

ORDINANCE 03-2020

CITY OF AFTON

WASHINGTON COUNTY, MINNESOTA

AN ORDINANCE AMENDING CHAPTER 12, LAND USE OF THE CITY CODE TO ADD SECTION 12-232 RELATED TO SHORT TERM HOME RENTALS

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following language shall be added as Section 12-232 of Chapter 12 of the Afton Code of Ordinances.

Sec. 12-232. Short-Term Home Rentals

A. *Scope.* This section applies to all short-term home rentals in the City of Afton.

B. *Purpose.* The City of Afton has adopted this ordinance for the purpose of allowing short-term home rentals consistent with Rural Residential, Agricultural and Village Historic Site zone uses where appropriate while mitigating impacts upon surrounding properties by implementing balanced regulations, and to protect the general public health, safety and welfare.

C. *Definitions.* For the purposes of this section (12-232) the following terms, phrases, words and their derivations shall have the meanings as given here. When consistent with the context, words in the plural include the singular and words in the singular include the plural.

Certificate of Septic System Compliance. A compliance certificate that was issued on a new septic system installed within the past five years or a copy of a compliance inspection which was performed within the past three years.

City. City of Afton.

Dwelling. A principal structure that contains one dwelling unit, intended or designated to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling Unit. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Guest. A person who is registered as staying at the property as part of a short term home rental

Owner. Any person who, alone or with others, has title or interest in any building, property, dwelling, dwelling unit or portion thereof, with or without accompanying actual possession thereof, including any person who as tenant, agent, executor, administrator, trustee, or guardian of an estate has charge, care, control of any -dwelling or dwelling unit.

Person. Any individual, firm, corporation, association, governmental entity, or partnership and its agents or assigns.

Primary residence, means the dwelling unit within which a person lives for six months plus a day during a calendar year.

Primary resident, means a person living on a property where the property is the person's primary

residence.

Short Term Home Rental, Type A. Short term home rentals in a homesteaded property with less than 14 days of rentals per year. Type A short term home rental does not require a license, but must operate in accordance with the performance standards in this section.

Short Term Home Rental, Type B. (Hosted short term rental) means a dwelling unit that is offered to transient guests for a period of less than 30 consecutive days, where a primary resident of the property is present while the transient guests are present.

Short term Home Rental, Type C. (Unhosted short term rental) means a dwelling unit that is offered to transient guests for a period of less than 30 consecutive days, where the property serves as a person's primary residence but a primary resident of the property is not present while the transient guests are present.

Short term home rentals, Type D. (dedicated short term rental). means a dwelling unit that is offered to transient guests for a period of less than 30 consecutive days, where the property does not serve as a person's primary residence

Short-term rental. A dwelling unit, or a portion of a dwelling unit, rented for a period of less than thirty (30) days. No more than one (1) rental of a short-term rental dwelling unit or portion thereof shall be permitted per day.

D. *License required.* No property may be used for Type B, C or D short term home rental unless a license is granted by the city.

Term. The initial short-term rental license shall expire one year from the date the license is issued, unless revoked. Subsequent renewals shall not be for a period of more than three years.

Renewal. A renewal license must be applied for every three years. The renewal license application may only be submitted after the property has passed a city inspection as required and appropriate fees have been paid.

Non-Transferable. Licenses are non-transferable and shall expire upon change of ownership of the property.

E. *License application.* Any property owner desiring to undertake short term home rentals must apply to the city for a short term home rental license. A license must be approved prior to operating within the city. The license application request must be submitted on the form provided by the city and must include all the information requested on the application form. A criminal background check consistent with Minn. Stat. §299C will be conducted on managers (as defined by Minn. Stat. §299C.67, Sub. 4) as part of the license application review.

F. *License fee.* The license application form must be accompanied by payment in full of the required license application fee. The license application fee will be determined by the city council in the city fee schedule.

G. *License issuance.* Licenses shall be issued exclusively for principal structures with one dwelling unit, with the exception of a duplex with a valid conditional use permit, which has two dwelling units. The process for review and issuance of a license will vary depending upon the type of short term home rental as follows:

Type A - Short term home rentals in a homesteaded property with less than 14 days of rentals

per year. Type A short term home rental does not require a license, but must operate in accordance with the applicable performance standards in this section.

Type B – Hosted short term home rentals in a homesteaded property with more than 14 days of rentals per year. Type B short term home rental licenses will be issued administratively if all the terms and conditions of this section are met.

Type C - Unhosted short term home rentals in a homesteaded property. Type C short term home rental licenses will be issued administratively if all the terms and conditions of this section are met.

Type D - Unhosted, dedicated short term rental. Type D short term home rental licenses require a conditional use permit and will be issued administratively if all the terms and conditions of this section are met and a conditional use permit (CUP) is granted. The conditional use permit application will be reviewed according to the CUP process established in the City Code section 12-78.

H. *Performance standards.* Type A, B, C and D short term home rentals shall be subject to the performance standards identified below, except where a performance standard is specifically applicable to only specific types of rentals.

1. *Parking.*

In residential zoning districts, all guest parking must be accommodated on improved driveways and improved parking surfaces on the premises. No on-street parking is allowed for guests.

2. *Length of guest stay.* The minimum length of stay is one day. The maximum length of stay, as it pertains to this ordinance, is 30 days.

3. *Number of guests.* The maximum number of guests will be limited to two times the number of bedrooms, plus two guests. Children under the age of 12 are excluded from the calculation of number of guests.

4. *Annual water testing.* The licensee for Type B, C, and D short term rentals shall test the water serving the dwelling for coliform bacteria, nitrates and lead on an annual basis, and the water must meet health-based standards for these items.

5. *Guest records.* The licensee for Type C and D short term rentals must keep a guest record including the name, address, phone number, and vehicle license plate information for all guests and must provide this information in a report to the city upon 48 hours' notice, if requested by the City. The request for a report will include how and to whom the report shall be provided.

6. *Manager information.* For Type C and D short term home rentals, the licensee must provide the name, phone number and address of the owner, operating lessee or managing agent/representative to the City, along with mailing labels for all property owners within 150 of the property lines. The City will then send the information to the adjacent property owners. The licensee shall provide any changes to this information, along with additional mailing labels, to the City Clerk within ten days of any such changes. The City Clerk will then send the information to the adjacent property owners.

7. *Guest disclosures.* The licensee must disclose in writing to their guests the following rules and regulations and must submit a copy of the disclosure to the city with the license application and renewal applications. In addition, the disclosures must be conspicuously displayed in the home. The disclosures must include the following:

- For Type D short term home rentals, the name, phone number and address of the owner, operating lessee or managing agent/representative;
 - The maximum number of guests allowed at the property;
 - The maximum number of vehicles allowed at the property and the approved parking areas, as indicated on the site plan provided with the license application;
 - Property rules related to use of outdoor features, such as decks, patios, grills, recreational fires, saunas and other recreational facilities;
 - That City nuisance ordinances will be enforced by the Washington County Sheriff's Department, including reduced noise levels between 10:00 p.m. and 8:00 a.m.;
 - That no events are allowed to be hosted by a guest on the premises.
8. *Posting of license number.* The licensee must post the city license number at the property and on all print, poster or web advertisements.
 9. *Proximity of assistance.* For Type D short term home rentals, the property owner or a manager/representative must be located within 30 minutes travel time of the property.
 10. *Signage.* For Type A, B C and D short term home rental no signage is allowed on the property.
 11. *Events.* Events are not allowed to be hosted by guests on the premises. For purposes of this section, an event means a gathering on the premises of more than three un-registered guests. Events hosted by the property owner are allowed but must comply with all applicable city ordinances and policies, including the prohibition on renting out private residential property for events.
 12. *Insurance.* The licensee must provide proof of sufficient and suitable property insurance, as determined by the Zoning Administrator, with the license application and must be able to confirm that the coverage remains in place within 24 hours of a request by the city.
 13. 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 home rental, except that additional on-site city code compliant parking may be provided.
 14. No lessee under this ordinance shall be granted any benefit otherwise granted to lessees of homes under the firearms ordinance in Chapter 14 of the City Code.

Required health and safety inspections.

Type B and C license applications will not be accepted without an approved inspection report signed by the city's fire department and building department. The inspection must have been completed no more than 60 days prior to submission of the license application. The list of health and safety items that will be inspected will be included in license application materials so that the licensee will know in advance what items will be inspected. If the inspection identifies items that must be corrected, all corrections must be completed and verified by the city before the license will be issued.

Any property licensed under this section shall be subject to lawful inspection by the zoning administrator and the zoning administrator's authorized representatives upon a schedule determined by the zoning administrator or upon complaint.

J. *Site Plan and Floor Plan for Type C and D short term home rentals.*

The applicant must submit a site plan of the property 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.

The applicant must submit a floor plan of the residence drawn to scale identifying which rooms are proposed to be used as guest bedrooms. The number of bedrooms in the application must match the number of bedrooms reflected in the County's property tax records.

K. *Interchangeability of License Types.* A licensee may use the license to operate any short term home rental type equal to or less restrictive than the one for which the license was issued. For example, if an owner is issued a Type C license, the property is permitted to operate as a Type C, B or A. If a Type B license is issued, the property is permitted to operate as a Type B or A.

L. *Enforcement.*

1. *Injunctive relief.* In the event of a violation or threatened violation of this ordinance, the city, in addition to other remedies, is entitled to seek injunctive relief or proceedings to prevent, restrain, correct or abate such violations or threatened violations.
2. *Misdemeanor.* The penalty for a violation of this ordinance shall be a misdemeanor.
3. *Fines.* In addition to penalty provisions in (1) and (2) above, the administrative fines for violations of this section shall be as established by the city council in the annual fee schedule.
4. *Suspension or revocation.* Any short term home rental license may be suspended or revoked for one or more of the following reasons upon notice and the provision of an opportunity for hearing for good cause,
 - a. Violation of, or noncompliance with, any license requirement or standard, or any applicable law, statute or ordinance
 - b. It is the third substantiated and relevant complaint, as determined by the Zoning Administrator, within a 12-month period.
 - c. The licensee has failed to pay all of the appropriate fees related to the license, or is delinquent on any other city fees;
 - d. The licensee has made fraudulent statements, misrepresentations, not fully disclosed information or made false statements in the application for or in the course of the licensee's business;
 - e. The licensee has been convicted of any crime or offense in the previous five years involving or relating to the short term home rental business and the licensee has failed to show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the business;
 - f. The licensee has acted in an unauthorized manner or beyond the scope of the license granted.
 - g. The licensee has advertised the property in a way that conflicts with any limitation or requirement of this ordinance.
- If a license is revoked, the owner is prohibited from making application for another license for any type of short-term home rental for a period of six months.

- If a property is found to be providing short term home rentals without the required license, the owner shall be prohibited from using the property for short term home rentals, or making application for a license for any type of short term home rental, for a period of two years, subject to the payment of any penalty fees.

M. Severability. If any portion of this section is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the section, and such determination shall not affect the validity of the remainder of the section.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 17TH DAY OF MARCH, 2020.