

**ORDINANCE NO. 874**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA  
AMENDING APPENDIX B – ZONING OF THE BAYPORT CITY CODE OF ORDINANCES BY  
ADDING SECTION 748. – SHORT TERM RENTALS**

**THE CITY COUNCIL OF THE CITY OF BAYPORT DOES HEREBY ORDAIN:**

**Section 1.** Appendix B – Zoning is hereby amended to add the following:

**SECTION 748. – SHORT TERM RENTALS**

Sec. 748.01. Findings and purpose.

The City of Bayport is committed to maintaining the quality of life and has a compelling interest in protecting the character of its residential neighborhoods. The city finds that short term rentals located in residential zoning districts constitute commercial use of residential property, and if unregulated, can conflict with the residential nature of the zoning districts, disrupt the residential nature of neighborhoods, and have a negative impact on the livability of residential neighborhoods. Therefore, in order to ensure adequate and stable housing options for residents, preserve the residential character of the city's residential zoning districts, and provide for the health, safety and welfare of its residents, the city determines that it is appropriate to require a license and provide reasonable regulations for all short term rentals.

Sec. 748.02. Definitions.

For the purpose of this section, the following words and terms are defined as follows:

*Applicant.* A "person" as defined herein, who completes or signs an application for a license to rent real estate individually or on behalf of a business.

*Application.* An application for a license to operate a short term rental dwelling.

*Block face.* The linear distance of lots along one side of a street between the two nearest intersecting streets.

*Dwelling.* A building or one or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins or trailer coaches.

*Emergency contact.* An individual who is available twenty-four (24) hours a day, seven (7) days a week, who is available to respond to complaints regarding the condition, operation, or conduct of occupants of a short term rental dwelling at the property within sixty (60) minutes.

*Lease.* A written agreement creating a tenancy in real property.

*License.* A license to operate a short term rental dwelling, approved by the City Council.

*License holder.* The owner of property licensed to rent to occupants.

*Manager.* An individual who is hired or designated by a license holder and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units, including in an emergency.

*Occupant.* Any person living, sleeping, cooking, and eating in a rental dwelling.

*Operator.* A property owner, person, enterprise, or agency responsible for operating a short term rental.

*Owner.* Any person who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any rental dwelling within the city as titleholder (including all persons holding fee title, a life estate, or another indicia of ownership of a property), employee or agent of titleholder, operator, or trustee or guardian of the estate or person of the titleholder. Any such person representing the actual titleholder shall be bound to comply with the provisions of this section to the same extent as the titleholder.

*Person(s).* One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

*Property.* The real estate upon which a residential building is held out for short term rental.

*Qualifying relative.* A parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece. This relationship may be either by blood or marriage, or it may be established pursuant to a foster care arrangement.

*Rent.* The act of leasing, subleasing, letting, or hiring for occupancy.

*Rental.* An arrangement between an operator and transient whereby compensation in the form of money, goods, labor, consideration, or otherwise is charged, whether or not received, in exchange for the right to use or occupy a residential building.

*Rental charge.* Any compensation, either monetary or "in lieu of" payments, such as, but not limited to, utilities, upkeep, or repair.

*Rental dwelling.* A dwelling or portion thereof of a residential building held out for rent that is occupied by people other than the owner and/or qualifying relatives. A single dwelling held out for rent as contemplated by this section is referred to herein as a "unit."

*Residential building.* A structure designed and used for residential rather than commercial or industrial purposes.

*Short term rental.* A process by which any residential building, or portion thereof, is rented to a transient for less than thirty (30) consecutive days in a residential zoning district or planned unit development residential development zoning district.

*Tenant.* Any adult person, who at their own expense or at the expense of another, exercises or is entitled to occupancy or possession of a rental dwelling unit, by reason of any rental arrangement, agreement, charge, concession, permit, right of access, option to purchase, license, time sharing arrangement, or any other type of agreement.

*Transient.* Any tenant for a period of less than thirty (30) consecutive days. Any individual who is a qualifying relative to the owner is not a transient.

#### Sec. 748.03. License required.

No person shall operate a short term rental dwelling anywhere within the city without first having obtained a license and paying a license fee.

- 1) Application. An application for a license to conduct short term rental of property shall be made on a form provided by the city. The application shall include the full name of the applicant, owner, operator, and manager; the applicant, owner, operator and manager business address(es), e-mail address(es), and telephone number(s), including a twenty-four (24) hour contact phone number, which may or may not be an emergency contact number; the name of the proposed license holder;

and the address for which the license is sought. The completed application along with the application fee shall be submitted to the City Administrator for review. If the City Administrator determines that an application is incomplete, he or she shall return the application to the applicant with notice of the deficiencies. Should any required application information change during the license period, the applicant shall notify the city within thirty (30) days. Failure to do so may be considered a license violation.

- 2) Action. A short term rental license or renewal license will be issued administratively only if:
  - a) The licensee certifies on the application form that all applicable items found in this Section 748.03 are satisfied and meets the license standards as found in this section.
  - b) The applicant submits a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to: deck/patio, barbeque grill, recreational fire, or sauna, etc.
  - c) The applicant submits a floor plan, drawn to scale, of the home identifying which rooms will be used as transient guest bedrooms.
  - d) The property passes the city inspection for residential code standards applicable to renting a home on a short term basis. The list of items that will be inspected for this purpose will be included amongst license application materials so that the property owner will know what items will be inspected prior to submitting the license application to the city.
    - i) An inspection report must be submitted together with the license application form and other necessary materials. Without the inspection report, the license application will not be considered complete, nor will it be accepted by the city.
    - ii) If the inspection identifies items that must be corrected, all corrections must be completed and verified by the city prior to submitting an application for the short term rental license.
  - e) Notice of the short term rental application has been mailed by the city to all surrounding property owners within 350 feet of applicant's property.
- 3) Exterior modifications. There shall be no change in the exterior appearance of the home or premises, or other visible evidence of the conduct of a short term rental, except that additional on-site city code compliant parking may be provided and appropriate signage designating such.
- 4) Limited license. A license constitutes a limited license granted to the applicant by the city and in no way creates a vested zoning right.
- 5) Density. No more than a total of ten (10) short term rental licenses may be valid within the city at one time.
  - a) Short term rentals shall be limited to no more than twelve and one-half percent (12.5%) of the total number of single-family, duplex, triplex, or quadraplex units on the block face in residential zoning districts. At least one (1) short term rental shall be permitted per block face, regardless of block face density, while still subject to total number of short term rental license limitation. A short term rental license shall not be issued to a property adjoining an existing short term rental, including properties separated by a street, alley, or approved or unapproved right-of-way, or other city owned property.
  - b) In order to establish and operate a short term rental which exceeds the block face density limitations of this section, approval of a special exception from the City Council must be obtained.
- 6) Term. All licenses are issued for a period of one (1) year, beginning January 1 and expiring on December 31 of that year.
- 7) Fees. License fees are as stated in Appendix D – Fee Schedule of The Bayport City Code of Ordinances. Refunds of license fees will not be issued.
- 8) Adverse license action. Any license issued under this section may be suspended, revoked or not renewed as provided in City Code Section 748.04.

- 9) Transfers. All licenses issued under this section shall be valid only on the property for which the license was issued and only for the applicant to whom the license was issued and shall expire upon change of ownership of the property. No transfer of any license to another property or person shall be valid without the prior approval of the City Administrator.
- 10) Renewals. The renewal of a license under this section shall be handled in the same manner as the original application, including the inspection report. The issuance of a license under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the license holder to an automatic renewal of the license.
- 11) Issuance. If a license is mistakenly issued or renewed to an applicant or license holder, it shall be revoked by the City Administrator upon the discovery that the applicant or license holder was ineligible for the license under this section.
- 12) License standards. No license for a short term rental may be issued or renewed unless all of the following conditions are met:
  - a) Emergency contact. The owner shall provide the city and any tenant with an emergency contact that will be available to respond to complaints regarding the condition, operation, or conduct of occupants of a rental at the property within sixty (60) minutes.
  - b) Guest disclosure. The dwelling unit must have posted in a prominent place, at a minimum, the following information:
    - i) The name, phone number, and address of the owner, operator or representative;
    - ii) The maximum number of guests allowed on the property;
    - iii) When and where vehicles are to be parked;
    - iv) Property rules related to use of outdoor features, such as decks, patios, grills, recreational fires, saunas and other recreational facilities;
    - v) City noise ordinances will be enforced by the Bayport Police Department, including reduced noise levels between 10:00 p.m. and 7:00 a.m.;
    - vi) No events or parties are allowed to be hosted on the premises; and
    - vii) Useful phone numbers:
      - (1) Property manager, if applicable;
      - (2) Fire department (non-emergency);
      - (3) Police department (non-emergency);
  - c) House number. The property must have a visible house number that can be easily seen from the adjacent street both day and night.
  - d) Advertising. An owner, or a person in control of a dwelling, may not advertise or promote, or allow another to advertise or promote, the dwelling as a short term rental if the dwelling is not licensed by the city as a short term rental.
    - i) All advertising for the short term rental shall include the city issued license number;
    - ii) A licensee or operator may not advertise or promote or allow another to advertise or promote a short term rental in violation of the City Code or state law;
    - iii) An advertisement promoting or documenting the availability or existence of a short term rental in violation of any city ordinance or state law requirement is prima facie evidence of a violation of this section

- e) Signage. No exterior signage or advertising of the short term rental, other than parking designation, is allowed on the property.
  - f) Occupancy. The maximum number of occupants is limited to two (2) per bedroom plus one; in no case, shall there be more than twelve (12) occupants, including occupants' guests, allowed per premises.
  - g) Minimum tenant age. The primary overnight and daytime occupant of a short term rental must be an adult eighteen (18) years of age or older. This adult must provide a telephone number to the owner, operator, or manager and shall be accessible by telephone at all times.
  - h) Utilities. The residential building hosting the short term rental must have operating gas, electric, water, and sewer service, as applicable.
  - i) Solid waste. The owner of a property shall provide sufficient trash and recycling collection containers and service to meet the demands of the occupants.
  - j) Quiet hours. Noise shall not carry beyond property line and shall be subject to the city's noise regulations for all properties.
  - k) Outdoor use. No special events, loud parties, camping, fireworks, or discharge of firearms allowed; all recreation facilities/amenities must be noted on the site plan to be provided with the application (deck, patio, grill, sauna, pool, spa, game court, etc.).
- 13) Insurance. The licensee must provide proof of sufficient and suitable property insurance at the time of license issuance, and must be able to confirm that the coverage remains in place within twenty-four (24) hours of a city request for confirmation. Insurance coverage must include liability insurance appropriate to cover the short term rental use in the aggregate of not less than \$300,000 or conduct each short term rental transaction through a short term rental platform that provides equal or greater coverage.
- a) Each residential building, where short term rental occurs, shall meet the following property standards and site specifications:
    - i) Minimum of 6,000 square feet in total lot area;
    - ii) Minimum of 1,200 square feet residential building area;
    - iii) Minimum of two (2) bedrooms. All bedrooms must be located in principal dwelling, no accessory structure bedrooms allowed;
    - iv) Owner occupied, single-family dwellings must have open, unblocked interior access to short term rental dwelling area;
    - v) Short term rental dwelling must have access to a kitchen area; and
    - vi) Short term rental dwelling must have access to working bathroom facilities.

Sec. 748.04. License suspension, revocation, and non-renewal.

- 1) Consideration of revocation. At any time during the license period, if a property does not meet or exceed the criteria established for the current license, the license may be suspended or revoked by the City Administrator or his or her designee. Upon suspension, revocation, or denial of a license, the city shall provide written notice to the applicant/license holder along with notice of the applicant/license holder's right to appeal the decision to the City Council pursuant to Section 503 of

the Zoning Code.

- 2) Violations. The following actions by owners or license holders are misdemeanors and are subject to civil penalties and/or administrative fines, may constitute the basis for suspension, revocation, or nonrenewal of licenses, and may result in injunctive action by the city. The owner shall be responsible for the conduct of its agents and employees while engaged in normal business activities on each property subject to a license. Any violation of this section shall be considered an act of the owner or license holder for purposes of imposing a civil penalty or license suspension or revocation. If a license is suspended or revoked, it is unlawful for the owner to permit new occupancy of any vacant short term rental unit, or any units that become vacant due to a license suspension or revocation.
- 3) Basis for sanctions. The City Administrator may suspend or decline to renew any license issued under this section for part or all of a residential building or rental dwelling upon the following grounds:
  - a) Three (3) or more relevant and substantiated complaints within a twelve (12)-month period.
    - i) If three (3) substantiated and relevant complaints are received from neighbors or guests within a twelve (12)-month period, the license shall be revoked;
    - ii) The suspension or denial of issuance or renewal may be appealed to the City Council pursuant to procedures established in Section 503 of the Zoning Code;
  - b) Leasing or advertising for lease without a license. Leasing residential dwelling units for short term rental purposes without a license, or leasing such units that are subject to license suspension or revocation.
  - c) Violations of codes. Violation of the Building, Fire, Zoning, or Safety Code, after notice received therefor.
  - d) Criminal conviction. A conviction of a felony, or charged with, but convicted of a lesser charge of a crime, or is under a stay of adjudication from a charge involving a violation of any sex-related offense in any other jurisdiction, any prostitution-related offense, criminal sexual conduct, indecent exposure, surreptitious intrusion, disorderly house as defined by Minnesota Statutes, theft, felony drug offense, any crime of violence as defined by Minnesota Statutes, or any other similar crime.
  - e) Updated application information. Failure to timely provide updated application information during the license period, upon request of the city.
  - f) False statements. False statements on any application or other information or report required by this section to be given by the applicant, license holder, owner, operator, or manager.
  - g) Fees. Failure to pay any application fee or penalty required by this section or City Council resolution.
  - h) Delinquent taxes or fines. Real estate or personal property taxes have become delinquent, or unpaid fines payable to the city exist.
  - i) Delinquent utility charges. Failure to pay any utility charge imposed by the city.
  - j) Failure to meet license standards. Failure to meet the license standards enumerated in City Code Section 748.03(8).
  - k) Disorderly Use. Failure to take any action required by City Code Section 748.07.
- 4) If a license is revoked due to a violation of this Section, an applicant must wait a minimum of

twelve (12) months from the date of revocation to reapply for a license for the same property.

Sec. 748.05. Denial of license issuance or renewal.

- 1) The following shall be grounds for denying the issuance or renewal of a license under this Section. The following list is not exhaustive or exclusive, and the city may rely on other grounds for denial, in the sole and absolute discretion of the City Administrator and/or the City Council.
  - a) The applicant has a license revoked within the preceding twelve (12) months of the date of the application.
  - b) The applicant fails to provide any information required on the application or license fee, or provides false or misleading information.
  - c) The existence of a development contract, planned unit development, homeowners' or neighborhood association covenants, rules, or regulations, or land use requirement that restricts rental units.
  - d) The applicant fails to meet or comply with the license standards enumerated in Section 748.03(8).
  - e) The applicant fails to take any action required by City Code Section 748.07.

Sec. 748.06. Inspections and compliance procedures.

- 1) The city may conduct an inspection of the property as deemed necessary or prudent prior to issuance or renewal of a license and without limitation based upon any complaints or violations that occur.
- 2) Any City Code violation noted by the city must be remedied in a timely fashion by the owner and re-inspected for compliance by the city. The owner is responsible for any re-inspection costs.
- 3) The city may inspect premises in existence as an unlawful short term rental, or which is reasonably believed to be in violation of the prohibitions of this section to verify compliance. The city also may require a property owner to produce a rental agreement, lease, contract, or similar documentation to verify the subject property is not being used as a short term rental.

Sec. 748.07. Disorderly behavior by tenants.

- 1) Upon actual or constructive knowledge, it shall be the owner's responsibility to take reasonable action to notify law enforcement of disorderly behavior by the tenants, the tenants' family members and the guests of any tenant or tenant's family member in the rental dwelling unit. For the purposes of this section, the rental dwelling unit shall include all common areas, both inside the building where the rental dwelling unit is located and outside.
- 2) For the purposes of this section, disorderly behavior may include, but is not limited to, any violation of any city, state, or federal law pertaining to noise, nuisances, disorderly conduct, violence or the threat of violence, damage to property, dangerous weapons, a disorderly house, unlawful assembly, the use or sale of alcohol, or illegal drug activity.

Sec. 748.08. Penalties.

- 1) A violation of this section is a misdemeanor under state law. In addition, the city may impose a civil penalty in the amount of up to one thousand dollars (\$1,000) for renting, leasing, or occupying a residential building or rental dwelling or part thereof for less than thirty (30) days without a license. Failure to pay civil fines or penalties may result in future license ineligibility. Nothing in this section may be construed to limit the city's other available legal remedies for any violation of law.

Each day that the property owner or license holder is in violation of this section constitutes a separate violation.

- 2) In addition to penalty provisions above, the fine for each substantiated and relevant complaint or violation shall be as stated in Appendix D – Fee Schedule of the Bayport City Code of Ordinances and may result in suspension or revocation.
- 3) The city may bring an action to restrain, enjoin, or abate violations of this section.

**Section 2.** This ordinance shall be in full force and effect from and after its passage and publication according to law. Passed by the Bayport City Council this 2<sup>nd</sup> day of December, 2019.

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Susan St. Ores, Mayor

ATTEST:

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Adam Bell, City Administrator