

City of Delano
County of Wright
State of Minnesota

Ordinance No. O-19-05

An Ordinance adding Section 426.01, Licensing of Short-Term Rental Housing to the Delano City Code.

The City Council of the City of Delano ordains:

Section 1. Section 426.01, Licensing of Short-Term Rental Housing, of the City Code is hereby added to read as follows:

SECTION 426.01. LICENSING OF SHORT-TERM RENTAL HOUSING.

Subd 1. Statement of Policy.

- A. **Preamble.** 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.
- B. **Purpose.** 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.

Subd 2. Definitions.

- A. **“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.
- B. **“Building Official”** means the building official for the City, or his/her designee.
- C. **“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.
- D. **“Lease”** means an oral or written agreement between a dwelling unit owner and a occupant for temporary use of a short-term rental dwelling unit, usually in exchange for payment of rent.
- E. **“Occupant”** means any person who occupies a short-term rental dwelling unit or part of the same.

- F. **“Owner”** means any person having a legal or equitable interest in the property or the short-term rental dwelling unit.
- G. **“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.
- H. **“Rent”** means the monetary or other consideration paid by an occupant to the owner of a short-term rental dwelling unit for temporary and exclusive use of the rental dwelling unit by the occupant.
- I. **“Short-Term Rental Dwelling Unit”** means a dwelling unit rented or leased for a period of less than 30 consecutive days, for tourist or transient use.

Subd 3. License Required. No person shall operate a short-term rental dwelling unit within the City without first obtaining a short-term rental license in compliance with the provisions of this Section. A short-term rental license must be obtained for each short-term rental dwelling unit except that two or more short-term rental dwelling units located within a single building and having a common owner and a common property identification number shall require only a single short-term rental license.

Subd 4. Exceptions. No short-term rental license is required for the following:

- A. Facilities licensed by the Minnesota Department of Public Health, including rest homes, nursing homes, convalescent care facilities, or residential group homes serving six or fewer persons.
- B. Accessory dwelling units utilized by a blood relative or on-site employee of the owner of the dwelling.
- C. Hotels or motels.

Subd 5. License Applications.

- A. **License Application.** All applications for short-term rental licenses under this Section shall be made on forms furnished by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. The application shall be executed by the owner of the short-term rental dwelling unit(s) 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 Property Maintenance.** No short-term rental license shall be issued until the applicant has obtained a Certificate of Property Maintenance from the City.
 - 1. The applicant shall arrange for an inspection of the short-term rental dwelling unit(s) proposed to be licensed by either the building official or a state-certified building official to determine whether it is in compliance with the requirements of this Section, other sections of the Delano City Code, and all other applicable federal, state, and local laws. If compliance is met, the City shall issue a Certificate of Property Maintenance.

2. All buildings proposed to be licensed under this Section, including mechanical, electrical, plumbing and other building systems, originally constructed or installed in accordance with applicable federal, state, and local codes and laws must be maintained in conformance with the requirements of the laws in effect at the time of construction or installation.
3. Specific requirements of other provisions of the City Code, including but not limited to Sections 405.01 (Property Maintenance Code), 415.01 (Fire Code), Chapter 8 (Nuisances and Public Health, Safety and Welfare) and Chapter 51 (Zoning and Land Use), shall supersede the general requirements of this Section.
4. In cases where a conflict may occur between the requirements of this Section or other applicable law, the requirements providing the greatest degree protection of life safety, property maintenance, and general welfare shall govern.

C. Application, Inspection, and License Fees.

1. Application and Inspection Fee. The license application form must be accompanied by payment in full of the required license application fee and inspection fee, nonrefundable to the applicant, to cover the costs of the City in processing the application and the inspection of the short-term rental dwelling unit(s) proposed to be licensed.
2. Upon approval of an application and issuance of a Certificate of Property Maintenance, the applicant shall pay a license fee in the amount described in this Section. The short-term rental license will not be effective until the license fee is paid.
3. The fee amounts will be as determined by the City Council and listed in the City's fee resolution. Fees for new licenses obtained for less than the three-year license term will be determined on a monthly prorated basis until the next full three-year term.

D. Issuance or Denial.

1. Issuance. The City Administrator shall issue a short-term rental license if the short-term rental dwelling unit(s) and the application are found to be in compliance with the provisions of this Section and any required fees are paid.
2. Denial. The City Administrator may deny a short-term rental license on the same grounds for which a license may be suspended or revoked as set forth in Subdivision 9 of this Section. Written notice of the denial shall be mailed to the applicant at the address listed on the application. An applicant may appeal a denial by submitting a hearing request to the City Clerk within ten days of the date contained in the notice of denial. If a hearing request is not received by the City Clerk within such time period, the applicant's right to a hearing shall be deemed waived. If timely requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 9.C.2 and 9.C.3 of this Section.

- E. License Term and Renewal. Short-term rental licenses will expire at midnight on the third April 1st following its issuance. Applications for renewal must be submitted at least 30 days prior to the expiration of the current license and shall contain such information as may be required by the City. The City shall issue or deny a renewal application in accordance with the provisions for issuance or denial of an initial license set forth in Subdivision 5.D of this Section.
- F. No Vested Right. Licenses granted hereunder constitute a revocable, limited right. Nothing herein shall be construed as granting a vested property right.
- G. Changes in Ownership and Amended Licenses. A short-term rental license is not assignable or transferable. Any changes occurring in the ownership of a licensed short-term rental dwelling unit(s) require a new short-term rental license. The new owner must obtain a new short-term rental license within thirty days of acquiring the property. The fee for the new short-term rental license shall be twenty-five percent of the fee required for an initial license. If changes occur in any information required on the license application other than the change in ownership, the new owner must submit an amended license application to the City within thirty days of the change. If any short-term rental dwelling units are added to a current short-term rental license, the additional short-term rental dwelling units must be licensed by amendment of the current license and must be accompanied by the fee required for the additional unit(s).

Subd 6. General Performance Standards.

- 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. A property with a short-term rental dwelling unit shall provide a minimum of two off-street parking stalls for guests. The maximum amount 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 any applicable requirements set forth in the city code.
- H. Occupant Eligibility. The primary overnight and daytime occupant of a short-term rental dwelling unit must be an adult 18 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.
- 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.

Subd 7. Disorderly Behavior

- A. Prohibition. Disorderly behavior, as defined in this Subdivision 7, is prohibited. It shall be the owner's responsibility to assure that the occupants and the guests of any occupant of a short-term dwelling unit not engage in disorderly behavior in the short-term rental dwelling unit. For the purposes of this Subdivision 7, short-term 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 subdivision, disorderly behavior includes but is not limited to violation of any of the following statutes or ordinances:
 1. Minn. Stat. §§ 609.75–609.76, which prohibit gambling;
 2. Minn. Stat. §§ 609.321–609.324, which prohibit prostitution and acts relating thereto;
 3. Minn. Stat. §§ 152.01–152.027, which prohibit the unlawful sale or possession of controlled substances;
 4. Minn. Stat. § 340A.401 and City Code Chapter 5, which prohibits the unlawful sale of alcoholic beverages;
 5. Minn. Stat. § 340A.503, which prohibits the underage consumption of alcoholic beverages;
 6. Minn. Stat. § 609.595, which prohibits damage to property;
 7. Minn. Stat. §§ 97B.021, 97B.045, 609.66–609.67, and 624.712–624.716, and City Code Section 804, which prohibit the unlawful possession, transportation, sale, or use of a weapon;
 8. Minn. Stat. § 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the other occupants of the permitted premises or other surrounding premises;

9. Minn. Stat. § 152.027, subd. 4, which prohibits the unlawful sale or possession of small amounts of marijuana;
10. Minn. Stat. § 152.092, which prohibits the unlawful possession or use of drug paraphernalia;
11. City Code Chapter 8, which prohibits public nuisances;
12. Minnesota State Fire Code 302 and 307-307.5, which limit recreational fires to no larger than 3'X3' feet, natural wood only, attended until extinguished, conditions permitting; and
13. Minn. Stat. §§ 624.20-624.21 which prohibits exploding fireworks.

C. Instances of Disorderly Behavior.

1. First Incident. Upon a determination by city staff or law enforcement that a rental dwelling unit was the location of disorderly behavior, the city shall notify the owner 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 rental dwelling unit within three months of a first disorderly behavior incident, the city shall notify the owner and the occupant 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 license may be revoked, suspended or not renewed in accordance with Subdivision 9 of this Section.
4. For purposes of this Subdivision 7, second and third instances of disorderly behavior shall be those which:
 - a. Occur at the same short-term rental dwelling unit;
 - b. Involve occupant 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 occupant; or
 - e. Involve the same occupant.
5. Incidents will not be counted for purposes of determining whether a short-term rental

license will be suspended, non-renewed or revoked where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minn. Stat. § 518B.01, subd. 2(b) and where there is a report of "domestic abuse" as defined in the Domestic Abuse Act, Minn. Stat. § 518B.01, subd. 2(a).

6. Incidents will not be counted for purposes of determining whether a short-term rental license will be suspended, non-renewed or revoked where the call is a result of an occupant or guest taking action to seek emergency assistance that is protected by Minn. Stat. § 504B.205.

7. Any notice required under this Subdivision 7 will be mailed to the licensee at the most recent address listed on the short-term rental license application.

D. For purposes of this section, a determination that the 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 registration permit action under this article.

E. Enforcement actions provided throughout this article shall not be exclusive, and the city may take any action with respect to an owner, a occupant or the registered rental dwelling unit(s) as is authorized by this article or any other provision contained in state or local law.

Subd 8. Inspections.

A. Authority. Whenever necessary to make an inspection to enforce any of the provisions of this Section, or whenever the building official has reasonable cause to believe that there exists in any building or short-term rental dwelling unit any condition or code violation which makes such building or unit unsafe, dangerous, or hazardous, the building official may enter such building or unit at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this Section or other applicable law. The building official may set up a schedule of periodic inspections to ensure compliance with this Section.

B. Access for Inspection. No short-term rental license shall be issued under this Section unless the owner of the short-term rental dwelling unit agrees to permit inspections, upon reasonable notice from the building official to the owner, to determine compliance with the City Code and state law. The submission of a short-term rental license application or the possession of a short-term rental license issued by the City shall constitute such agreement by the owner identified in the application or on the short-term rental license. The building official shall provide reasonable notice to the owner or the owner's agent as to the date and time of the inspection. Each occupant of a short-term rental dwelling unit shall grant access to any part of such short-term rental dwelling unit at reasonable times for the purpose of effecting inspection, maintenance, repairs or alteration as are necessary to comply with the provisions of this Section. If any owner, owner's agent, or occupant of a short-term rental dwelling unit fails or refuses to permit entry to the short-term rental dwelling unit under his/her control for an inspection pursuant to this Section, the building official may pursue any remedy at law or under the City Code, including, but not limited to, securing an administrative search warrant for the short-term rental dwelling unit, issuing a citation, denying a short-term rental license application, imposing a fine, revoking or suspending a short-term rental license, or denying a renewal license.

C. Private Inspection. As an alternative to an inspection by the building official, the owner may elect to hire a private certified building inspector at his or her cost. The results and findings of said inspection shall be provided to the building official for review.

Subd 9. Suspension or Revocation of Short-Term Rental License.

A. Grounds for Suspension or Revocation. The City may suspend or revoke a short-term rental license issued under this Section. In buildings containing more than one short-term rental dwelling unit, the revocation or suspension may apply to one or more short-term rental dwelling units. The following are grounds for suspension or revocation of a license:

1. The license was procured by misrepresentation of material facts with regard to the short-term rental dwelling unit or the ownership of the short-term rental dwelling unit.
2. The applicant or one acting in his/her behalf made oral or written misstatements accompanying the application.
3. The applicant has failed to comply with any condition set forth in any other permit or approval granted by the City related to the short-term rental dwelling 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 short-term rental dwelling unit contains conditions that may injure or endanger the health, safety, or welfare of any member of the public.
6. The failure to pay any application, inspection, or license fee required by this Section.
7. Any violation of this Section, or any other provision of the City Code or other federal, state, or local law or regulation applicable to the short-term rental dwelling unit.
8. The failure to correct any violation of City Code Section 405.01 (Property Maintenance Code) in the time period specified in the notice of violation and correction.
9. The failure to continuously comply with any condition required of the applicant for the approval or maintenance of the short-term rental license.
10. Three instances of disorderly behavior at the short-term rental dwelling unit, as described in Subdivision 7.

B. Fines. In lieu of or in addition to revoking or suspending a short-term rental license, the City may impose a civil fine for the following violations of this Section:

1. Renting a short-term rental dwelling unit without a rental license as required herein.
2. Failure to comply with a property maintenance correction order from the building official in the time required by the order.

3. Fine amounts shall be as follows:

Fine Matrix		
1st Violation	2 nd Violation Within 12 Months of 1 st Violation	3 rd Violation Within 12 Months of 1 st Violation
\$200.00	\$400.00	\$600.00

4. All fines are payable 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 revocation or suspension of the short-term rental license to which the fine applies.

C. Procedure.

a. Notice. A suspension, revocation, or fine shall be preceded by written notice from the building official or City Administrator to the licensee and an opportunity for a hearing by the City Council. The notice shall state the nature of the violation(s) or grounds for fine, suspension, or revocation and shall inform the licensee of the licensee's right to request a hearing within ten (10) days of the date contained in the notice to dispute the fine, suspension, or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City Clerk within ten (10) days of the date contained in the notice, the licensee's right to a hearing shall be deemed waived. No fine, suspension, or revocation of a license shall take effect until (a) the licensee's time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Council.

b. Hearing. If a hearing is requested, the City Clerk shall provide written notice to the licensee 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 manner as the initial notice and shall be mailed no less than ten (10) days and no more than thirty (30) days prior to the hearing. The licensee and the building official or City Administrator shall be given an opportunity to be heard. The licensee may be represented by counsel.

c. Decision. The City Council shall make findings based on the evidence and shall make a decision on the recommendation to fine, revoke, or suspend a short-term rental license based on the findings. The City Council shall issue a written decision regarding the recommendation of the building official or City Administrator within thirty (30) days following the date of the hearing. The City Clerk shall notify the licensee of the decision by regular mail. The decision shall specify the short-term rental dwelling unit or units to which it applies. Thereafter, and until a short-term rental license is reissued or reinstated, no short-term rental dwelling unit that has had its license revoked or suspended may be re-let or occupied. Revocation or suspension shall not excuse the owner from compliance with all terms of this Section for as long as any short-term rental dwelling unit(s) in the building is occupied.

D. License Process after Revocation, Suspension, Denial or Non-Renewal. After a short-term rental license has been denied, not renewed, revoked, or suspended under this Section, no short-term rental license may be issued for the affected short-term rental dwelling unit(s) until the building official or City Administrator determines that the licensee has remedied the conditions identified by the City as the basis for its action. In the case of revocation, the licensee shall be ineligible for applying for a new license for a period of twelve (12) months from the date of revocation. An application to obtain a new license for a short-term rental dwelling unit(s) after the City has revoked, denied, or declined to renew a license, or for reinstatement of a suspended license, for the same short-term rental dwelling unit(s) must be accompanied by all fees required by this Section.

E. Effect of Revocation, Suspension, Denial, or Non-Renewal. If a short-term rental license is denied, not renewed, revoked or suspended, it shall be unlawful for the owner to operate or thereafter permit the lease of the then-vacant or thereafter vacated short-term rental dwelling unit(s), until such time as a valid short-term rental license is obtained for the short-term rental dwelling unit(s). Issuance of a license after revocation, suspension, denial or non-renewal shall be made in the manner provided for in this Section.

F. Posted to Prevent Occupancy. Whenever any short-term rental dwelling unit has been denied an initial short-term rental license or has had its license revoked, suspended, or not renewed, the short-term rental dwelling unit shall be posted by the building official to prevent further occupancy. No person other than the building official shall remove or alter any posting. The building official will post the date the short-term rental dwelling unit shall be vacated, and no person shall reside in, occupy or cause to be occupied that short-term rental dwelling unit until the building official permits it.

Subd 10. Penalties.

A. Any person who violates any provision of this Section is guilty of a misdemeanor. Each day that a violation continues shall be deemed a separate offense.

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.

Section 2. Effective date. This ordinance shall be in full force and effect upon its passage and publication.

Adopted by the Mayor and City Council of Delano, Minnesota, this 16th day of July, 2019.



Dale Graunke, Mayor



Attest: Paula Bauman, Administrative Services Coordinator