

**ORDINANCE NO. 14
COUNCIL BILL NO. 28
(2023)**

AN ORDINANCE AMENDING SEYMOUR CITY CODE TO CREATE CHAPTER 118 TO REQUIRE A PERMIT FOR SHORT TERM RENTALS & ESTABLISH FINES AND TO AMEND CHAPTER 36 TO ESTABLISH A SHORT-TERM RENTAL PERMIT FEE

WHEREAS, the City of Seymour, Indiana has seen an increase in owners utilizing residential properties as short term rentals and advertising the same on short-term rental platform sites such as AIRBNB and VRBO; and

WHEREAS, Indiana Code §36-1-24, et seq., provides that a municipality may require an owner of a short term rental to obtain a permit for each property utilized as a short term rental in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property; and

WHEREAS, the Common Council of the City of Seymour, Indiana finds that it would be in the best interest of the City and its residents to establish a permitting process for short term rentals within the City.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SEYMOUR, INDIANA, in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property, that:

Section 1. Seymour City Code, Chapter 118, is hereby added to City Code Title XI: Business Regulations, and shall read as follows:

Chapter 118: Short Term Rentals

§118.01 Definitions. The definitions as set forth by IC 36-1-24, et seq., shall apply to this chapter:

Owner means a person that has an interest in title or a present possessory interest in property that is offered to the public as a short-term rental.

Owner occupied short-term rental property means property that is the owner's primary residence and is offered to the public as a short-term rental.

Permit means a short-term rental permit issued by the city.

Permitted property means a property that is subject to a valid, unexpired, unrevoked permit issued under this chapter. A permitted property may contain one or more dwelling units offered as short-term rentals.

Short-term rental means the rental of:

- (1) A single-family home.
- (2) A dwelling unit in a single-family home.
- (3) A dwelling unit in a two-family or multifamily dwelling; or
- (4) A dwelling unit in a condominium, cooperative, or time share.

for terms of less than thirty (30) days at a time through a short-term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single-family residential use. The term does not include property that is used for any nonresidential use.

Short-term rental platform means an entity that:

- (1) Provides a platform through which unaffiliated parties offer to rent a short-term rental to an occupant; and
- (2) Collects consideration for the rental from the occupant.

§118.02 Short Term Rental Permits.

(A) **Permits Required.** An owner must obtain a permit for each property utilized as a short-term rental in the city, however, only one permit is required for each single-family home, two-family or multifamily dwelling, condominium, cooperative, or time share that an owner rents in whole or in part. A permit covers all:

- (1) dwelling units; and
- (2) detached accessory structures.

located on the permitted property that the owner offers to the public as a short-term rental.

All owners utilizing a property as a short-term rental at the time of adoption of the ordinance from which this chapter is derived, shall obtain the necessary permit(s) required by this chapter within thirty (30) days of the adoption of this ordinance.

(B) **Permit Application(s).** An owner must submit a permit application for each property for which a permit is sought to the City Planning and Zoning Department. If the owner is a corporation, partnership, or other legal entity, the permit application must be made by an officer or agent of the owner. The

permit application shall require the owner to provide only the following information for each property:

- (1) The owner's name, street address, mailing address, electronic mail address, and telephone number. If the owner is a corporation or partnership, the application must require the:
 - a. Owner's state of incorporation or organization; and
 - b. Names, residence addresses, and telephone numbers of the owner's principal officers or partners.
- (2) If a property manager is used, the property manager's name, street address, mailing address, electronic mail address, and telephone number.
- (3) A short description of how each of the owner's short-term rentals on the property are marketed or advertised, including the following:
 - a. The advertised occupancy limits of each short-term rental.
 - b. Whether the short-term rental is:
 - i. A single-family home.
 - ii. A dwelling unit in a single-family home.
 - iii. A dwelling unit in a two-family or multifamily dwelling; or
 - iv. A dwelling unit in a condominium, cooperative, or time share.

(C) Inspections.

- (1) After the submission of an application for a short-term rental permit, each property for which a permit is sought shall be inspected by:
 - a. the City's Building Commissioner or their designee, for the purpose of ensuring the minimum standards for the protection of life, health, environment, public safety, and general welfare, in the design and construction of buildings and structures are met, in accordance with the scope and authority granted to the Building Commissioner by Chapter 151 of the Seymour City Code; and
 - b. the City's Fire Chief or their designee, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life, or any violations of the provisions or intent of this subchapter affecting fire safety.
- (2) Short term rental inspections shall be conducted by the City's Building Commissioner or their designee and the City's Fire Chief or their designee annually when an owner renews their permit.
- (3) There shall be no fee for initial or subsequent inspections by the Building Commissioner and Fire Chief or their designees.
- (4) If a prospective short-term rental property fails to pass either inspection described in subsection (C) above, the owner shall remedy the defect(s) documented in the inspection report(s) before a permit will be issued by the City Planning and Zoning Department.

- a. Upon the remedy of defects, the City Planning and Zoning Department shall issue a permit to the owner within thirty (30) days of passing re-inspection.

(D) Permit Fee & Expiration of Permit.

- (1) A permit expires one year after the date the permit is issued.
- (2) The fee for an initial permit (and reissuance if the permit is revoked) is established as set forth in Chapter 36 of the Seymour City Code. The permit must be renewed annually with updated information with no fee for renewal.

(E) Issuance of Permit. Subject to subsections (C)(4)a. above and (F) below, if an owner submits a permit application under this chapter that meets the requirements set forth in this chapter, the City Planning and Zoning Department shall issue a permit to the owner within thirty (30) days of receipt of the application.

(F) Re-Application for Permit Previously Revoked. An owner may apply for a permit for a short-term rental for which a previous permit of the owner was revoked by the City. However, a new permit may not be issued until any outstanding fines are paid for ordinance violation citations issued to the owner with regard to use of the short-term rental.

(G) Duty of Owner to Update Application Information. If any information provided by an owner to the City in the permit application changes, the owner shall provide updated information to the Planning and Zoning Department in writing within thirty (30) business days after the change.

(H) Hourly Rentals Prohibited. The short-term rental property owner shall not receive any compensation or remuneration to allow occupancy for a period of less than 24 hours.

(I) Non-Transferrable. If an owner sells all or part of a permitted property, the permit may not be transferred to the new owner. The new owner must apply for a new permit and pay the initial permit fee.

§118.03 Revocation of Permit.

(A) Ordinance Violations. If three (3) or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the City Planning and Zoning Department may revoke the permit for that permitted property for a period of not more than one (1) year after the date the permit is revoked.

(B) Notice & Hearing.

- a. Written Notice. Whenever the City Planning and Zoning Department determines that there are reasonable grounds to believe that a permit should be revoked, the department shall give notice of the alleged violation and of the revocation to the owner. The notice shall be in writing, including the statement of the reason(s) why it is being issued and be served upon the owner. The notice shall be deemed to be properly served upon the owner if a copy thereof is sent by registered or certified mail to the owner at the address of the owner as listed on the permit application.
- b. Hearing. The owner may request and shall be granted a hearing on this matter before the Board of Public Works and Safety of the City of Seymour, Indiana ("Board"). The owner shall file in the office of the City Clerk-Treasurer a written petition requesting the hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of the petition, the Board shall set a time and place for the hearing and shall give the owner written notice thereof. At the hearing, the owner shall be given an opportunity to be heard and to show why the notice should be denied. The hearing shall be open to the public and notice thereof published in accordance with IC 5-3-1-2.
- c. Decision and Order. After the hearing, the Board shall either sustain or deny the revocation. The Board's decision shall be deemed to be an order and final. Any notice served pursuant to this section shall automatically become an order if a written petition for a hearing is not filed in the office of city clerk within ten (10) days after the notice is served. The City Planning and Zoning Department shall not sit as a member of the Board at the hearing on the petition, but shall be allowed to be present, present evidence, cross examine witnesses, and be cross examined by the petitioner. The Board shall make findings of facts relative to a decision under this section, which shall be reduced to writing.

§118.04 Violations of this Chapter.

- (A) Failure to Obtain Permit. Pursuant to IC 36-1-24-18, an owner who rents a short-term rental without first obtaining a valid permit from the City Planning and Zoning Department commits a class C infraction. Each short-term rental transaction that the short-term rental provider completes without a short-term rental permit constitutes a separate violation of this chapter.
- (B) Failure to Comply with this Chapter. Except for the violation stated in subsection (A) above, failure to comply with the other terms and conditions of this chapter shall be deemed to be a violation of this chapter and subject to a fine as set forth in subsection §118.05.

§118.05 Initial Permit Fee & Fines.

(A) The fee for an initial permit (and reissuance if permit is revoked) as set forth in Chapter 36 of the Seymour City Code is \$75.00.

(B) Fines for violation of this Chapter shall be:

- a. 1st offense: \$50.00
- b. 2nd offense: \$100.00
- c. 3rd offense: \$250.00

§118.06 Notice of potential tax liability. This section is intended as notice to an owner as defined in section .01 of this chapter. An owner of short-term rental property who makes a short-term rental in which payments for the room, lodging, or other accommodation are not made through a marketplace facilitator (as defined by IC 6-2.5-1-21.9) may be liable for collecting and remitting the following taxes on consideration received by the owner for the short-term rental:

- (1) State gross retail tax imposed under IC 6-2.5-4-4.
- (2) Innkeeper's tax imposed under IC 6-9.

Section 2. Seymour City Code, Chapter 36, APPENDIX: FEE SCHEDULES, is hereby amended to add the following "Activities" and associated fees:

(A) General license, permit, and service fees.

Activity	Fee	2003 Code	Details	Ord. No.	Date Passed	1987 Code
Short-term rental permit	\$75.00		One-time fee; annual renewal at no charge			

Section 3. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed to the extent incompatible.

Section 4. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 5. This Ordinance shall be in full force and effect immediately after its passage, approval, and publication according to law.

ADOPTED by the Common Council and APPROVED by me, the Mayor, this _____

day of _____ 2023 at _____ P.M.

Matthew Nicholson, Mayor
City of Seymour, Indiana