

CHAPTER 23

Short-Term Rentals¹

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23-01 Purposes

The purposes of this chapter are to ensure that the quality of short-term rentals operating within the Village 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 and property managers operating or 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 Village of Oostburg; 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.

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23-02 Definitions

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

CLERK

The Village Clerk of the Village of Oostburg 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 room house, seasonal employee housing and dormitory units.

ENTITY

A corporation, investment company, limited partnership, limited-liability partnership, limited-liability company, cooperative association, unincorporated cooperative association, common law trust, or any other group or organization licensed to do business in this state.

FOOD PREPARATION AREA

Any part of a building containing three or more of the following facilities: cooking, refrigeration, sink with a depth greater than four inches, or storage.

GUEST REGISTER

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

LICENSE

The short-term rental license issued under 23-4.

LICENSE YEAR

The period from July 1 of each year to June 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, group of individuals, or an entity.

PROPERTY MANAGER

Any person who is not the property owner and is authorized by the property owner, expressly or impliedly, to act as agent and as the local contact person on behalf of the property owner for one or more short-term rental, and to take remedial action and promptly respond to any violation of this chapter or the Village Ordinance relating to the licensed premises.

PROPERTY OWNER

The owner of a short-term rental.

RENEWAL LICENSE

Any license issued under this Chapter 23 which will be or is in effect for the license year immediately following a license year for which the Village 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).

23-03 Operation of short-term rentals

- A. No person may maintain, manage, or operate a short-term rental more than 10 nights each license year without a short-term rental license. Every short-term rental shall be operated by a property owner or property manager.
- B. Each short-term rental property owner 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, unless all rentals of the property are exempt from such permit requirement per state regulations.
 3. A license from the Village of Oostburg issued pursuant to this chapter.
- C. Each short-term rental shall comply with all the following:
 1. No residential dwelling unit may be rented for a period of six or fewer consecutive days. However, after a short-term rental license has been issued for a residential dwelling unit under 23-4, then any subsequent rental of that dwelling unit during the license term may be for a period of six or fewer consecutive days.
 2. There shall not be excessive noise as prohibited by ORD. 2.04, excessive fumes, glare, or vibration, any nuisance activities prohibited pursuant to ORD. 2.04 of the Village Code, dogs at large as prohibited by ORD. 2.01, or trespass onto neighboring properties as prohibited by ORD. 2.01.
 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. Admin. 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 or other invitees.
 6. Compliance with all applicable state, county and local codes and regulations is required.
 7. If the property owner resides within 35 miles of the short-term rental property, a local property manager is not required to be designated. The property owner shall be available 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 Village Clerk within three business days of any change in the property owner's contact information and submit the revised contact information to the Village Clerk within the same time period.
 8. Unless the property owner resides within 35 miles of the short-term rental property, a local property manager must be designated for contact purposes and his or her name must be included in the application filed with the Village Clerk. The local property manager must reside within 35 miles of the short-term rental property and shall be available 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 Village Clerk within three business

- days of any change in the property manager's contact information for the short-term rental and submit the revised contact information to the Village Clerk within the same time period.
9. The property owner shall have and maintain homeowner's liability or business liability insurance 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.
 10. The property owner or property manager 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 or property manager and available for inspection for at least one year, as required by the Wisconsin Administrative Code. If the property owner or property manager 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 or property manager an opportunity for precompliance review by a neutral decisionmaker.
 11. 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 Village Building Inspector or a local health 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 officer in believing that a violation has been or is being committed. If consent is refused, the Building Inspector or health 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.

23-04 Short-term rental license

- A. The Village Clerk shall issue a short-term rental license if an applicant demonstrates compliance with the provisions of Chapter 23 of the Village Code. A short-term rental license is issued for one license year and may be renewed annually as provided in 23-6. The license shall contain the following information:
 1. The name of the property owner, with contact information including mailing address and a telephone number at which the property owner is available. If the property owner is also acting as the property manager, then the requirements of Subsection A(2) shall apply to the property owner.
 2. The name of the property manager, with contact information, including mailing address, physical address (if different from mailing address) and a telephone number at which the property manager shall be available between the hours of 8:00 a.m. and 11:00 p.m. on those days when the property is rented.
 3. The license term.
 4. The state of Wisconsin tourist rooming house license number.

23-05 Short-term rental license procedure

- A. All applications for a short-term rental license shall be filed with the Village Clerk on forms provided by the Village Clerk. Applications must be filed by the property owner or the property manager. 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, 23-8:
 - 1. The name of the property owner, with contact information including mailing address and a telephone number at which the property owner is available. If the property owner is also acting as the property manager, then the application shall include mailing address, physical address (if different from mailing address) and a telephone number at which the property owner shall be available between the hours of 8:00 a.m. and 11:00 p.m. on those days when the property is rented.
 - 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 Village 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 Village.
 - 4. Written evidence of liability insurance as required by 23-3C(9).
 - 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. Designation of a property manager, unless the property owner is acting as the property manager, with contact information, including mailing address, physical address (if different from mailing address) and a telephone number at which the property manager shall be available between the hours of 8:00 a.m. and 11:00 p.m. on those days when the property is rented, and an affirmative statement that the property manager is authorized to act as agent and as the local contact person for the property owner with respect to operation of the short-term rental, including taking remedial action and promptly responding to any violation of this chapter or the Village Code relating to the licensed premises, and receiving service of notice of violation of this chapter's provisions.
 - 8. 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.
 - 9. An employer identification number issued by the Internal Revenue Service, if applicable.
 - 10. 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 July 1 of one year to June 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 the information and supporting documentation required by this chapter shall not be considered as complete.
- D. When the Village Clerk determines that an application is complete and meets the requirements of this chapter, the Village Clerk shall approve the application and issue a short-term rental license

(or, if applicable, a provisional short-term rental license) to the applicant. If the Clerk determines that the application is incomplete or does not meet the requirements of this chapter, the Clerk 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 Village.
- F. No short-term rental license (or, if applicable, a provisional short-term rental ordinance) 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 23-9D.

23-6 Renewal

- A. Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the Village 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 Village Clerk adequate time to review the application. The Clerk shall determine whether the information provided in the renewal application is complete and meets the requirements of this chapter. The Clerk may also request reports from the Village 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 Clerk 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 Clerk determines not to renew the license, the Clerk shall notify the applicant in writing of the reason(s) for such decision, and the applicant's right to appeal the decision to the Village Board as provided in 23-9.
- 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.

23-07 Standards for short-term rentals

- A. 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:
 - 1. The number of occupants may not be more than allowed under Wis. Admin. Code Ch. ATCP 72 or any other state regulation, state statute, or local ordinance.
 - 2. The minimum number of on-site, off-road parking spaces shall equal the short-term rental property's advertised maximum sleeping capacity divided by four, with the quotient rounded up to the nearest whole number. For a short-term rental property abutting a private road with fewer than two driving lanes, no parking spaces on the road may be considered and all parking spaces must be provided on-site. For a short-term rental property abutting a public road that has designated on-road parking spaces, the minimum number of required on-site parking spaces may be reduced by the total number of designated on-road parking spaces which lie within the abutting road frontage and within 100 feet of the short-term rental property's main entrance driveway or doorway.
 - 3. The short-term rental premises shall have functioning smoke detectors and carbon monoxide detectors pursuant to the requirements of Wis. Admin. Code Ch. SPS 321.
 - 4. Certification of compliance: As a condition of issuance of a license under Chapter 23 of the Village Code, the property owner or property manager 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.

23-08 Display of permit

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

23-09 Appeal of licensing decisions; license revocation; appeal procedure; judicial review

- A. The Village Clerk's decision to deny an initial short-term rental license or to deny renewal of a short-term rental license shall specify the reason(s) for such denial, in writing. Prior to the time for the renewal of the license, the Village Clerk shall notify the licensee in writing of the Village's intention not to renew the license and notify the licensee of his or her right to an appeal hearing as provided in 23-9B.
- B. The Village Clerk's decision to deny an initial license or to deny renewal of a license may be appealed to the Village Board by filing a written appeal with the Clerk within 21 calendar days (excluding legal holidays) after the date of mailing of the written notice of the Village Clerk's decision denying such license or renewal license. The Village Board shall conduct a due process hearing and issue a written decision on the appeal within 30 calendar days of the Village's receipt of the written appeal, or the license shall be deemed granted. 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 Village Board finds the Village Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. If the Village Board finds the Village Clerk'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 Village Board finds the Village Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. The Village Board's written decision on the appeal must specify the reason(s) for its determination. The Village Clerk shall give written notice of the Village Board's decision to the applicant or licensee.
- C. A license may be revoked by the Village 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 Village.
 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.
- D. Revocation. Any resident of or owner of property within the Village may file a sworn written complaint with the Village Clerk alleging one or more of the reasons set forth in 23-9C as grounds for revocation of a short-term rental license issued under this chapter. Upon the filing of the complaint, the Village 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 Village 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 23-9B. If a license is revoked, the Village Clerk 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. Judicial review. The action of the Village Board in granting or renewing, refusing to grant or renew, or revoking a license under this chapter may be reviewed by the Sheboygan County Circuit Court upon appeal by the applicant, licensee, or a resident of or owner of property within

the Village. Such appeal shall be filed within 30 days of the date of mailing by the Village Clerk of the notice of the Village Board's action granting or renewing, refusing to grant or renew, or revoking a license. The procedure on review shall be the same as in civil actions commenced in the circuit court pursuant to Wis. Stats. Chs. 801 to 807.

23-10 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 Sheboygan 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 addition to all other remedies of injunction, abatement, or costs, whether existing under this chapter or otherwise.

23-11 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 Village Board.

23-12 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.