



# CITY OF BAYPORT

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

---

**CITY COUNCIL WORKSHOP**  
**City Hall - Council Chambers**  
**November 6, 2017**  
**4:30 p.m.**

**\*\*\* Please note: There will be no public comment taken at the workshop. \*\*\***

## **CALL TO ORDER**

## **BUSINESS**

Update on MnDOT Highway 95 project  
- Traffic calming median and bike lane opportunities

Discuss a potential ordinance regulating short term rentals in residential zoning districts

## **ADJOURN**



CITY OF BAYPORT  
294 NORTH THIRD STREET  
BAYPORT, MINNESOTA 55003  
PHONE 651-275-4404 FAX 651-275-4411

---

DATE: October 31, 2017  
TO: Mayor and City Council  
FROM: Adam Bell, City Administrator  
Sara Taylor, Assistant City Administrator/Planner  
RE: Discuss a potential ordinance regulating short term rentals in residential zoning districts

### ***BACKGROUND***

Over the past few months, staff has been fielding a number of inquiries/complaints regarding the regulation of short term rentals (STR) of residential property in the city. Because this has become an increasing topic of interest and enforcement issue for metro cities, particularly as the Super Bowl approaches, staff believes it would be an appropriate time to discuss this topic and whether the city has an interest in further regulating this type of use.

With help from the League of Minnesota Cities and fellow colleagues in other cities, we have been able to obtain several sample city ordinances regarding STR, which vary greatly in terms of how a STR is defined and regulated. Generally speaking, a STR is considered a dwelling unit, bedroom, or couch rented for a period of less than 30 consecutive days, with or without the property owner present. From a zoning perspective, they are also considered a commercial use, but most often tend to be located within a residential zoning district or neighborhood. In terms of regulation, some cities have decided to simply regulate STR by prohibiting them altogether. Others have developed multiple classifications/categories that vary in level of licensure, inspection, and compliance requirements based on whether the property owner or agent is present throughout the duration of the STR.

The increasing popularity of STR is largely due to the emergence of STR websites, such as Airbnb, HomeAway, TripAdvisor, FlipKey, HomeToGo, and Vacation Rentals by Owner, which have made it simple and cost effective for owners to advertise STR and for users to locate them. In the process of completing research on this topic and compiling information, we found at least five properties currently listed or operating in Bayport as STR. In addition, because most cities are lacking in regulation of STR, property owners have found it to be an easy way to generate significant income with low or no overhead costs, such as not having to hire employees, carry additional insurance, pay commercial taxes, or meet the same level of health/safety standards as traditional hotels or Bed and Breakfasts, including not having to pass a criminal background check or health inspection.

### ***OPTIONS FOR STR ORDINANCES AND REGULATIONS***

#### ***Option #1 Adopt new ordinance (prohibit all STR)***

Many cities have adopted an ordinance prohibiting any type of STR, whether or not owner occupied, for any period less than 30 days. Throughout our research we found that the most common reasons cited for prohibition included, but were not limited to the following:

- lack of staff time and resources to administer and enforce a license/inspection program effectively and efficiently

- potential for negative impacts/nuisances in neighborhoods (overcrowding, late night activity, noise, crime, litter, damage, fire danger, loitering, parking, maintenance)
- promotes commercial use/activity in residential areas
- competes with commercial state/county licensed and taxed hotels, motels, and bed and breakfast establishments

This option would require the city to amend the zoning ordinance to specify that STR is prohibited and specify penalties if found to be in violation of the ordinance (see attached example ordinance). Although some cities define STR as less than 15 days, staff believes that this would be too difficult to monitor, regulate, and enforce with current staffing levels. As such, staff would recommend STR be defined as any duration less than 30 days.

***Option #2      Modify existing ordinance (allow owner-occupied STR only)***

Although vague, the city attorney and staff have interpreted the city's existing ordinance to allow for the rental of residential property as listed on the attached spreadsheet. Staff believes that the existing ordinance actually provides a good balance in that it allows property owners flexibility with rental use, but also imposes regulation, to protect the surrounding neighborhood from potential negative impacts/nuisances that could result from STR or transient use. As mentioned, the existing ordinance is quite vague in some areas and subject to interpretation. However, staff believes that with some minor clarification to definitions within the zoning ordinance, the city could continue to allow for owner occupied STR in single-family dwelling units, of up to two persons in one sleeping room without a license, inspection, or fee. However, no STR of non-owner occupied dwelling units would be allowed.

***Option #3      Adopt new ordinance (allow both owner and non-owner occupied STR)***

As mentioned above, cities that allow STR by ordinance vary greatly in terms of how they are regulated. For example, the City of Stillwater's ordinance has four different categories of STR, each with specific criteria for zoning performance standards, licensing, and inspection requirements. While this type of ordinance may be fitting for a municipality with similar city department/staffing levels to Stillwater, staff believes that it would not be possible to successfully implement a program of this magnitude with our current staffing levels.

The City of Oak Park Heights has adopted an ordinance that regulates STR as a home occupation by Conditional Use Permit (CUP), which staff feels is a model that could potentially be implemented in Bayport (see attached example ordinance). The CUP would act as the license or permit, and no inspection would be required unless deemed necessary by city staff for enforcement or to verify compliance, similar to the process for CUPs granted for other special land uses, i.e. outdoor seating/liquor consumption for restaurants. If found to be in violation, the city could take action to revoke the CUP.

A CUP is typically issued on a one time basis to the property where the conditional use is taking place, regardless of whether there is a change in ownership. However, staff believes that this type of CUP should stipulate that a change in ownership would terminate the permit and require a new CUP application to continue STR use.

The CUP would be subject to review by the Planning Commission and approval by the City Council based on a minimum or set criteria of zoning performance standards, such as:

- whether the owner is present
- guests
- square footage of dwelling unit
- lot size
- lighting
- outdoor use
- duration of stay
- bedrooms
- off-street parking
- proximity to other STR
- signage
- insurance

This option would require the city to amend the zoning ordinance to define STR as a home occupation regulated by a CUP, specify performance standards, and identify penalties if found to be in violation of the ordinance. The CUP process would take approximately 60 days and cost the average applicant approximately \$600.00 based on our current fee schedule.

***WORKSHOP PREPARATION / DISCUSSION***

This topic and Options #1-3 will be discussed at the November 6 workshop. However, staff would very much appreciate if the City Council could please review the materials provided prior to the workshop and come prepared to discuss which option is preferred, so staff can respond accordingly.

As a side note, please know that staff has done extensive research on this topic, including reviewing several example ordinances, media stories, and executive summaries, as well as discussing pros and cons of STR regulation with colleagues in other municipalities. In order not to overwhelm the City Council, much of this information has not been included with this memo. However, staff would be happy to provide additional information on this topic upon request by the City Council.

CITY OF SAVAGE MN  
CHAPTER 103 SHORT TERM RENTALS

Section

- 103.01 Purpose
- 103.02 Short-Term Rentals Prohibited
- 103.03 Residential Rental Property
- 103.04 Violation

103.01 PURPOSE.

The City finds that short-term rentals located in residential zoning districts constitute commercial use of residential property, 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. The City has received complaints from residents regarding short-term rentals including complaints related to noise, over occupancy and illegal parking. A March 2015 report from the Los Angeles Alliance for a New Economy and an October 2014 study from the New York Attorney General both found that short-term rentals rendered a significant number of housing units unavailable for long term residents and raised the cost of housing. Therefore, in order to ensure adequate housing options for residents, preserve the residential character of the City's residential districts, and provide for the health, safety and welfare of its residents, the City determines that it is appropriate to limit short-term rentals to hotels, motels and similar accommodations which are appropriately zoned and have the appropriate infrastructure and services for short-term use.

103.02 Short-Term Rentals Prohibited.

No parcel, as defined in City Code Section 152.012, located in a residential zoning district shall be rented out for a period of 15 days or less.

103.03 Residential Rental Property.

The prohibition in Section 103.02 applies to all properties located in residential zoning districts regardless of the application of City Code Chapter 121.

103.04 VIOLATION

(A) Separate offenses. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as under this section.

(B) Misdemeanor. Violation of this chapter shall constitute a misdemeanor punishable by a fine of up to \$1,000 or imprisonment for up to 90 days.

RENTAL ALLOWED BY BAYPORT EXISTING ORDINANCE

<u>NON OWNER OCCUPIED</u>	COMPENSATION	DURATION	PERSONS	STIPULATIONS	COMMENTS
RENTER	YES - LEASE	>30 DAYS	MUST MEET DEFINITION OF SINGLE FAMILY (PERSONS RELATED BY BLOOD, MARRIAGE, ADOPTION, FOSTER CARE ARRANGEMENT) <u>OR</u> UP TO 4 PERSONS UNRELATED	* MUST HAVE SHARED KITCHEN/BATH FACILITIES  * MUST HAVE OPEN, UNSECURED ACCESS TO ALL FLOORS AND ROOMS	SHARED FACILITIES/ACCESS PRECLUDES CREATION OF 2ND DWELLING UNIT
<u>OWNER OCCUPIED</u>					
GUEST	NO	NA	NA	* ALLOWED IN PRINCIPAL DWELLING WITH SHARED FACILITIES/ACCESS  * ALLOWED IN ACCESSORY STRUCTURE GUEST HOUSE FOR SLEEPING ONLY	SHARED FACILITIES/ACCESS PRECLUDES CREATION OF 2ND DWELLING UNIT
BOARDER	YES	< 30 DAYS	UP TO 2	* MUST BE CONTAINED TO 1 LODGING (SLEEPING) ROOM WITH SHARED FACILITIES/ACCESS	SHARED FACILITIES/ACCESS PRECLUDES CREATION OF 2ND DWELLING UNIT
ROOMMATE	YES	> 30 DAYS	MUST MEET DEFINITION OF SINGLE FAMILY (PERSONS RELATED BY BLOOD, MARRIAGE, ADOPTION, FOSTER CARE ARRANGEMENT) <u>OR</u> UP TO 4 PERSONS UNRELATED	* MUST HAVE SHARED KITCHEN/BATH FACILITIES  * MUST HAVE OPEN, UNSECURED ACCESS TO ALL FLOORS AND ROOMS	SHARED FACILITIES/ACCESS PRECLUDES CREATION OF 2ND DWELLING UNIT

## CITY OF OAK PARK HEIGHTS

**Transient Lodging.** Transient Lodging shall be considered in all Residential Districts with the issuance of a Conditional Use Permit according to Section 401.03.A,7 and that the following criteria are satisfactorily met.

a. **General Provisions.** Only a detached single family home may be utilized for transient lodging consistent with the terms and conditions found herein:

- 1) The facility shall have a State issued license for lodging and/or food service, and /or comply with and maintain all health, safety, building and fire codes as may be required or applicable by the Building Official. The owner is responsible to ensure the facility is code compliant.
- 2) The owner may or may not occupy the structure while such facility is being utilized as a transient lodging facility. There shall be a limit of three (3) transient guests per bedroom and a limit of three (3) bedrooms for transient lodging in the facility.
- 3) All bedroom units shall be established within a principal structure or accessory structure.
- 4) No transient lodging facility shall be located closer than at least five hundred (500) feet from other bed and breakfast facilities and/or transient lodging as measured from property lines.
- 5) Dining and other facilities shall not be opened to the public but shall be used exclusively by the registered guests of the facility.
- 6) Two (2) off-street parking spaces shall be provided for the facility use plus one (1) for each bedroom over two (2) bedrooms. No parking spaces shall be located in the front yard of the property, other than on an existing driveway. All parking areas shall be improved with asphalt, concrete or materials suitable to control dust and drainage as approved by the City Engineer.
- 7) All signing and informational or visual communication devices shall be in compliance with Section 401.15.G if this Ordinance and/or as may be restricted by the City Council.
- 8) Adequate lighting shall be provided between the principal structure and the parking area for the safety of the guests.
- 9) Any excessive occupant noise reported to the City and in violation of City Code shall receive a warning on the first offense and a citation on the second. Continued citations shall be grounds for the suspension or revocation of use permits by the City Council.
- 10) All transient lodging conditional use permits may be reviewed, including site inspections, by the Building Official at any time. If violations of City Ordinance, Building Code, Fire Code or conditions of approval are found, the City Administrator shall schedule a public hearing of the City Council to review the conditional use permit and conditions. Upon review, the City Council may revise or cancel the conditional use permit.
- 11) Any applicable lodging or room tax as established by City Ordinance shall be paid by the owner of the property to the City.

**385. Non-Conforming Use.** Existing home occupations and transient lodging lawfully existing on the date of this Ordinance may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation or transient lodging that is discontinued for a period of more than thirty (30) days, or is in violation of the Ordinance provisions, under which it was initially established, shall be brought into conformity with the provisions of this Section.

**386. Inspection.** The City of Oak Park Heights hereby reserves the right upon issuing any home occupation or transient lodging permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.