

ORDINANCE NO. 19-03
VILLAGE OF WAUNAKEE

AN ORDINANCE CREATING CHAPTER 18, ARTICLE VII
OF THE CODE OF ORDINANCES, VILLAGE OF WAUNAKEE,
CONCERNING THE REGULATION AND LICENSING
OF SHORT-TERM RENTALS

Recitals

- A. Pursuant to Wis. Stat. §§ 61.34 and 66.1014, the Village of Waunakee has the authority to adopt an ordinance regulating and requiring a license for the operation of short-term rental properties in the Village.
- B. The Village Board has determined that it is in the public interest to adopt Chapter 18, Article VII, titled Regulation and Licensing of Short-Term Rentals, which is attached hereto and incorporated herein as Exhibit A (hereinafter, the “Short-Term Rental Ordinance”).
- C. The purpose of adopting the Short-Term Rental Ordinance is to ensure that the quality of short-term rentals operating within the Village of Waunakee is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists or transient occupants, to protect the character and stability of all areas, especially residential areas, within the Village of Waunakee; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.


NOW, THEREFORE, the Village Board of the Village of Waunakee, Dane County, Wisconsin, do ordain as follows:

- 1. The Short-Term Rental Ordinance is hereby adopted.
- 2. The Short-Term Rental Ordinance shall be published as may be required pursuant to Wis. Stat. § 61.50.
- 3. Any owner wishing to operate a short-term rental in the Village of Waunakee, effective December 1, 2019, shall complete and file an application with the Village on or before October 15, 2019.
- 4. Notwithstanding the Village’s adoption of the Short-Term Rental Ordinance, the Village will delay enforcement of the Short-Term Rental Ordinance until December 1, 2019. Any person who operates a short-term rental in violation of the Short-Term Rental Ordinance on or after December 1, 2019, without

complying with the Short-Term Rental Ordinance, shall be subject to the penalties contained therein.

The foregoing ordinance was duly adopted by the Village Board of the Village of Waunakee at a meeting held on September 16, 2019.

APPROVED:

By: 
Chris Zellner, Village President

ATTEST:

By: 
Caitlin Stene, Village Clerk

ARTICLE VII – REGULATION AND LICENSING OF SHORT-TERM RENTALS

Sec. 18-400. – Purpose.

The purpose of this Article is to ensure that the quality of short-term rentals operating within the Village of Waunakee is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists or transient occupants, to protect the character and stability of all areas, especially residential areas, within the Village of Waunakee; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.

Sec. 18-401. – Definitions.

- (a) For the purpose of administering and enforcing this Article, the terms or words used herein shall be interpreted as follows:
 - (1) Words in the present tense include the future.
 - (2) Words in the singular number include the plural number.
 - (3) Words in the plural number include the singular number.
- (b) The following definitions and conditions apply unless specifically modified:
 - (1) *Clerk.* The Village Clerk of the Village of Waunakee or designee.
 - (2) *Corporate entity.* A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.
 - (3) *Dwelling Unit.* One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom arranged for exclusive use by one (1) person or one (1) family. Dwelling Units include residential, tourist rooming house, seasonal employee housing and dormitory units.

- (4) *Owner.* The owner of a short-term rental.
- (5) *Person.* Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Article prescribing a penalty or fine, as to partnerships or association, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.
- (6) *Property Manager.* Any person that is not the property owner and is appointed to act as agent and/or provides property management services to one or more short-term rental.
- (7) *Short-Term Rental.* A residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days, as defined in Wis. Stat. § 66.0615(1)(dk).
- (8) *State.* The State of Wisconsin Department of Health, or its designee.

Sec. 18-402. – Operations of Short-Term Rentals.

- (a) No person may maintain, manage, or operate a short-term rental more than 10 nights each year without a short-term rental license. Every short-term rental shall be operated by an Owner or Property Manager.
- (b) Every short-term rental shall be the primary residence of the Owner or the principals of any corporate entity owner or trust.
- (c) The short-term rental shall be rented for a minimum of 6 consecutive days by each guest.
- (d) Each short-term rental is required to have the following licenses and permits:
 - (1) A State of Wisconsin Tourist Rooming House License;
 - (2) A Seller's permit issued by the Wisconsin Department of Revenue;

- (3) A room tax permit; and
 - (4) A permit or license issued pursuant to the provisions of this Article.
- (e) Each short-term rental shall comply with all of the following:
- (1) The total number of days within any consecutive 365-day period that the dwelling may be rented shall not exceed 180 days. If the Owner does not occupy the short-term rental at the time of rental, the short-term rental may be rented no more than 30 days per licensing year.
 - (2) The Owner or Property Manager shall notify the Clerk in writing when the first rental within a 365-day period begins.
 - (3) No vehicular traffic shall be generated that is greater than normally expected in the residential neighborhood.
 - (4) There shall not be excessive noise, fumes, glare, vibrations generated during the use.
 - (5) Name plates or other signage shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site. Off-site advertising in media channels relating to the availability of the rental may take place only after all Village, County and State permits and licenses have been obtained.
 - (6) The number of occupants in any unit shall not exceed the limits set forth in the State of Wisconsin Uniform Dwelling Code and other applicable county and Village housing regulations based upon the number of bedrooms in each unit. In no case shall the short-term rental have more than two occupants per bedroom.
 - (7) No recreational vehicle (RV), camper, tent, or other temporary lodging arrangement shall be permitted on site as means of providing additional accommodations for paying guests or other invitees.

- (8) Any outdoor event held at the short-term rental shall last no longer than one day occurring between the hours of 7:00 am and 10:00 pm. Any activities shall be in compliance with other applicable noise regulations, including, but not limited to, keeping quiet hours from 10:00 pm to 7:00 am. Only guests who have registered under subsection (16) below may attend an outdoor or indoor event at the Property.
- (9) All rentals of the short-term rental shall be subject to payment of the Village room tax at the current applicable rate. Permit holders are responsible for complying with all regulations of the room tax.
- (10) Compliance with all applicable state, county, and local codes and regulations is required.
- (11) Annual general building inspection is required prior to issuance or renewal of the license.
- (12) A local property management contact must be on file with the Village at the time of application. The local Property Manager must be within twenty-five (25) miles of the short-term rental property and must be available 24 hours a day. The Property Owner must notify the Village within twenty-four (24) hours of a change in management contact information for the short-term rental.
- (13) A short-term rental license shall not be issued until the following contingencies have been met:
 - (a) License from the County received;
 - (b) General Building and fire code inspections completed by the Village and no outstanding orders remain.
- (14) Short-term rental licenses are issued for one year period and must be renewed annually subject to Village approval or denial.
- (15) The Owner of the short-term rental shall have appropriate insurance for the home that is used for short-term rental and provide proof of insurance with the license application and renewal.

- (16) Each short-term rental shall provide a register and require all guests to register their true names, addresses, and date of birth before occupancy of the short-term rental. The register shall be kept intact and available for inspection by representatives of the Village for at least one year.
- (17) Each short-term rental shall maintain the following written records for each rental of the dwelling unit: the full name and current address of any person renting the property, the time period for that rental, and the monetary amount or consideration paid for that rental.

Sec. 18-403. – Short Term Rental License.

- (a) The Clerk shall issue a short-term rental license to all applicants following the approval of an application and the filing of all documents and records required under this Article. The application shall also contain the following information:
 - (1) Identify the Owner with contact information, including mailing address, physical address, and 24 hour phone number.
 - (2) Identify the Property Manager with contact information, including mailing address, physical address, and 24 hour phone number.
 - (3) The maximum days of occupancy for the premises for individual rentals.
 - (4) The license term.
 - (5) State lodging license number, if any.

Sec. 18-404. – Short-Term Rental License Procedure.

- (a) All applications for short-term rental license shall be filed with the Clerk on forms provided. Applications must be filed by the Owner. No permit shall be issued unless the completed application is accompanied by payment of the required fee.
- (b) Each application shall include the following information and documentation for each short-term rental unit:

- (1) A copy of State of Wisconsin license (Public Health Madison and Dane County) for a Tourist Rooming House License issued under Wis. Stat. § 254.64.
 - (2) A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal.
 - (3) Proof of Insurance.
 - (4) A copy of the Seller's Permit form the Department, if any.
 - (5) Floor plan and requested maximum occupancy.
 - (6) Site plan, including available onsite parking.
 - (7) Property Management Agreement (if applicable).
 - (8) Designation of the Property Manager.
 - (9) Certification from the Owner that the property meets the requirements of this Article.
 - (10) A room tax permit issued by the Village.
 - (11) An employer identification number issued by the Internal Revenue Service.
- (c) Each permit and license shall run during a calendar year expiring December 31 (license year January 1 to December 31). The filing fee shall be paid upon filing of the application. Any application which does not include all of the information and documentation shall not be considered as complete.
- (d) When satisfied that the application is complete, the Clerk shall forward initial applications for permits and licenses to the appropriate Village departments for review. If the Clerk in consultation with Village staff determines that the application meets the requirements of this Article, the Clerk may submit the application for the public hearing process provided below and review by the Village Board. If the Clerk in consultation with Village staff determines that the

application does not meet the requirements of this Article, the Clerk may deny the application.

- (e) The Village Board shall review the application and clerk/staff determinations, and either approve or deny the license based on that information and testimony provided at a public hearing held prior to that determination. The public hearing shall take place and be noticed as required for preliminary plats pursuant to Section 129-93(c) of the Village Code.
- (f) No short-term rental license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report dated not more than one (1) year before the date of the issuance or renewal.
- (g) No short-term rental license shall be issued or renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, unless arrangements for payment have been approved by the Clerk.

Sec. 18-405. – Short-Term Rental License Renewal; Issuance of Property Manager Permit.

- (a) Each application for a renewal of a short-term rental license or for the renewal of a Property Manager Permit shall be filed with the Clerk on or before October 15.
 - (1) Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the Clerk and payment of the applicable fee.
 - (2) Each application for the renewal of a Property Manager permit shall include the information required under Section 18-406 and payment of the applicable fee.
- (b) The Clerk shall verify that the information provided on the application for renewal of a short-term rental license or the application for a Property Manager Permit is complete and in accordance with the requirements of this Article. The Clerk shall request reports from the Public Safety Department and/or the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the short-term rental properties.

- (c) If the Clerk in consultation with Village staff determines that the application for renewal of a short-term rental license and/or an application for a Property Manager Permit meets the requirements of this Article, the Clerk may submit the applications to the Village Board for review and action. If the Clerk in consultation with Village staff determines that the application for renewal of a short-term rental license and/or application for a Property Manager Permit does not meet the requirements of this Article, the Clerk may deny the renewal application or the application for a Property Manager Permit.
- (d) The Village Board shall review the application for renewal of a short-term rental license and/or an application for a Property Manager Permit, and all clerk/staff determinations, if any, and either approve or deny the renewal application and/or Property Manager Permit based on that information. If the Village Board approves the renewal of a short-term rental license and/or a Property Manager Permit, the Clerk shall issue the renewal license and/or the Property Manager Permit within ten (10) days of the Village Board's action.
- (e) No short-term rental license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report by the Village fire inspector dated within one (1) year of the issue date.
- (f) No short-term rental license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Village ordinances, unless arrangements for payment have been approved by the Clerk.

Sec. 18-406. – Property Manager Permit.

- (a) No person may act as a Property Manager for a short-term rental without a Property Manager Permit issued in accordance with the provisions of this Article and, specifically, this Section 18-406 and Section 18-405. The Property Manager Permit shall apply to all short-term rentals for which the Property Manager has exclusive rights for the rental of the property. The Property Manager shall certify to the Village that each short-term rental operating under the short-term rental license complies with the standards of this Article. Property Managers shall be required to obtain an initial permit and, thereafter, a renewal permit on an annual basis pursuant to the schedule identified in Section 18-405. For avoidance of

doubt, initial applications for a Property Manager Permit shall be processed pursuant to Section 18-405; however, the October 15 deadline date shall not apply, as the initial Permit may be applied for at any time during the year.

- (b) To qualify as a Property Manager, the applicant shall meet the following requirements:
 - (1) Be a natural person residing in or within twenty-five (25) miles of the Village of Waunakee or a corporate entity with offices located within twenty-five (25) miles of the Village of Waunakee.
 - (2) The applicant does not have pending any criminal charge and has not been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another.
- (c) Each Property Manager shall be authorized by the Owner to act as the agent for the Owner for the receipt of service of notice of violation of this Article's provisions and for service of process pursuant to this Article and shall be authorized by the Owner to allow Village employees, officers and their designees, to enter the Owner's property for purposes of inspection and enforcement of this Article and/or the Village Code.

Sec. 18-407. – Standards for Short-Term Rentals.

- (a) Each short-term rental shall comply with this Article's requirements or any other applicable Village ordinance. Each short-term rental shall comply with the following minimum requirements:
 - (1) One (1) internal bathroom for every (4) occupants.
 - (2) Not less than one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof. The floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum

occupancy for any premises without a separate enclosed bedroom is two (2) people.

- (3) Not less than one (1) onsite off-street parking space for every four (4) occupants based upon maximum capacity.
- (4) A safe, unobstructed means of egress from the short-term rental leading to safe, open space at ground level.
- (5) Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
- (6) Shall not have an accessible wood burning fireplace unless the Owner provides a certification from a properly licensed inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fore Code Chapter 211 Standard for Chimneys. Fireplaces, Vents, and Solid Fuel-Burning Appliances.
- (7) Shall not have hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking or any other purpose on any balcony, deck, or under any overhanging structure or within ten (10) feet of any structure.
- (8) Shall not have a fire pit or other similar device used for heating or any other purpose on any balcony, deck or under any overhanging structure or within twenty-five (25) feet of any structure.
- (9) There shall be no outdoor storage by the tourist or transient.
- (10) Pets must be restricted to the property.
- (11) Use of any pool, hot-tub, sauna or similar device shall not be allowed unless built to commercial standards, licensed, and meets all standard testing as required for use in a commercial hotel.
- (12) All Property Managers shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the

Wisconsin Office of the Commissioner of Insurance, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate.

- (13) As a condition of issuance of a license under this Article, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Article.

Sec. 18-408. – Room Tax.

- (a) Each short-term rental shall comply with the room tax requirements identified in Chapter 62, Article III of the Village Code.
- (b) The Property Manager shall file room tax returns for the short-term rental.
- (c) All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under Chapter 62, Article III of the Village Code, and Wis. Stat. §§ 66.0615(3) and 77.61.

Sec. 18-409. – Display of License.

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

Sec. 18-410. – Appeal and License Revocation.

- (a) The denial of a short-term license or the renewal of a short-term license under this Article may be appealed by filing a written appeal request with the Clerk within ten (10) days of the Village's notice of denial. The appeal shall be heard by the Village Plan Commission, which shall make a recommendation to the Village Board. The Village Board shall then reconsider the initial application or renewal application, and any recommendations, and may approve or deny the application or renewal.
- (b) A license may be revoked by the Village Board for one or more of the following reasons:
- (1) Failure to make payment on taxes or debt owed to the Village.

- (2) Failure to make payment on room tax.
- (3) Three (3) or more legitimate calls for police service, building inspection or the health department for nuisance activities or other law violations in a twelve (12) month period.
- (4) Failure to comply with annual Village building inspection requirements.
- (5) Failure to maintain all required local, county, and state licensing requirements.
- (6) Failure to use the property as a short-term rental within twelve (12) months of obtaining the Village license.
- (7) Failure to comply with any requirements cited within this Article.
- (8) Any violation of an applicable zoning regulation or other state or local land use or property maintenance regulation.
- (9) Any violation of local, county, or state laws that substantially harm or adversely impact the predominately residential uses and nature of the surrounding neighborhood.

Sec. 18-411. – Penalties.

- (a) Any person who shall violate any provision of this Article shall be subject to a penalty as provided in the General Penalty provisions of the Village Code and in the forfeiture amounts as provided for in the bond schedule for the Village Municipal Court.
- (b) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Article or otherwise.

Sec. 18-412. – Fees.

- (a) Initial Short-Term Rental License application fee - \$1,000.
- (b) Each additional units added under a Short-Term Rental License - \$500.

- (c) Renewal Short-Term Rental License application fee - \$500.
- (d) Re-Inspections - \$100.
- (e) Property Manager Permit application fee (initial application and renewal application) - \$100.

Sec. 18-413. – Severability.

If any provision of this Article is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this Article. It is hereby declared to be the intention of the Village of Waunakee that all provisions of this Article are separable. This Article shall not invalidate or interfere with any lawful private or other lawful public covenant or restriction on property which prohibits or restricts to a greater extent the uses described and licensed herein.