the date on which such notice is sent. Each day that a violation continues after such 28<sup>th</sup> calendar day shall constitute a separate and distinct offense;

(5) *Lawfully established dwelling unit with six or fewer sleeping rooms – Required.* Such licensee shall not list on any platform or rent any vacation rental that is not a lawfully established dwelling unit within the meaning of Section 17-17-0248, which contains six or fewer sleeping rooms;

(6) *Violation of condominium or cooperative building restrictions – Prohibited.* Such licensee shall not list on any platform or rent any vacation rental that is subject to restrictions imposed by a homeowners association or board of directors, unless the homeowners association or board of directors has approved the dwelling unit for use as a vacation rental or shared housing unit;

(7) *Violation of rental requirements and restrictions – Prohibited.* Such licensee shall not list on any platform or rent any vacation rental that is subject to a rental agreement, if the rental agreement prohibits the use of such dwelling unit as a vacation rental;

(8) *Listing and rental of single family homes that are not the licensee's primary residence – Restricted.* Such licensee shall not list on any platform or rent any vacation rental that is a single family home, unless such single family home is the licensee's primary residence. Provided, however, that this prohibition shall not apply if: (i) the licensee is on active military duty and such licensee has appointed a designated agent or employee to manage, control and reside in the single family home during such host's absence while on military duty; or (ii) the applicable commissioner's adjustment under Section 4-6-300(1) permitting otherwise has been obtained; or (iii) the applicant or licensee, as applicable, held a valid vacation rental license, as of June 22, 2016, for the single family home;

(9) *Listing and rental in buildings with up to four dwelling units – Restricted.* Such licensee shall not list on any platform or rent any vacation rental that is located in a building containing two to four dwelling units, inclusive, unless such dwelling unit: (i) is the licensee's primary residence; and (ii) is the only dwelling unit in the building that is or will be used as a vacation rental or shared housing unit, in any combination. Provided, however, that the prohibition set forth in item (i) shall not apply if the licensee is on active military duty and has

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appointed a designated agent or employee to manage, control and reside in the dwelling unit during such licensee's absence. Provided further, that the prohibitions set forth in item (i) or (ii) shall not apply if: (a) the applicable commissioner's adjustment under Section 4-6-300(1) permitting otherwise has been obtained; or (b) the licensee held a valid vacation rental license, as of June 22, 2016, for the dwelling unit identified in the license application;

(10) *Listing and rental in buildings with five or more dwelling units – Prohibited.* Such licensee shall not list on any platform or rent any vacation rental that is located in a building containing five or more dwelling units, when more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as a vacation rental or shared housing unit, in any combination, if the dwelling unit identified in the license application is licensed as a vacation rental;

(11) *Removal of ineligible listings from platform.* Following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-13-330(b), such licensee shall remove the ineligible listing from the platform in the manner prescribed by the commissioner in rules. In addition to any other penalty provided by law, any person who fails to comply with this subsection (h)(11) shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under Section 4-13-260(b) or Section 4-13-330(b) is sent; and not less than \$2,500.00 nor more than \$5,000.00 for failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15<sup>th</sup> calendar day shall constitute a separate and distinct offense.

(12) *Misrepresenting material facts – Prohibited.* Such licensee shall not misrepresent on any listing any material fact relating to the vacation rental.

(13) *Public accommodation – Discriminatory practices prohibited.* Each vacation rental shall be deemed to be a public accommodation within the meaning of Section 2-160-070. It shall be unlawful for any person that owns, leases, rents, operates, manages or in any manner controls such public accommodation to withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income in violation of Section 2-160-070.

(hi) *Operating without a license – Penalty.* Any person who operates the business of vacation rental without first having obtained the required license for such business shall be subject to a fine of not less than \$1,500.00 \$2,500.00 nor more than \$3,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense. Failure to comply with any requirement set forth in subsection (f)(4) of this section shall create a rebuttable presumption that the business of vacation rental is being operated without a license.

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(j) License --Suspension or revocation.

(1) Immediate suspension or revocation -- Post-deprivation hearing -- Authorized when. If the commissioner has good cause to believe that: (1) continued rental of a vacation rental causes an imminent threat to public health, safety or welfare, and (2) grounds exist for revocation or suspension of the licensee's vacation rental license, including, but not limited to, any of the grounds set forth in items (i) through (vi), inclusive, of subsection (j)(2) of this section, the commissioner may, upon issuance of a written order stating the reason for such conclusion and without notice or hearing, suspend or revoke a vacation rental license under this section and prohibit the licensee from renting the vacation rental to guests for a period of time not to exceed ten calendar days; provided, however, that the licensee shall be afforded an opportunity to be heard during such period. If the licensee fails to request a hearing within the prescribed time, the vacation rental license shall be deemed revoked.

(2) Suspension or revocation -- Pre-deprivation hearing -- Authorized when. In addition to any other applicable reason, a vacation rental license may be suspended or revoked in accordance with Section 4-4-280 under the following circumstances:

(i) Situs of one or more egregious conditions. When a vacation rental is the situs of one or more egregious conditions while rented to guests; or

(ii) Situs of three or more objectionable conditions. When a vacation rental has been the situs, on three or more occasions, while rented to guests, of disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, loitering, public urination, lewd conduct, overcrowding, exceeding design loads, or excessive loud noise. For purposes of this item (ii):

"Excessive loud noise" means any noise, generated from within or having a nexus to the rental of the shared housing unit, between 8:00 P.M. and 8:00 A.M., that is louder than average conversational level at a distance of 100 feet or more, measured from the property line of the vacation rental.

"Overcrowding" means occupancy by more persons than the maximum occupancy limit of no more than one person per 125 feet of floor area of the vacation rental or the vacation rental's actual capacity based on the applicable provisions of the building code, whichever is less.

"Exceeding design loads" means placing loads on structural elements or components of buildings, including, but not limited to, porches, balconies, and roof decks, in excess of the minimum design loads required by the building code; or

(iii) Situs of three or more nuisance conditions. When, in the determination of the commissioner, the rental of the vacation rental creates a nuisance because at least three separate incidents involving illegal acts, as that term is defined in Section 4-4-313(h), occurred during a 12-month period: (1) in the vacation rental; (2) in or on the premises in which the vacation rental is located; (3) in the vacation rental's parking facility, or (4) on adjacent property. For purposes

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of determining whether three or more illegal acts occurred during a 12-month period, illegal acts occurring shall be limited to acts of the guests, or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the vacation rental while rented to a guest. In a proceeding to suspend or revoke the license of a vacation rental that is or creates a nuisance under this Section 4-6-300(j)(2)(iii), any evidence on which a reasonably prudent person would rely may be considered without regard to the formal or technical rules of evidence, and the commissioner may rely on police reports, official written reports, affidavits and business records submitted by authorized city officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal acts or objectionable conditions occurred. If, during any 12-month period three separate incidents of illegal acts occur on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property, a rebuttable presumption shall exist that the vacation rental is or creates a nuisance in violation of this Section 4-6-300(j)(2)(iii); or

(iv) *Scofflaw or problem landlord.* When a vacation rental is listed on, or is located in a building that is listed on, the city's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

(v) *Threat to public health, safety or welfare.* When the commissioner determines that the continued rental of a vacation rental poses a threat to the public health, safety or welfare; or

(vi) *Unlawful discrimination.* When, in connection with the listing for rental or rental of a vacation rental, the commissioner or Chicago commission on human relations has determined that a violation of Section 2-160-070 or Section 4-6-300(h)(13), as applicable, has occurred.

(ik) *Penalty.*

(1) *Fines and other applicable penalties.* In Except as otherwise provided in this section, and in addition to any other penalty provided by law, any person who violates any provision of this section or any rule or regulation promulgated thereunder shall be subject to a fine of not less than \$1,500.00 nor more than \$3,000.00 for each offense, or incarceration for a period not to exceed six months, or both. Each day that such violation exists shall constitute a separate and distinct offense.

(2) *Exceeding rental restrictions.* If any building contains more than 6 licensed vacation rentals, all vacation rental licenses for dwelling units located within such building are subject to revocation. If the rental restriction applicable to buildings containing more than five dwelling units imposed under Section 4-6-300(d)(1) is exceeded in any building, all vacation rental licenses and shared housing registrations for dwelling units located within such building are subject to revocation under this chapter.

(3) *Injunctive relief.* In addition to any fine or penalty imposed by this section, the corporation counsel may seek an injunction or other equitable relief in a court of competent jurisdiction to stop any violation of this section.

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(4) *Duration of revocation.* If a vacation rental license under this section is revoked, such revocation shall remain in effect for a period of at least two years from the date of revocation and thereafter until such time that a new owner or tenant, as applicable, other than a family member of the person whose license was revoked, occupies the dwelling unit.

(1) *Vacation rentals – Commissioner's Adjustments – When authorized.*

(1) The commissioner is authorized to grant an adjustment to allow:

(a) issuance of a license to a vacation rental located in:

(i) a single family home that is not the applicant's primary residence; or

(ii) a building containing two to four dwelling units, inclusive, where the dwelling unit is not the applicant's primary residence;

(b) in a building containing two to four dwelling units, inclusive, an increase in the number of dwelling units that may be used as vacation rentals.

Such an adjustment may be approved only if, based on a review of relevant factors, the commissioner concludes that such an adjustment would eliminate an extraordinary burden on the applicant in light of unique or unusual circumstances and would not detrimentally impact the health, safety, or general welfare of surrounding property owners or the general public.

Factors which the commissioner may consider with regard to an application for a commissioner's adjustment include, by way of example and not limitation: (i) the relevant geography, (ii) the relevant population density, (iii) the degree to which the sought adjustment varies from the prevailing limitations, (iv) the size of the relevant building and the number of units contemplated for the proposed use, (v) the legal nature and history of the applicant, (vi) the measures the applicant proposes to implement to maintain quiet and security in conjunction with the use, (vii) any extraordinary economic hardship to the applicant, due to special circumstances, that would result from a denial, (viii) any police reports or other records of illegal activity or municipal code violations at the location, and (ix) whether the affected neighbors support or object to the proposed use.

The grant of an adjustment shall not exempt the applicant from any application requirement associated with issuance of a vacation rental license.

(2) An adjustment under subsection (1)(1)(a) may be requested by the applicant for the vacation rental license. An adjustment under subsection (1)(1)(b) may be requested by the owner, homeowners association or board of directors of the building.

(3) A person seeking an adjustment shall make a written submission to the commissioner, presenting all factors which the applicant believes to be relevant to whether an adjustment is appropriate. The applicant shall provide a copy of the written submission to the adjoining neighbors. The commissioner shall review the materials and make a written

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determination within 60 days, which shall set forth the factors used in arriving at the determination. During the 60-day review period, the commissioner shall notify the affected alderman and solicit a recommendation based on the alderman's analysis of relevant factors, and may seek additional information or supplementary proof from the applicant, and may also solicit information from the community.

If the commissioner denies the application for an adjustment, the applicant, within fourteen days of receiving the denial, may request a hearing from the commissioner. Upon receiving such a request, the commissioner shall schedule and conduct a hearing expeditiously. At the hearing the commissioner may receive written submissions, witness testimony, argument and documents regarding the application. The commissioner shall, within thirty days of the conclusion of the hearing, render a decision, which shall constitute a final determination for purposes of judicial review.

(4) If the commissioner grants the application for an adjustment, those factors that were deemed by the commissioner to be relevant to the determination shall be included in a plan of conduct. If the vacation rental license is granted, the plan of conduct shall be deemed a part of the license, and compliance with the plan of conduct shall be a necessary condition to the continued validity of the license. Failure to comply with one or more elements of the plan of conduct shall subject the licensee to suspension or revocation of the vacation rental license.

(5) Throughout the commissioner's adjustment consideration process, the applicant shall bear the burden of persuasion to justify the sought adjustment.

(m) Limit calculation. The limits on the number of vacation rentals in a building shall be calculated as maximum limits using the method in section 17-1-0605-B.

**SECTION 8.** Title IV of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 4-13, as follows:

**CHAPTER 4-13  
SHORT TERM RESIDENTIAL RENTAL INTERMEDIARIES  
AND  
ADVERTISING PLATFORMS**

**ARTICLE I. DEFINITIONS**

**Section 4-13-100 Definitions.**

As used in this chapter:

“Bed-and-breakfast establishment” has the meaning ascribed to that term in Section 4-6-290.



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“Cooperative building” means a multiple-dwelling complex owned by a cooperative corporation, stock in which affords the owner thereof the right to possess or occupy a particular cooperative allocated to that stock within the complex. This right of possession or occupancy is granted through a proprietary lease or similar arrangement, and, unlike the owner of a condominium, the owner of the cooperative stock does not hold legal title to his or her individual cooperative. As used in this definition, “cooperative” means an individual dwelling unit within a cooperative building.

“Dwelling unit” has the meaning ascribed to that term in Section 17-17-0248.

“Egregious condition” has the meaning ascribed to that term in Section 4-14-010.

“Guest” has the meaning ascribed to that term in Sections 4-6-290, 4-6-300, or 4-14-010, as applicable.

“Homeowners association” has the meaning ascribed to that term in Section 4-6-300(a).

“Platform” means an internet-enabled application, mobile application, or any other digital platform used by a short term residential rental intermediary to connect guests with a short term residential rental provider.

“Shared housing host” has the meaning ascribed to that term in Section 4-14-010.

“Restricted residential zone” has the meaning ascribed to that term in Section 4-17-010.

“Shared housing unit operator” means any person that requires a shared housing unit operator license under Chapter 4-16 of this Code.

“Shared housing unit” has the meaning ascribed to that term in Section 4-14-010.

“Short term residential rental” means a dwelling unit located within the city that is rented as, or held out as being used as, a shared housing unit, bed-and-breakfast establishment or vacation rental.

“Short term residential rental intermediary” or “intermediary” means any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists shared housing units on its platform.

“Short term residential rental advertising platform” or “advertising platform” means any person who, for compensation or a fee: (1) uses a platform to connect guests with a short term residential rental provider for the purpose of renting a short term residential rental, and (2) primarily lists licensed bed-and-breakfast establishments, vacation rentals or hotels on its platform or dwelling units that require a license under this Code to engage in the business of short term residential rental.

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“Short term residential rental provider” or “provider” means any person who offers for rent a short term residential rental.

“Transient occupancy” has the meaning ascribed to that term in Section 4-6-290.

“Vacation rental” has the meaning ascribed to the term in Section 4-6-300.

## **ARTICLE II. SHORT TERM RESIDENTIAL RENTAL INTERMEDIARY**

### **Section 4-13-200 License – Required.**

No person shall engage in the business of short term residential rental intermediary without first having obtained a license under Article II of this Chapter 4-13.

### **Section 4-13-205 Licensee – Fee.**

The license required under this Article II shall be renewed annually. The license fee set forth in Section 4-4-010 shall be payable annually.

### **Section 4-13-210 License application – Additional information required.**

In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a license to engage in the business of short term residential rental intermediary shall be accompanied by the following information:

- (1) the name, address and contact information of the intermediary’s local contact person;
- (2) an affidavit from the local contact person identified in the license application attesting that such local contact person: (i) is designated for service of process; (ii) is authorized by the applicant or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city;
- (3) proof of all required insurance, as set forth in Sections 4-13-220(a) and 4-13-220(b);
- (4) a written plan, subject to the approval of the commissioner, describing the applicant’s procedures, processes and policies for ensuring that the applicant and any short term residential rental provider utilizing the platform are, and will remain, in compliance with this Chapter 4-13;
- (5) a quality of life plan, subject to the approval of the commissioner, meeting the requirements of Section 4-13-220(h); and
- (6) any other information that the commissioner may reasonably require in connection with the issuance or renewal of the license.

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**Section 4-13-215 Attestation – Required.**

The intermediary shall be required to make available an electronic copy of a summary of the requirements of this ordinance, including the requirement that the shared housing host be a natural person; the eligibility requirements for registration of a shared housing unit, as set forth in Chapters 4-13 and 4-14 of the Municipal Code of Chicago, and the potential penalties applicable for violation of the ordinance. As a condition of listing on the platform, the intermediary shall require the shared housing host to attest that the host has reviewed and understood the requirements of this ordinance.

**Section 4-13-220 Legal duties.**

(a) *Insurance for intermediary – Required.* Each licensee under this Article II shall have the duty to obtain commercial general liability insurance, with limits of not less than \$1,000,000 per occurrence, for bodily injury, personal injury (if commercially available to the licensee) and property damage arising in any way from the issuance of the short term residential rental intermediary license or activities conducted pursuant to that license. Each policy of insurance shall: (i) be issued by an insurer authorized to insure in the State of Illinois; (ii) name the City of Chicago as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license (if commercially available to the licensee); (iii) be maintained in full force and effect for the duration of the license period; and (iv) include a provision requiring 30 calendar days' advance notice to the commissioner prior to cancellation or lapse of the policy;

(b) *Insurance for guests – Required.* Each licensee under this Article II shall have the duty to provide commercial general liability insurance, with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury (if commercially available to the licensee), and property damage arising in any way from activities conducted pursuant to a registration or issuance of license for a short term residential rental. Such insurance shall cover any bodily injury, personal injury (if commercially available to the licensee), or property damage sustained by any guest arising in any way from activities related to the rental of the short term residential rental. Each policy of insurance provided shall have policy limits as set forth in this subsection (b) that apply separately for each short term residential rental, and if the policy has an aggregate limit, the aggregate limit shall apply separately to each short term residential rental. Each policy of insurance shall be: (i) issued by an insurer authorized to insure in the State of Illinois; and (ii) maintained in full force and effect for as long as the short term residential rental is registered or licensed, whichever is applicable. The licensee shall provide advance notice to the commissioner of the cancellation of, or lapse in, the policy as soon as is reasonably practicable after the licensee becomes aware of the cancellation of, or lapse in, the policy;

(c) *Identification of local contact person – Required.* Each licensee under this Article II shall have the duty to include on its platform the name of, and contact information for, the licensee's local contact person;

(d) *Compliance with tax laws – Required.* Each licensee under this Article II shall have the duty to comply with all applicable federal, state and local laws and regulations regarding collection and payment of taxes, including hotel accommodation taxes;

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(e) *Compliance with rental, homeowners association and cooperative building agreements – Required.* Each licensee under this Article II shall have the duty not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee advises the short term residential rental provider that the provider must comply with all existing applicable rental agreements, or homeowners association or cooperative building rules or restrictions, regarding the rental for transient occupancy of the short term residential rental;

(f) *Descriptive listing information – Required.* Each licensee under this Article II shall have the duty not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee advises the short term residential rental provider that every listing shall include the information set forth in Section 4-14-040(a)(1) through (a)(4), inclusive;

(g) *Process to remove listings from a platform – Required.* Each licensee under this Article II shall have the duty to establish a process, to be approved by the commissioner, that enables a short term residential rental provider to remove from the intermediary's platform any or all of the provider's listings on such platform.

(h) *Process to address quality of life concerns due to units on ineligible list – Required.* Each licensee under this Article II shall establish and comply with a process, to be approved by the commissioner, for mitigating the impact on quality of life of units determined to be ineligible under Section 4-13-260 or any hotel that is not properly licensed under Chapter 4-6 of this Code.

(i) *Compliance with written plan – Required.* Each licensee under this Article II shall have the duty to comply with any written plan approved by the commissioner pursuant to Section 4-13-210(4).

(i) *License number on listing – Required when.* Each licensee under this Article II shall establish a process, to be approved by the commissioner, to ensure that every hotel, bed-and-breakfast establishment or vacation rental listed on its platform includes the provider's license number.

**Section 4-13-230 Shared housing units – Bulk registration required.**

(a) *Bulk registration – Required.* Each licensee under this Article II shall register with the department, on behalf of the owner or tenant of the applicable shared housing unit, and in accordance with this section, all shared housing units listed on the licensee's platform. The registration required under this subsection shall meet the requirements set forth in Section 4-14-020(b) and (c).

(b) *Notice to provider of bulk registration – Required.* Each licensee under this Article II shall post a notice, in a conspicuous place on its platform, informing providers of shared housing units that: (1) the intermediary will register the provider's shared housing unit with the department, as required under subsection (a) of this section; and (2) when the department assigns a registration number to the unit, the intermediary will notify the shared housing provider of such fact, as required under subsection (f) of this section; and (3) upon receipt of such notification from the intermediary, the provider, pursuant to Section 4-14-030(d),

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has 30 calendar days to update the applicable listing to include the registration number assigned by the department; and (4) if no registration number is assigned to the unit by the department within 90 days of the date on which the shared housing unit was registered with the department, the listing shall be deemed to be invalid and the provider shall remove the listing from the platform; and (5) upon receipt of notification from the commissioner that a unit is ineligible under Section 4-13-260 for listing on the platform, the provider, pursuant to Section 4-14-030(c), shall remove the ineligible listing from the platform.

(c) *Registration report required – Timeline for submission.* On the 1<sup>st</sup> and 15<sup>th</sup> day of each month, each licensee under this Article II shall submit to the department a registration report, which shall be complete and accurate to the last day of the preceding reporting period under this subsection, containing all of the registration information required under Section 4-14-020(b) and (c) for each shared housing unit that the licensee is seeking to register with the department during the applicable reporting period. Provided, however, that the licensee shall be deemed to be in compliance with this subsection (c) if the licensee submits the required report and registration information to the department on a daily or weekly basis or more frequently than twice each month. Provided further, that the intermediary shall facilitate the collection, and transmittal to the department, of the attestations required under Section 4-14-020(c) in a format and manner consistent with requirements prescribed by the commissioner in rules.

(d) *Pending registration – Listing and rental of shared housing units while registration is pending.* Prior to submission by the intermediary of the registration report required under subsection (c) of this section and the assignment under Section 4-14-020(e) of a unique registration number to the shared housing unit identified in such report: (i) a shared housing host may list a shared housing unit that will be identified by the intermediary in its monthly registration report on its platform if the listing clearly indicates that the unit's registration by the department is pending; and (ii) the host of any unit that will be identified in such registration report shall be allowed to rent such shared housing unit, and to book future listings for such unit, until such time that the commissioner determines that such unit is ineligible under Section 4-13-260(a) to be listed on the platform.

(e) *Duration of pending registration status – Removal of invalid listing required when.* If a shared housing unit's listing on a platform does not include a valid registration number for such unit within the meaning of Section 4-14-020(e), and such listing is accompanied or required to be accompanied by the notification required under subsection (d) of this section indicating that approval of the shared housing unit's registration is pending, such listing, without an assigned registration number, shall not be valid for more than 90 calendar days after the date on which the shared housing unit was registered with the department pursuant to subsection (a) of this section. Such invalid listing shall be removed from the platform by the host no later than 91 calendar days after the date on which the shared housing unit was registered with the department pursuant to subsection (a) of this section, unless the department notifies the shared housing host in writing that the department has authorized a continuation of the shared housing unit's pending registration status to a date certain, which shall be identified in the written notice, after which date certain the listing, without an assigned registration number, shall be invalid and shall be removed from the platform by the host.

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(f) *Duties of intermediary following department's assignment of a unique registration number to a shared housing unit.* When the department assigns a registration number to a shared housing unit listed in the registration report submitted by the intermediary pursuant to subsection (c) of this section, the department shall notify the intermediary and the shared housing provider of such fact. Such departmental notification shall identify the registration number that the department has assigned to such shared housing unit. The licensee shall establish a process, which shall be approved by the commissioner, to ensure that the shared housing unit's listing on the platform is promptly updated to include the assigned registration number. The licensee's failure to comply with such approved process shall be a violation of this subsection.

(g) *Ineligible listings – Duties of the intermediary.* If the department determines that a shared housing unit listed in the registration report submitted by the intermediary pursuant to subsection (c) of this section is ineligible under Section 4-13-260(a) for listing on a platform, the department shall notify the intermediary of such fact in accordance with Section 4-13-260(b). Upon receipt of such notice from the department, the intermediary shall notify the shared housing host of the facts set forth in such notice from the department.

**Section 4-13-240 Data and reports – Required.**

(a) *Departmental report – Required.* Each licensee under this Article II shall have a duty to submit to the department, every two months, a report, in a form approved by the commissioner, that contains the following information about the short term residential rentals listed on the intermediary's platform during the reporting period: (i) the total number of short term residential rentals listed on the platform during the applicable reporting period; (ii) the total number of nights that each short term residential rental listed on the platform was rented to guests during the applicable reporting period; (iii) the amount of rent paid by guests in connection with the rental of each short term residential rental listed on the platform during the applicable reporting period; (iv) the total amount of tax paid by the intermediary to the city under Section 3-24-030 in connection with the rental of each short term residential rental listed on the platform during the applicable reporting period; (v) a cumulative tally to date of the number of nights that each short term residential rental listed on the platform is booked for rental during the remaining months of the applicable calendar year; and (vi) a notation indicating each short term residential rental listed on the platform that the department has determined is ineligible under Section 4-13-260(a) to be listed on the platform.

(b) *Additional departmental reports – Required when.* Upon request by the commissioner, each licensee under this Article II shall have a duty to submit to the department, in a form and manner prescribed by the commissioner, data identifying the total number of shared housing units that have been rented for more than 30 nights, or for any other period of nights during the current, previous, or subsequent calendar year, that the commissioner reasonably determines is necessary to assist the department in enforcing this Chapter 4-13 or Chapters 4-14 or 4-16 of this Code. Such submission shall include a notation indicating each shared housing unit included in the data that the department has determined is ineligible under Section 4-13-260(a) for listing on a platform.

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(c) *Aldermanic report – Required.* Each licensee under this Article II shall have a duty to submit to each alderman, every two months, a report, in a form approved by the commissioner, that contains, on ward specific basis for the respective ward, the information set forth in items (i) through (vi) of subsection (a) of this section about each of the short term residential rentals listed on the intermediary's platform during the applicable reporting period.

(d) *Maintaining books and records – Required.* Each licensee under this Article II shall have a duty to keep accurate books and records and maintain such books and records for a period of three years.

(e) *Additional reports and data.* Each licensee under this Article II shall have a duty to provide additional reports and data to the City as provided by the commissioner in rules.

(f) *Form of data and report submission.* The information contained in the reports required under subsections (a), (b) and (c) of this section may be submitted in an anonymized form that removes personally identifiable information about the short term residential rental provider. Provided, however, that if the information required under subsections (a), (b) or (c) has been submitted in an anonymized form and the commissioner requires de-anonymized information about a short term residential rental provider or short term residential rental in connection with an audit conducted by the department to determine compliance with this Chapter 4-13 or Chapters 4-14 or 4-16 of this Code, or the commissioner reasonably determines that a short term residential rental provider or short term residential rental is: (i) the scene of a crime or other illegal act under investigation by any local, State or Federal law enforcement agency, or (ii) operating in violation of this Chapter or Chapters 4-14 or 4-16 of this Code or any other applicable provision of this Code, including, but not limited to, the Chicago Zoning Ordinance, the commissioner may issue an order, in the form of a subpoena, directing the intermediary to provide the information in a de-anonymized form, including, but not limited to, the name of the short term residential rental provider, the address of the short term residential rental, the details of the unit's rentals, and any information within the control or possession of the intermediary regarding the guests of the shared housing unit or the rental of the unit. The intermediary shall, within 21 calendar days of the date on which such order is issued, either provide the de-anonymized information or file a legal objection to such order in writing with the commissioner. If the intermediary or shared housing host files a legal objection, the commissioner shall provide a hearing on the objection within 10 business days, as provided by rule. The commissioner's determination shall be final and may be appealed in the manner provided by law. Nothing in this subsection shall be considered a limitation or restriction on the commissioner's powers and duties under Chapter 2-25.

#### **4-13-250 Prohibited acts.**

(a) *List ineligible units on the platform.* It shall be unlawful for any short term residential rental provider to list on a short term residential rental intermediary platform any short term residential rental that the commissioner has determined is ineligible for listing pursuant to Section 4-13-260(a); or

(b) *Fail to remove ineligible listings from the platform.* It shall be unlawful for any short term residential rental provider to fail to remove from a short term residential rental

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intermediary platform any short term residential rental that appears on the list of ineligible short term residential rentals made available to intermediaries pursuant to Section 4-13-230(g).

**4-13-260 Ineligibility – Listing on platform by a provider prohibited when.**

(a) *Conditions of ineligibility for listing.* A short term residential rental shall be ineligible for listing by a provider on a licensee's platform under the following conditions:

(1) *Nuisance.* When, in the determination of the commissioner, the rental of the short term residential rental creates a nuisance because at least three separate incidents involving illegal acts, as that term is defined in Section 4-4-313(h), occurred: (i) in the short term residential rental; (ii) in or on the premises in which the short term residential rental is located; (iii) in the short term residential rental's parking facility, or (iv) on adjacent property. For purposes of determining whether three or more illegal acts occurred, illegal acts occurring shall be limited to acts of the guests, or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the short term residential rental while rented to a guest; or

(2) *Egregious condition.* When the short term residential rental is the situs of an egregious condition; or

(3) *Scofflaw or problem landlord.* When a short term residential rental is listed on, or located in a building that is listed on, the city's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

(4) *Uncorrected code violations.* When a short term residential rental is found to be in violation of any applicable licensing or registration chapter of this Code, and the condition that gave rise to the violation has not been corrected; or

(5) *Suspension or revocation.* When any license or registration of any person engaged in the business of short term residential rental or shared housing unit operator is suspended or revoked under this Code; or

(6) *Zoning violation.* When the area in which the short term residential rental is located is not properly zoned for the applicable use. Provided, however, that any dwelling unit properly licensed as a vacation rental as of June 22, 2016 shall be deemed to be in compliance with the applicable zoning requirements of this Code that applied and were in existence at the time such vacation rental license was approved; or

(7) *Rental caps exceeded.* If the short term residential rental is a shared housing unit, when any unlawful act set forth in Section 4-14-060 occurs; or

(8) *Shared housing host is not a natural person.* If the short term residential rental is a shared housing unit, when the registered shared housing host is not a natural person; or

(9) *Building owner prohibits all vacation rentals or shared housing units from operating in such building.* If the building contains five or more dwelling units, when the owner



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of the building notifies the commissioner, in a manner prescribed by rule, that no licensed vacation rentals or shared housing units are permitted to operate anywhere in such building. Provided, however, that if the building is a cooperative building, condominium building or building governed by a homeowners association, the requirement that such building must contain five or more dwelling units shall not apply for purpose of this subsection (a)(9); or

(10) *Suspension or revocation of related licenses.* If the short term residential rental is a shared housing unit, when the shared housing host has had a vacation rental license, bed-and-breakfast establishment license, hotel license or shared housing unit operator license, or a shared housing unit registration under this chapter, suspended or revoked for cause for the shared housing unit identified in the registration application or for any other shared housing unit registered with the city; or

(11) *Shared housing unit or vacation rental is located in a restricted residential zone and was not a legally established use as of the effective date of the ordinance establishing such zone.* If the short term residential rental is a shared housing unit or vacation rental, when: (i) such short term residential rental is located in a restricted residential zone, and (ii) such shared housing unit or vacation rental, as applicable, was not a legally established use within the meaning of Section 4-17-070 as of the effective date of the ordinance establishing such restricted residential zone.

(b) *Ineligibility for listing on a platform – Notification process.* Upon determining that a short term residential rental is ineligible under this subsection to be listed on a platform, the commissioner shall notify the short term residential rental provider and intermediary, in writing, of such fact and of the basis for the determination of ineligibility. Such notice shall include a statement informing the short term residential rental provider and the intermediary that such provider may, within 10 calendar days of the date on which the notice was sent, request, in a form and manner prescribed by the commissioner in rules, a hearing before the commissioner to contest the determination of ineligibility for listing. The notice shall also advise the short term residential rental provider and intermediary that the provider is entitled to present to the commissioner any document, including affidavits, related to the commissioner's determination. If requested, a hearing before the commissioner shall commence within 10 business days of receipt of such request. Within 60 calendar days of completion of the hearing the commissioner shall either affirm or reverse such determination based upon the evidence presented. The commissioner's determination shall be final and may be appealed in the manner provided by law. If a short term rental provider fails to request a hearing within the prescribed time, the commissioner's determination shall be final and the short term residential rental shall be deemed ineligible for listing on the platform.

#### **4-13-270 Departmental duties.**

(a) *Duty to maintain list of short term residential rentals.* The commissioner shall maintain a list, by address, of all short term residential rentals currently licensed or registered under the applicable provisions of this Code.

(b) *Duty to maintain ineligibility list.* The commissioner shall prepare and maintain a list of all short term residential rentals that are ineligible to be listed on a short term residential

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rental intermediary's platform. Such list, which shall be updated by the commissioner periodically, but in no event fewer than four times per calendar year, shall include the date on which the list was most recently updated and shall be made available by the commissioner to all licensed short term residential rental intermediaries and short term residential rental advertising platforms in a form and manner prescribed by the commissioner.

(c) *Duty to maintain prohibited buildings list – Removal process.* The commissioner shall maintain a list, which shall be known as the prohibited buildings list, identifying the address(es) of all buildings whose owner(s), including any applicable homeowners association or board of directors, have notified the commissioner, pursuant to Section 4-13-260(a)(9), that no vacation rentals or shared housing units, in any combination, are permitted to operate anywhere in such building. The commissioner shall: (1) post the prohibited building list on the City of Chicago website; (2) establish a process by rule for verifying any notification received from a building owner(s) requesting the commissioner to include such building on the prohibited buildings list; and (3) establish a process, by rule, to enable building owners to remove buildings from the prohibited buildings list.

(d) *Duty to maintain restricted residential zone list.* The City Clerk shall publicly post online a list of current restricted residential zones in conformity with Section 4-17-060.

### **ARTICLE III. SHORT TERM RESIDENTIAL RENTAL ADVERTISING PLATFORM**

#### **4-13-300 License – Required.**

No person shall engage in the business of short term residential rental advertising platform without first having obtained a license under Article III of this Chapter 4-13.

#### **Section 4-13-305 Licensee – Fee.**

The license required under this Article III shall be renewed annually. The license fee set forth in Section 4-4-010 shall be payable annually.

#### **4-13-310 License application – Additional information required.**

In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a license to engage in the business of short term residential rental advertising platform shall be accompanied by the following information:

- (1) the name, address and contact information of the advertising platform's local contact person;
- (2) an affidavit from the local contact person identified in the license application attesting that such local contact person: (i) is designated for service of process; (ii) is authorized by the applicant or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city;
- (3) proof of insurance, as set forth in Section 4-13-320(a);

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(4) a written plan, subject to the approval of the commissioner, describing the applicant's procedures, processes and policies for ensuring that the applicant and any short term residential rental provider utilizing the platform are, and will remain, in compliance with this Chapter 4-13;

(5) a quality of life plan, subject to the approval of the commissioner, meeting the requirements of Section 4-13-320(g); and

(6) any other information that the commissioner may reasonably require in connection with the issuance or renewal of the license.

#### **4-13-320 Legal duties.**

(a) *Insurance for short term residential rental advertising platform – Required.* Each licensee under this Article III shall have a duty to obtain commercial general liability insurance, with limits of not less than \$1,000,000 per occurrence, for bodily injury, personal injury (if commercially available to the licensee) and property damage arising in any way from the issuance of the short term residential rental advertising platform license or activities conducted pursuant to that license. Each policy of insurance shall: (i) be issued by an insurer authorized to insure in the State of Illinois; (ii) name the City of Chicago as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the issuance of the license (if commercially available to the licensee); (iii) be maintained in full force and effect for the duration of the license period; and (iv) include a provision requiring 30 calendar days' advance notice to the commissioner prior to cancellation or lapse of the policy.

(b) *Identification of local contact person – Required.* Each licensee under this Article III shall have a duty to include on its platform the name of, and contact information for, the licensee's local contact person.

(c) *Compliance with tax laws – Required.* Each licensee under this Article III shall have a duty: (i) not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee obtains an attestation, in a form to be determined by the commissioner in rules, from its short term residential rental providers that each such provider has a duty to comply with all applicable federal, state and local laws and regulations regarding collection and payment of taxes, including hotel accommodation taxes; and (ii) to ensure that any third party hired or otherwise retained by the licensee to accept or process the payment of any rent or its equivalent that a provider charges a guest in connection with the rental of a short term residential rental obtains an attestation from its short term residential rental providers, in a form to be determined by the commissioner in rules, that each such provider has a duty to comply with all such applicable laws and regulations.

(d) *Conditions for listing on the platform – Vacation rental license required – Exceptions – Platform to post license number on all listings.* Each licensee under this Article III shall have a duty not to list, or permit any person to list, any short term residential rental on its platform, unless the licensee: (1) posts a notice, in a conspicuous place on its website, advising short term residential rental providers that such providers are required under this Article III to obtain a vacation rental license in order to list a rental unit on a short term residential rental

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advertising platform, unless the short term residential rental being listed is a properly licensed hotel or bed-and-breakfast establishment; (2) includes the provider's vacation rental license number, hotel license number or bed-and-breakfast establishment license number, as applicable, on all listings that appear on the short term residential rental advertising platform.

(e) *Descriptive listing information – Required.* Each licensee under this Article III shall have a duty not to list, or permit any person to list, any vacation rental on its platform, unless the licensee advises the short term residential rental provider that each such listing shall include the descriptive information about the listing set forth in Section 4-14-040(a)(1) through (a)(4), inclusive.

(f) *Process to remove listings from a platform – Required.* Each licensee under this Article III shall have a duty to establish a process, to be approved by the commissioner, that enables a short term residential rental provider to remove from the intermediary's platform any or all of the provider's listings on such platform.

(g) *Process to address quality of life concerns due to units on ineligible list.* Each licensee under this Article III shall establish and comply with a process, to be approved by the commissioner, for mitigating the impact on quality of life of units determined to be ineligible under Section 4-13-260(a) or any hotel that is not properly licensed under Chapter 4-6 of this Code.

(h) *Compliance with written plan – Required.* Each licensee under this Article III shall have a duty to comply with any written plan approved by the commissioner pursuant to Section 4-13-310(4).

(i) *Notification to provider of ineligibility for listing – Required.* Upon receipt of notice from the department pursuant to Section 4-13-330(b), each licensee under this Article III shall have a duty to notify the applicable provider of the facts set forth in such notice from the department and of the provider's duty to remove such ineligible listing from the advertising platform.

**4-13-330 Ineligibility – Listing on a platform prohibited when – Notice and hearing.**

(a) A short term residential rental shall be ineligible for listing by a provider on a licensee's platform under the conditions set forth in Section 4-13-260(a).

(b) Upon determining that a short term residential rental is ineligible to be listed on a platform, the notice and hearing procedures set forth in Section 4-13-260(b) shall apply.

**4-13-340 Data and reports – Required.**

Each licensee under this Article III shall submit to the department, no later than the tenth day of each month, a complete and accurate report, in a form approved by the commissioner, identifying the name of the owner, and the address and business license number, of each hotel, bed-and-breakfast establishment, and vacation rental that: (1) is currently listed on the licensee's advertising platform, and (2) constitutes a new listing since the time the licensee submitted its last report to the department pursuant to this section. Provided, however, that the licensee shall

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be deemed to be in compliance with this section if the licensee submits the required report to the department on a daily, weekly or semi-monthly basis.

#### ARTICLE IV. ENFORCEMENT

##### 4-13-400 Rules.

The commissioner is authorized to promulgate rules necessary to implement this chapter.

##### 4-13-410 Penalty for violation.

In addition to any other penalty provided by law, any person who violates this chapter or any rule promulgated thereunder shall be subject to a fine of not less than \$1,500.00 nor more than \$3,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

**SECTION 9.** Title IV of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 4-14, as follows:

#### CHAPTER 4-14 SHARED HOUSING UNITS

##### 4-14-010 Definitions

As used in this chapter:

“Board of directors” means the board of directors of a cooperative building.

“Building containing two to four dwelling units” includes, but is not limited to, a duplex or row house comprising two to four connected dwelling units.

“Building containing five or more dwelling units” includes, but is not limited to, a row house comprising five or more connected dwelling units.

“Corporate housing” means a dwelling unit owned or leased by a business entity that is available for rent or for hire for transient occupancy solely by the business entity's officers, employees, family members of the officers or employees, consultants, vendors or contractors.

“Egregious condition” means drug trafficking; prostitution; gang-related activity; violent acts involving the discharge of a firearm or the death of, or serious bodily injury to, any person; or the use of a shared housing unit by a guest for commercial purposes, including, but not limited to, holding out the unit to members of the general public as the location of a party, amusement or event, or inviting persons to the unit under circumstances where the invitee is required, either directly or indirectly, to pay an admission fee, entrance fee or other compensation, consideration or revenue to gain entry to the unit.

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“Family member(s)” means a person’s: (a) mother, father, spouse, brother or sister (including blood, step or half), father-in-law, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparents or grandchildren; (b) court-appointed legal guardian or person for whom a person is a court-appointed legal guardian; or (c) domestic partner or the domestic partner’s mother, father, brother or sister (including blood, step or half), or son or daughter (including blood, step or half).

“Guest” means a person who rents a shared housing unit for transient occupancy. The term “guest” does not include members of the owner’s or tenant’s household, as that term is defined in Section 17-17-0270.

“Guest suite” has the meaning ascribed to the term in Section 4-6-300(a)

“Homeowners association” has the meaning ascribed to that term in Section 4-6-300(a).

“Hotel” has the meaning ascribed to that term in Section 4-6-180.

“Local contact person” means a person authorized as an agent of the shared housing host who: (1) is designated for service of process; (2) is authorized by the shared housing host to take remedial action and to respond to any violation of this Code; and (3) maintains a residence or office located in the city.

“Permanent Occupancy” has the meaning ascribed to that term in Section 4-6-290.

“Platform” has the meaning ascribed to that term in Section 4-13-100.

“Primary residence” means the dwelling unit where a person lives on a daily basis at least 245 days in the applicable calendar year. The failure of a person to claim a Cook County homeowner exemption for a dwelling unit shall create a rebuttable presumption that such dwelling unit is not the person’s primary residence.

“Rental agreement” has the meaning ascribed to that term in Section 5-12-030.

“Shared housing host” means an owner or tenant of a shared housing unit who rents such unit to guests.

“Shared housing unit” means a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests. The term “shared housing unit” shall not include: (1) single-room occupancy buildings; (2) hotels; (3) corporate housing; (4) bed-and-breakfast establishments, (5) guest suites; or (6) vacation rentals.

“Short term residential rental intermediary” or “intermediary” has the meaning ascribed to that term in Section 4-13-100.

“Single family home” means a building that: (i) contains one dwelling unit only; and (ii) is located on its own lot; and (iii) is not attached to any other dwelling unit.

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“Single-room occupancy building has the meaning ascribed to that term in Section 13-4-010.

“Tenant” means a person who has a rental agreement for a dwelling unit in which the rental payments are paid on a monthly basis for permanent occupancy of the dwelling unit.

“Transient occupancy” has the meaning ascribed to that term in Section 4-6-290.

“Vacation rental” has the meaning ascribed to the term in Section 4-6-300.

**4-14-020 Shared housing unit registration – Required.**

(a) *Registration by intermediary required.* Except as otherwise provided in subsection (g) of this section, no dwelling unit listed on a short term residential rental intermediary’s platform shall be rented by a shared housing host until such intermediary, acting on behalf of the owner or tenant of the listed dwelling unit, and in accordance with Section 4-13-230(a), registers such unit with the department, as evidenced by the submission to the department of a registration application meeting the requirements of subsections (b) and (c) of this section.

(b) *Registration application – Form and contents.* The registration application required under subsection (a) of this section shall be in a form and manner prescribed by the commissioner, and shall be accompanied by the following information:

- (1) the shared housing host’s name, which shall be the name of a natural person;
- (2) the address of the dwelling unit being registered as a shared housing unit, including the unit number, unit letter or similar unit identification;
- (3) the contact information for the host or a local contact person;
- (4) whether the dwelling unit identified in such application is a: (i) single family home, or (ii) a unit in a building containing multi-dwelling units, and (iii) whether the listing will make the entire dwelling unit available for rent or a room or portion of the dwelling unit available for rent;
- (5) whether the dwelling unit identified in such application is the shared housing host’s primary residence; and
- (6) any other information that the commissioner may reasonably require in connection with the issuance or renewal of a registration under this chapter.

(c) (1) *Attestation –Required.* It shall be unlawful for any shared housing host: (i) not to submit any attestation required under Section 4-13-215, or (ii) to submit an incomplete or false attestation under Section 4-13-215.

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(2) *False statements.* The attestation required under this subsection (c) shall be deemed to be an attestation to the city within the meaning of the False Statements Ordinance, Chapter 1-21 of this Code, regardless of the method by which such attestation is submitted or transmitted to the department.

(d) (1) *Zoning review – Required.* Each registration under this section shall include a zoning review, as provided by the commissioner in rules, to ensure that the location of the shared housing unit is in compliance with the Chicago Zoning Ordinance.

(2) *Review of prohibited building list – Required.* Each registration under this section shall include a review of the prohibited building list maintained under Section 4-13-270(c) to ensure that the shared housing unit is not located at an address identified on that list.

(3) *Review of restricted residential zone list – Required.* Each registration under this section shall include a review of the restricted residential zone list required under Section 4-17-060 to ensure that the shared housing unit is not located in a restricted residential zone, unless such shared housing unit is a legally established use within such zone within the meaning of Section 4-17-070.

(e) *Registration number – Required.* The commissioner shall assign a unique registration number to each approved shared housing unit registered with the department.

(f) *Duty to post registration number.* Upon notification from the commissioner that a unique registration number has been assigned to the dwelling unit identified in the registration application, the shared housing host shall promptly post the registration number in a conspicuous place in all applicable listings on any platform.

(g) *Listing and rental of a shared housing unit while registration is pending – Permitted.* Until the department approves the registration application, as evidenced by its assignment of a unique registration number to the dwelling unit identified in such application, any listing of such dwelling unit on an intermediary's platform shall be accompanied by a notation, which shall be located in a conspicuous place in the listing, indicating that approval of the unit's registration by the department is pending. While such registration application is pending approval by the department: (1) the intermediary may allow any shared housing unit that will be included in the registration report required under Section 4-13-230(c) to be listed on its platform, if the listing is accompanied by the required notation; and (2) the shared housing host identified in the registration application shall be allowed to rent the shared housing unit identified in such application and report, and to book future listings for such unit, until such time that: (i) the commissioner determines that the unit is ineligible under Section 4-13-260(a) for listing on a platform, or (ii) the listing is invalid under Section 4-13-230(e).

(h) *Annual review of registration – Required.* After the initial registration is approved, the shared housing unit's registration may be renewed once each year thereafter in a manner prescribed by the commissioner in rules unless the commissioner determines that the unit is ineligible for registration under Section 4-13-260(a).



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(i) *Transfer of registration -- Prohibited.* The registration for a shared housing unit shall be non-transferable.

**4-14-030 Failure to meet eligibility requirements for registration -- Legal effect -- Processes.**

(a) *Eligibility for registration.* A dwelling unit shall not be eligible for registration with the department as a shared housing unit, or for renewal of such registration, if any of the conditions of ineligibility applicable to a short term residential rental, as set forth in Section 4-13-260(a), exist.

(b) *Failure to meet eligibility requirements -- Notice and opportunity for a hearing.* When, in the determination of the commissioner, a shared housing unit fails to meet the eligibility requirements for registration or renewal of registration, the commissioner shall notify the shared housing host, in writing, of such fact and of the basis for such ineligibility. Such notice shall: (1) include a statement informing the shared housing host that the shared housing host may, within 10 calendar days of the date on which the notice is sent, request, in a form and manner prescribed by the commissioner in rules, a hearing before the commissioner to review the determination of ineligibility under Section 4-13-260(a) for registration; and (2) advise the shared housing host that such host is entitled to present to the commissioner any document, including affidavits, related to the shared housing unit's eligibility. If requested, a hearing before the commissioner shall commence within 10 business days of receipt of such request. Within 60 calendar days of completion of the hearing the commissioner shall make a determination of the shared housing unit's eligibility based upon the evidence presented. The commissioner's decision shall be final and may be appealed in the manner provided by law. If a shared housing host fails to request a hearing within the prescribed time, the commissioner's determination of ineligibility shall be final and the shared housing unit shall be deemed ineligible for registration.

(c) *Duty to remove ineligible listings from platform.* If, following a final determination of ineligibility under Section 4-13-260(a) or Section 4-14-030(a), the shared housing host is notified in writing by the commissioner that a shared housing unit is ineligible to be listed on any short term residential rental intermediary's platform, the shared housing host shall remove the ineligible listing from the platform in accordance with rules prescribed by the commissioner. In addition to any other penalty provided by law, any shared housing host who fails to comply with this subsection shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under this subsection is sent; and not less than \$2,500.00 nor more than \$5,000.00 for such failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15<sup>th</sup> calendar day shall constitute a separate and distinct offense.

(d) Within thirty calendar days of the date on which notice is sent from an intermediary pursuant to Section 4-13-230(f) informing a shared housing host that a registration number has been assigned by the commissioner to the shared housing unit listed by such host on the intermediary's platform, the shared housing host shall update the applicable listing on the intermediary's platform to include the registration number identified in such notice.

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**4-14-040 Legal duties.**

(a) *Descriptive information on listing – Required.* Each shared housing host shall include the following information in every listing of a shared housing unit on a platform:

- (1) the short term residential rental provider's cancellation and check-in and check-out policies;
- (2) a statement on: (i) whether the short term residential rental is wheelchair or ADA accessible; (ii) whether the short term residential rental has any parking availability or restrictions; and (iii) the availability of, or restrictions on, the use of any recreational facilities or other amenities applicable to guests;
- (3) a description of the short term residential rental, including the number of sleeping rooms and bathrooms, and whether the entire dwelling unit, or only a portion thereof, is available for rent; and
- (4) except as otherwise provided in Section 4-13-230(d), the short term residential rental provider's city license or registration number;

(b) *Operating requirements.* Each shared housing host shall comply with the following operating requirements:

(1) *Soaps and clean linens – Required.* Each shared housing host shall provide guests with soap, clean individual bath cloths and towels, and clean linen. All linens, bath cloths and towels shall be kept in good repair and changed between guests.

(2) *Sanitized utensils – Food disposal – Required.* Each shared housing host shall clean and sanitize the shared housing unit and all dishes, utensils, pots, pans and other cooking utensils between guests, and dispose of all food, beverages and alcohol left by the previous guests.

(3) *Notification to police of illegal activity – Required.* Each shared housing host shall immediately notify and cooperate with the police department if the shared housing host knows or suspects that any criminal activity, egregious condition or public nuisance is taking place in the shared housing unit.

(4) *Registration number in advertisements -- Required.* Except as otherwise provided in Section 4-13-230(d), each shared housing host shall conspicuously display the shared housing unit's registration number in every advertisement of any type in connection with the rental of the shared housing unit. Failure to comply with this requirement shall create a rebuttable presumption that the shared housing unit is being operated without the proper registration.

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(5) *Smoke and carbon monoxide detectors – Required.* Each shared housing host shall ensure that the shared housing unit is in compliance with applicable laws regarding the installation and maintenance of functioning smoke and carbon monoxide detectors.

(6) *Posting contact information – Posting evacuation diagram – Required.* Each shared housing host shall post in a conspicuous place near the entrance of the shared housing unit: (i) the name and telephone number of a local contact person; and (ii) an evacuation diagram identifying all means of egress from the shared housing unit and the building in which it is located.

(7) *Food handling safety – Required.* Each shared housing host that provides food to guests shall comply with all applicable food handling and licensing requirements of this Code and board of health regulations.

(8) *Registration records – Required.* Each shared housing host shall maintain current guest registration records which contain the following information about each guest: (i) name, (ii) contact information, (iii) signature, and (iv) dates of accommodation.

(9) *Maintenance of records – Required.* Each shared housing host shall keep the guest registration records required under subsection (b)(8) of this section on file for three years and, upon request by any authorized city official, shall make such records available for inspection by such city official during regular business hours or in the case of an emergency.

(c) *Public accommodation – Discriminatory practices prohibited.* Each shared housing unit shall be deemed to be a public accommodation within the meaning of Section 2-160-070. It shall be unlawful for any person that owns, leases, rents, operates, manages or in any manner controls such public accommodation to withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income in violation of Section 2-160-070.

(d) *Disclosure and acknowledgment required.*

(1) A building or dwelling unit owner, or agent thereof, shall not execute an oral or written lease, contract to lease, or accept any money or other valuable consideration in an application for an oral or written lease for a dwelling unit without disclosing to the tenant or applicant in written form if the building or dwelling unit owner knows that:

- (i) The dwelling unit being leased is registered with the City of Chicago as a shared housing unit;
- (ii) The dwelling unit being leased is ineligible under Section 4-13-260(a) to be rented as a shared housing unit.

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- (2) The tenant or applicant shall be required to execute a receipt acknowledging that these written disclosures have been made.
- (3) All owners of residential dwelling units and buildings (and their agents) shall, at the time of any offering for sale of said residential dwelling units and buildings, or in the case where improved real property is held under trust, at the time of any offering for sale of the real property which forms the corpus of the trust, or at the transfer of the beneficial interest in such property, including contract sale, be required to disclose to the purchaser or prospective purchaser if the owner knows that:
  - (i) The dwelling unit being sold is registered with the City of Chicago as a shared housing unit;
  - (ii) The dwelling unit being sold is ineligible under Section 4-13-260(a) to be rented as a shared housing unit or vacation rental.
- (4) The purchaser or prospective purchaser shall be required to execute a receipt acknowledging that these written disclosures have been made.

**4-14-050 Unlawful acts.**

(a) *Criminal activity, nuisances, egregious conditions – Prohibited.* It shall be unlawful for any shared housing host to permit any criminal activity, or public nuisance within the meaning of Section 4-13-260(a)(1), or egregious condition, to take place within the shared housing unit. In addition to any other penalty provided by law, any person who violates this subsection shall be subject to a fine of not less than \$2,500.00 nor more than \$5,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(b) *Exceeding maximum occupancy – Prohibited.* It shall be unlawful for any shared housing host to exceed the maximum occupancy limit of no more than one person per 125 feet of floor area of the shared housing unit. The occupancy limitation set forth in this subsection is the absolute maximum limitation. The actual allowed capacity shall be based on the applicable provisions of the building code.

(c) *Misrepresentation of material facts – Prohibited.* It shall be unlawful for any shared housing host to misrepresent on any listing any material fact regarding the shared housing unit.

(d) *Service of alcohol – Prohibited.* It shall be unlawful for any shared housing host to serve or otherwise provide alcohol to any guest or invitee of any guest.

(e) *Rental under ten hours – Prohibited.* It shall be unlawful for any shared housing host to rent any shared housing unit, or any portion thereof, by the hour or for any period of fewer than ten consecutive hours.

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(f) *Multiple rentals within 10 hour period – Prohibited.* It shall be unlawful for any shared housing host to rent any shared housing unit, or any portion thereof, more than once within any consecutive ten hour period measured from the commencement of one rental to the commencement of the next.

(g) *Advertising hourly rate – Prohibited.* It shall be unlawful for any shared housing host to advertise an hourly rate or any other rate for any shared housing unit, or any portion thereof, based on a rental period of fewer than ten consecutive hours.

(h) *Multiple or overlapping bookings – Prohibited.* It shall be unlawful for any shared housing host to allow multiple bookings or rentals of any shared housing unit for the same or overlapping time periods.

(i) *Rental of ineligible units by shared housing host or host's family members – Prohibited.* Following notice of a final determination of ineligibility under Section 4-14-030(b), it shall be unlawful for any shared housing host to rent or allow any family member to rent any shared housing unit identified in such notice that the commissioner has determined is ineligible for listing on any platform. Any person who violates this subsection shall be fined not less than \$500.00 nor more than \$1,000.00 for renting such shared housing unit within 14 calendar days of the date on which such notice is sent; and not less than \$1,500.00 nor more than \$3,000.00 for renting such shared housing unit on or after the 15th calendar day and before the 28<sup>th</sup> calendar day of the date on which such notice is sent; and \$5,000.00 for renting such shared housing unit on or after the 28<sup>th</sup> calendar day of the date on which such notice is sent. Each day that a violation continues after such 28<sup>th</sup> calendar day shall constitute a separate and distinct offense.

#### **4-14-060 Rental requirements and restrictions.**

(a) *Lawfully established dwelling unit with six or fewer sleeping rooms – Required.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit that is not a lawfully established dwelling unit within the meaning of Section 17-17-0248, which contains six or fewer sleeping rooms.

(b) *Violation of condominium or cooperative building restrictions – Prohibited.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit if the homeowners association or board of directors has adopted by-laws prohibiting the use of the dwelling unit as a shared housing unit or vacation rental, in any combination.

(c) *Violation of rental requirements and restrictions – Prohibited.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit that is subject to a rental agreement, if the owner of the building in which the dwelling unit is located has prohibited the use of such dwelling unit as a shared housing unit or vacation rental, in any combination.

(d) *Listing and rental of single family home that is not the licensee's primary residence – Restricted.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit that is a single family home, unless such single family home is the shared housing host's primary residence. Provided, however, that this prohibition shall not

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apply if: (i) the shared housing host is on active military duty and such host has appointed a designated agent or employee to manage, control and reside in the single family home during such host's absence while on military duty; or (ii) the applicable commissioner's adjustment under Section 4-14-100(a) permitting otherwise has been obtained; or (iii) the single family home was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental.

(e) *Listing and rental in buildings with up to four dwelling units – Restricted.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit that is located in a building containing two to four dwelling units, inclusive, unless such dwelling unit is: (i) the shared housing host's primary residence, and (ii) is the only dwelling unit in the building that is or will be used as a shared housing unit or vacation rental, in any combination. Provided, however, that the prohibition set forth in item (i) shall not apply if the shared housing host is on active military duty and such host has appointed a designated agent or employee to manage, control and reside in the shared housing unit during such host's absence. Provided further, that the prohibitions set forth in items (i) or (ii) shall not apply if: (a) the applicable commissioner's adjustment under Section 4-14-100(a) permitting otherwise has been obtained; or (b) the shared housing unit was properly licensed, as of June 22, 2016, as a non-owner occupied vacation rental.

(f) *Listing and rental in buildings with five or more dwelling units – Prohibited.* It shall be unlawful for any shared housing host to list on any platform or to rent any shared housing unit that is located in a building containing five or more dwelling units, when more than six dwelling units in the building, or one-quarter of the total dwelling units in the building, whichever is less, are or will be used as shared housing units or vacation rentals, in any combination, if the dwelling unit identified in the registration application is registered as a shared housing unit.

(g) *Removal of ineligible listings from platform.* Following notice of a final determination of ineligibility under Section 4-13-260(b) or Section 4-14-030(b), it shall be unlawful for a shared housing host to fail to remove the ineligible listing from the platform in the manner prescribed by the commissioner in rules. In addition to any other penalty provided by law, any person who fails to comply with this subsection (g) shall be fined not less than \$1,500.00 nor more than \$3,000.00 for such failure to comply within 8 to 14 calendar days of the date on which notice under Section 4-13-260(b) or Section 4-13-320(h) is sent; and not less than \$2,500.00 nor more than \$5,000.00 for failure to comply on the 15th calendar day of the date on which such notice is sent or on any calendar day thereafter. Each day that a violation continues after such 15<sup>th</sup> calendar day shall constitute a separate and distinct offense.

#### **4-14-070 Rules.**

The commissioner is authorized to promulgate rules necessary to implement this chapter.

#### **4-14-080 Registration – Suspension or revocation.**

(a) *Registration suspension or revocation – Authorized when.* In addition to any other penalty provided by law, a registration under this chapter may be suspended or revoked by the commissioner for any violation of this chapter. Except as otherwise provided in subsection

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(b) of this section, no registration shall be revoked or suspended except in accordance with subsection (d) of this section.

(b) *Immediate suspension or revocation – Post-deprivation hearing – Authorized when.* If the commissioner has good cause to believe that: (1) continued rental of a shared housing unit causes an imminent threat to public health, safety or welfare, and (2) grounds exist for revocation or suspension of the shared housing unit's registration, including, but not limited to, any of the grounds set forth in subsection (c)(1) through (c)(6), inclusive, of this section, the commissioner may, upon issuance of a written order stating the reason for such conclusion and without notice or hearing, suspend or revoke the shared housing unit's registration and prohibit the shared housing host from renting the shared housing unit to guests for a period of time not to exceed ten calendar days; provided, however, that the shared housing host shall be afforded an opportunity to be heard during such period. If the shared housing host fails to request a hearing within the prescribed time, or requests a hearing but fails to appear at such hearing, the shared housing unit's registration shall be deemed revoked.

(c) *Suspension or revocation – Pre-deprivation hearing – Authorized when.* In addition to any other applicable reason, a shared housing unit registration may be suspended or revoked in accordance with this section under the following circumstances:

(1) *Situs of one or more egregious conditions.* When a shared housing unit is the situs of one or more egregious conditions while rented to guests; or

(2) *Situs of three or more objectionable conditions.* When a shared housing unit has been the situs, on three or more occasions, while rented to guests, of disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, loitering, public urination, lewd conduct, overcrowding, exceeding design loads, or excessive loud noise. For purposes of this subsection (c)(2):

“Excessive loud noise” means any noise, generated from within or having a nexus to the rental of the shared housing unit, between 8:00 P.M. and 8:00 A.M., that is louder than average conversational level at a distance of 100 feet or more, measured from the property line of the shared housing unit.

“Overcrowding” means occupancy by more persons than the maximum occupancy limit of no more than one person per 125 feet of floor area of the shared housing unit or the shared housing unit's actual capacity based on the applicable provisions of the building code, whichever is less.

“Exceeding design loads” means placing loads on structural elements or components of buildings, including, but not limited to, porches, balconies, and roof decks, in excess of the minimum design loads required by the building code; or

(3) *Situs of three or more nuisance conditions.* When, in the determination of the commissioner, the rental of the shared housing unit creates a nuisance because at least three separate incidents involving illegal acts, as that term is defined in Section 4-4-313(h), occurred

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during a 12-month period: (i) in the shared housing unit; (ii) in or on the premises in which the shared housing unit is located; (iii) in the shared housing unit's parking facility, or (iv) on adjacent property. For purposes of determining whether three or more illegal acts occurred, illegal acts occurring shall be limited to acts of the guests, or of invitees of the guests, or to acts otherwise involving circumstances having a nexus to the operation of the shared housing unit while rented to a guest. In a proceeding to suspend or revoke the license of a vacation rental that is or creates a nuisance under this Section 4-14-080(c)(3), any evidence on which a reasonably prudent person would rely may be considered without regard to the formal or technical rules of evidence, and the commissioner may rely on police reports, official written reports, affidavits and business records submitted by authorized city officials or employees charged with inspection or enforcement responsibilities to determine whether such illegal acts or objectionable conditions occurred. If, during any 12-month period three separate incidents of illegal acts occur on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property, a rebuttable presumption shall exist that the shared housing unit is or creates a nuisance in violation of this Section 4-14-080(c)(3); or

(4) *Scofflaw or problem landlord.* When a shared housing unit is listed on, or is located in a building that is listed on, the city's Building Code Scofflaw List or Problem Landlord List pursuant to Section 2-92-416; or

(5) *Threat to public health, safety or welfare.* When the commissioner determines that the continued rental of a shared housing unit poses a threat to the public health, safety or welfare; or

(6) *Unlawful discrimination.* When, in connection with the listing for rental or rental of a shared housing unit, the commissioner or Chicago commission on human relations has determined that a violation of Section 2-160-070 or Section 4-14-040(c), as applicable, has occurred.

(d) *Notification and hearing process.* Upon determining that a shared housing unit's registration is subject to suspension or revocation under this section, the commissioner shall notify the shared housing host, in writing, of such fact and of the basis for the suspension or revocation of the registration. Such notice shall include a statement informing the shared housing host that the shared housing host may, within 10 calendar days of the date on which the notice was sent, request, in a form and manner prescribed by the commissioner in rules, a hearing before the commissioner to contest the suspension or revocation. The notice shall also advise the shared housing host that the shared housing host is entitled to present to the commissioner any document, including affidavits, related to the commissioner's determination for suspension or revocation. If requested, a hearing before the commissioner shall be commenced within 10 business days of receipt of such request. Within 60 calendar days of completion of the hearing the commissioner shall either affirm or reverse such determination based upon the evidence presented. The commissioner's decision shall be final and may be appealed in the manner provided by law. If a shared housing host fails to request a hearing within the prescribed time, the shared housing unit registration shall be deemed suspended or revoked. Upon entry of a final order of suspension or revocation, the commissioner shall: (1) notify the short term residential rental intermediary in writing of such fact; and (2) place the unit



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on the ineligibility list maintained by the commissioner under Section 4-13-270(b). Within three calendar days of the date on which the commissioner sends such written notification of suspension or revocation to the shared housing host, the shared housing host shall remove the short term residential unit identified in such notice from its platform. The intermediary shall act in accordance with the approved process established pursuant to Section 4-13-220(h).

**4-14-090 Violation – Penalties – Injunctive relief.**

(a) *Fines and other applicable penalties.* Except as otherwise provided in this chapter, and in addition to any other penalty provided by law, any person who violates this chapter or any rule promulgated thereunder shall be subject to a fine of not less than \$1,500.00 nor more than \$3,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

(b) *Exceeding rental restrictions.* If the rental restriction applicable to buildings containing more than five units, as set forth in Section 4-14-060(f), is exceeded in any building, all shared housing registrations and vacation rental licenses for dwelling units located within such building are subject to revocation under this chapter.

(c) *Injunctive relief.* In addition to any fine or other penalty imposed by law, the corporation counsel may seek an injunction or other equitable relief in a court of competent jurisdiction against a host to stop any violation of this chapter.

(d) *Duration of revocation.* If a shared housing unit registration under this chapter is revoked, such revocation shall remain in effect for a period of at least two years from the date of revocation and thereafter until such time that a new owner or tenant, as applicable, other than a family member of the person whose registration was revoked, occupies the dwelling unit.

**4-14-100 Shared Housing Units – Commissioner's Adjustments – When authorized.**

(a) The commissioner is authorized to grant an adjustment to allow:

(1) the operation of a shared housing unit located in:

(i) a single family home that is not the shared housing host's primary residence; or

(ii) a building containing two to four dwelling units, inclusive, where the dwelling unit is not the shared housing host's primary residence; or

(2) in a building containing two to four dwelling units, inclusive, an increase in the number of dwelling units that may be used as shared housing units.

Such an adjustment may be approved only if, based on a review of relevant factors, the commissioner concludes that such an adjustment would eliminate an extraordinary burden on the applicant in light of unique or unusual circumstances and would not detrimentally impact the health, safety, or general welfare of surrounding property owners or the general public.

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Factors which the commissioner may consider with regard to an application for a commissioner's adjustment include, by way of example and not limitation: (i) the relevant geography, (ii) the relevant population density, (iii) the degree to which the sought adjustment varies from the prevailing limitations, (iv) the size of the relevant building and the number of units contemplated for the proposed use, (v) the legal nature and history of the applicant, (vi) the measures the applicant proposes to implement to maintain quiet and security in conjunction with the use, (vii) any extraordinary economic hardship to the applicant, due to special circumstances, that would result from a denial, (viii) any police reports or other records of illegal activity or municipal code violations at the location, and (ix) whether the affected neighbors support or object to the proposed use.

The grant of an adjustment shall not exempt the applicant from any application requirement associated with registration of a shared housing unit.

(b) An adjustment under subsection (a)(1) may be requested by the shared housing host. An adjustment under subsection (a)(2) may be requested by the owner, homeowners association or board of directors of the building.

(c) A person seeking an adjustment shall make a written submission to the commissioner, presenting all factors which the applicant believes to be relevant to whether an adjustment is appropriate. The applicant shall provide a copy of the written submission to the adjoining neighbors. The commissioner shall review the materials and make a written determination within 60 days, which shall set forth the factors used in arriving at the determination. During the 60-day review period, the commissioner shall notify the affected alderman and solicit a recommendation based on the alderman's analysis of relevant factors, and may seek additional information or supplementary proof from the applicant, and may also solicit information from the community.

If the commissioner denies the application for an adjustment, the applicant, within fourteen days of receiving the denial, may request a hearing from the commissioner. Upon receiving such a request, the commissioner shall schedule and conduct a hearing expeditiously. At the hearing the commissioner may receive written submissions, witness testimony, argument and documents regarding the application. The commissioner shall, within thirty days of the conclusion of the hearing, render a decision, which shall constitute a final determination for purposes of judicial review.

(d) If the commissioner grants the application for an adjustment, those factors that were deemed by the commissioner to be relevant to the determination shall be included in a plan of conduct. If the registration is issued, the plan of conduct shall be deemed a part of the shared housing unit registration, and compliance with the plan of conduct shall be a necessary condition to the continued validity of the registration. Failure to comply with one or more elements of the plan of conduct shall subject the registrant to suspension or revocation of the shared housing unit registration.

(e) Throughout the commissioner's adjustment consideration process, the applicant shall bear the burden of persuasion to justify the sought adjustment.

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**4-14-105 Limit calculation.**

The limits on the number of shared housing units in a building shall be calculated as maximum limits using the method in section 17-1-0605-B.

**SECTION 10.** Title IV of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 4-16, as follows:

**CHAPTER 4-16  
SHARED HOUSING UNIT OPERATOR**

**ARTICLE I. DEFINITIONS**

**Section 4-16-100 Definitions.**

As used in this chapter:

“Bed-and-breakfast establishment” has the meaning ascribed to that term in Section 4-6-290.

“Shared housing host” has the meaning ascribed to that term in Section 4-14-010.

“Shared housing unit operator” means any person who has registered, or who is required to register, as the shared housing host of more than one shared housing unit.

“Shared housing unit” has the meaning ascribed to that term in Section 4-14-010.

“Vacation rental” has the meaning ascribed to that term in Section 4-6-300.

**ARTICLE II. SHARED HOUSING UNIT OPERATOR**

**Section 4-16-200 License – Required.**

No person shall engage in the business of shared housing unit operator without first having obtained a license under Article II of this Chapter 4-16.

**Section 4-16-210 License application – Additional information required.**

In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a license to engage in the business of shared housing unit operator shall be accompanied by the following information:

(1) the name, address and contact information of the shared housing unit operator’s local contact person;

(2) an affidavit from the local contact person identified in the license application attesting that such local contact person: (i) is designated for service of process; (ii) is authorized

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by the applicant or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city;

(3) a statement as to whether the applicant or licensee has had a previous bed-and-breakfast establishment license or vacation rental license or shared housing unit registration revoked, and the reasons for revocation;

(4) any other information that the commissioner may reasonably require in connection with the issuance or renewal of the license.

**Section 4-16-220 Legal duties.**

(a) *Local contact person – Required.* Each licensee under this Article II shall have a duty to maintain a local contact person who: (i) is designated for service of process; (ii) is authorized by the applicant or licensee to take remedial action and to respond to any violation of this Code; and (iii) maintains a residence or office located in the city.

(b) *Compliance with shared housing unit laws – Required.* Each licensee under this Article II shall have a duty to comply with all applicable laws and regulations regarding operation of shared housing units.

(c) *Compliance with tax laws – Required.* Each licensee under this Article II shall have a duty to comply with all applicable federal, state and local laws and regulations regarding collection and payment of taxes, including hotel accommodation taxes.

**Section 4-16-230 Departmental duties.**

(a) *Inspections.* The building commissioner is authorized to mandate an inspection of any shared housing unit operated by a shared housing unit operator at least once every two years, at a time and in manner, including through third-party reviews, as provided for in rules and regulations promulgated by the building commissioner.

**Section 4-16-240 Prohibited acts.**

It shall be unlawful for any licensee under this Article II to engage in any act prohibited under Chapter 4-13.

**ARTICLE III. ENFORCEMENT**

**Section 4-16-300 Rules.**

The commissioner is authorized to promulgate rules necessary to implement this chapter.

**Section 4-16-310 Operating without a license.**

Any person who engages in the business of shared housing unit operator without first having obtained the required license for such business shall be subject to a fine of not less than \$1,500.00 nor more than \$3,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

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**Section 4-16-320 Suspension or revocation of shared housing unit registration.**

Suspension or revocation of the registration of any shared housing unit held by a shared housing unit operator shall be grounds for the suspension or revocation of all shared housing unit registrations held by that shared housing unit operator, and shall be grounds for suspension or revocation of the licensee's shared housing unit operator license.

**Section 4-16-330 Penalty**

(1) In addition to any other penalty provided by law, any person who violates any provision of Article II of this chapter or any rule promulgated thereunder shall be subject to a fine of not less than \$1,500.00 nor more than \$3,000.00 for each offense. Each day that such violation exists shall constitute a separate and distinct offense.

(2) In addition to any fine or penalty imposed by this section, the corporation counsel may seek an injunction or other equitable relief in a court of competent jurisdiction to stop any violation of this section.

**SECTION 11.** Title IV of the Municipal Code of Chicago is hereby amended by inserting a new Chapter 4-17, as follows:

**CHAPTER 4-17  
RESTRICTED RESIDENTIAL ZONES**

**4-17-010 Definitions.**

As used in this Chapter:

"Dwelling unit" has the meaning ascribed to that term in Section 17-17-0248.

"Petition" means the Petition described in Section 4-17-020.

"Platform" has the meaning ascribed to that term in Section 4-13-100.

"Precinct" means the smallest constituent territory within the City of Chicago in which electors vote as a unit at the same polling place in any election governed by the Illinois Election Code.

"Primary residence" means a dwelling unit: (1) that is occupied by its owner on a daily basis at least 245 days in the applicable calendar year; and (2) for which the owner has claimed a Cook County homeowner exemption.

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“Residentially zoned property” means property that bears an RS-1, RS-2 or RS-3 designation pursuant to the Chicago Zoning Ordinance.

“Restricted residential zone” means a precinct within which, in any combination: (1) all new or additional shared housing units or vacation rentals, or both, have been ordained as ineligible for licensing or registration under Chapter 4-14 or Section 4-6-300 of this Code; or (2) all new or additional shared housing units or vacation rentals, or both, that are not their owner’s primary residence have been ordained as ineligible for licensing or registration under Chapter 4-14 or Section 4-6-300 of this Code.

“Shared housing unit(s)” has the meaning ascribed to that term in Section 4-14-010.

“Short term residential rental intermediary” has the meaning ascribed to that term in Section 4-13-100.

“Short term residential rental advertising platform” has the meaning ascribed to that term in Section 4-13-100.

“Short term residential rental provider” has the meaning ascribed to that term in Section 4-13-100.

“Vacation rental(s) has the meaning ascribed to that term in Section 4-6-300.

**4-17-020 Restricted residential zone – Petition authorized.**

The legal voters of any precinct within the City that contains residentially zoned property may petition their local alderman, using a Petition form made available online by the City Clerk, to introduce an ordinance establishing that precinct as a restricted residential zone. Such Petition shall specify whether it seeks an ordinance to prohibit within the precinct, and in what combination: (1) all new or additional shared housing units or vacation rentals, or both; or (2) all new or additional shared housing units or vacation rentals, or both, that are not their owner’s primary residence. Upon receiving a Petition containing the signatures of at least 25% of the registered voters of the precinct, and concluding that the Petition is legally sufficient following the posting and review process in Section 4-17-030, the City Clerk shall notify the local alderman of the ward in which the precinct is located. Upon being notified, that alderman, following an assessment of relevant factors within the precinct, including its geography, density and character, the prevalence of residentially zoned property, current shared housing units and vacation rentals in the precinct, and the prevailing viewpoint with regard to the issue raised in the Petition, may introduce an ordinance creating a restricted residential zone in that precinct, in accordance with Section 4-17-040.

**4-17-030 Posting and review process.**

(a) A person seeking to initiate the Petition process described in this Chapter shall first submit to the City Clerk notice of intent to do so, on a form made available online by the City Clerk. That notice shall include a description of the potentially affected area and the scope of the restriction sought. The City Clerk shall publicly post the submitted notice online.

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(b) To be legally sufficient, a Petition must contain the requisite number of valid signatures and all such signatures must be obtained within 90 days of the date that the City Clerk publicly posts the notice of intent.

(c) Upon receipt, the City Clerk shall post the Petition on the City of Chicago website for a 30-day comment period.

(d) The City Clerk is authorized to take all necessary and appropriate steps to verify the legal sufficiency of a submitted Petition. Following the Petition review and comment period, the City Clerk shall publicly post online the status of the Petition as accepted or rejected, and if rejected, the reason(s) therefor.

(e) If the City Clerk rejects a Petition as legally insufficient, a minimum of twelve months must elapse from the time the City Clerk posts the rejection notice before a new notice of intent for that same precinct may be submitted.

**4-17-040 Ordinance establishing a restricted residential zone.**

An ordinance introduced pursuant to Section 4-17-020 to establish a restricted residential zone shall:

(a) identify the applicable precinct boundaries as of the date of the Petition; and

(b) state whether the ordinance prohibits, and in what combination, the issuance of (1) all new or additional shared housing units or vacation rentals, or both; or (2) all new or additional shared housing units or vacation rentals, or both, that are not their owner's primary residence.

(c) apply to all such residentially zoned property within that precinct; and

(d) be in effect for four years following the effective date of such ordinance, unless repealed earlier pursuant to Section 4-17-050; and

(e) once in effect, be subject to renewal by ordinance at the expiration of the four-year period without the need for another supporting Petition.

**4-17-050 Restricted residential zone – Repeal.**

At any time during the four-year restricted period, the restricted residential zone may be repealed by ordinance, subject to the Petition and ordinance process and timelines set forth in this Chapter applicable to the imposition of that zone. A minimum of twelve months must elapse from the effective date of an ordinance repealing a restricted residential zone before a new notice of intent to create a restricted residential zone for that same precinct may be submitted.

**4-17-060 Restricted residential zone – Locations.**

The City Clerk shall publicly post online a list of current restricted residential zones, which shall include the effective date of the pertinent ordinance and a description of the scope of the restriction for each zone.

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**4-17-070 Lawfully established uses – Permitted.**

If a shared housing unit or vacation rental that is located within a restricted residential zone was registered with or licensed by the City under Chapter 4-16 of this Code or Section 4-6-300 as of the effective date of the ordinance establishing such zone, such shared housing unit or vacation rental shall be deemed to be lawfully established and, notwithstanding any ordinance under this Chapter to the contrary, may be listed on a short term residential rental intermediary’s platform or short term residential rental advertising platform or rented in conformity with Chapter 4-16 or Section 4-6-300, as applicable, until such time that the applicable registration or license is allowed to expire, as evidenced by non-renewal of the registration or license, or ownership or tenancy of the shared housing unit or vacation rental, as applicable, is transferred to another person. The burden of proof shall be on the short term residential rental provider to establish that the shared housing unit or vacation rental was properly registered with or licensed by the city as of the effective date of the ordinance establishing the restricted residential zone.

**4-17-080 Construction of Chapter.**

This Chapter sets forth the exclusive process governing the restriction by geographic area of shared housing units or vacation rentals that would otherwise be permitted by the Code.

**4-17-090 Rules.**

The City Clerk is authorized to promulgate rules to implement and administer this Chapter 4-17.

**SECTION 12.** Section 17-2-0207 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

USE GROUP		Zoning Districts								Use Standard	Parking Standard
		RS	RS	RS	RT	RT	RM	RM	RM		
Use Category	Specific Use Type	1	2	3	3.5	4	4.5	5-5.5	6-6.5		
P= permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed											
<i>(Omitted text is unaffected by this ordinance)</i>											
<b>P. Lodging</b>											
1.	Bed and Breakfast	-	-	-	-	P	P	P	P	§ 17-9-0103	§ 17-10-0207-S
2.	Vacation Rental	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S-P</u>	<u>S-P</u>	<u>S-P</u>		
3.	<u>Shared Housing Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<i>(Omitted text is unaffected by this ordinance)</i>											



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**SECTION 13.** Section 17-3-0207 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

**17-3-0207 Use Table and Standards.**

USE GROUP		Zoning Districts						Use Standard	Parking Standard
Use Category		B1	B2	B3	C1	C2	C3		
Specific Use Type									
P= permitted by-right S = special use approval required PD = planned development approval required - = Not allowed									
<i>(Omitted text is unaffected by this ordinance)</i>									
<b>II. Lodging</b>									
1.	Bed and Breakfast	P	P	P	P	P	-	§ 17-9-0103	§ 17-10-0207-S
2.	Hotel/Motel	-	-	S	S	S	§		§ 17-10-0207-S
3.	Vacation Rental	P	P	P	P	P	-		
4.	Shared Housing Unit	P	P	P	P	P	=		
<i>(Omitted text is unaffected by this ordinance)</i>									

**SECTION 14.** Section 17-4-0207 of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

**17-4-0207 Use Table and Standards.**

USE GROUP		Zoning Districts				Use Standard	Parking Standard
Use Category		DC	DX	DR	DS		
Specific Use Type							
P= permitted by-right S = special use approval required PD = planned development approval required - = Not allowed							
<i>(Omitted text is unaffected by this ordinance)</i>							
<b>II. Lodging</b>							
1.	Bed and Breakfast	P	P	P	P	§ 17-9-0103	§ 17-10-0208
2.	Hotel/Motel	P	P	-	P		§ 17-10-0208
3.	Vacation Rental	<del>S</del> -P	<del>S</del> -P	<del>S</del> -P	<del>S</del> -		
4.	Shared Housing Unit	P	P	P	=		
<i>(Omitted text is unaffected by this ordinance)</i>							

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**SECTION 15.** Section 17-15-0303 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

**17-15-0303 Expansion.**

*(Omitted text is unaffected by this ordinance)*

17-15-0303-F. Dwelling units that are a non-conforming use in a C, M or DS district may be registered under Chapter 4-14 of the Municipal Code of Chicago and used as a shared housing unit subject to review and approval by the Zoning Administrator in accordance with the administrative adjustments process set forth in Section 17-13-1003-LL.

**SECTION 16.** Title 17 of the Municipal Code of Chicago is hereby amended by inserting a new Section 17-13-1003-M, underscored as follows:

**17-13-1003-M Shared housing units.**

1. The Zoning Administrator is authorized to approve an administrative adjustment to allow the establishment of a shared housing unit in a non-conforming dwelling unit in a C, M or DS district.

2. Such administrative adjustment may be approved only when the Zoning Administrator determines, upon submission of proof by the shared housing host that:

(a) the non-conforming dwelling unit is a lawfully established dwelling unit, which contains 6 or fewer sleeping rooms; and

(b) prior to June 22, 2016, such non-conforming dwelling unit, or any portion therein, was listed on a platform, as defined in Sec. 4-13-100, for rental for transient occupancy by guests; and

(c) such non-conforming dwelling unit is otherwise eligible under Chapter 4-14 of the Municipal Code of Chicago to be registered as a shared housing unit; and

(d) the proposed adjustment meets the general approval criteria of Sec. 17-13-1007-B.

**SECTION 17.** Section 17-17-0104-S of the Municipal Code of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

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**17-17-0104-S Lodging.** Provision of *lodging* services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. The following are *lodging* use types:

1. **Bed and Breakfast.** An owner-occupied, detached house or an owner-occupied *dwelling unit* within a multi-unit *residential building* that does not exceed 4 stories in height and contains no more than 11 sleeping rooms or an owner-occupied condominium, townhouse or cooperative in which 11 or fewer sleeping rooms are available for rent on for hire for transient occupancy by registered guests. For purposes of this definition, the term bed and breakfast does not include single-room occupancy *buildings*. If the bed and breakfast is a detached house located on a lot that includes a principal house and an *accessory building* that was being used for residential purposes as of January 16, 2003, the *accessory building* that will be considered to be part of the establishment.

2. **Hotel/Motel.** An establishment containing 12 or more guest rooms and in which short-term *lodging* is offered for compensation and which may or may not include the service of one or more meals to guests. Typical *uses* include hotels, motels and transient boarding houses.

3. **Vacation Rental.** A dwelling unit that ~~is not owner-occupied and~~ contains 6 or less sleeping rooms that are available for rent or for hire for transient occupancy by guests. The term "guests" does not include members of the owner's household. The term "vacation rental" shall not include: (i) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in Section 13-4-010; (ii) hotels, as that term is defined in Section 4-6-180 of this code; (iii) any dwelling unit for which a tenant has a month-to-month rental agreement, as that term is defined in 5-12-030 and the rental payments are paid on a monthly basis; or (iv) Corporate Housing, as that term is defined in Section 4-6-300, or (v) "guest suites" as that term is defined in Section 4-6-300, or (vi) shared housing units registered pursuant to Chapters 4-13 and 4-14 of this Code.

4. **Shared Housing Unit.** "Shared housing unit" means a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests. The term "shared housing unit" shall not include: (1) single-room occupancy buildings; (2) hotels; (3) corporate housing; (4) guest suites; (5) bed-and-breakfast establishments, or (6) vacation rentals.

**SECTION 18.** Nothing in this Ordinance shall be construed as a waiver of any licensing or other requirement in effect prior to the effective date of this Ordinance or, following such effective date, to suffer, permit or allow any activity that requires a license or registration under this Ordinance except in conformity with this Ordinance.

**SECTION 19.** Following due passage and approval, Section 2 of this Ordinance shall take effect on July 1, 2016, and that portion of this Ordinance creating new Section 4-13-260(a)(9) and Section 4-13-270(c) of the Municipal Code shall take force and effect on July 15, 2016. The remainder of this Ordinance shall take effect 150 days following its passage and publication.



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Board of Directors:  
 Ben Wolf  
 Valerie Landis  
 Jon Dimetros  
 Marc Manning  
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September 14, 2016

To Whom It May Concern:

Keep Chicago Livable is a Chicago nonprofit formed by local Chicago homeowners and renters who have previously used the home-sharing internet platforms such as Airbnb, or who are interested in doing so. Keep Chicago Livable was formed following the June 22, 2016 passage of the Chicago “Shared Housing Ordinance” (the “Ordinance”), with the intent of educating homeowners and renters in Chicago as to this law, their new duties of compliance under this law, and about best practices and guidelines for responsible home-sharing.

Keep Chicago Livable has held a number of public and private meetings with hosts and homeowners interested in learning about responsible home sharing in Chicago under this new law. Many have expressed frustration and confusion about the Ordinance and what it seems to require. We are ourselves frustrated and confused as well, because this Ordinance appears to regulate home-sharing, but in operation, effectively bans it.

To be clear – we are not affiliated with or being supported in any way by Airbnb or any other such sites, directly or indirectly (other than through past hosting activity), financially or non-financially. We are simply Chicagoans who have questions and concerns.

We would like to hear your response to the following set of questions – either in writing or in person.

- (1) Why is this law even necessary? Why now? In 2015, Airbnb activity injected \$30 million directly into the pockets of local hosts, from out-of-state guests mostly, and over \$200 million into the local economy. With property taxes skyrocketing and our economy stalling, why pass a law that will **decrease tax revenues, depress property values, hurt tourism, and increase the vulnerability of the middle class to economic fluctuations?**
- (2) One of the arguments for regulating Airbnb is “preserving affordable housing.” Can the City point to a single study that points to Airbnb activity as a contributing factor for why rents are high in luxury neighborhoods such as River North, Lincoln Park, Streeterville and the Gold Coast? Is it not the case that rents were high in those neighborhoods even before Airbnb existed?
- (3) If most of the “proliferating” Airbnb activity is occurring in these neighborhoods, and if over 80 percent of Airbnb hosts in Chicago are renting out rooms in their own homes, wouldn’t the real effect of this law be to push those homeowners out of their homes and into less expensive neighborhoods

such as Albany Park, Humboldt Park and Pilsen (or out of Chicago entirely), thereby ***accelerating gentrification*** in the “outer” neighborhoods?

- (4) The Ordinance is 57 pages and over 25,000 words long, and written in dense legalese that the Chicago Tribune described as “dizzily complex.” The Ordinance also requires that all hosts that wish to register their homes as “shared housing units” must sign an attestation – under penalty of law – that they have “read and understood” this law.
- a. Do you honestly think that hosts – many of whom are not legally trained or sophisticated - will read and understand this Ordinance before signing this “attestation”?
  - b. What safeguards will be put in place to ensure that hosts can afford independent legal counsel to understand this new law?
  - c. Why is this attestation requirement even necessary?
- (5) A “vacation rental” is defined as “a dwelling unit that contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests.” A “shared housing unit” is “a dwelling unit containing 6 or fewer sleeping rooms that is rented, or any portion therein is rented, for transient occupancy by guests.”
- a. Would you agree that these definitions are functionally identical?
  - b. Why were they defined in this way?
  - c. If a person owns a 2-bedroom condominium, and wishes to list their second bedroom on Airbnb, are they required to obtain a license as a “vacation rental” or register as a “shared housing unit”?
- (6) One of the more concerning aspects of the Ordinance is that it transforms private homes into “public accommodations.”

For example, a female Airbnb host who prefers to book to other females for safety reasons would now be seemingly required to take men as well.

Please explain why this would not be the case.

- (7) Even though Airbnb itself keeps records of all host and guest information, the Ordinance creates additional requirements such as the requirement that hosts keep “pen-and-paper” guest books and have the guests manually sign each book, and to maintain these books for 3 years. Failure to do so counts as a \$3,000 per day penalty.

What is the reason for this requirement, other than to burden hosts?

- (8) The Ordinance requires that hosts must post signs on the inside of their own home, by their front door, including a sign containing the host's real name and contact information. Such a sign would then be visible by neighbors or passerby's, who would then know that the host uses Airbnb or a similar site. Such a sign would also subject the host to a risk of identity theft – for example, some women choose to use just their first name to avoid stalkers. Failure to post such a sign counts as a \$3,000 per day fine.

What will the City Council do to protect women and other vulnerable populations who will be exposed to new and increased risks of home burglary, identity theft, stalking and rape as a result of this law?

- (9) Both the definitions of "vacation rental" and "shared housing unit" exclude "guest suites." A "guest suite" is defined as "a dwelling unit that is available for rent or for hire for transient occupancy solely by the guests or family members of residents of the building which contains the dwelling unit, and is not offered, advertised, or made available for rent or for hire to members of the general public."

How does the City intend to distinguish between "guests ... of the residents" and "members of the general public"?

- (10) Both the "vacation rental" and "shared housing unit" sections state that if a host "provides food to guests," the host then has a "duty to comply with all applicable food handling and licensing requirements of this Code and board of health regulations."

- a. What does it mean to "provide food to a guest"? Does that include having food in one's own refrigerator or pantry? What about a bowl of fruit?
- b. The Food Code is 68 pages. Which of the board of health regulations would be considered "applicable" if a host "provides food to a guest"?
- c. The Food Code governs commercial kitchens. As you know, there is not a single Chicagoan whose home kitchen would meet the standard for a commercial kitchen – in part because it requires substantial renovations and upgrades, such as the installation of a commercial dish washing machine, grease traps and separate hand-washing sinks. Also, under the Food Code, it is illegal to operate a commercial kitchen in any living quarters. It is also illegal to have a dog in a commercial kitchen area.

Does the Ordinance require all hosts to throw away all food in their own home before they can host? Does the Ordinance force a host to choose between having food or having Fido?

- (11) The Ordinance declares “egregious conditions” to be illegal, and requires that hosts affirmatively report their guests to the police if an “egregious condition” occurs or if the host suspects that an “egregious condition” occurs.

An “egregious condition” is defined as including the “holding out of the unit to members of the general public as the location of a party, amusement or event.”

Does this mean that a candidate for political office who rents an Airbnb to host an event for constituents is violating the new law? Why not?

- (12) The Ordinance provides that if an Airbnb is the “situs” of three or more “objectionable conditions” within one year, a license or registration can be suspended or immediately revoked. An “objectionable condition” is defined as including “any noise, generated from within or having a nexus to the rental of any shared housing unit, between 8:00 P.M. and 8:00 A.M. that is louder than the average conversational level at a distance of 100 feet or more”

How loud is the “average conversational level at a distance of 100 feet or more”? Please answer in decibels.

How is the average Airbnb host supposed to know how loud that is?

Does this mean that a nosy neighbor who hates Airbnb or has a grudge against a hosting neighbor can object if he or she hears **any** noise above a whisper coming from an Airbnb?

- (13) How do the “maximum caps” work – if in a large high rise with more than 100 units, for example, there are 3 units listed on Airbnb, 2 listed on VRBO and 1 listed on Homeaway, and if a 7<sup>th</sup> person lists on some other intermediary or advertising platform, who gets to keep their listing?

- (14) If a unit is determined to be ineligible, the Ordinance requires Airbnb to notify the host to take down his or her listing. If the host fails to take down the listing, the host is subject to \$3,000 per day penalties. What steps will the City take to ensure that the host receives prompt and proper notice of a determination of ineligibility?

- (15) The Ordinance requires Airbnb to provide bimonthly “anonymized” or aggregated reports to the City and to Aldermen. However, the City can request de-anonymized reports that can disclose personal information about hosts, using a routine administrative subpoena, and use those reports to fine hosts for violations.

What notice will be provided to hosts so that they can seek a court order to prevent Airbnb from making such disclosures? What kind of evidence will

the City require before requesting that Airbnb disclose the identity of hosts to the City?

These are but a few of the serious questions our members have about this new law. Over 5,000 Chicagoans have used services such as Airbnb to pay their taxes, their mortgage, their rent and their other cost-of-living expenses. Countless people have told us that Airbnb is a literal lifeline, especially through times of temporary unemployment. More than dollars and cents, however, Keep Chicago Livable is about protecting something more fundamental, that affects everyone: the “sanctity of the home.” What does it mean to own a home in Chicago, if the Government can send in inspectors “at any time and in any manner” without a warrant, or if the Government can dictate how often one does the laundry or dishes (with a \$3,000 penalty)?

***Why do homeowners have to ask the Government for permission to have guests sleepover?***

We look forward to hearing from you.

Sincerely,

Keep Chicago Livable



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Nonprofit Sues City of Chicago over Constitutionality of Shared Housing](#)

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