

Regulating the House Sharing Industry

After significant dialogue with aldermen, industry, and other key stakeholders, the Emanuel Administration is proposing an updated framework for regulating the house sharing industry that will strengthen protections for consumers and quality of life while generating new revenue to invest in supportive services and housing for the homeless. The proposal would:

Require companies to be licensed as a short term residential rental intermediary or advertising platform. The Mayor's proposal would establish the "intermediary" and "advertising platform" licensing categories, which would impose different obligations on the company to account for the different business models that exist in the house sharing marketplace. These companies will be required to work with the City to ensure the compliance of each rental unit with applicable law.

- For "intermediaries," like Airbnb, which primarily list shared housing units registered with the City on the company's platform, the City would require that the intermediary provide unit registration data to the City on a twice monthly basis, produce bimonthly summary reports (i.e. every two months) regarding rental activity to the City and to the affected alderman, provide insurance on behalf of their hosts, and comply with a quality of life plan to address problem units.
- For "advertising platforms," like HomeAway, which primarily list licensed vacation rentals or bed-and-breakfasts on the company's platform, the City would require that the company provide unit registration data to the City. The rental and revenue data collection requirements for intermediaries would not apply to advertising platforms because they do not receive this information from hosts. Instead, the City would require that any unit booked through an advertising platform be licensed and comply with a quality of life plan to address problem units.

Require units to be registered as a "shared housing unit" (if booked through an "intermediary") or licensed as a "vacation rental" (if booked through an "advertising platform" or offline). To ensure that the City is able to track units made available for lodging and respond to complaints, the Mayor's proposal would enable the City to obtain registration data on all units booked through an intermediary or advertising platform. Units booked through an intermediary would be required to be registered as a "shared housing unit," while units booked through an advertising platform or offline (e.g. newspaper ads) would be subject to an updated "vacation rental" license requirement.

Create a new "shared housing unit operator" license for hosts who rent multiple shared housing units. For those hosts who seek to operate more than one shared housing unit, the Mayor's proposal would require this individual to obtain a "shared housing unit operator" license that would subject the host's units to heightened regulatory standards (e.g. regular, biannual inspections). Additionally, this new license would provide the City with an additional tool to enforce against bad apple actors by allowing for the City to take suspension or revocation action against an operator's license and all registered units should serious violations occur within the operator's network of units.

Generate more than \$2 million in revenue to the City for homeless families and the chronically homeless. The City will generate more than \$2 million in new revenue in 2016 by collecting a 4% surcharge on the booking of any shared housing unit or Vacation Rental. Up to 8% of the revenue raised from this surcharge will be used for enforcement and administration purposes, with one half of the remaining revenue used to fund supportive services attached to permanent housing for homeless families and the other half to fund supportive services and housing for the chronically homeless. Licensed Bed-and-Breakfast establishments will be exempt from the surcharge.

Set clear limits on the number of allowable units within buildings. To address quality of life issues, the Mayor's proposal would require that for: (i) single-family homes, only primary residences can be rented; (ii) multi-family homes (i.e. 2-4 units), only primary residences can be rented and a limit of one rental unit per building will apply; and (iii) multi-unit buildings (i.e. 5+ units), a limit of one-quarter of the total number of dwelling units in the building or 6 rental units, whichever is less, will apply. Primary residence will be determined by a host's ability to claim a Cook County homeowner exemption. The proposal would also establish that "guest suites," units within buildings that are made available to family and friends of existing tenants that are not advertised to the public, remain permitted and not subject to such restrictions.

Provide hosts with flexibility to rent different units through an adjustment process. The Mayor's proposal would afford hosts additional flexibility to rent units that do not conform to the above limits. For hosts seeking to rent: (i) a single-family home that is not the host's primary residence, or (ii) a unit in a multi-family home (i.e. 2-4 units) that is not the host's primary residence, hosts would be required to submit a request to the City for an adjustment. For this request to be approved, it would require: (i) advance notice to adjoining neighbors, (ii) a recommendation from the affected alderman, and (iii) an evaluation to ensure the use of the unit for short term rental purposes would not detrimentally impact the health, safety, or general welfare of surrounding property owners or the general public. Units in multi-unit buildings (i.e. 5+ units) would not be eligible for this process.

Expand the City's enforcement toolkit to ensure the residential nature of neighborhoods is protected. The Mayor's proposal creates a "one-strike-and-you're-out" rule for certain "egregious conditions" (e.g. violent acts, drug trafficking, gang-related activity, improper commercial activity including large parties) and a "three-strikes-and-you're out" rule for units that cause a disturbance due to certain incidents (e.g. noise, public drunkenness, harassment of passersby, loitering, overcrowding). Any violation would count as a permanent strike (i.e. there is no "lifespan" to a strike) and for units that reach the one or three strike thresholds, the City would be able to take suspension or revocation action against a shared housing unit registration, shared housing unit operator license, and/or vacation rental license. The City will also have the ability to determine that a unit is a public nuisance (three violations in 12 months). Further, for any "egregious condition," criminal activity, or public nuisance, the penalty will be a heightened \$2,500 to \$5,000 per offense, with each day that a violation exists treated as a separate and distinct offense.

Create an "ineligible list" to address problem units. The City will establish an "ineligible list" and ensure that these units are not allowed to operate. This list will prohibit the properties of problem landlords, building code scofflaws, and units that are subject to an order to vacate or that have been deemed a public nuisance from being listed on the site.

Establish a "prohibited buildings" list to enforce building prohibitions on rental activity. Cooperative buildings, condominium buildings, and buildings governed by a homeowner's association, regardless of size, along with owners of buildings with five or more units would be able to request to be added to a "prohibited buildings" list to establish short-term rental activity as illegal in their buildings. The City would screen unit registrations to determine if any are located in these buildings and, if so, take enforcement action to remove the units from the registry.

Create a clear process for removing listings from platforms. The proposal would require technology companies to develop a quality of life operational plan for addressing the concerns created by problem unit. This would include specific processes for expedited removal of units deemed to be ineligible. Further, the City would require removal processes in place for nuisance units, for units linked to criminal activity, and for units that pose an imminent threat to public health, safety, and welfare. Chicago would be the first city in the country to establish a clear plan of operations for the removal of listings from a company's platform.

Create a dedicated revenue stream for enforcement. The proposal would require short term residential rental intermediaries to pay a \$60 per unit fee in addition to a flat \$10,000 annual license fee. This would generate more than \$200,000 annually to the City to bolster enforcement of the ordinance. Such fees would be paid at the time of an intermediary's license issuance and renewal.

Establish clear penalties for violations. To ensure compliance with the proposed regulations, the City will establish a clear penalty structure for hosts and short-term residential rental intermediaries found in violation of applicable law. Violators may be fined \$1,500 to \$3,000 per offense, with each day that a violation exists treated as a separate and distinct offense. The City will also have the right to suspend or revoke a registration for certain types of offenses, including if the continued rental of a shared housing unit would pose an imminent threat to public health, safety or welfare.

Establish minimum insurance requirements. To ensure that hosts and guests are protected in cases of emergency, short term residential rental intermediaries will be required to ensure that all shared housing units are covered by adequate liability insurance. An insurance policy provided by a short term residential rental intermediary must be primary and noncontributory, have a minimum limit of \$1,000,000 per occurrence, and cover bodily injury, personal injury (if commercially available), and property damage for all operations related to the rental of a unit. The City will require prompt notice to the Commissioner prior to any changes to the policy. For those units licensed as a vacation rental, similar insurance coverage requirements would apply, however the host would be obligated to produce such a policy at the time of licensing.

Create disclosure requirements regarding short term rental activity. To allow prospective property owners or tenants to make a fully informed decision about the ability to perform short term rental activity at an address, the Mayor's proposal will require building or dwelling unit owners to disclose if: (i) the unit is registered or licensed with the City for rental activity, (ii) it is ineligible for such rental, and (iii) the unit is subject to any sort rental caps or restrictions.

Codify civil rights protections for guests. The proposal would treat shared housing units as "public accommodations" pursuant to the City's Human Rights Ordinance, prohibit discrimination by hosts based on race, color, sex, gender, identity, age, or any other protected status, and establish clear penalties (i.e. immediate revocation) for hosts who engage in such discrimination.

Create a streamlined host attestation process. The ordinance would require the intermediary to make available an electronic copy of a summary of the requirements of this ordinance to prospective hosts. As a condition of listing a unit on the platform, hosts must attest to having reviewed and understood the requirements of the ordinance, with attestations being treated as "false statements" under MCC 1-21.

Codify that no units will be grandfathered. The proposal would establish that no units that were previously operating without the proper vacation rental or bed-and-breakfast license would be grandfathered.

Establish that shared housing unit registrations are non-transferable. The proposal would establish that shared housing unit registrations are non-transferable. Such a provision already exists for vacation rentals.

Allow for rescission of unit registrations in certain cases. The BACP commissioner would be authorized to rescind unit registrations when issued erroneously or when a registrant has misrepresented information.

Clarify the definition of a "single-family home," "duplex" and "row house." The ordinance would establish definitions for the terms "single-family home," "duplex," and "row house" to make clear the standards to which units in each building type would be held.