

# Draft Zoning & Licensing Approach for Short-term Rentals in Denver

April 17, 2015

Short-term property rentals, such as those facilitated by VRBO.com and AirBnB, are becoming more popular in Denver and across the country. The legality of short-term rentals varies by municipality. Many cities, including Denver, are exploring systems to better regulate short-term rentals.

The City and County of Denver does not currently allow short-term rentals in most residential zone districts. City Councilwoman Mary Beth Susman is leading a Sharing Economy Task Force (now part of the City Council Neighborhoods and Planning Committee) to evaluate the possibility of regulating short-term rentals. Any changes to existing regulations will seek to balance flexibility for homeowners, and a growing interest in the “sharing economy,” with concerns regarding potential negative impacts on neighbors, and the overall character of residential areas.

**This document provides a preliminary overview of a zoning and licensing system that could be used to regulate short-term rentals.** It is a working document that is intended to support further discussion rather than a formal proposal or ordinance. The City Council Neighborhoods and Planning Committee will continue to engage in community outreach to receive stakeholder input. Any future regulatory changes must be approved by the Denver City Council.

Key terms used in this document include:

- **Dwelling Unit:** One or more habitable rooms constituting a unit for permanent occupancy, having but one kitchen together with facilities for sleeping, bathing, and which unit occupies a structure or a portion of a structure (Denver Zoning Code definition).
- **Guest:** A person occupying a short-term rental who is not a primary resident.
- **Host:** The primary resident (whether owner or renter) of a property who offers all or part of their dwelling unit as a short-term rental. Because the City does not generally have jurisdiction over hosting platforms, the requirements outlined in this document would apply to individual hosts.
- **Hosting Platform:** A system (usually internet-based) that allows a host to advertise all or part of a dwelling unit as a short-term rental. Some hosting platforms, such as AirBnB, process payments on behalf of hosts, while others, such as VRBO, do not. The City does not generally have jurisdiction over the operation of hosting platforms. However, some hosting platforms have agreed to collect local taxes or perform other services on behalf of hosts.
- **Primary Resident:** The person(s) maintaining a dwelling unit as their primary place of residence (whether owner or renter).
- **Short-term Rental:** Rentals for a period of less than one month.

## Previous Zoning Approach Document

This document is an update to the previous *Draft Zoning Approach for Short-term Rentals in Residential Zone Districts* dated 3/10/2015. It removes the original suggestion to treat short-term rentals as a “home occupation” requiring a zoning permit (the approach outlined in this document would not require a zoning permit). It also adds additional detail regarding business licensing for short-term rentals. Future updates to this document will include revisions based on stakeholder input, as well as information regarding potential taxation of short-term rentals.

## Overview of the Draft Approach

The draft approach provides a framework to manage short-term rentals citywide. It would:

- 1. Allow Short-term Rentals Where Residential Uses Are Currently Permitted.**  
The Denver Zoning Code would be amended to permit short-term rentals as accessory to a primary residential use, with limitations. An initial assumption is that regulations associated with short-term rentals would apply equally to all zone districts where residential uses are allowed. A zoning permit would not be required to conduct a short-term rental.
- 2. Require a Business License to Conduct Short-term Rentals.**  
The City of Denver Department of Excise and Licenses would require hosts to obtain a business license to conduct short-term rentals.
- 3. Prohibit Absentee Landlords from Conducting Short-term Rentals.**  
Only a primary resident would be allowed to host short-term rental guests.
- 4. Protect Short-term Rental Guests.**  
The specific licensing requirements outlined in the table on page 4 would help ensure guest safety.

Questions to consider include:

- 1. How Often Could a Host Conduct Short-term Rentals?**  
An initial assumption is that there would not be a limit on the number of short-term rentals that a host could conduct over a year. Consideration may be given to allowing hosts to conduct two or three short-term rentals per year without obtaining a license.
- 2. How Many Guests Would be Allowed?**  
The City is evaluating potential limitations on the number of short-term rental guests per dwelling unit.
- 3. Would Short-term Rentals be Taxed?**  
The City is evaluating application of the existing Lodger's tax to short-term rentals. This evaluation is underway and will be described in greater detail in a future document. Note that taxation would be tied to business licensing.
- 4. Would Fees Apply?**  
A nominal fee may be required to apply-for, and periodically renew, a business license to conduct a short-term rental. The approach described in this document would not require hosts to obtain a zoning permit.

### **Properties Zoned Under the Former Chapter 59 Code**

Some properties in Denver retain zoning that predates Denver's new 2010 Zoning Code. Short-term rentals could be permitted on such properties through an administrative determination made using the criteria in Former Chapter 59 Zoning Code Section 59-38(a)(10)a. Short-term rentals would be subject to the same limitations as properties zoned under the current Denver Zoning Code. A zoning permit would not be required.

### 5. How Would Short-term Rental Requirements be Enforced?

Short-term rentals would be enforced through both zoning and licensing.

- Zoning requirements would be enforced by Neighborhood Inspection Services (NIS). Upon receipt of a complaint, NIS would reach out to the resident/property owner and could conduct an inspection, issue warnings and levy fines.
- Licensing requirements would be enforced by the Department Excise and Licenses. Some requirements would be verified at the time of license application. Other requirements would be “self-certified”, meaning that the applicant would certify that the requirement was met (such as a required smoke detector), but compliance with the requirement would not be verified by inspection unless a complaint was received. Upon receipt of a complaint, Excise and Licenses could conduct an inspection, issue warnings and conduct hearings that may result in revocation of the license.

### Zoning & Licensing System

The draft approach uses both zoning and licensing tools. Zoning would regulate the location of short-term rentals and licensing would provide more detailed criteria for their operation. Using both zoning and licensing would help limit the potential impact of short-term rentals on neighbors while streamlining the application process for short-term rental hosts.

The table on the following page indicates specific short-term rental requirements that could be included in the Denver Zoning Code and a separate licensing system. It also indicates how requirements would be verified and provides a rationale for why some requirements are best suited for the zoning or licensing component of the system. It is important to note that the specific requirements are still under discussion and may be modified based on City Council, resident, or other stakeholder feedback.

#### **Zoning vs. Licensing**

Zoning provides the basic rules and regulations for all properties throughout the city, including what uses and physical development are allowed. It is attached to the land, meaning that it is not associated with a specific development or business, and remains the same when a property changes ownership. Zoning enforcement actions are sometimes lengthy due to consideration for property rights.

By contrast, licensing is attached to a specific business, or person engaging in business. Unlike zoning, licenses may require periodic renewal. Licenses may also be revoked more easily.

**Table: Potential Zoning and Licensing Requirements for Short-term Rentals**

Potential Requirement	Provided In		Draft Notes
	Zoning	Licensing	
Short-term rental permitted on property?	X		Potentially allowed as accessory to a primary residential use in all zone districts where residential uses are allowed – Best handled as a land use requirement in zoning
Location of Short-term Rental	X		Potentially allowed in a primary dwelling unit and attached or detached accessory dwelling unit – Best handled as amendment to existing zoning requirements relating to how dwelling units and building forms may be used
Primary Residency	X?	X	Require that the property be the applicant’s primary residence – Such a requirement may be included in both zoning and licensing, but verification/documentation would only be required through the licensing process.
Number of Guests Allowed	X?	X?	TBD. The City is evaluating potential limitations on the number of short-term rental guests per dwelling unit.
Affidavit of Lawful Presence		X	Verification/documentation that the applicant is a U.S. Citizen, permanent resident, or is otherwise in the country legally – Best handled in licensing, as required by state law
Proof of Premises		X	Applicant self-certifies that they are a legal occupant of the property– Best handled in licensing to allow for more rapid enforcement
Host Contact Info		X	Applicant self-certifies that information is posted in the short-term rental to ensure that a guest is able to contact the host in the event of an issue– Best handled in licensing to allow for more rapid enforcement
Guest Registry		X	Applicant self-certifies that they will keep a log of short-term rental guests that will be available for City/Police Department review if a complaint is received – Best handled in licensing to allow for more rapid enforcement
Liability Insurance		X	Applicant self-certifies that they are covered by liability insurance - Note that some hosting platforms, such as AirBnB provide liability insurance for hosts – Best handled in licensing to allow for more rapid enforcement
Exit Information		X	Applicant self-certifies that emergency exits are clearly posted within the dwelling unit to be used for the short-term rental
Smoke Detector		X	Applicant self-certifies that working smoke detectors are installed within the dwelling unit to be used for the short-term rental
CO Detector		X	Applicant self-certifies that a working CO detector is installed within the dwelling unit to be used for the short-term rental