

## Section 1239 – Short Term Rentals

### Subd. 1. Statement of Policy.

- A. Preamble. The City of Silver Bay (“City”) believes that promoting the public health, safety and welfare of its citizens mandates the existence of a short-term rental licensing and maintenance program that corrects substandard conditions and maintains a standard for short-term rental housing. It is the purpose of this Section to only allow short-term rentals in certain circumstances to ensure they remain decent, safe and sanitary and are operated and maintained as not to become a nuisance to the neighborhood or to become an influence that fosters blight and deterioration or creates a disincentive to reinvestment in the community. The operation of short-term rental housing is a business enterprise that entails certain responsibilities. Short term rental permit holders are responsible to take such reasonable steps as are necessary to insure that the citizens of the City who reside adjacent to such housing may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary.
- B. Purpose. The purpose of this Section is to regulate and permit short-term rental permits in the City.
- C. Location. To accomplish the purpose of this Section, the City determines that the location of short-term rental permits shall only be allowed as set forth below.

### Subd. 2. Definitions.

- A. **“Dwelling”** means any building or portion thereof which is designed or used for residential purposes.
- B. **“Dwelling Unit”** means one or more rooms in a Dwelling designed for occupancy by one family for living purposes and having its own cooking and sanitary facilities.
- C. **“Local Agent”** means a person identified by the Owner who is available to respond twenty-four hours a day, seven days a week, to any emergency or complaint involving the short-term rental.
- D. **“Occupant”** means any person who occupies a Short-Term Rental Dwelling Unit or part of the same.
- E. **“Operate”** means to charge a fee for the use or occupancy of space in a Dwelling or an entire Dwelling Unit.
- F. **“Owner”** means any person having a legal or equitable interest in the property upon which the Dwelling or Dwelling Unit is located or in the Dwelling or Dwelling Unit itself.

- G. **“Short-Term Rental Dwelling Unit”** means a Dwelling Unit rented or leased for a period of less than 30 consecutive days.
- H. **“Short-Term Rental Permit”** means the permit issued by the City of Silver Bay allowing the rental or lease of a Short-Term Rental Dwelling Unit.
- I. **“Zoning Administrator”** means the official designated by the City to regulate and enforce the relevant provisions of the Silver Bay City Code.

**Subd 3. Permit Required.** No person shall operate a Short-Term Rental Dwelling Unit (hereinafter “STR Unit”) within the City without first obtaining a Short-Term Rental Permit (hereinafter “STR Permit”) in compliance with the provisions of this Section. A STR Permit must be obtained for each STR Unit except that two or more STR Units located within a single Dwelling and having a common Owner and a common property identification number shall require only a single STR Permit.

**Subd 4. Exceptions.** No STR Permit is required for hotels or motels as defined in Section 1200.03 of the City Code.

**Subd 5. Permit Application.**

- A. Permit Application. All applications for STR Permits under this Section shall be made on forms established by the City. All questions and information required by the application shall be answered fully and completely. The application shall be executed by the Owner of the STR Unit if such Owner is a natural person or, if the Owner is a business entity, by a person authorized to legally bind the entity.
- B. Certificate of Inspection. No STR Permit shall be issued until the applicant has obtained a Certificate of Inspection from the Minnesota Department of Health.
  - 1. The applicant shall arrange for an inspection of the STR Unit proposed to be permitted by the Minnesota Department of Health to determine whether the Dwelling and STR Unit comply with the requirements of this Section and all other applicable federal, state, and local laws. Lake County administers all inspections on behalf of the Minnesota Department of Health. Applicants should contact Lake County Health Inspector to arrange an inspection and submit a copy of the completed inspection with the permit application.
  - 2. All Dwellings and STR Units proposed to be permitted under this Section shall comply in all respects with all local, state and federal building codes, regulations and standards.
- C. Application & Permit Fee.
  - 1. Application Fee. The STR Permit application form must be accompanied by payment in full of the required permit application fee, nonrefundable to

the applicant, to cover the City's costs in processing the application.

2. The fee amounts will be determined by the Council and listed in the City's fee schedule.

D. Short-Term Rental Permit Cap ("STR Permit Cap").

1. Permit Cap. The total number of STR Permits within the City shall not exceed six (6). Properties located in the Bayview Park zoning district are exempt from the STR Permit Cap.
2. Administration of the Permit Cap.
  - a. STR Permit Renewal or New Application. Provided an existing STR Permit is in good standing and is renewed in accordance with this Section, the STR Permit will be processed and included in the STR Cap. If an existing STR Permit holder fails to submit a renewal application prior to the deadline set forth in Subd. 5.F., the application will be treated as a new permit and processed on a first come, first served basis, subject to the STR Permit Cap. New applications must also be in good standing will also be processed on a first come, first served basis subject to the STR Permit Cap. Any time that the number of STR Permits reaches the STR Permit Cap, all outstanding permit applications, either in process or received, will be placed on a waitlist.
  - b. For the purpose of this Section, a STR Permit or new application in "good standing" shall mean the permit or applicant has no current violations of this Section or unpaid City fines, taxes, assessments or utilities, and no verified complaints. STR Permits or new applications not in good standing will not be renewed.
  - c. Waitlist. The City will maintain a waitlist for applications received or in process. Applications will be processed based on date of receipt of the application, processing the oldest application first.

E. Issuance or Denial.

1. Issuance. The Zoning Administrator shall issue a STR Permit if the Dwelling, STR Unit and application are in compliance with the provisions of this Section and all required fees are paid.
2. Denial. The Zoning Administrator may deny a STR Permit on the same grounds for which a Permit may be suspended or revoked as set forth in Subd. 7 of this Section. Written notice of the denial shall be mailed to the STR Permit applicant at the address listed on the application via certified mail.

An applicant may appeal a denial by submitting a hearing request to the Zoning Administrator within twenty (20) days of the date of the certified mail domestic return receipt. If a hearing request is not received by the Zoning Administrator within such time, the applicant's right to a hearing is deemed waived. If timely requested, the hearing shall be held in accordance with the procedures set forth in Subd. 7 of this Section.

- F. STR Permit Term and Renewal Deadline. All STR Permits expire at midnight on December 31<sup>st</sup> of each year. Applications for renewal must be received by the City Administrator, Silver Bay City Hall, 7 Davis Drive, Silver Bay, MN, on or before 4:30 p.m. on November 1<sup>st</sup> of each year to be eligible for renewal and shall contain such information as is required by the application and this Section. The City shall issue or deny a renewal application in accordance with the provisions for issuance or denial of an initial permit set forth in Subdivision 5.A. through E. of this Section.
- G. No Vested Right. STR Permits granted hereunder are an "interim use" as that term is defined in Minn. Stat. Sec. 462.3597 and constitute a revocable, limited right. Nothing herein shall be construed as granting a vested property right. The City may revoke any permit granted under this Section for failure to comply with any requirements set forth herein or for any reasons set forth in Minn. Stat. Sec. 462.3597.

**Subd 6. General Performance Standards.**

- A. Non-Transferable. STR Permits issued under this section are non-transferable. Every STR Permit shall automatically terminate upon the sale, transfer, assignment or conveyance of the Dwelling, Dwelling Unit or property upon which they are located by the Owner or STR Permit holder.
- B. Number of Bedrooms. Each STR Permit shall indicate the number of Dwelling Units that are contained in the Dwelling, as well as the number of bedrooms in each Dwelling Unit. No STR Permit holder or Owner shall advertise the Dwelling as containing any more than the identified number of Dwelling Units, or the number of bedrooms in the Dwelling Units.
- C. Limit on the Number of Guests. The maximum number of transient guests permitted to stay within a STR Unit at any one time shall be one person, plus the number of bedrooms contained in the primary residence multiplied by two, up to a maximum of 10. Such sum shall include both adults and children. No more than 4 bedrooms shall be leased or rented in a STR Unit.
- D. Signage. Commercial signage is only allowed on short-term rental Dwelling units located in the Bayview Park zoning district, in compliance with Section 1230.01 of the City Code.
- E. Events. Events are not allowed to be hosted by non-Owners on the property licensed by the STR Permit.

- F. Parking. A property with a STR Unit shall provide a minimum of two off-street parking stalls for guests. The maximum number of vehicles allowed at the property shall be limited to the number of off-street parking spaces provided. To be valid, off-street parking shall meet all applicable requirements set forth in the City Code.
- G. Occupant Eligibility. The primary overnight and daytime Occupant of a STR Unit must be an adult 18 years of age or older. This adult shall provide a telephone number to the Owner and be accessible to the Owner via telephone at all times.
- H. Advertising. All advertising for STR Units shall include the City issued permit number.
- I. House Number Visible. Property containing a STR Unit must have a house number that is unobstructed and visible from the adjacent public street.
- J. Garbage & Recycling. The Owner shall ensure that appropriate solid waste storage bins are available for use by guests which shall be stored out of public view.
- K. Additional occupancy on any property licensed by a STR Permit by use of recreational vehicles, campers, travel trailers, tents, accessory structures, garages, boathouses, pole barns, sheds, fish houses or similar structure is declared unlawful and strictly prohibited.
- L. The Owner shall keep a report detailing all Occupants in the STR Unit by recording the full name, address, phone number, and vehicle license plate numbers of adult Occupants using the property. A copy of this report shall be immediately available and provided to the Zoning Administrator or law enforcement upon request.
- M. Lodging Tax. The Minnesota Legislature has authorized the imposition of a tax upon short-term rental properties. The City has imposed such a lodging tax to provide funding to stimulate tourism within the community. The lodging tax is administered by the Minnesota Department of Revenue as per City of Silver Bay Code, Section 225. It shall be the responsibility of the Owner and STR Permit holder to ensure that all lodging taxes are paid as required by the Minnesota Department of Revenue.

**Subd 7. Suspension or Revocation of Short-Term Rental Permit.**

- A. Grounds for Suspension or Revocation. The City may suspend or revoke an STR Permit issued under this Section. In Dwellings containing more than one STR Unit, the revocation or suspension may apply to one or more STR Units in the sole discretion of the City. The following are grounds for denial, non-renewal, suspension or revocation of a STR Permit:
  - 1. The STR Permit was procured by misrepresentation of material facts regarding the Dwelling, STR Unit or ownership of the same.

2. The STR Permit applicant or one acting on their behalf made oral or written misstatements accompanying the application.
  3. The STR Permit applicant has failed to comply with any condition set forth in any other STR Permit or approval granted by the City related to a STR Unit.
  4. The activities of the Owner or the Owner's agent have created a danger to the public health, safety, or welfare.
  5. The STR Unit contains conditions that may injure or endanger the health, safety or welfare of any member of the public.
  6. The failure to remain in good standing as set forth in Subdivision 5.D.2.b. or failure to pay any application, inspection, or permit fee required by this Section.
  7. Any violation of this Section, or any other provision of the Silver Bay City Code or other federal, state, or local law or regulation applicable to the STR Unit.
  8. The failure to continuously comply with any condition required of the applicant for the approval or renewal of the STR Permit.
  9. Any violation by the Owner or STR Unit Occupant or guest of the Silver Bay City Code or any state or federal criminal or civil rule, regulation, code or law.
  10. Failure to comply with a property maintenance correction order from the building official in the time required by the order.
  11. Failure to pay outstanding obligations pursuant to Section 1280.08 of the Silver Bay City Code.
- B. Fines. In lieu of, or in addition to, suspending or revoking an STR Permit, the City may, in its sole discretion, impose a civil fine for any violation of this Section in the amounts set forth in the in the City Fine Schedule. All fines are payable to the City within thirty (30) days of the imposition of the fine. Failure to timely pay any fine imposed will result in a late fee equal to twenty-five percent (25%) of the fine and immediate revocation of the STR Permit to which the fine applies.
- C. Procedure.
1. Notice. A suspension, revocation, or fine shall be preceded by a written Notice of Violation from the Zoning Administrator to the Owner and permit holder and an opportunity for a hearing by the City Council. The Notice of

Violation shall state the nature of the violations or grounds for fine, suspension or revocation and shall inform the Owner and permit holder of the right to request a hearing within twenty (20) days of the date of the certified mail domestic return receipt to dispute the fine, suspension or revocation. The Notice of Violation shall be mailed by certified mail to the Owner and permit holder's last known address listed on the permit application. If a hearing request is not received by the Zoning Administrator within twenty (20) days of the date of the certified mail domestic return receipt, the Owner and permit holder's right to a hearing shall be deemed waived. No fine, suspension or revocation of a permit shall take effect until (a) the Owner and permit holder's time to request a hearing expires; or (b) if a hearing is requested, the date of mailing the decision of the City Council to the Owner and permit holder.

2. Hearing. If a hearing is requested, the Zoning Administrator shall provide written notice of the hearing via certified mail to the Owner and permit holder of the date, time, and place of the City Council meeting at which the hearing will take place. The notice shall be mailed in the same matter as the initial notice and shall be mailed no less than twenty (20) days and no more than thirty (30) days prior to the hearing. The permit holder and the Zoning Administrator shall be given an opportunity to be heard. The Owner and/or permit holder may be represented by counsel.
3. Decision. The City Council shall make findings based on the evidence and shall affirm, modify or deny the Zoning Administrator's recommendation to fine, revoke or suspend an STR Permit. The City Council shall issue a written decision of its decision within thirty (30) days following the date of the hearing. The Zoning Administrator shall notify the Owner and permit holder of the decision by regular mail. The decision shall specify the STR Unit or Units to which it applies. Thereafter, and until a STR Permit is reissued or reinstated, no STR Unit that has had its permit revoked or suspended may be re-let or occupied. Revocation or suspension shall not excuse the Owner and permit holder from compliance with all terms of this Section for as long as any STR Unit in the Dwelling is occupied.

- D. Permit Process after Revocation, Suspension, Denial or Non-Renewal. After a STR Permit has been denied, not renewed, revoked or suspended under this Section, no STR Permit may be issued for the affected STR Unit until the Zoning Administrator determines that the Owner and/or STR Permit holder has remedied the conditions identified by the City as the basis for its action. In the case of revocation, the property upon which the STR Unit is located shall be ineligible to apply for a new permit for a period of twelve (12) months from the date of revocation. An application to obtain a new permit for a STR Unit after the City has revoked, denied, or declined to renew a permit, or for reinstatement of a suspended permit, shall be accompanied by all fees required by this Section.

- E. Effect of Revocation, Suspension, Denial or Non-Renewal. If a STR Permit is denied, not renewed, revoked or suspended, it shall be unlawful for any individual or entity, including the Owner or STR Permit holder, to operate or thereafter permit the rental of the then-vacant or thereafter vacated STR Unit, until such time as a valid STR Permit is obtained for the STR Unit. Issuance of a permit after revocation, suspension, denial or non-renewal shall be made in the manner provided for in this Section.

**Subd 8. Penalties.**

- A. A person or entity violating any provision of this Section is guilty of a misdemeanor.
- B. In the event of a violation of this section the City, in addition to any and all other remedies provided by law, shall be entitled to seek injunctive relief or proceedings to prevent, restrain, correct or abate such violations or threatened violations.

**Subd. 9. Effective Date.** This ordinance shall be in full force and effect upon its passage and publication.

ADOPTED by the Mayor and City Council of Silver Bay, Minnesota this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Wade LeBlanc, Mayor

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Lana Fralich, City Administrator