

June 30, 2010.

[O2010-6313]

*Be It Ordained by the City Council of the City of Chicago:*

SECTION 1. The *Journal of the Proceedings of the City Council of the City of Chicago* of June 30, 2010 is hereby corrected by deleting in its entirety the ordinance printed on pages 96061 through 96702 and inserting in lieu thereof the ordinance attached hereto as Exhibit A.

SECTION 2. This ordinance shall be in force and effect after its passage.

Exhibit "A" referred to in this ordinance reads as follows:

*Exhibit "A".*

Chicago, June 30, 2010

To the President and Members of the City Council:

Your Committee on License and Consumer Protection and Committee on Zoning, having under consideration a substitute ordinance (which was referred to the Committee on License and Consumer Protection on June 30, 2009 and re-referred to the joint committee on April 14, 2010), regarding nightly vacation rentals, begs leave to recommend that Your Honorable Body pass the substitute ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committees on June 23, 2010 with Alderman Fioretti opposed.

Respectfully submitted,

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Gene Schulter, Chairman

Committee on License and Consumer Protection

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Daniel Solis, Chairman

Committee on Zoning

**WHEREAS**, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

**WHEREAS**, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life and the welfare of its citizens; and

**WHEREAS**, annually there are over 44 million domestic and leisure visitors coming to Chicago; and

**WHEREAS**, hotels and bed and breakfast establishments lodge millions of visitors annually in Chicago; and

**WHEREAS**, there are over 30,000 hotel rooms within a five-mile range of McCormick Place alone and an expected 3,000 additional hotel rooms by 2010; and

**WHEREAS**, in many cities that traditionally attract a large amount of tourists, homeowners have become entrepreneurs by renting their homes on a daily and weekly basis to travelers looking for a safe yet less-expensive alternative to hotels; and

**WHEREAS**, the demand for such rentals has created an unregulated, growing industry which is rapidly spreading across numerous Chicago neighborhoods as well as other major metropolitan cities and vacation destinations in the United States that attract large tourist populations; and

**WHEREAS**, cities in Arizona, California, Florida, Hawaii, Maine, New York, New Mexico, North Carolina, Oregon and Pennsylvania, which consistently register high numbers of visitors staying overnight in hotels, are working to impose restrictions on the booming business of daily and weekly rentals by individual owners; and

**WHEREAS**, currently the Municipal Code of the City of Chicago places no restrictions on this growing industry and currently regulates hotels and bed and breakfast establishments, through taxation and by requiring licenses; and

**WHEREAS**, all establishments used for transient guests in the City of Chicago that do not fall under the category of hotels and bed and breakfast establishments should be regulated for the health and safety of all visitors;

**WHEREAS**, although other governmental bodies are considering similar legislation, the City of Chicago would be the first large municipality to set the standard by regulating rentals on a daily and weekly basis by private entities; **NOW, THEREFORE**

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

**SECTION 1:** Section 4-5-010 of the Municipal Code of Chicago is hereby amended by

adding the language underscored, as follows:

4-5-010 Establishment of license fees.

*(omitted text is unaffected by this ordinance)*

(84) Vacation rental.....\$500.00

*(omitted text is unaffected by this ordinance)*

**SECTION 2:** Title 4 of the Municipal Code of Chicago is hereby amended by adding a new chapter 4-207, as follows:

**Chapter 4-207 Vacation Rentals**

**4-207-010 Definitions**

For purposes of this chapter:

"Applicant" means a 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; or 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 the cooperative building.

"Board of directors" means the board of directors of a cooperative building.

"Cooperative building" is 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.

"Cooperative" is an individual dwelling unit within a cooperative building.

"Department" means the department of business affairs and consumer protection.

"Commissioner" means the commissioner of business affairs and consumer protection.

"Dwelling unit" has the meaning ascribed to that term in section 17-17-0248.

"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 or interest, individually or collectively, aggregate fee simple absolute ownership of a 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" shall include, for purposes of this chapter only, 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.

"Transient occupancy" means any occupancy on a daily or nightly basis, or any part thereof, for a period of 30 or fewer consecutive days.

"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 4-208-010 of this code; (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. For purposes of this definition:

(1) "tenant" and "rental agreement" have the same meaning ascribed to those terms in 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).

#### **4-207-020 License Required.**

No owner of a dwelling unit shall rent or lease the dwelling unit as a vacation rental without first having obtained a vacation rental license. A separate license is required for each dwelling unit used as a vacation rental. A licensee under this chapter shall not be required to obtain any other city license to conduct the activities described in this chapter.

The license shall be valid only to the person to whom it was issued and it shall not be subject to sale, assignment, or transfer, voluntary or involuntary, nor shall the license be valid for any premises other than that for which it was originally issued.

The license shall be displayed in a conspicuous place in the vacation rental.

#### **4-207-030 License Application Investigation.**

(a) An application for a license required pursuant to this chapter shall be made in conformity with the general requirements of Chapter 4-4 of the Municipal Code relating to applications for licenses. The application shall include the location of the vacation rental, the total number of sleeping rooms, a statement indicating ownership of the vacation rental, the name and

address of a local contact person, and other information that may be required by the department.

(b) The application shall include the name, address, and contact information for a local contact person and attached to the application shall be an affidavit from the local contact person attesting that the 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.

(c) If applicable, attached to each application shall be an affidavit executed by a duly authorized representative of the homeowners association or the board of directors which attests that: (1) the homeowners association or board of directors has approved the dwelling unit to be used as a vacation rental and specifically identifies all the other dwelling units approved to be used as vacation rentals; and (2) the bylaws are in compliance with subsection 4-207-060 (a)(6) of this chapter.

(d) As a condition of the license, the licensee shall keep all information current. Any change in required information shall be reported to the department within 30 days after the change.

(e) The building commissioner has the authority to mandate that an inspection of the vacation rental shall be undertaken at any time and in any manner, including third-party reviews, as provided for in rules and regulations promulgated by the building commissioner.

#### **4-207-040 License Fee.**

The fee for a vacation rental license shall be as set forth in Section 4-5-010.

#### **4-207-050 License renewal.**

All licenses issued under this chapter shall be renewed in accordance with Chapter 4-4 of this Code.

#### **4-207-060 License denial or revocation.**

(a) A license or a renewal of a license shall be denied or revoked for any of the following reasons:

(1) The applicant does not own the vacation rental;

(2) The applicant's license under this chapter has been revoked for cause within two years of the date of the application;

(3) A license issued under this chapter for a vacation rental for that dwelling unit has been revoked for cause within two years of the date of application;

(4) The applicant makes any false, misleading or fraudulent statement or misrepresents any fact in the license application, or uses any scheme or subterfuge for the purpose of evading any provision of this chapter.

(5) The applicant is a corporation, general partnership, limited partnership or limited liability company and has a partner, general partner, principal officer, managing member, or owner of the applicant who would not be eligible to receive a license under this section.

(6) Failure of the homeowners association or board of directors to adopt bylaws which:

(A) approve the use of the premises for vacation rentals;

(B) restrict the number of dwelling units that may be licensed as vacation rentals

- to 6 or less and specifically identifies those units;
- (C) authorize the homeowners association or the board of directors to act as the local contact person for the owner of the vacation rental; and
- (D) authorize access by city officials to the common areas.

(7) The applicant has violated any applicable federal, state or local law or regulation promulgated thereunder,

(b) No more than 6 dwelling units per building can be licensed as a vacation rental at same time.

#### 4-207-070 Insurance required.

Prior to the issuance of any license under this chapter, each applicant shall furnish a certificate of insurance evidencing: (1) homeowner's fire, hazard and liability insurance; and (2) general commercial 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 section in full force and effect for the duration of the licensed period.

#### 4-207-080 Standard of operation

(a) No licensee shall: (1) rent or lease any vacation rental by the hour or for any period of fewer than 24 consecutive hours; (2) rent or lease any vacation rental more than once within any consecutive 24 hour period measured from the commencement of one rental to the commencement of the next; or (3) advertise an hourly rate or any other rate for a vacation rental based on a rental period of fewer than 24 consecutive hours.

(b) The licensee shall maintain current guest registration records which contain the following information about each guest: the guest's name, address, signature, and dates of accommodation. The registration records shall be kept on file for three years and made available for inspection by city officials during regular business hours or in the case of an emergency.

(c) No licensee shall permit any criminal activity or public nuisance to take place in the vacation rental. If a licensee knows or suspects that any criminal activity or public nuisance is taking place in the vacation rental, that person shall immediately notify and cooperate with the Chicago Police Department.

(d) The maximum number of guests in a vacation rental shall be no more than one person per 125 feet of floor area of the dwelling unit for which the license is issued. The occupancy limitations set forth in this subsection are absolute maximums, and the actual allowed capacity shall be based on the applicable provisions of the building code.

(e) Every licensee shall print its license number in every print advertisement for the vacation rental placed by or on behalf of the owner, and on every application for a building permit. If the licensee has a primary website in which the licensee advertises the vacation rental, the licensee shall also list the license number on such website.

(f) No licensee shall serve or otherwise provide alcohol to any guest.

(g) Each guest shall be provided soap, clean individual bath cloths and towels, and clean linen in good repair. Linens and bath cloths and towels shall be changed between guests.

(h) The vacation rental shall be cleaned and sanitized between guests and all food, beverages and alcohol shall be thrown out. All dishes, utensils, pots, pans and other cooking utensils shall be cleaned and sanitized between guests.

(i) The name and phone number of the local contact person and the vacation rental license shall be posted in a conspicuous place near the entrance of the vacation rental.

(j) An evacuation diagram identifying all means of egress from the vacation rental and the building in which it is located shall be posted in a conspicuous place on the inside entrance door of each vacation rental.

(k) Any licensee who provides food to the guests shall comply with all applicable food handling and licensing requirements of this code and board of health regulations, and shall be subject to inspection as therein provided.

#### **4-207-090 Regulations**

The commissioner shall have the authority to promulgate rules and regulations necessary to implement the requirements of this chapter.

#### **4-207-100 False Statements**

Any person who knowingly makes a false statement of material fact on any vacation rental application or affidavit required to be submitted with the application shall be subject to the provisions of Section 1-21-010 of the Municipal Code.

#### **4-207-110 Violations**

Any person who violates any provision of this chapter, or any rule or regulation promulgated hereunder, shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 per violation, or shall be subject to license suspension or revocation, or both. Each day that such violation exists shall constitute a separate and distinct offense.

All the vacation rental licenses located in a building are subject to revocation if the building contains more than 6 licensed vacation rentals.

In addition to any other fine or penalty provided for in this section, any person who operates a vacation rental without a license issued under this chapter may be subject to incarceration for a period not to exceed six months.

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

**SECTION 3:** Chapter 4-210 of the Municipal Code of Chicago is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

#### **4-210-010 Definitions.**

For purposes of this chapter:

*(omitted text is unaffected by this ordinance)*

"Bed-and-breakfast establishment" or "establishment" means any building or structure or portion thereof in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by guests an owner-occupied single-family residential building, 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. 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)*

#### 4-210-050 License issuance prohibited when.

No license shall issue under this chapter unless the following requirements are met:

(1) The establishment is (A) an owner-occupied, single-family residential building; or (B) an owner-occupied multiple-family dwelling that does not exceed four stories in height and contains no more than 11 sleeping rooms; or (C) an owner-occupied condominium, townhouse or cooperative. Throughout the duration of any rental period, occupancy of the establishment by any person owning 25 percent or more of the interest in the establishment shall be a continuing requirement for maintaining a license under this chapter; provided, however, that it shall not be a violation of this requirement if the owner (i) is absent from the establishment overnight or 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 establishment during the owner's absence. For purposes of this subsection, if the 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.

*(omitted text is unaffected by this ordinance)*

SECTION 4: Title 17 of the Municipal Code of Chicago is hereby amended by adding a new section 17-15-0307 and by inserting the language underscored, as follows:

#### 17-15-0307 Vacation rentals-nonconforming use.

(a) Notwithstanding any other provision of this Zoning Ordinance, any vacation rental located in a RS3, RT3.5 or RT4 District shall be considered as a legal nonconforming use for purposes of this Zoning Ordinance if the Zoning Administrator determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this 2010 ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this section. Proof of existence and operation shall include payment of any hotel tax, or similar tax, if applicable, and any other evidence required by the Zoning Administrator which demonstrates the existence and operation of the vacation rental. The owner of any vacation rental seeking a determination under this section shall provide such proof no later than 90 days after the effective date of this 2010 ordinance.



(h) Notwithstanding subsection (a), any expansion of the vacation rental shall be considered a new use.

Nothing in this section shall be construed as authorizing the operation of a vacation rental without any license required by the Municipal Code. If an owner of a vacation rental fails to obtain a vacation rental license pursuant to Chapter 4-207 within 180 days after the effective date of this 2010 ordinance, the vacation rental shall no longer be deemed as a legal nonconforming use.

**17-2-0207 Use Table and Standards.**

USE GROUP	Zoning Districts									Use Standard	Parking Standard
Use Category	RS	RS	RS	RT	RT	RM	RM	RM			
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

(omitted text is unaffected by this ordinance)

P. Lodging											
1.	Bed and Breakfast	-	-	-	-	P	P	P	P	§ 17-9-0103	§ 17-10-0207-S
2.	Vacation Rental	-	-	-	-	S	S	S			

(omitted text is unaffected by this ordinance)

**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

(omitted text is unaffected by this ordinance)

II. Lodging										
1.	Bed and Breakfast	P	P	P	P	P	-	§ 17-9-0103	§ 17-10-0207-S	
2.	Hotel/Motel	-	-	S	S	S	S		§ 17-10-0207-S	
3.	Vacation Rental	P	P	P	P	P	-			

(omitted text is unaffected by this ordinance)

**17-4-0208 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 - = N/A allowed						

(omitted text is unaffected by this ordinance)

<b>HH. 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	S	S	S	S	

(omitted text is unaffected by this ordinance)

**17-17-0104-R 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 4-208-010 of this code; (iii) any dwelling unit for which a tenant has a month-to-month rental agreement, as term is defined in 5-12-030, and the rental payments are paid on a monthly basis; or (iv) Corporate Housing. For purposes of this definition, "Corporate Housing" has the same meaning ascribed that term in section 4-207-010.

**SECTION 6. Severability.** If any provision of this ordinance is held invalid, such provision shall be deemed excised from this ordinance and the invalidity thereof shall not affect any of the other provisions of this ordinance. If the application of any provision of this ordinance to any person or circumstance is held invalid, it shall not affect the application of such provision to other persons or circumstances.

**SECTION 6:** This ordinance shall take on January 1, 2011.