

# **CITY OF ALEXANDRIA LODGING ORDINANCE**

January, 2019

City Code Section 5.09:

An Ordinance Providing for the Licensing and Inspection of Short Term Vacation Rentals, Regulating Their Design, Operation and Maintenance, and Providing for the Administration and Enforcement thereof be established as follows:

### **SECTION 1 – PURPOSE**

The purpose of this ordinance is to establish standards for short-term vacation rental establishments and to protect the health, safety and general welfare of the people of the City of Alexandria, including the following general objectives:

1. Provide a minimum standard for the design, operation and maintenance of such short-term vacation rental establishments.
2. Correct and prevent conditions that may adversely affect persons utilizing such establishments.
2. Meet consumer expectations for the quality and safety of such establishments.
3. Establish inspection requirements and associated procedures involved with administering and enforcing this Ordinance.

### **SECTION 2 - DEFINITIONS**

For the purpose of this ordinance, the following words shall have the following meanings:

1. **Administrator:** “Administrator” means the Administrator of Horizon Public Health and his or her respective designee(s) operating under the authority of the Horizon Community Health Board to administer environmental health programs and public health services.
2. **Agency:** “Agency” means Horizon Public Health, providing review, inspection, and administrative services for the City of Alexandria.
3. **Bedroom:** “Bedroom” means a part of the inside of a private/vacation home that is divided from other areas by walls and a doorway and that has its own floor and ceiling that is furnished primarily as a sleeping quarters, containing a bed or furniture that can convert to a bed, and having more than one egress door and window.

4. **Boarding Establishment:** “Boarding establishment” means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.
5. **Commissioner:** “Commissioner” means the commissioner of health.
6. **Delegation Agreement:** “Delegation Agreement” means the properly executed delegation of responsibility to the Horizon Community Health Board by the State of Minnesota, as provided in Minnesota Statutes.
7. **Grade:** “Grade” means the average of the finished ground level at the center of the exterior walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above-ground level shall be measured at the sidewalks.
8. **Good Neighbor Brochure:** “Good Neighbor Brochure” means a brochure to be given to guests that includes a summary of the City’s regulations relating to private/vacation home rentals; local rules or ordinances related to lakes, aquatic invasive species, and water use; and best practices for neighborly behavior.
8. **Hazard:** “Hazard” means any biological, chemical, or physical property that may cause an unacceptable health risk.
9. **Hotel or Motel:** “Hotel or motel” means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.
10. **Imminent Health Hazard:** “Imminent Health Hazard” means a significant threat or danger to health that exists when there is evidence sufficient to show that a product, practice, circumstance or event creates a situation that requires immediate correction or cessation of operation to prevent injury based upon:
  - A) the number of potential injuries; and
  - B) the nature, severity and duration of the anticipated injury.
11. **License:** “License” includes the whole or part of any permit, certificate, approval, registration or similar form of permission or renewal required by City ordinance or State law administered by the City for the operation of any business, service, or facility.

12. **Licensee:** “Licensee” means the person who has been given the authority by the issuance of a license by the City to establish, operate, and/or maintain a facility or activity regulated by City ordinances.
13. **Lodging Establishment:** “Lodging establishment” means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public. For the purpose of this ordinance, lodging establishment shall also include boarding establishment, hotel, motel, private/vacation home rental, and resort.
14. **Owner:** “Owner” means any person or person(s) having a legal interest in real or personal property or any person in possession or control of real or personal property including, but not limited to, mortgages, contract for deed vendees, and contract for deed vendors.
15. **Overnight guest:** “Overnight Guest” means a person that is boarding overnight at a private/vacation home rental, hotel, motel, bed and breakfast, or resort.
16. **Person:** “Person” means a natural person over the age of 5 years, that is patronizing, staying, or visiting a private/vacation home either as the renter of the facility or a guest of the renter; or an individual, firm, partnership, association, or corporation or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.
17. **Private/Vacation Home Rental:** “Private/Vacation Home Rental” means any home, cabin, condominium, bedroom or similar building that is advertised as, or held out to be a place where sleeping accommodations are furnished to the public on a nightly, weekly, or for less than 30-day time period, and is not a bed and breakfast, resort, hotel or motel.
18. **Public Health Services:** “Public health services” means the services of Horizon Public Health that are authorized under Minnesota Statutes.
19. **Resort:** “Resort” means any building, structure, or enclosure, or any part thereof, located on, or on property neighboring any lake, stream, skiing or hunting area for purposes of providing convenient access thereto, kept, used, maintained or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week or longer, and having for rent five or more cottages, rooms or enclosures.
20. **Risk Categories:**

A. **High-risk establishment.** “High-risk establishment” means any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

1. Serves potentially hazardous foods that require extensive processing on the premise, including manual handling, cooling, reheating, or holding for service;
2. Prepares foods several hours or days before service;
3. Serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illnesses;
4. Has a public swimming pool; or
5. Draws its drinking water from a surface water supply.
6. Must be inspected at least once every 12 months.

B. **Medium-risk establishment.** “Medium-risk establishment” means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

1. Serves potentially hazardous foods but with minimal holding between preparation and service; or
2. Serves foods, such as pizza, that require extensive handling followed by heat treatment
3. Must be inspected at least once every 18 months.

C. **Low-risk establishment.** “Low-risk establishment” means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment that:

1. Must be inspected at least once every 24 months.

**SECTION 3 – DESIGN, OPERATIONS, AND PERFORMANCE STANDARDS**

A. Parking Requirements: Required Number of On-Site Parking Spaces.

1. On-site parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided. The minimum number of required on-site parking spaces for the following uses shall be:

<u>Land Use</u>	<u>Number of Parking Spaces</u>	<u>Per Unit Measure</u>
Private/vacation home rental	1	<b>Bedroom</b>

## B. General requirements

1. Noise levels shall not exceed the standards established in MN Rules, chapter 7030, or successor rules. Noise levels shall not exceed 50 dB for more than 30 minutes, as measured at the property line of the rental property, between the hours of 10 pm and 7 am.
2. Parking shall meet the standards listed in Section 3, Subpart A. of this ordinance and:
  - a. Public streets and rights-of-way shall not be used for parking of trailers or overnight parking of vehicles by tenants.
  - b. On-site vehicle parking shall be on a designated improved surface (gravel, class-5, asphalt, concrete, pavers)
  - c. Trailer parking shall be designated and meet detached accessory structure setback requirements from City zoning ordinance.
  - d. Designated parking shall be set-back 10-ft from property boundaries.
3. The boundaries of the rental property shall be visually demarcated by signs, a fence, vegetation, landscaping, or other method.
4. Overnight guest occupancy is the maximum number of overnight guests allowed at a private/vacation home rental. Overnight guest occupancy shall not exceed the lesser of the following limits:
  - a. Three (3) overnight guests per bedroom.
  - b. For a rental property with an individual septic treatment system which is considered to be substandard the maximum number of overnight guests shall not exceed the total treatment capacity of the system in gallons per day divided by 75 gallons per overnight guest. (i.e.;  $450\text{gal/day} / 75\text{gal} = 6$  overnight guests)
  - c. Not more than a total of 12 overnight guests.
5. The use of detached or temporary sleeping accommodations such as RVs, tents, fish-houses, campers or others to increase the overnight guest capacity shall be prohibited.
6. Not more than one private/vacation home rental unit shall be allowed on a parcel.
7. The property capacity is the total number of overnight guests and visitors allowed to be present on the property at any given time. The property capacity shall not exceed the following thresholds:
  - a. Two times (2x) the overnight guest occupancy for properties where neighboring dwellings are 200 feet or less from the rental dwelling or the property is less than 2 acres in area.
  - b. Three times (3x) the overnight guest occupancy for properties where neighboring dwellings are more than 200 feet from the rental dwelling and the property is 2 acres or greater in area.

### C. Rental Property Management and Notifications

1. The rental owner, operator, or manager shall designate a local contact who meets the following requirements:
  - a. Is available 24 hours/day, seven days per week.
  - b. Can respond by phone within 60 minutes and in-person within 120 minutes of notification.
  - c. Has administrative authority over the property and guests.
  - d. Has knowledge of the vacation rental unit, the property, rental and City rules, standards, and procedures.
2. The rental owner, operator, or manager shall provide the name and phone number of the contact in subpart C above to the City at the time of licensing and to all property owners within 200 feet of the rental property boundary. Any change of contact or contact information shall be noticed as above to the City and neighbors within 10 days of the change.
3. The following information shall be posted within the rental unit in a prominent location so as to be easily visible and read by the guests:
  - a. The full name and phone number of the owner or operator
  - b. The full name and phone number of the local contact person or local management agent
  - c. Local emergency contact information (police, fire, ambulance, septic maintainer)
  - d. Aerial image of the property clearly showing property boundaries, parking areas, shore recreational facilities, garbage receptacles, septic treatment system.
  - e. The maximum number of overnight guests and total guest capacity of the property.
  - f. The maximum number of parking spaces.
  - g. Any applicable City ordinances governing noise, parking, pets, or lakes (AIS laws, water surface zoning).
  - h. A copy of the *Good Neighbor Brochure*.
4. The total permitted overnight guest occupancy and the total number of persons permitted on the property shall be included on all advertisements or web-based reservation service pages.
5. Prior to occupancy, the owner, operator, or manager shall:
  - a. Obtain the full name, address, and vehicle license plate information from the person renting the property.
  - b. Record the number of guests and dates of the rental.
  - c. Require the guest(s) to formally acknowledge responsibility for the compliance by all tenants or guests with the applicable laws, rules, and ordinances pertaining to vacation rentals in the City of Alexandria.
  - d. Maintain a copy of the above records for one year and make available to the City upon request.

### D. Sanitation

1. The private/vacation home rental shall be served by central sanitary sewer (ALASD) or be connected to a compliant individual septic treatment system (ISTS). If connected to an ISTS, the following shall be required:
  - a. A current compliance inspection showing the system to be in compliance with State and local requirements shall be submitted with the application for license with Horizon Public Health.
  - b. The ISTS shall be pumped not less than annually and records shall be submitted to the City before the end of the calendar year.
2. Garbage, refuse, or recycling shall be stored completely enclosed within designated containers. The owner or operator of the rental unit shall provide sufficient trash storage containers and service to accommodate the demand of the occupants.

#### **SECTION 4 - FEES**

Fees for the administration of this Ordinance shall be established and amended periodically by action of the City Council, acting in concert with Horizon Public Health and matching the fees charged by Horizon Public Health and/or Douglas County for similar services.

#### **SECTION 5 - REGULATORY AGENCY**

Horizon Public Health is hereby established in this Ordinance as the Agency responsible for the enforcement and administration of this Ordinance. The Agency shall:

- 1) Act as the inspecting Agency for the City;
- 2) Issue licenses and maintain records relating to this Ordinance;
- 3) Provide informational materials regarding this Ordinance;
- 4) Administer this Ordinance; receive applications, requests, documentation; interpret and apply the Ordinance; and enforce the Ordinance.
- 5) Assist in the enforcement of this Ordinance or successor ordinances/sections pertaining to private/vacation home rental.

#### **SECTION 6 -- INCORPORATION OF MINNESOTA LODGING CODE**

Minnesota Rules, Chapter 4625, parts 4625.0100 to 4625.2300, the Minnesota Lodging Code, in effect on the effective date of this Ordinance, and all future revisions thereof, are hereby adopted by reference and made part of this Ordinance.



## **SECTION 7 - LICENSES**

- 7.1 **General.** It shall be unlawful for any person, firm, corporation or partnership to operate a lodging establishment within the City who does not possess a valid license issued by the Agency as required by this ordinance. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license.
- 7.2 **Application.** Any person desiring to operate a private/vacation home rental shall first make application for a license on forms provided by the Agency, pay the required fee, and receive approval for operation, including plan review approval if a plan review is required. The application shall include: the full name and address of the owner of the building, structure, or enclosure; the lessee and manager of the establishment; the name under which the business is to be conducted; and any other information as may be required by the Agency to complete the application for license. The license shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this ordinance and shall be subject to enforcement action, as provided in this ordinance.
- 7.3 **License renewals.** License renewals shall be obtained on an annual basis. License renewal applications shall be submitted to the Agency on forms provided by it no later than December 1 of the year proceeding the year for which application is made; or in the case of a new business, not later than the opening date of such a business.
- 7.4 **Expiration Date.** Initial and renewal licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year.
- 7.5 **Initial & Renewal Fee Schedule.** Initial and renewal license applications shall be accompanied by the applicable fee. All license fees are non-refundable.
- 7.6 **Reduced License Fee.** Beginning on or after October 1 of each year, the license fee for new establishments or operators shall be one-half of the appropriate annual license fee.
- 7.7 **Issuance or Denial of License:**
- a. Unless otherwise provided in this ordinance under which a license is issued, the Agency shall have fifteen (15) days to approve or deny an application for license or renewal. All establishments requiring a license under this ordinance are expected to submit

their application for an initial license or renewal by December 1 of the year prior to the requested license period.

- b. If December 1 falls on a weekend, the annual license renewal application and fee is due at the end of the county business day the following Monday.
- c. Where an application is approved by the Agency, the establishment's license(s) shall be issued according to Agency policies and procedures.
- d. Where a license is denied, the Agency shall state the factual basis for its decision and notice of its decision shall be hand delivered by the Agency to the applicant or shall be served by registered or certified mail to said applicant at the address designated in the license application. The applicant shall have ten (10) working days, exclusive of the day of service, to request a hearing. The request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Agency by midnight of the tenth (10th) agency working day following service of the notice of denial. If the applicant fails to request an appeal within the specified time period, any opportunity for a hearing is forfeited and the Agency's decision is final. After receipt of an appeal request, the Agency shall set time and place for the hearing.

**7.8 License Non-Transferable:**

- a. A license is not transferable and non-refundable.
- b. The discontinuation of an operation by the licensee at the address covered by the license voids the license.
- c. A voided license shall be surrendered to the Agency immediately by anyone in possession of it.

**7.9 Change of Ownership:** A license shall not be issued to any person when an establishment changes ownership until an inspection by the Agency has been conducted and a compliance schedule has been established that is mutually agreeable to the owner and the Agency regarding previous orders.

When an establishment has been closed for 90 days or more, the Agency shall conduct an inspection and set forth a compliance schedule that is mutually agreeable to the new owners and the Agency to achieve compliance with the Minnesota Lodging Code prior to issuing a license.

- 7.10 **License Displayed.** A valid license shall be conspicuously posted in every lodging establishment.

## **SECTION 8 – INSPECTION/ENFORCEMENT:**

- 8.1 Horizon Public Health shall inspect lodging establishments according to Minnesota Statutes, Chapter 157, and Chapter 327 (327.10-327.13), Chapter 4625 (parts 4625.0100 to 4625.2300) and rules adopted under Minnesota Statutes, Chapter 157, and the Horizon Inspection and Enforcement Policy. Horizon Public Health shall also have the authority to inspect lodging establishments (including private/vacation home rental) for compliance with Section 5.09 or successor section of the City Code.
- 8.2 The person operating a lodging establishment shall, upon request of the Agency and after proper identification, permit access to all parts of the lodging establishment at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this Ordinance.
- 8.3 Every person engaged in the operation of a lodging establishment, shall upon request; furnish reasonable samples free of charge to the Agency for laboratory analysis.
- 8.4 Whenever an inspection of a lodging establishment is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of a pending litigation.
- 8.5 The inspection report form shall specify a specific and reasonable period of time for the correction of violations. Correction of violations shall be accomplished within the period specified.

## **SECTION 9 – SUSPENSION AND REVOCATION OF LICENSE**

- 9.1 Licenses may be suspended temporarily by the Agency, at any time for failure by the holder to comply with the requirements of this ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this ordinance, that license holder or operator may be notified in writing with a form of suspension that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the City Council will be provided if a written request for appeal is filed within ten (10) agency working days with the Agency by the license holder.

- 9.2 Notwithstanding the other provisions of this ordinance, whenever the Agency finds unsanitary or other condition(s) in the operation of a lodging establishment which, in their judgment, may constitute a substantial hazard to the public health, they can without warning, notice or hearing, issue a written notice to the license holder or operator citing such condition(s), specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all lodging operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Agency, shall be afforded an appeal before the City Council.
- 9.3 Any person whose license or permit has been suspended may at any time make application for a re-inspection for the purpose of reinstatement of the license. Within ten (10) agency working days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Agency shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and Minnesota Rules, Chapter 4625, parts 4625.0100 to 4625.2300, and (Chapter 327 (327.10-327.13), the license shall be reinstated.
- 9.4 Revocation of License. Licenses issued under this Ordinance may be revoked by the process outlined in City Code Section 5.08, Subd 12.
- 9.5 Emergency Closure. Whenever the Agency finds that an emergency exists which requires immediate action to protect public health, it may, without notice or hearing, issue an Order reciting the existence of an emergency and require that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such Order shall be effective immediately. Any person to whom an Emergency Order is directed shall comply therewith immediately.
- a. Emergency Closure Procedure. Emergency Closure of an Establishment will be ordered if a prohibited activity is occurring or it is determined that the Establishment is an imminent health hazard.
  - b. Following an Emergency Closure, the Establishment shall not reopen without written permission from the Agency.
  - c. The Agency must give written permission to reopen upon submission of satisfactory proof that the problem condition(s) causing the need for emergency closure have been corrected or removed by the operator(s).
  - d. Following an emergency closure, correction of the problem condition requires that all inanimate objects, equipment and surface areas in the room or area where the prohibited activity or imminent health hazard occurred be cleaned and sanitized.

## **SECTION 10 – PROCEDURE WHEN INFECTION IS SUSPECTED**

When the Agency has reasonable cause to suspect the possibility of disease transmission from a lodging establishment employee, the Agency shall under the direction and/or guidance of the Minnesota Department of Health, secure an illness or morbidity history of the suspected employee, and/or make other investigations as may be required, and take appropriate action. The Agency may require any or all of the following measures:

- 1) The immediate exclusion of the employee from all lodging establishments;
- 2) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- 3) Adequate medical and laboratory examinations of the employee, or other employees, and their body discharges, and;
- 4) The immediate closure of the lodging establishment concerned, until in the opinion of the Agency no further danger of disease outbreak exists.

## **SECTION 11 – APPEALS**

Request for Hearing. Any person affected by a notice of suspension or revocation shall be granted a hearing on the matter under the terms of City Code Section 5.08, Subd.12.

## **SECTION 12 – SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application and for this purpose the provisions of this ordinance are severable.

## **SECTION 13 – VIOLATIONS, INJUNCTIVE RELIEF**

1. Nothing in this Ordinance prevents the City from taking enforcement action under any of its fire, housing, zoning, health, safety or other codes, ordinances and State laws for violations thereof, or to seek injunctive relief and criminal prosecution for violations of any ordinance, code or law. Nothing contained in this Ordinance prevents the City from seeking injunctive relief against a property owner or designated property manager who fails to comply with the terms and conditions of this Ordinance or to obtain an order closing such rental units until violations of this particular Ordinance have been remedied by the property owner or designated property manager.

2. Violation of this Ordinance is a misdemeanor. Violations include operation of a

rental unit without proper registration and/or operation of a rental unit after revocation or suspension of registration. Each separate day on which a continuing violation occurs is a separate violation. Any written or oral agreement to rent or cause to be rented, leased or let, any Rental Unit that is in violation of this Ordinance is illegal as a matter of law.

3. This chapter may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.

#### **SECTION 14 - PROVISIONS CUMULATIVE**

The provisions of this Ordinance are cumulative and are additional limitations upon all other rules, statutes, and ordinances heretofore passed covering any subject matter.

#### **SECTION 15 - NO CONSENT**

Nothing contained in this Ordinance shall be deemed to be consent, license or permit to operate, construct or maintain any site, facility or establishment or to carry on any activity, trade, profession or privilege.

#### **SECTION 16 - EFFECTIVE DATE**

**Effective date** This Ordinance shall be in full force and effect after its passage and publication provided by law, but no sooner than January 1, 2019, whichever comes later.