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TO: Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: October 20, 2022

RE: **Report on Short Term Rental Ordinance**

Legislative policy Division (LPD) has been requested by Council Member Angela Whitfield-Calloway to provide a report with regard to implementing an ordinance addressing Short Term Rentals regulating them under a licensing scheme through the Building Safety, Engineering and Environmental Department's (BSEED) Business Licensing Division. LPD submits the following:

The utilization of residential properties for the purpose of short-term rental as a home occupation is prohibited by the City of Detroit (City) under the City's zoning ordinance provisions as follows:

Sec. 50-12-162. - Multi-family dwellings.

- (11) Multiple-family dwellings having five or more dwelling units are prohibited from hosting short term rentals as defined in Sec. 50-16-382 of this Code; this provision may not be waived by the Board of Zoning Appeals.

Sec. 50-12-492. - Prohibited uses and activities.

- (d) Use of a dwelling to accommodate paid overnight guests is prohibited as a home occupation; notwithstanding this regulation, public accommodations, including bed and breakfast inns outside the R1 and R2 Districts, are permitted as provided for in Section 50-12-65 of this Code.

The City previously looked at amending the zoning ordinance by removing the two prohibitive provisions as well as a draft of a proposed ordinance providing for the eligibility short term rental in a limited capacity. The proposed short term rental ordinance was drafted by the Law Department at the request of former City Council Member Janeé Ayers. The draft ordinance was given a public hearing and considerable deliberation but was not presented for a formal vote by City Council.

The current recommendation for a Short-Term Rental Ordinance (STRO) presented by Member Whitfield-Calloway includes but is not limited to the following:

- City of Detroit amend its business license ordinances to include a new classification of Short-Term Rental (STR) businesses.
- The ordinance will define the term short term rental and will require an annual license fee.
- The STRO will require inspections for the basic requirements of the building code such as plumbing, electrical, mechanical, and property maintenance.
- The STRO will also provide that the business license be posted at the location outside the front doorway with current and accurate contact information about the owner or a responsible person and the information about filing a neighborhood complaint about the operation of the STR or the activities of the renters.
- The STRO will establish a complaint hot line to address concerns about the activities of the owner or the renters and will require a file concerning each complaint by address, owner and renter.
- The STRO will require BSEED Business License Center to ensure that the property inspections are up to date, the license fee is paid and that the complaint hot line reports be examined before renewing a STR business license.
- If BSEED Business license Center denies a renewal, the STR owner may appeal to an independent show cause hearing officer. If appropriate, BSEED can use the emergency revocation provisions of the current ordinance to immediately suspend or revoke a STR business license.

LPD believes the language within the prior draft ordinance prepared by the Law Department regarding short term rentals could be modified to meet the recommendations put forth by Member Whitfield-Calloway's office. LPD also believes that to move forward with such an ordinance, the zoning code will still

have to be amended to remove the language that prohibits the utilization of residential properties for the purpose of short-term rental as a home occupation as previously indicated.

However, LPD further notes that House Bill 4722 (HB 4722) in the Michigan Legislature was introduced on April 27, 2021 and was recently referred to the Committee of the Whole as of October 11, 2022.¹ The language presented in HB 4722 include the following pertinent provisions:

Sec. 206b.

(1) For the purposes of zoning, all of the following apply to the rental of a dwelling, including, but not limited to, short-term rental:

- (a) It is a residential use of property and a permitted use in all residential zones.
- (b) It is not subject to a special use or conditional use permit or procedure different from those required for other dwellings in the same zone.
- (c) It is not a commercial use of property.

If HB 4722 is passed, the City would be prohibited from requiring any special use or conditional use permit or any licensing procedure for short term rentals that is different than that required for any other residential dwellings in the same zone. Additionally, if HB 4722 is passed, the City's current zoning prohibited uses under 50-12-162 and 50-12-492(d) would be preempted.

The City could move forward with drafting an ordinance regulating short term rentals. However, the pending state legislation if passed would preempt any ordinance provision that is in conflict with it. LPD believes this should be taken into consideration when determining whether to go forward with drafting and/or passing a short-term rental ordinance.

If we can be of further assistance, please call upon us.

¹ LPD notes that there are two other House Bills (HB 5465 and HB 5466 tie-barred) that have been introduced in the Legislature that provide more regulations of short-term rentals and allows local units of government the ability to enact reasonable regulations for short-term rentals to safeguard the public health, safety, and welfare. Both bills were introduced October 21, 2021 and have seen no action in 2022.