

Chapter 11

Regulation and Licensing of Short-Term Rentals

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Sec. 7-11-1 Purpose

The Purpose of this Chapter is to ensure that the quality of short-term rentals operating within the Town of Westport 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 Town of Westport; 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. 7-11-2 Definitions

- (a) For the purpose of administering and enforcing this Chapter, 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:

Clerk. The Town Clerk of the Town of Westport or designee.

Corporate entity. A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.

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.

Owner. The owner of a short-term rental.

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 Chapter prescribing a penalty of 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.

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.

Short Term Rental. A residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days, as defined in Sec. 66.0615(1)(dk), Wis. Stats.

State. The State of Wisconsin Department of Health, or its designee.

Sec. 7-11-3 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 a Property Owner or Property Manager.
- (b) Every short-term rental must be the primary residence of the Owner or the principals of any corporate entity owner or trust.
- (c) The short-term rental must 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 Chapter.

- (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 Property 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 advertizing 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 Town, 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 town 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 8:00 am and 9:00 pm. Any activities shall be in compliance with other applicable noise regulations, except that quiet hours shall be kept from 9:00 pm to 8:00 am. Only guests who have registered under subsection (16) 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 Town room tax at the currant 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 Town 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 Town within twenty-four (24) hours of a change in management contact information for the short-term rental.
 - (13) A short-term rental license will 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 Town and no outstanding orders remain.

- (14) Short-term rental licenses are issued for one year period and must be renewed annually subject to Town approval or denial.
 - (15) The Property 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 date of birth, and addresses before beginning occupancy of the short-term rental. The register shall be kept intact and available for inspection by representatives of the Town 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.
- (f) No Property Owner shall advertise through any form of media or communication the availability of a Short Term Rental unless previously licensed under this Chapter. Examples including, but not limited to, VRBO, Airbnb, HomeAway, HotPads.com, Expedia, ShortTermHousing.com, and Craig's List.

Sec. 7-11-4 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 Chapter. The application shall also contain the following information:
- (1) Identify the Property 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; and
 - (5) State lodging license number, if any.

Sec. 7-11-5 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 Property Owner. No permit shall be issued unless the completed application for 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. Sec. 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 property owner that the property meets the requirements of this Chapter;
 - (10) A room Tax Permit issued by the Town of Westport; and
 - (11) An employer identification number issued by the Internal Revenue Service.
- (c) Terms and Filing date. Each permit and license shall run during a calendar year expiring June 30 (license year July 1 to June 30). The filing fee shall be paid upon filing of the application. The Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete.
- (d) Application Review Procedure. When satisfied that the application is complete, the Clerk shall forward initial applications for permits and licenses to the appropriate Town Departments for review. If the Clerk in consultation with the Town staff determines that the application meets the requirements of this Chapter, they may submit the application for the public hearing process provided below and review by the Town Board. If the Clerk in consultation with the Town staff determines that the application does not meet the requirements of this Chapter, they may deny the application.
- (e) Town Board Approval; Public Hearing Requirement. The Town 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 at section 10-3-32(b), Town Code, with the applicant responsible for the notice requirement.
- (f) No permit or 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 permit or license shall be issued or renewed, if the applicant or property has outstanding fees, taxes or forfeitures owed to the Town, unless arrangements for payment have been approved by the Clerk.

Sec. 7-11-6 Renewal

- (a) Each application for a renewal of a permit or license shall include updated information for the documentation on file with the Clerk and payment of the applicable fee. The Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Chapter. The Clerk shall request reports from the Public Safety Department and the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the short-term rental properties. The Clerk shall

issue renewal licenses within thirty (30) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of the Chapter and/or the reports from the policing authorities or the Zoning Administrator indicate that there are complaints or actions involving the property.

- (b) If the Clerk finds that the license or permit should not be renewed, the Clerk shall deny the renewal.
- (c) No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report by the Town fire inspector dated within one (1) year of the issue date.
- (d) No permit or license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Town, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Town ordinances, unless arrangements for payment have been approved by the Clerk.

Sec. 7-11-7 Property Manager

- (a) **Property Manager Permit.** 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 Chapter. 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 must certify to the Town that each short-term rental operating under the short-term rental license complies with the standards of this Chapter.
- (b) **Property Manager Qualifications.** To qualify as a Property Manager the applicant must meet the following requirements:
 - (1) Be a natural person residing in or within twenty-five (25) miles of the Town of Westport or a corporate entity with offices located within twenty-five (25) miles of the Town of Westport.
 - (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 Property Owner to act as the agent for the owner for the receipt of service of notice of violation of this Chapter's provisions and for service of process pursuant to this Chapter and shall be authorized by the owner to allow Town employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Chapter and/or the Town Code.

Sec. 7-11-8 Standards for Short-term Rentals

- (a) Each short-term rental shall comply with this Chapter's requirements or any other applicable Town ordinance. Each short-term rental shall comply with the following minimum requirements:
 - (1) One (1) internal bathroom for every (4) occupants;

- (2) Not less 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 property 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; and
- (13) Certification of compliance. As a condition of issuance of a license under this Chapter, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Chapter.

Sec. 7-11-9 Room Tax

- (a) Each short-term rental shall comply with the room tax reporting requirements of the Town Code Chapter 7-12.
- (b) Each Property Manager Licensee shall file room tax returns for the managed short-term rentals.
- (c) All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under Town Code 7-12, and Sections 66.0615(3) and 77.61, Wis. Stats.

Sec. 7-11-10 Display of Permit

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

Sec. 7-11-11 Appeal and License Revocation

- (a) The denial of any license or permit application or renewal under this Chapter may be appealed by filing a written appeal request with the Clerk within ten (10) days of the Town's notice of denial. The appeal shall be heard by the Town Plan Commission, which shall make a recommendation to the Town Board. The Town Board shall then reconsider the application or renewal and recommendations and may approve or deny the application or renewal.
- (b) A license may be revoked by the Town Board for one or more of the following reasons:
 - (1) Failure to make payment on taxes or debt owed to the Town;
 - (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 Town 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 Town license;
 - (7) Failure to comply with any requirements cited within this Chapter;
 - (8) Any violation of an applicable zoning regulation or other state or local land use or property maintenance regulation; and
 - (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. 7-11-12 Penalties

- (a) Any person who shall violate any provision of this Chapter shall be subject to a penalty as follows: The greater of (i) \$ 1,000.00 per day of violation for each violation, or (ii) 150% of the daily rental amount (prorated as necessary) paid by the tenant or renter for each day of violation incurred; and also including the Town's actual and reasonable attorney fees incurred in enforcing the terms of this Chapter.
- (b) 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.

Sec. 7-11-13 Fees

Initial and Renewal Short Term Rental application fees - \$1,000
Each additional units added under a Short-Term Rental License - \$500
Renewals - \$500
Re-Inspections - \$100
Property Manager Permit - \$100

Sec. 7-11-14 Severability

If any provision of this Chapter and its ordinance 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 Chapter or its ordinances. It is hereby declared to be the intention of the Town of Westport that all provisions of this Chapter and its ordinances therein are separable. This Chapter 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.