

# **\*8/27 UPDATED DRAFT SHORT-TERM RENTAL ORDINANCE\***

*Draft 8/27/19*

## **CITY OF SPRING PARK HENNEPIN COUNTY, MINNESOTA**

### **ORDINANCE NO. 2019 – \_\_\_\_\_**

AN ORDINANCE AMENDING CHAPTER 12 (BUSINESSES) TO ADD ARTICLE VI.  
(SHORT-TERM RENTAL HOUSING) SECTION 270-275 OF THE SPRING PARK CITY  
CODE

THE CITY COUNCIL OF THE CITY OF SPRING PARK, MINNESOTA  
ORDAINS AS FOLLOWS:

**Section 1.** Article VI. (Short-Term Rental Housing) Section 270-275 is hereby added to Chapter 12 (Businesses) to read as follows:

#### **Sec. 12-270. – Statement of Policy.**

- (a) The City believes that promoting the public health, safety and welfare of its citizens mandates the existence of a limited 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 article to only allow short-term rental housing in certain circumstances to ensure that it remains decent, safe and sanitary and is so 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. Operators are responsible to take such reasonable steps as are necessary to assure that the citizens of the City who occupy such housing may pursue the quiet enjoyment of the normal activities of life in surroundings that are: safe, secure and sanitary; free from crimes and criminal activity, nuisances or annoyances.
- (b) This article shall apply to all short-term rental dwelling units, as defined herein. It also includes accessory structures such as garages and storage buildings and appurtenances such as sidewalks and retaining walls, which are on the same property as the short-term rental dwelling unit. This article does not apply to Minnesota Department of Health licensed rest homes, convalescent care facilities, residential group homes licensed by the State, nursing homes, hotels or motels, or accessory apartments utilized by one blood relative or one on-site employee or servant.

#### **Sec. 12-271. – Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Bedroom* means a habitable room within a primary residence which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen or dining room.

*Building official* means the building official for the City, or his/her designee.

*City* shall mean the city of Spring Park, Minnesota.

*City administrator* means the city administrator of the City, or his/her designee.

*City council* means the city council of the City.

*Dwelling unit* means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family.

*Owner* means any person, agent, operator, firm or corporation having a legal or equitable interest in the property or the rental dwelling unit; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property or short-term rental dwelling unit, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, or any person representing the actual owner or holding a valid license issued under this article.

*Primary residence* means a dwelling unit with a homestead classification, as defined by Minnesota Statutes, section 273.124, and as determined by the Hennepin County Assessor.

*Rent* means the temporary occupancy, use, or possession of a dwelling or dwelling unit in exchange for compensation, in money or other consideration, given or offered in exchange for such use, whether or not received.

*Short-term rental dwelling unit* means a dwelling unit rented for a period of less than 30 consecutive days, for tourist or transient use.

### DIVISION 2: LICENSING

#### **Sec. 12-272. – General Requirements and License Issuance.**

- (a) License Required. No person may operate a short-term rental dwelling unit in the city unless granted a license pursuant to this article.
- (b) License Application. Any owner desiring to offer or use a short-term rental dwelling unit within a primary residence in the city must first apply for and obtain a license from the city. A license must be approved prior to operating. The license application request must be submitted on the form prescribed by the city and must include all the information requested on the application form. Site plans showing locations of designated parking on the property must be submitted along with the application form.
- (c) Fees. The license application form must be accompanied by payment in full of the required license application fee and inspection fee. The fee amounts will be as determined by the city council and listed in the city's fee schedule. Fees for new licenses

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obtained for less than the three-year license term will be determined on a monthly pro-rated basis until the next full three-year term.

(d) Issuance. All licenses shall be issued administratively by the city administrator pursuant to the terms contained herein.

(e) Criteria for Issuance. Prior to issuance of a license hereunder, the following criteria must be met:

(1) The licensee certifies on the application form that all applicable requirements found in this article are satisfied. Such items shall include, but not be limited to, the following:

a. Operating a short-term rental dwelling unit is a permitted use in the zoning district of the subject property;

b. The property complies with all of the performance standards found in this article; and

c. Compliance with all other provisions of state and local law.

(2) Upon receipt of a license application, the building official shall schedule an inspection with the owner to ensure compliance with this article. The building official shall provide reasonable notice to the owner as to the date and time of the inspection. The failure or refusal by the owner to permit entry to the property shall be grounds for denial of a license. Upon inspection, the proposed short-term rental dwelling unit shall adhere to the following:

a. The Minnesota State Building Code, including mechanical, electrical, plumbing and other building systems, and previously constructed or installed components must be maintained in conformance with the requirements of the codes in effect at the time of construction or installation; and

b. All other requirements of other sections of this code, including, but not limited to, zoning, fire, building, and nuisances, and the International Property Maintenance Code; and

In cases where a conflict may occur between any two or more code requirements, the requirements providing the greatest degree of life safety, property maintenance and general welfare to the City shall govern. If re-inspections are necessary to determine compliance, the applicant shall pay a re-inspection fee, as adopted by the city council.

(f) Term. Licenses for short-term rental properties will follow 3-year cycles and expire at midnight on the third April 1<sup>st</sup> following its issuance, and applications for renewal must be submitted at least 30 days prior to the expiration of the current license. Any unlicensed short-term rental housing is subject to penalties as provided in this article or elsewhere in state or local law.

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- (g) No Vested Right. Licenses granted hereunder constitute a revocable, limited right. Nothing herein shall be construed as granting a vested property right.

### **Sec. 12-273. – General Performance Standards.**

The following shall be the general standards for all short-term rental dwelling units within the city.

- (a) No Physical Alterations. No physical alterations of a primary residence shall be permitted in conjunction with the operation of a short-term rental dwelling unit, except that additional onsite parking may be provided, to the extent that such parking is otherwise permitted by the applicable provisions of the city code.
- (b) Non-Transferable. Licenses issued under this section are non-transferable. Each license shall automatically terminate upon the sale or other conveyance of the property to an unlicensed person or entity.
- (c) Number of Bedrooms. Each license shall indicate the number of bedrooms which are contained in the primary residence. No licensee shall advertise the primary residence as containing any more than the identified number of bedrooms.
- (d) Limit on the Number of Guests. The maximum number of transient guests permitted to stay within a short-term rental dwelling unit at any one time shall be the sum of 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.
- (e) Signage. No commercial signage is allowed on the property of any short-term rental dwelling unit.
- (f) Events. Events are not allowed to be hosted by transient guests on the licensed property. For purposes of this prohibition, an event shall mean a gathering on the property of the total number of people permitted to stay on the premises plus five. Events hosted by the owner are exempt from this prohibition, but must otherwise abide by state and local law and policies.
- (g) Parking. The maximum amount of vehicles allowed at the property shall be limited to the number of approved off-street parking spaces provided. Parking is prohibited on-street or on landscaped/turfed areas of the property. To be valid, off-street parking shall meet any applicable requirements set forth in the city zoning code. Towable trailers behind vehicles are permitted as long as they are stored in an approved off-street parking space and do not encroach into landscaped/turfed areas of the property.
- (h) Occupant Eligibility. The primary overnight and daytime occupant of a short-term rental dwelling unit must be an adult 21 years of age or older. This adult must provide a telephone number to the owner and shall be accessible to the owner by telephone at all times.
- (i) Advertising. All advertising for short-term rental dwelling units within the city shall include the city-issued license number.

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- (j) House Number Visible. Property containing a short-term dwelling unit must have a visible house number that can be easily seen from the street at all times.
- (k) Disorderly Behavior. Disorderly behavior, as defined in Spring Park City Code, section 12-274(b), shall be prohibited.

### **Sec. 12-274. - Disorderly Behavior at Registered Rental Dwelling Units.**

- (a) It shall be the owner's responsibility to assure that the tenants, the tenants' family members and the guests of any tenant or tenant's family member not engage in disorderly behavior in the rental dwelling unit. For the purposes of this section, rental dwelling unit shall include all common areas, both inside the building where the rental dwelling unit is located and outside.
- (b) For the purposes of this section, disorderly behavior may include but is not limited to any of the following:
  - (1) Drug-related illegal activity occurring in or near the rental dwelling unit. Drug-related illegal activity means the illegal possession or constructive possession, manufacture, sale, distribution, purchase, use or possession with intent to manufacture, sell or distribute a controlled substance, as defined in the Controlled Substance Act (21 U.S.C. § 802), or possession of drug paraphernalia per Minnesota Statutes, section 152.092.
  - (2) Any act of violence or threat of violence including, but not limited to, the discharge of firearms, prostitution, intimidation or any other act that otherwise jeopardizes the health, safety or welfare of the owner, agent, manager, other tenants, tenant's family members, guests or neighboring property owners.
  - (3) A violation of Minnesota Statutes, sections 609.75 through § 609.76, which prohibit gambling.
  - (4) A violation of Minnesota Statutes, sections 609.321 through § 609.324, which prohibit prostitution.
  - (5) A violation of Minnesota Statutes, section 340A.401, which prohibits the unlawful sale of alcoholic beverages.
  - (6) A violation of Minnesota Statutes, section 340A.503, which prohibits the underage use of alcoholic beverages.
  - (7) A violation of Minnesota Statutes, section 609.74 or Spring Park City

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Code, chapter 18, articles III and IV, which prohibit nuisances and noise violations.

- (8) A violation of Minnesota Statutes, sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale or use of a weapon.
- (9) A violation of Minnesota Statutes, section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
- (10) A violation of Minnesota Statutes, sections 609.185 through 609.205, which prohibit murder and manslaughter.
- (11) A violation of Minnesota Statutes, sections 609.221 through 609.2231, which prohibit assault.
- (12) A violation of Minnesota Statutes, sections 609.342 through 609.3451, which prohibit criminal sexual conduct.
- (13) A violation of Minnesota Statutes, section 609.52, which prohibits theft.
- (14) A violation of Minnesota Statutes, section 609.561 through 609.5632, which prohibit arson.
- (15) A violation of Minnesota Statutes, section 609.582, which prohibits burglary.
- (16) A violation of Minnesota Statutes, section 609.595, which prohibits damage to property.
- (17) A violation of Minnesota Statutes, section 609.33, relating to owning, leasing, operating, managing, maintaining or conducting a disorderly house or inviting or attempting to invite others to visit or remain in a disorderly house.
- (18) A violation of Minnesota Statutes, section 609.50, which prohibits obstructing the legal process.

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- (19) A violation of Minnesota Statutes, section 609.713, which prohibits terroristic threats.
  - (20) A violation of Minnesota Statutes, section 609.715, which prohibits presence of unlawful assembly.
  - (21) A violation of Minnesota Statutes, section 609.71, which prohibits riot.
  - (22) A violation of Minnesota Statutes, section 609.78, which prohibits interfering with "911" phone calls.
  - (23) A violation of Minnesota Statutes, section 243.166 (predatory offender registration).
  - (24) A violation of Minnesota Statutes, section 609.229, which prohibits gang-related crimes.
  - (25) A violation of Minnesota Statutes, section 609.26, subdivision 1(8), which prohibits contributing to a child being runaway.
  - (26) A violation of Minnesota Statutes, section 609.903, which prohibits racketeering.
  - (27) A violation of Minnesota Statutes, section 609.53, which prohibits possessing stolen property.
  - (28) A violation of Minnesota Statutes, section 609.749, which prohibits violating a restraining order or order for protection.
  - (29) A violation of Minnesota Statutes, sections 609.255 and 609.25, which prohibit false imprisonment and kidnapping.
- (c) Incidents will not be counted for purposes of determining whether a license will be denied, suspended, non-renewed or revoked where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subd. 2(b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, section 518B.01, subd. 2(a).
- (d) Incidents will not be counted for purposes of determining whether a license will be

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denied, suspended, non-renewed or revoked where the call is a result of a tenant, a member of a tenant's household, or guest taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205.

(e) Instances of Disorderly Behavior.

- (1) First Incident. Upon a determination by city staff or law enforcement that a short-term rental dwelling unit was the location of disorderly behavior, the city shall notify the owner and tenant of the violation by first class mail and direct the owner to take steps to prevent further violations.
- (2) Second Incident. Upon a determination by city staff or law enforcement that a second incident of disorderly behavior occurs at a short-term rental dwelling unit within three months of a first disorderly behavior incident, the city shall notify the owner and the tenant by first class mail of the violation and direct the owner to submit, within 10 days of the date of the notice, a written report of all actions taken by the owner since the first violation notice and what actions the owner intends to take to prevent further disorderly behavior.
- (3) Third Incident. Upon a determination by City staff or law enforcement that a third incident of disorderly behavior occurs at a short-term rental dwelling unit within three months after a second disorderly behavior incident, the short-term rental dwelling unit license may be revoked, suspended or not renewed by the city council upon the recommendation of the city administrator and in accordance with section 12-260. The city administrator shall make its decision to recommend revocation, suspension or non-renewal of the license and submit said recommendation to the city council within 30 days of the third incident.
- (4) For purposes of this section, second and third instances of disorderly behavior shall be those which:
  - a. Occur at the same short-term rental dwelling unit;
  - b. Involve tenants at the same short-term rental dwelling unit;
  - c. Involve guests or invitees at the same short-term rental dwelling unit;
  - d. Involve guests or invitees of the same tenant; or
  - e. Involve the same tenant.

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- (f) No adverse license action shall be imposed where the instance of disorderly behavior occurred during pending eviction proceedings against the tenant(s) that were the subject of the incidents (unlawful detainer), or within 30 days of notice to vacate given by the owner to the tenant(s) that were the subject of the incidents. However, adverse license action may proceed when the owner fails to diligently pursue the eviction process. Further, an action to deny, revoke, suspend or not renew a license based upon violations of this section may be postponed or discontinued at any time, at the discretion of the city, if the owner has taken appropriate measures which will prevent further instances of disorderly behavior which may include a failed eviction process.
- (g) For purposes of this section, a determination that the short-term rental dwelling unit has been the location of a disorderly behavior incident shall be made by a preponderance of the evidence. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior, nor shall the fact or dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this article.
- (h) Enforcement actions provided throughout this article shall not be exclusive, and the city may take any action with respect to an owner, a tenant or the registered short-term rental dwelling unit(s) as is authorized by this article or any other provision contained in state or local law.

### **Sec. 12-275. – Enforcement and License Revocation.**

- (a) Enforcement and License Revocation. Upon a finding that a licensee has violated the terms of this article, or any other applicable ordinance, law, or regulation, on two occasions within the license period, or upon the occurrence of a third incident of disorderly behavior under section 12-273, the city may revoke the license. Prior to such revocation, the city administrator shall mail written notice of the applicable violations to the licensee and thereafter, the licensee shall have ten days to request a hearing, in writing, regarding such revocation before the city council. Failure to request such a hearing, in writing, shall constitute waiver of the right to be heard on such revocation.
- (b) Effect of Revocation. Upon revocation of a license under this section, such licensee shall be ineligible for applying for a new license for a period of 12 months from the date of revocation.
- (c) Violation a Misdemeanor. Any violation of any term of this article shall also constitute a misdemeanor.
- (d) Fines. In addition to any other remedy contained herein or authorized by law, the city may impose administrative fines for violations of this article in accordance with Spring Park City Code, section 1-14.

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- (e) Remedies Not Exclusive. In the event of a violation of this article, 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.

**Section 2. Effective Date.** This ordinance shall be in full force and effective immediately upon its passage and publication.

**ADOPTED by the City Council of Spring Park this \_\_\_\_\_ day of \_\_\_\_\_, 2019.**

CITY OF SPRING PARK

By: \_\_\_\_\_  
Jerome Rockvam, Mayor

ATTEST:

By: \_\_\_\_\_  
Theresa Schyma, City Clerk