

**City of Oconomowoc
Finance Committee**

**Aldermen: Mulder, Chairman / Schellpeper, Secy /
Spiegelberg**

**Tuesday, May 03, 2022 - 5:35 PM
City Hall - Council Chambers
174 E. Wisconsin Ave. Oconomowoc, WI 53066**



Notice: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in accessible format, call the City Clerk at least 48 hours prior to the meeting to request adequate accommodations. Tel: (262) 569-2186.

1. Call to order and confirmation of appropriate meeting notification
2. Committee Business
 - a. Consider/recommend Ordinance 22-O1032 Creating Chapter 29 of the Municipal Code of the City of Oconomowoc Regulating Short Term Rentals
 - b. Consider/recommend Resolution 22-R3036 Establishing Fees for Short Term Rentals
3. Adjourn

Diane Coenen, City Clerk
City of Oconomowoc

Notice is hereby given that a majority of the Common Council will be present at the above scheduled meeting to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the Common Council pursuant to State ex rel. Badke v. Greendale Village Board, 173Wis. 2d 553, 494 N.W. 2d 408 (1993) and must be noticed as such, although the Common Council will not take any formal action at this meeting.



MEMORANDUM

DEPARTMENT

Date: 4-27-22
To: Tourism Commission
City Council
From: Bob Duffy, Economic Development
Re: Ordinance Regulating Short Term Rentals

RELATES TO THE STRATEGIC PLAN

Strategic Goal- III. Focus on Community Growth
D. Create Tourism Destination Initiatives

BACKGROUND

The Wisconsin State Legislature approved statutes that give the Department of Agriculture, Trade & Consumer Protection the authority to prescribe rules for hotels, including motels, and tourist rooming houses. The intent is to enforce these rules for the purpose of protecting public health and safety.

Under the Statutory requirements, the City can: 1) prohibit rentals for less than 7 days; 2) place a six-month/180-day cap on the amount of time property owners can rent out their home during any 365-day period; and 3) require a local permit.

City Staff has worked with Attorney Riffle to draft the attached Ordinance Regulating Short Term Rentals to ensure it is in accordance with Chapter ATCP 72 regulating Hotels, Motels & Tourist Rooming Houses.

Based on the subject matter of the ordinance the following review and approval process is being followed:

- Tourism Commission – Reviewed 11/22/21
- Finance Committee – Recommendation
- City Council – Ordinance Adoption

FINANCIAL IMPACT

The City would realize revenues through room taxes from online lodging marketplaces, since they will be licensed by the WI DATCP. Information is not shared on locations short term rentals are occurring. A local permit would also provide the City information from accommodations tax ordinance purposes. The City's intent is to utilize information gathered from the Waukesha County Environmental Health staff related to inspection and statute compliance.

RECOMMENDATION

City Staff recommends that the Ordinance Regulating Short Term Rentals be recommended and approved by the reviewing bodies to be consistent with Chapter ATCP 72.

SUGGESTED MOTION

Motion by City Council waive the second reading and for the adoption of the Ordinance Regulating Short Term Rentals.

ORDINANCE NO. 22-O1032

**ORDINANCE CREATING CHAPTER 29 OF THE CODE OF THE CITY OF
OCONOMOWOC REGULATING SHORT TERM RENTALS**

BE IT ORDAINED by the Common Council of the City of Oconomowoc, Waukesha County, Wisconsin, that Chapter 29 of the Code of the City of Oconomowoc is hereby created to read as follows:

**Chapter 29
SHORT-TERM RENTALS**

§ 29.01. Purposes.

The purposes of this Chapter are to: (i) ensure that the quality of short-term rentals operating within the City 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; (ii) 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); (iii) protect the character and stability of all areas, especially residential areas, within the City of Oconomowoc; (iv) provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; (v) 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 (vi) provide for the administration and enforcement hereof.

§ 29.02. Operation of Short-Term Rentals.

- A. No person may maintain, manage or operate a short-term rental more than ten (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.

(3) A license from the City issued pursuant to this chapter.

C. Each short-term rental shall comply with all of the following:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Compliance with all applicable state, county and local codes and regulations is required.
- (5) 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.

§ 29.03. Short-Term Rental License.

A. The City Clerk shall issue a short-term rental license if an applicant demonstrates compliance with the provisions of Chapter 29 of the Municipal Code. A short-term rental license is issued for one (1) License Year and may be renewed annually as provided in § 29.06. The license shall contain the following information:

1. The name of the Property Owner and Property Manager (if any), with contact information including mailing address and a telephone number at which the Property Owner (and Property Manager) is available.
2. The state of Wisconsin Tourist Rooming House license number.

§ 29.04. Short-Term Rental License Procedure.

- A. All applications for a short-term rental license shall be filed with the City Clerk on forms provided by the 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 non-refundable.
- 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:

- (1) The name of the Property Owner and Property Manager (if any), with contact information including mailing address and a telephone number at which the Property Owner (and Property Manager) is available.
 - (2) A copy of a completed state of Wisconsin Lodging Establishment Inspection form dated within one (1) year of such inspection.
 - (3) A copy of the current state of Wisconsin Tourist Rooming House license issued by Waukesha County.
 - (4) A copy of a current Seller's Permit issued by the Wisconsin Department of Revenue.
 - (5) 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 1st of one year to June 30th of the following year and may be renewed for additional one (1)-year periods. The application fee shall be paid upon filing of the application.
- D. When the City Clerk determines that an application is complete and meets the requirements of this chapter, the Clerk shall approve the application and issue a short-term rental license. 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 shall be issued or renewed if the applicant or short-term rental property has outstanding fees, taxes, special charges or forfeitures owed to the City.

§ 29.05. Renewal.

- A. Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the City Clerk, and payment of the renewal fee.
- 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.

§ 29.06. 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.

§ 29.08. Display of Permit.

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

§ 29.09. Appeal of Licensing Decisions; License Revocation; Appeal Procedure; Judicial Review.

- A. The City Clerk's decision to deny an initial or renewal short-term rental license shall specify the reason(s) for such denial, in writing. The City Clerk shall notify the licensee in writing of the City's intention not to renew the license and notify the licensee of his or her right to an appeal hearing.
- B. The City Clerk's decision to deny an initial or renewal short-term rental license may be appealed to the Common Council by filing a written appeal with the Clerk within twenty-one (21) calendar days after the date of mailing of the written notice of the City Clerk's decision denying such license or renewal license. The Common Council shall conduct a due process hearing and issue a written decision on the appeal within thirty (30) calendar days of the City's receipt of the written appeal. The appellant may produce and cross-examine witnesses, present relevant evidence, and be represented by counsel at his or her expense. If the Common Council finds the City Clerk's reason(s) for denial sufficient, the decision shall be affirmed. If the Common Council finds the City Clerk's reason(s) for denial insufficient, the decision shall be reversed, and the license shall be granted and issued. The City Clerk shall give written notice of the Common Council's decision to the applicant or licensee.
- C. A license may be revoked by the Common Council during the term of a License Year 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 City,
 - 2. Failure to maintain all required local, county and state licensing requirements.
 - 3. Any violation of local, county or state laws or regulations as determined by the Common Council 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), harms or adversely impacts the uses and nature of the surrounding neighborhood.
- D. Complaints. Any resident of or owner of property within the City may file a sworn written complaint with the City Clerk alleging activities that may be grounds for revocation of a short-term rental license issued under this chapter. In the event the Clerk determines that the Complaint states grounds for possible revocation, the Clerk shall notify the complainant and 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 complainant and licensee to appear

before the Common Council on a day, time and place included in the notice, not less than ten (10) days and not more than forty-five (45) days from the date of the notice for a hearing that shall be conducted as provided in § 29.09(B). If a license is revoked, the City Clerk shall give notice of revocation to the licensee by certified mail - return receipt requested.

- E. Judicial Review. The action of the Common Council in granting or renewing, refusing to grant or renew, or revoking or refusing to revoke a license under this chapter may be appealed to the Waukesha County Circuit Court if filed within thirty (30) days of the date of mailing by the City Clerk of the notice of the Common Council's action.

§ 29.10. Penalties.

- A. Any person who violates any provision of this chapter shall be subject upon conviction thereof to a forfeiture of not less than \$5 nor more than \$1,000 for each offense, together with the costs of prosecution. 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.

§ 29.11. 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 Common Council.

§ 29.12. Severability.

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

This Ordinance shall become effective upon passage and posting.

DATED: _____

CITY OF OCONOMOWOC

ATTEST:

By: _____
Robert P. Magnus

Diane Coenen, City Clerk

RESOLUTION NO. 22-R3036

RESOLUTION ESTABLISHING FEES FOR SHORT TERM RENTALS

WHEREAS, the City of Oconomowoc created Ordinance 29.11 of the City of Oconomowoc Municipal Code regarding short-term rentals for lodging on May 3, 2022; and

WHEREAS, pursuant to the ordinance, to obtain or renew a short-term license, licensees must pay fees as established by resolution of the Common Council.

NOW THEREFORE, BE IT HEREBY RESOLVED that the application fee for a short-term license shall be \$100.00.

BE IT FURTHER RESOLVED that the annual renewal fee for a short-term license shall be \$50.00.

BE IT FURTHER RESOLVED that in the event the City incurs costs related to investigation or enforcement of Chapter 29 of the City of Oconomowoc Municipal Code related to any short-term rental license, the licensee shall be responsible to reimburse the City for all costs.

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

DATED: _____

CITY OCONOMOWOC

By: _____

Robert P. Magnus, Mayor

ATTEST:

Diane Coenen, City Clerk