

### **Short-Term Rentals**

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### **§ 7-13-1. Purposes.**

The purposes of this chapter are to ensure that the quality of short-term rentals operating within the Town of Oshkosh is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and parking and for an adequate level of maintenance; determine the responsibilities of owners managing these rental properties for tourists or transient occupants, including, but not limited to, the responsibility to expeditiously and personally respond to, stop, mitigate, or prevent the reoccurrence of unreasonable activities on, or conditions, uses or misuses of, these rental properties which adversely impact or substantially annoy, disturb, threaten, harm, offend or interfere with the residential uses, nature or values of other properties in the neighborhoods in which these rental properties operate, or with the comfort, health, enjoyment, security, life, health, or safety of others, or which substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any lane, street, road, bridge or other public or private way used by emergency vehicles or protective service personnel to gain access to property or a navigable body of water to provide services (i.e., public nuisances); protect the character and stability of all areas, especially residential areas, within the Town of Oshkosh; provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; require the provision of liability insurance in connection with the operation of short-term rentals so that persons on these properties, and the owners and occupants of adjacent properties, who suffer bodily injury or property damage arising from the condition or operation of the short-term rental, or from acts or omissions occurring thereon, are afforded a potential source of recovery to pay such damage claims; and provide for the administration and enforcement hereof.

### **§ 7-13-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

CLERK — The Town Clerk of the Town of Oshkosh or designee.

DWELLING UNIT — One or more rooms designed, occupied, used, or intended to be occupied or used as separate living quarters, with a food preparation area and sleeping and sanitary facilities provided within such room(s). Dwelling units include residential, tourist rooming house, seasonal employee housing and dormitory units.

FOOD PREPARATION AREA — Any part of a building containing three or more of the following facilities:

- 1) Cooking, including stoves, ranges, ovens, cooktops, microwave ovens with a capacity of one cubic foot or greater, or countertop appliances such as grills, hot plates, toaster ovens, roasters, and slow cookers, but excluding coffee makers, top-slot toasters, or microwave ovens with a capacity less than one cubic foot.
- 2) Refrigeration with a capacity greater than 3.5 cubic feet.
- 3) Sink with a bowl depth greater than four inches and any other bowl dimension greater than 13 inches.

- 4) Storage with a capacity greater than 24 cubic feet intended or used for food, cookware, dishes, or related utensils.

**GUEST REGISTER** — The official record provided and kept by a property owner in which short-term rental guests are required to list their true names and addresses before being assigned sleeping quarters, pursuant to Wis. Adm. Code § ATCP 72.16.

**LICENSE** — The short-term rental license issued under § 7-13-4.

**LICENSE YEAR** — The period from May 1 of each year to April 30 of the following year.

**OCCUPANT** — Any person, over one year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit.

**PERSON** — An individual or group of individuals.

**PROPERTY OWNER** — The owner of a short-term rental.

**RENEWAL LICENSE** — Any license issued under this Chapter 7-13 which will be or is in effect for the license year immediately following a license year for which the Town Clerk issued a license under this chapter for the same short-term rental property.

**SHORT-TERM RENTAL** — A residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days, as defined in Wis. Stats., § 66.0615(1)(dk)

### **§ 7-13-3. Operation of short-term rentals; exemptions.**

- A. All short-term rentals shall be of the primary residence of the property owner. The primary residence requirement does not apply to those dwelling units operated as short-term rentals, as defined in this chapter, prior to the effective time of this chapter. Property owners seeking this exemption shall, within 45 days of the effective time of this chapter, provide to the Town Clerk identification of the property and owner for which the exemption is sought, and proof of operations as a short-term rental prior to the effective date of this chapter, for review by the Town Board to determine if this exemption applies. Those properties exempted from the primary residence requirement are still required to comply with all other terms and conditions of this chapter and all other applicable state, county and local statutes, codes, regulations, and ordinances. This 45 day limit may be extended by the Town Board for extraordinary circumstances for good cause shown by the owner, but not beyond an additional 30 days.
- B. Property owners may rent their primary residence for no more than 10 total nights each year without a short-term rental license. After obtaining a short-term rental license, property owners may rent their residence for no more than 180 total nights in the 365-day license period. Property owners may rent their residence to no more than one renter or group of renters in a consecutive 6-day period. Nothing in this section prohibits a property owner from renting their residence to a renter or group of renters for a period of fewer than 6 consecutive days, but the property owner may not rent to a different renter or different group of renters within 6 days of the start of a prior rental period. The rental limit in a 6-day period in this Subsection B is subject to the same exemption and compliance provisions as set forth in Subsection A above pertaining to the primary residence requirement for short-term rentals.

- C. Property owners must continuously hold a License to maintain the exemptions described in § 7-13-3(A) and (B). The exemptions are non-transferable, and terminate upon the sale or transfer of an exempt property. Only the property owner operating a short-term rental prior to the effective date of this chapter is eligible for the exemptions. Notwithstanding the initial 45 days to apply for the exemption, if the property owner does not hold a License for a period of thirty (30) days, all exemptions will terminate, and any subsequent Licenses issued are subject to the full requirements of this chapter.
- D. Each short-term rental property owner is required to have the following licenses and permits as ongoing required conditions for operating short-term rentals. However, the short-term rental license issued by the Town of Oshkosh shall reflect the exemptions in Subsections A and B above for short-term rentals that meet the requirements for these exemptions.
- (1) A state of Wisconsin tourist rooming house license.
  - (2) A seller's permit issued by the Wisconsin Department of Revenue, unless all rentals of the property are exempt from such permit requirement per state regulations.
  - (3) A license from the Town of Oshkosh issued pursuant to this chapter.
- E. Each short-term rental shall comply with all of the following:
- (1) No residential dwelling unit may be rented for a period of six or fewer consecutive days, unless qualified for exemption under Subsection B above.
  - (2) There shall not be excessive noise as prohibited by § 11-2-8 of the Town Code, excessive fumes, glare, or vibration, any nuisance activities prohibited pursuant to Title 11 of the Town Code, animals at large as prohibited by § 7-1-6(c) of the Town Code, or trespassing onto neighboring properties as prohibited by § 11-3-5 of the Town Code.
  - (3) Name plates or other signage related to the short-term rental property shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site.
  - (4) The number of occupants in any dwelling unit shall not exceed the limits set forth in Wis. Adm. Code § ATCP 72.14 for hotels, motels, and tourist rooming houses.
  - (5) No recreational vehicles (RVs), campers, tents or other temporary lodging arrangements shall be permitted on-site as a means of providing

additional accommodations for paying guests, other invitees or the property owner.

- (6) Compliance with all applicable state, county and local codes and regulations is required.
- (7) The property owner shall be available for contact by the Town Clerk or Town Building Inspector between the hours of 8:00 a.m. and 11:00 p.m. on those days when the property is rented. The property owner must notify the Town Clerk within three business days of any change in the property owner's contact information and submit the revised contact information to the Town Clerk within the same time period.
- (8) The property owner shall have and maintain homeowner's or equivalent liability insurance that includes coverage for short-term rental operations effective during all short-term rental periods for the premises that are used for short-term rental and shall provide written evidence of such insurance with the license application and renewal application forms. This insurance requirement may be satisfied through such sources as the property owner may choose, including, but not limited to, conventional insurance or insurance offered through a lodging marketplace.
- (9) The property owner of each short-term rental shall provide a guest register and require all guests to register their true names and addresses and rental time period(s) before being assigned sleeping quarters. The guest register shall be kept by the property owner and be available for inspection for at least one year, as required by the Wisconsin Administrative Code. If the property owner does not consent to inspection of the guest register, the register shall be subject to disclosure to an authorized official pursuant only to a proper search warrant, administrative subpoena, judicial subpoena, or other lawful procedure to compel the production of records that affords the property owner an opportunity for compliance review by a neutral decisionmaker.
- (10) Upon probable cause to believe that a violation of this chapter, or of a law, code, rule or regulation relating to buildings, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, food or zoning, has occurred or is occurring, the Town Building Inspector or a public health officer, or county Sheriff's Department officer, may request that the property owner or property manager allow him or her, upon presenting proper identification, access to the short-term rental premises at any reasonable time for any of the following purposes: to determine if there has been a violation of this chapter, or of a law, code, rule or regulation related to the short-term rental or its operation; to determine compliance with previously written violation orders; to examine and copy relevant documents and records related to the operation of the

short-term rental; or to obtain photographic or other evidence needed to enforce this chapter. As used in this subsection, "probable cause" means facts and circumstances within an officer's knowledge and of which he or she has reasonably trustworthy information that are sufficient to warrant a reasonable person in believing that a violation has been or is being committed. If consent is refused, the Building Inspector, health officer or police officer may apply for a special inspection warrant issued under Wis. Stats., § 66.0119, or other warrant, subpoena or order as may be necessary or appropriate.

#### **§ 7-13-4. Application for short-term rental license.**

The Town Board shall approve a short-term rental license if an applicant demonstrates compliance with the provisions of Chapter 7-13 of the Town Code. A short-term rental license is issued for one license year and may be renewed annually as provided in § 7-13-6. The license shall contain the following information:

- A. The name of the property owner, with contact information, including mailing address and a telephone number at which the property owner is available.
- B. The license term.
- C. The State of Wisconsin tourist rooming house license number.

#### **§ 7-13-5. Short-term rental license procedure.**

- A. All applications for a short-term rental license shall be filed with the Town Clerk on forms provided by the Clerk. Applications must be filed by the property owner. No license shall be issued unless the completed application form is accompanied by payment of the required application fee, which fee shall be nonrefundable.
- B. Each application shall include the following information and documentation for each short-term rental unit in order to demonstrate compliance with all requirements of this chapter, including, but not limited to:
  - (1) The name of the property owner, with contact information, including mailing address and a telephone number at which the property owner is available.
  - (2) A copy of the State of Wisconsin tourist rooming house license issued under Wis. Stats. § 97.605, or proof that such state license has been applied for, in which event a provisional short-term rental license may be issued under this chapter for a period of 30 days but shall be conditioned upon the Town Clerk's receipt of a copy of such state license from the applicant within said thirty-day period, and if a copy of such state license is not received by the Clerk within said period, then such provisional license shall expire and be void at and after the end of said thirty-day period.

- (3) A copy of the most recent lodging inspection report for a tourist rooming house issued by the State of Wisconsin, which should be dated within one year of the date of the license application to the Town.
  - (4) Written evidence of liability insurance as required by § 7-13-3D(8).
  - (5) A copy of a current seller's permit issued by the Wisconsin Department of Revenue, unless all rentals of the property are exempt from such permit requirement per state regulations.
  - (6) A diagram, drawn to scale, showing the location of buildings and the on-site, off-street parking area(s) designated for tenants and invitees on the premises.
  - (7) Written certification by the property owner that the short-term rental meets the requirements of this chapter and applicable state and county laws, ordinances and regulations.
  - (8) An employer identification number issued by the Internal Revenue Service, if applicable.
  - (9) For renewal licenses only, written certification that a guest register has been kept as required by the Wisconsin Administrative Code.
- C. Unless earlier revoked, each license shall run from May 1 of one year to April 30 of the following year and may be renewed for additional one-year periods. The application fee shall be paid upon filing of the application. Any application that does not include all of the information and supporting documentation required by this chapter shall not be considered as complete.
- D. When the Town Board determines that an application is complete and meets the requirements of this chapter, the Town Clerk will issue a short-term rental license (or, if applicable, a provisional short-term rental license) to the applicant. If the Board determines that the application is incomplete or does not meet the requirements of this chapter, the Board shall deny the application and inform the applicant, in writing, of the reason(s) why the application was denied and what action is needed to obtain approval of the application.
- E. No short-term rental license (or, if applicable, a provisional short-term rental license) shall be issued or renewed if the applicant or short-term rental property has outstanding fees, taxes, special charges or forfeitures owed to the Town.
- F. No short-term rental license (or, if applicable, a provisional short-term rental license) shall be issued if the applicant or short-term rental property is found to be subject to one of the grounds for revocation as provided in § 7-13-9C.

#### **§ 7-13-6. License renewal.**

- A. Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the Town Clerk and payment of the renewal fee. A renewal application must be filed with, and a nonrefundable renewal fee must be paid to, the Clerk at least 90 days prior to the license expiration date to allow the Town Board adequate time to review the application. The Board shall determine whether the information provided in the renewal application is complete and meets the requirements of this chapter. The Board may also request reports from the Town Building Inspector, the Sheriff's Department and other law enforcement agencies regarding any enforcement actions taken with respect to the short-term rental properties and operations, and their owners, tenants, occupants or visitors. The Board shall review the renewal application and may approve or deny the application after taking into consideration the number, frequency and/or severity of law violations relating to the short-term rental property and operations, and its owner(s), tenant(s), occupant(s) or visitor(s), and whether such violations substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood. If, after such consideration, the Board determines not to renew the license, the Board shall notify the applicant, in writing, of the reason(s) for such decision, and the applicant's right to appeal the decision to the Town Board of Appeals as provided in § 7-13-9.
- B. No license shall be renewed if the short-term rental property is under an order issued by the Building Inspector or a local health officer, or his or her designee, to bring the premises into compliance with state, county or local laws, codes, rules or regulations.

#### **§ 7-13-7. Standards for short-term rentals.**

Each short-term rental shall comply with this chapter's requirements and any other applicable state, county or local laws, codes, rules or regulations. Each short-term rental shall comply with the following standards:

- A. The number of occupants may not be more than allowed under Wis. Adm. Code Ch. ATP 72 or any other state regulation, state statute, or local ordinance.
- B. The minimum number of on-site, off-road parking spaces shall equal, at a minimum, the short-term rental property's advertised maximum sleeping capacity divided by four, with the quotient rounded up to the nearest whole number.
- C. Property owners shall require that renters utilize on-site, off-road parking only.



- D. The short-term rental premises shall have functioning smoke detectors and carbon monoxide detectors pursuant to the requirements of Wis. Adm. Code Ch. SPS 321.
- E. Certification of compliance. As a condition of issuance of a license under Chapter 7-13 of the Town Code, the property owner shall certify, in writing, in each initial application and renewal application form that the short-term term rental property is in compliance with the terms and conditions of the license and this chapter.

#### **§ 7-13-8. Display of license.**

Each license shall be displayed on the inside of the main entrance door of each short-term rental.

#### **§ 7-13-9. Appeal of licensing decisions; license revocation; appeal procedure; judicial review.**

- A. Renewal of a short-term rental license, or to revoke a short-term rental license shall specify the reason(s) for such denial or revocation in writing. Prior to the time for the renewal of the license, the Town Board shall notify the licensee, in writing, of the Town's intention not to renew the license and notify the licensee of his or her right to an appeal hearing as provided in § 7-13-9B.
- B. The Town Board's decision to deny an initial license or to deny renewal of a license, or to revoke a license, may be appealed, under Ch. 68, Wis. Stats., to the Town Board of Appeals by filing a written appeal with the Clerk within 30 calendar days after the date of mailing of the written notice of the Town Board's decision denying such license or renewal license. The appeal shall state the ground or grounds upon which the person agrees the Board's decision should be modified or reversed. The Town Board of Appeals shall conduct a due process hearing and issue a written decision on the appeal within 15 days of the Town's receipt of the written appeal. Notice of the hearing shall be given by mail or personal service at least 10 days before such hearing and the hearing shall be conducted in accordance with Ch. 68, Wis. Stats. If the appellant appears at the hearing, he or she may produce and cross-examine witnesses, present relevant evidence, and be represented by counsel of his or her choosing, at his or her expense. If the Town Board of Appeals finds the Town Board's reason(s) for his or her decision sufficient, the decision shall be affirmed. If the Town Board of Appeals finds the Town Board's reason(s) for his or her decision insufficient, the decision shall be reversed, and the license shall be granted and issued. If the appellant does not appear at the hearing and the Town Board of Appeals finds the Town Board's reason(s) for his or her decision sufficient, the decision shall be affirmed. The Town Board of Appeal's written decision on the appeal must specify the reason(s) for its determination and the Town Clerk shall provide a copy of this written decision by mail or personal service to the appellant within 20 days of completing the hearing.

- C. A license may be revoked by the Town Board during the term of a license year and following a due process hearing for one or more of the following reasons:
- (1) Failure by the licensee to make payment of delinquent fees, taxes, special charges, forfeitures or other debt owed to the Town.
  - (2) Failure to maintain all required local, county and state licensing requirements.
  - (3) Any violation of local, county or state laws or regulations which, based upon their number, frequency and/or severity, and their relation to the short-term rental property, its owner(s), tenant(s), occupant(s) or visitor(s), substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.
  - (4) Any violation of the requirements of Chapter 7-13 of the Town of Oshkosh Code of Ordinances.
- D. Revocation. Any resident of or owner of property within the Town may file a sworn written complaint with the Town Clerk alleging one or more of the reasons set forth in § 7-13-9C as grounds for revocation of a short-term rental license issued under this chapter. Upon the filing of the complaint, the Town Board shall notify the licensee of the complaint by certified mail, return receipt requested, and provide the licensee with a copy of the complaint. The notice shall direct the licensee to appear before the Town Board on a day, time and place included in the notice, not less than 10 days and not more than 45 days from the date of the notice, and show cause why his or her license should not be revoked. The hearing shall be conducted as provided in § 7-13-9B. If a license is revoked, the Town Board shall give notice of revocation to the licensee by certified mail, return receipt requested. No part of the fee paid for any license so revoked may be refunded.
- E. Municipal review/judicial review. The action of the Town in granting or renewing, refusing to grant or renew, or revoking a license under this chapter may be appealed to the Town for review pursuant to the time limits and procedures in §§ 68.08 through 68.12, Wis. Stats. Thereafter, the final decision made pursuant to the foregoing municipal review procedures may be reviewed by the Winnebago County Circuit Court upon petition by the applicant, licensee, or a resident of or owner of property within the Town to the Circuit Court. Such appeal shall be filed within 30 days of the date of mailing by the Town Clerk of the notice of the Town's final action granting or renewing, refusing to grant or renew, or revoking a license. The procedure on review by the Winnebago circuit court shall be pursuant to a petition for certiorari under § 68.13, Wis. Stats.

#### **§ 7-13-10. Violations and penalties.**

- A. Any person who violates any provision of this chapter shall be subject, upon conviction thereof, to a forfeiture of not less than \$250 nor more than \$750 for each offense, together with the costs of prosecution, and in the event of default of payment of such forfeiture and costs, shall be imprisoned in the Winnebago County Jail until such forfeiture and costs are paid, except that the amount owed is reduced at the rate of \$25 for each day of imprisonment and the maximum period of imprisonment is 30 days. Each violation and each day a violation occurs or continues to exist shall constitute a separate offense.
- B. The penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs, whether existing under this chapter or otherwise.

#### **§ 7-13-11. Fees.**

Any person applying for an initial short-term rental license or renewing a license pursuant to this chapter shall be subject to the fees as established by resolution of the Town Board.

#### **§ 7-13-12. Severability.**

Should any portion of this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any other provisions of this chapter.