

ORDINANCE NO. 294

AN ORDINANCE TO CREATE REGULATION OF VACATION RENTAL ESTABLISHMENTS IN THE VILLAGE OF OCONOMOWOC LAKE

WHEREAS, on or about September 23, 2017 the State of Wisconsin adopted certain preemptions on municipal authority concerning the regulation of vacation rental property within the State Budget Bill; and

WHEREAS, Wisconsin Statutes §66.1014, created by the foregoing legislation, preserved municipal authority to restrict rental of residential dwellings to approximately six months out of each 365-day period as further defined therein; and

WHEREAS, the newly created Wisconsin Statutes §66.1014(2)(d)(b) further authorizes municipalities to require a license for conducting vacation rental establishments in some situations; and

WHEREAS, the Village of Oconomowoc Lake Village staff have recommended that the Village of Oconomowoc Lake Zoning Code be modified to comply with current State laws in this regard; and

WHEREAS, upon recommendation of Village staff, the Village Board hereby intends to adopt as much authority over vacation rentals within the Village of Oconomowoc Lake as remains following the preemptions adopted by the State of Wisconsin.

NOW, THEREFORE, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Definition:

Vacation Rental Establishment means any property that is defined or regulated by Wisconsin Statutes §§66.1014(2)(d)2 or 97.01(15k), as a tourist rooming house.

SECTION 2: Regulation of Vacation Rental

~~REGULATION OF VACATION RENTAL~~

e.a. Purpose. The following vacation rental establishment licensing regulations are created, to ensure that applicable State laws are followed, to protect persons engaged in this practice either as landlord or tenant; to protect against adverse impacts of noise, odor, disturbance, adverse visual impacts, or other nuisances, that this practice could have upon neighboring properties; to preserve property values for the commercial benefit of the Village; and also to control the impacts

of such operations on municipal services, including snow plowing, garbage collection, sanitation, law enforcement and fire protection.

- b. License Required. No vacation rental establishment may operate in the Village unless a vacation rental establishment license for such operation is granted by the Village, and only in full compliance with such license. A separate license is required for each rental of the vacation rental establishment.
- c. Application. Application for license shall be made by the property owner in writing to the Village Administrator upon forms provided by the Village. Such application must be filed with the Village Administrator no later than 1 week (168 hours) prior to the proposed vacation rental period of use. The Village Administrator is authorized to issue the vacation rental permit if the Administrator finds that the application meets all requirements of this Ordinance, and the Administrator may include such conditions as the Administrator deems to be necessary or appropriate to ensure compliance with this Ordinance. The application must include all of the following:
- (1) Address of vacation rental establishment.
 - (2) Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment owner.
 - (3) Name (include full legal name with middle initial), address, telephone number and email address of vacation rental establishment operator, if different from the owner or if owner is a trust or entity other than an individual.
 - (4) If the owner resides more than 40 miles from the vacation rental establishment, name (include full legal name with middle initial), address, telephone number and email address of owner's agent who is located within 40 miles of the vacation rental establishment.
 - (5) Name (include full legal name with middle initial), address, telephone number and email address of person renting the vacation rental establishment, and of all persons occupying the unit 18 years of age or older.
 - (6) Starting date of the 180-day annual rental period.
 - (7) A copy of the State Tourist Rooming House License for the vacation rental establishment.
 - (8) Proof that the vacation rental establishment complies with the Wisconsin Commercial Building Code as required by Wisconsin Administrative Code Section ATCP 72.14.

(9) Proof of property and liability insurance covering the vacation rental establishment property and use.

(10) A list of all property that may be used by the vacation rental establishment tenants including for example whether tenants are permitted to use the house, any guest house, any boathouse, any garage, any dock, any boats, golf carts, or particular amenities of the vacation rental establishment property.

(11) The total square footage of the principal structure used as a vacation rental establishment.

(12) The total number of bedrooms, and total number of beds used for the vacation rental establishment.

d. Fees. The applicant shall pay such fee as may be established from time to time by the Village Board by separate resolution, for each vacation rental establishment license application.

d.e. Minimum Standards.

~~(1) License Required. No vacation rental establishment may operate in the Village unless a vacation rental establishment license for such operation is granted by the Village, and only in full compliance with such license.~~

Conditions Under Which Permitted. A license shall not be granted for a vacation rental establishment unless all of the following conditions are met:

~~(1) The Petitioner must provide to the Village Clerk a copy of the State tourist rooming house license for the subject property, prior to the Village's license being effective; and evidence of each renewal of such State permit shall be filed by the Petitioner with the Village Clerk, such that evidence of a current State permit is always on file for the duration of the Village's vacation rental establishment license.~~

~~(2)(1) Transfer of a license because of transfer or sale of property is not permissible. Should such property be sold, then the license shall become void.~~

~~(3)(2) All vacation rental establishments shall be subject to and comply with Wisconsin Statutes Chapter 97 including maintaining a tourist rooming house annual license as required by Wisconsin Statutes Section 97.605(1)(a), which sections are incorporated herein by reference.~~

~~(4)(3) All vacation rental establishments shall be subject to and comply with Wisconsin Administrative Code Section ATCP 72 which is hereby incorporated by reference.~~

- (5)(4) Each vacation rental establishment shall be required to keep a register and require all guests to sign such register using their actual legal names including middle initial and address before being assigned quarters. The register shall be available for inspection by the Waukesha County Sheriff's Department, and Village Code Enforcement Officer Administrator or designee for a period of not less than one year.
- (6)(5) A minimum of one off-street parking stall shall be provided for every guest bedroom with a minimum of three parking stalls. All parking areas shall meet the size and location requirements of the Village Code and shall be hard-surfaced and maintained in a reasonably dustless condition.
- (7)(6) Every vacation rental establishment shall be properly addressed with numbers on the street side of the structure, a minimum of 5" high and of contrasting color so as to be visible from the street.
- (8)(7) The Village Board shall consider the potential impact to the surrounding neighborhood and proximity to any existing bed and breakfast establishment or vacation rental establishment when reviewing a request for a vacation rental establishment license. If a new owner obtains approval of a Tourist Rooming House License, the previously established annual 180-day period shall remain applicable.
- (9)(8) Whenever the property changes ownership, ~~an occupancy permit and a~~ new license is required to ensure compliance with all State and local regulations and ordinances.
- (10)(9) All refuse containers shall be screened from view.
- (11)(10) If the Village finds that any statement made on the license application is incorrect, at any time, the Village may immediately and summarily revoke the license.
- (12)(11) Sleeping quarters related to a vacation rental establishment use shall only be located within the principal structure on the lot. Accessory buildings, including legal non-conforming guest houses, cannot be used for sleeping quarters.
- (13)(12) Property that is used for a vacation rental establishment must have clearly delineated property lines, by approved fences, vegetation or other means to the satisfaction of the Village Administrator ~~Planner~~. Such clear delineation must be maintained for the duration of the license, to ensure that all users of the property are clearly aware of the boundaries of the property and confine their use to the applicable parcel.

(14)(13) Unless the property is connected to a municipal sewer system, the petitioner/owner must provide to the Village ~~Administrator~~ Planner, proof that is satisfactory to the Village ~~Administrator~~ Planner that the septic system is properly sized for purposes of the proposed use. Such septic system must be properly maintained at all times for the duration of the license.

(15)(14) The vacation rental establishment occupancy limits shall not exceed the lesser of the following occupant limitations at any time: (a) the number of occupants allowed by Wisconsin Administrative Code Section ATCP 72.14(2)(b) per bedroom; (b) and also shall not exceed 8 occupants per 1,000 square feet of living area within the principal structure; (c) the number of occupants for which there are beds available within the proposed vacation rental establishment structure provided that the beds do not include temporary beds (cots, air beds, fold-out beds, or futon couches) and each bed shall count for one occupant except each queen and king sized bed shall count for 2 occupants; (d) twenty (20) occupants.

(16)(15) The parcel cannot have more people on site than the higher of 20 people or the maximum number of people allowed under Wisconsin Administrative Code Section ATCP 72.14(2)(b).

(17)(16) The petitioner/owner must provide a copy of this section and a copy of the license, to all parties using the property for vacation rental purposes, prior to commencement of each such use.

e.f. Annual Limit. If a vacation rental establishment is rented for periods of more than 6, but fewer than 29 consecutive days the vacation rental establishment shall not operate outside of the 180 consecutive day period that begins on the date of the first such rental, for a 365 day period. The owner of the vacation rental establishment shall notify the Village Clerk in writing when the first 365 day period begins, and all subsequent 365 day periods shall be measured from that date. This limitation shall be interpreted in compliance with Wisconsin Statutes Section 66.1014(2)(d) 1.

f.g. Prohibition. Rental of a residential dwelling for 6 consecutive days or fewer is prohibited. For purposes of this subsection "rental" includes any real property that is subject to any verbal or written contract, lease, sublease, rental agreement, easement, instrument or other device (the "Agreement"), if all of the following circumstances apply: (i) the Agreement or Agreements create a right to occupy said property; (ii) such rights of occupancy have an actual duration of less than 7 consecutive days; and (iii) the Agreement requires payment or other remuneration or barter, for the benefit of the property owner.

SECTION 3: PENALTIES

Owners and operators of a vacation rental establishment shall ensure that the property is in compliance with this Ordinance at all times, and shall be liable for all violations, jointly and severally. Violation of this ordinance is subject to the Village of Oconomowoc Lake standard penalties ordinance, known as Ordinance Number 266_____ entitled, "An Ordinance to Repeal and Re-Create Section 25.04(1), Creating Section 25.04(5) Regarding Penalties and Bond Amounts for Violation of Village Ordinances and Repeal Ordinances 136 and 149"_____ adopted on or about August 20, 2012_____, including such amendments as may be made thereto from time to time, which are hereby incorporated herein by reference, except that the penalty amounts are modified as follows. Violations of this Ordinance are subject to penalties in the maximum amount of \$10,000 and minimum amount of \$1,000, for each day of violation, and under no circumstance shall a penalty be imposed that is less than the rental amount charged. Citations for violation of this Ordinance shall be written as "must appear".

SECTION 4: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 5: EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 1 day of November, 2018.

VILLAGE OF OCONOMOWOC LAKE



Joe Birbaum, Village President

ATTEST:



Chris Astella, Village Clerk

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