

# Memo

To: Village Board

Fr: Trevor Fuller, Director of Planning and Community Development

Re: DISCUSSION RE: SHORT TERM RENTAL REGULATIONS

Date: 15 July 2022

Staff has received an increasing number of calls related to short term rentals (i.e. AirBNB, VRBO, etc.). The calls are from residents neighboring a short term rental and from property owners (local and national). Staff asked village counsel to look into what legal authority the village has in regulating short term rentals to determine if we should consider a policy on the subject. Attached is a memo from legal counsel and sample ordinances from other communities for reference.

**The Village Board is asked to review the memo and sample ordinances and discuss if staff should consider developing a policy or proposing an ordinance amendment on the subject of short term rentals.**

## **Memorandum**

To: Christina Peterson

From: Hannah Stewart

Date: July 11, 2022

Re: Village authority to regulate short term rentals

---

### **Question Presented**

1. What authority does the Village have to regulate short term rentals, like AirBnb and VRBO?

### **Discussion**

The Village has fairly broad authority to regulate short term rentals. The authority is only limited by § 66.1014, Wis. Stats and ATCP 72. Municipalities can regulate anything else they want, so long as it does not contradict the state statute. Additionally, several municipal ordinances regulating short term rentals have been challenged and upheld by the Court. Examples of those ordinances are attached.

It is generally agreed among the resources I reviewed that the legislature's intent was to allow local control in most aspects of short term rentals. When compared to the sweeping removal of local power in other matters, i.e. cell tower regulation, shoreland zoning, the legislature's treatment of short term rentals indicates that they wanted to leave regulatory powers to local authorities.

In fact, the legislature specifically and unambiguously reserved the right for municipalities to regulate short term rentals. Wis. Stat. § 66.1014 states "nothing in this subsection limits the authority of a political subdivision to enact an ordinance regulating the rental of a residential building." However, that regulation must not be inconsistent with the prohibitions and regulations set forth in that section. A municipality's ability to regulate short term rentals is restricted by Wis. Stat. § 66.1014 in two ways:

First, municipalities cannot outright prohibit short term rentals of seven (7) consecutive days or longer.

Second, the statute puts limits on a municipality's ability to regulate the duration of stays. If a residential dwelling is rented for periods of more than six (6), but fewer than twenty-four (24) consecutive days at a time, a municipality *can* limit the total number of days within any 365-day period the residential dwelling is rented, but the limit can't be fewer than 180 days. The Statute also states that a

municipality may not specify the period of time during which the residential dwelling may be rented. Therefore, you can't require that the rentals be available during the winter.

The statute also mandates that a property owner obtains a license from the state department of agriculture, trade and consumer protection and from the local government in which the rental is located (if the local government has an ordinance requiring a license).

The Village also needs to be aware of the requirements of Chapter ATCP 72, which are the administrative rules regarding Tourist Rooming Houses (TRH) because any local regulations can't conflict with those provisions. However, these rules are more overarching, requiring things like sanitary disposal of waste and well-constructed furnishings, so the Village is less likely to run into a problem with them. Even so, they are something to keep in mind when drafting any ordinance involving short term rentals.

In a 2019 case, a local ordinance regarding short term rentals was challenged in Sheboygan Circuit Court, with the ordinance ultimately being upheld. The Town of Holland enacted an ordinance that included sweeping restrictions and regulations on short term rentals. The Plaintiffs, the Good Neighbors Alliance (GNA), were a group of AirBnb/VRBO property owners in the Town. GNA claimed that Wis. Stat § 66.1014 and ATCP 72 created a preemptive effect on local regulation, enshrining the right to free and unrestricted use of one's property because short term rentals involve private homes, not commercial activity. The Court found, as stated above, that the carve outs by the legislature demonstrated an intent to allow local governments to regulate short terms rentals. Because the Town of Holland ordinance did not conflict with Wis. Stat. § 66.1014, it was within the Town's authority to regulate and the ordinance was upheld.

The full Town of Holland ordinance is included as an attachment. A few highlights of things they regulated include:

- Requiring a designated Property Manager that resides within 35 miles of the short term rental property who can be contacted on behalf of the property
- Requiring the owner to maintain homeowner's or business liability insurance.
- Requiring a diagram showing the location of available on-site and off-site parking to be submitted with the application
- Allowing for revocation of a short term rental license for unpaid fees, taxes, or forfeitures, or for violation of any State or local laws
- Mandated a specific number of on-site and off-site parking spaces per guest
- Established a civil forfeiture for any violations of the ordinance

The bottom line is, a municipality can regulate any aspect of short term rentals that they want, so long as it does not conflict with Wis. Stat. § 66.1014 or ATCP 72. The two main restrictions under the statute are that a municipality can't outright prohibit short terms rentals of more than 7 consecutive days and there are certain guidelines on how a municipality can regulate the duration of a stay. At least one Court has upheld that any other regulation on short term rentals is permissible.

Town of Holland, WI  
Monday, July 11, 2022

## Chapter 280. Short-Term Rentals

[HISTORY: Adopted by the Town Board of the Town of Holland 10-15-2018 by Ord. No. 7-2018; amended in its entirety 4-29-2019 by Ord. No. 3-2019. Subsequent amendments noted where applicable.]

### § 280-1. Purposes.

The purposes of this chapter are to ensure that the quality of short-term rentals operating within the Town 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 Town of Holland; 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.

### § 280-2. Definitions.

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

#### **CLERK**

The Town Clerk of the Town of Holland 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.

[Amended 6-1-2020 by Ord. No. 6-2020; 6-15-2020 by Ord. No. 9-2020]

#### **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:

[Added 6-1-2020 by Ord. No. 6-2020; amended 6-15-2020 by Ord. No. 9-2020; 2-8-2021 by Ord. No. 2-2021]

- (1) Cooking, including stoves, ranges, ovens, cooktops, microwave ovens with a capacity of one cubic foot. or greater, or countertop appliances such as grills, hot plates, toaster ovens, roasters, and slow cookers, but excluding coffee makers, top-slot toasters, or microwave ovens with a capacity less than one cubic foot.
- (2) Refrigeration with a capacity greater than 3.5 cubic feet.
- (3) Sink with a bowl depth greater than four inches and any other bowl dimension greater than 13 inches.
- (4) Storage with a capacity greater than 24 cubic feet intended or used for food, cookware, dishes, or related utensils.

**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 § **280-4**.

**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 Town Code relating to the licensed premises.

**PROPERTY OWNER**

The owner of a short-term rental.

**RENEWAL LICENSE**

Any license issued under this Chapter **280** which will be or is in effect for the license year immediately following a license year for which the Town 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).

[Amended 10-18-2021 by Ord. No. 9-2021]

## § 280-3. 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.  
[Amended 7-29-2019 by Ord. No. 4-2019]
  - (3) A license from the Town of Holland issued pursuant to this chapter.
- C. Each short-term rental shall comply with all of 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 § **280-4**, 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 § **240-1** of the Town Code, excessive fumes, glare, or vibration, any nuisance activities prohibited pursuant to Chapter **245** of the Town Code, dogs at large as prohibited by § **140-2** of the Town Code, or trespass onto neighboring properties as prohibited by Chapter **257** of the Town Code.
  - (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 § ATPC 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 Town Clerk within three business days of any change in the property owner's contact information and submit the revised contact information to the Town Clerk within the same time period.  
[Added 6-1-2020 by Ord. No. 6-2020<sup>[1]</sup>; amended 6-15-2020 by Ord. No. 9-2020]  
[1] *Editor's Note: This ordinance also renumbered former Subsection C(7) through (10) as Subsection C(8) through (11), respectively.*
  - (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 Town 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 Town 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 Town Clerk within the same time period.  
[Amended 6-15-2020 by Ord. No. 9-2020]
  - (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.  
[Amended 6-15-2020 by Ord. No. 9-2020]

- (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 Town 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.

## § 280-4. Short-term rental license.

- A. The Town Clerk shall issue a short-term rental license if an applicant demonstrates compliance with the provisions of Chapter **280** of the Town Code. A short-term rental license is issued for one license year and may be renewed annually as provided in § **280-6**. 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.  
[Amended 6-15-2020 by Ord. No. 9-2020]
  - (3) The license term.
  - (4) The state of Wisconsin tourist rooming house license number.

## § 280-5. Short-term rental license procedure.

- A. All applications for a short-term rental license shall be filed with the Town 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 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, § **280-8**:

- (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.  
[Amended 6-15-2020 by Ord. No. 9-2020]
- (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 Town 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 Town.  
[Amended 7-29-2019 by Ord. No. 4-2019]
- (4) Written evidence of liability insurance as required by § **280-3C(9)**.  
[Amended 6-15-2020 by Ord. No. 9-2020]
- (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.  
[Amended 7-29-2019 by Ord. No. 4-2019]
- (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 Town Code relating to the licensed premises, and receiving service of notice of violation of this chapter's provisions.  
[Amended 6-15-2020 by Ord. No. 9-2020]
- (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 of the information and supporting documentation required by this chapter shall not be considered as complete.

- D. When the Town 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 (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 Town.
- 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 § 280-9D.

## § 280-6. Renewal.

- A. Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the Town 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 Town 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 Town 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 Town Board as provided in § 280-9.
- 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.

## § 280-7. 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.

[Amended 6-1-2020 by Ord. No. 6-2020; 6-8-2020 by Ord. No. 7-2020; 6-15-2020 by Ord. No. 9-2020]

- (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 **280** of the Town 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.

## § 280-8. Display of permit.

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

## § 280-9. Appeal of licensing decisions; license revocation; appeal procedure; judicial review.

- A. The Town 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 Town Clerk shall notify the licensee in writing of the Town's intention not to renew the license and notify the licensee of his or her right to an appeal hearing as provided in § 280-98.
- B. The Town Clerk's decision to deny an initial license or to deny renewal of a license may be appealed to the Town 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 Town Clerk's decision denying such license or renewal license. The Town Board shall conduct a due process hearing and issue a written decision on the appeal within 30 calendar days of the Town'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 or his or her choosing, at his or her expense. If the Town Board finds the Town Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. If the Town Board finds the Town 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 Town Board finds the Town Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. The Town Board's written decision on the appeal must specify the reason(s) for its determination. The Town Clerk shall give written notice of the Town Board's decision to the applicant or licensee.
- C. A license may be revoked by the Town 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 Town.
  - (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 Town may file a sworn written complaint with the Town Clerk alleging one or more of the reasons set forth in § **280-9C** as

grounds for revocation of a short-term rental license issued under this chapter. Upon the filing of the complaint, the Town 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 Town 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 § 280-9B. If a license is revoked, the Town 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 Town 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 Town. Such appeal shall be filed within 30 days of the date of mailing by the Town Clerk of the notice of the Town 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.

## § 280-10. 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.

## § 280-11. 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 Town Board.

## § 280-12. 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.

## Chapter 234. Licenses and Permits

### Article VII. Short-Term Rentals

[Adopted as Sec. 7.12 of the prior Code; amended in its entirety 11-1-2018 by Ord. No. 18-16]

#### § 234-56. Purpose.

It is the purpose of this article to ensure that the quality of short-term rentals operating within the Town is adequate for protecting the 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 properties for tourists and transient occupants, to protect the character and stability of all areas, especially residential areas, within the Town of Rome; 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.

#### § 234-57. License required.

- A. No person may maintain, manage or operate a short-term rental in the Town of Rome for more than 10 nights in a 365-day period, without a short-term rental license. "Short-term rental" shall mean a residential dwelling that is offered for rent or a fee and for a duration of less than 29 consecutive days. Every short-term rental shall be operated by a property owner or property manager. Short-term rentals of six or fewer consecutive days in duration are prohibited.
- B. All applications for a short-term rental license shall be filed with the Town Clerk/Treasurer on a form provided by the Town and approved by the Town Board. Applications must be filed by the property owner or authorized agent. No permit shall be issued unless the completed application form is accompanied by payment of the required short-term rental license fee.
- C. The Clerk/Treasurer 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 § **234-58** of this article. Issuance of a short-term rental license under this article will be deemed as meeting the requirement of obtaining a business license under Article **V**, Business License, of this chapter.

#### § 234-58. Conditions of application; issuance of license.

- A. Before an applicant may be issued a short-term rental license, the applicant shall first provide:
  - (1) Identity of the property owner and any property manager (if applicable), with contact information including mailing address, physical address, email, and twenty-four-hour phone number.
  - (2) A copy of tourist rooming house permit from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection under ATCP 72.04.

- (3) A copy of a current, completed State Lodging Establishment Inspection form.
  - (4) Proof of casualty and liability insurance issued by an insurance company authorized to do business in the state of Wisconsin, identifying the property as used for short-term rental, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate.
  - (5) Floor plan of the proposed property for rental, and requested maximum occupancy.
  - (6) Site plan including available on-site parking.
  - (7) Proof of an annual general building and fire inspection is required prior to issuance or renewal of the license, with no outstanding compliance orders remaining.
  - (8) A room tax permit issued by the Town of Rome.
  - (9) An employer identification number issued by the Internal Revenue Service or social security number.
  - (10) Certification from the property owner that the property meets the requirements of this article.
- B. During the initial application process, the Town Zoning Administrator shall notify property owners within a two-hundred-foot radius of an applicant's proposed rental property lot, of an applicant's intention to operate a short-term rental in the Town of Rome. Notification of property owners shall not be required for renewal of a license as long as there is no lapse in license renewal.

## § 234-59. License fees.

An annual fee shall be set by the Town Board. Fees are nonrefundable and shall not be prorated. Any renewal application received after the expiration date may be subject to a double fee.

## § 234-60. License duration and renewal.

- A. All licenses granted shall be for one calendar year, and shall be renewed on an annual basis on or before June 30 of each year. The fee shall accompany the application for license renewal. Any property operating as a short-term rental which has not renewed the short-term rental license prior to this date shall be deemed an illegal operation.
- B. Each application for renewal of a permit or license shall include updated information for the documentation on file with the Town Clerk/Treasurer. The Clerk/Treasurer shall verify that the information provided on the renewal application is complete and in accordance with this article. The Clerk/Treasurer shall request reports from the Town of Rome Police Department and the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the short-term rental property. The Clerk/Treasurer shall issue renewal licenses within 30 days of the filing of an application unless the information provided is incomplete or otherwise not in compliance with the requirements herein, and/or the staff reports received indicate that there are complaints or actions involving the property.
- C. No license shall be renewed if the subject property has outstanding fees, taxes or forfeitures owed to the Town, or is under an order issued by the Building Inspector to bring the premises into compliance with Town ordinances, unless arrangements for payment have been provided to the Clerk/Treasurer and approved by the Town Administrator.
- D. If the Clerk/Treasurer finds that the license should not be renewed, the Clerk/Treasurer shall recommend to the Town Administrator a denial of the renewal. A denial of renewal under this section may be appealed in accordance with procedures under § 234-63.

## § 234-61. Standards for short-term rentals.

Each short-term rental shall comply with this section's requirements, along with all other Town of Rome ordinances. Each short-term rental shall meet the following minimum requirements:

- A. The maximum number of occupants allowed in any unit shall not exceed the following limits: not less than 150 square feet of floor space for the first occupant thereof, and at least an additional 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 by 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 people.
- B. One internal bathroom for every four occupants.
- C. Not less than two on-site off-street parking space for every four occupants based upon maximum occupancy.
- D. A sign shall be posted in a conspicuous place inside the rental unit, during the license duration, specifying information on approved parking spaces, Town regulations of discharge of fireworks as designated in Chapter **196**, Fireworks, of the Code of the Town of Rome, lake rules, limitations on loud and unnecessary noise as designated in Chapter **260**, Noise, of the Code of the Town of Rome, and Town burning regulations under Chapter **191**, Fires and Fire Prevention.
- E. Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
- F. No vehicular traffic shall be generated that is greater than normally expected in the neighborhood for the district for which the dwelling is zoned.
- G. There shall not be excessive noise, fumes, glare, or vibrations generated during the use of the dwelling as a short-term rental.
- H. Nameplates or other outdoor signage shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site.
- I. 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. Quarterly, on a form created and provided by the Town, every licensee shall certify and report to the Town a summary of these records.
- J. Whenever the Town Clerk/Treasurer has probable cause to believe that records submitted are not correct, or that probable cause exists to believe that a dwelling unit is not in compliance with this article, the Town Clerk/Treasurer may inspect and audit the written records for each rental of the dwelling unit to determine compliance with the requirements of this article.

## § 234-62. Revocation of license.

- A. A short-term rental license may be revoked by the Town Administrator for one or more of the following reasons:
  - (1) Failure to make payment on taxes or debt owed to the Town of Rome.
  - (2) Three or more police officer-verified violations in a twelve-month period for nuisance activities or other law violations as regulated in Chapters **57**, Article **I**; 115; 120, Article **I**; 125, Article **II**; 142; 176; 185; 196; 220; 225; 240; 260; 266; 281; 287, Articles **II** and **III**. Lake violations that result from use of the property owner's watercraft shall also qualify for revocation under this section.
  - (3) Three or more issued citations related to building inspection or the health department in a twelve-month period.

- (4) Failure to comply with applicable building inspection requirements.
  - (5) Failure to maintain all required local, county, and state licensing requirements.
  - (6) Failure to maintain written records required pursuant to § **234-61I** herein, or failure to comply with an audit request made pursuant to § **234-61J** herein.
  - (7) Any violation of local, county or state laws that substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood in R-1, R-1C, R-2, R-4, and LD Districts.
- B. Upon revocation of a short-term rental license under this section, a renewal application will not be permitted until after January 1 of the next calendar year.

## § 234-63. Appeal.

The denial of a short-term rental license application or renewal under this article may be appealed by filing a written appeal request with the Clerk/Treasurer within 10 days of the Town's notice of denial. The appeal shall be heard by the Town Board, which shall consider the application or renewal and staff recommendations and may approve or deny the application or renewal.

## § 234-64. Violations and penalties.

Any person who operates a short-term rental within the Town of Rome for more than 10 nights in a 365-day period, without a license, shall be deemed an illegal operation, and upon conviction, be subject to a forfeiture per § **1-5**, General penalty, together with the costs of prosecution. Each day a violation exists or continues shall constitute a separate offense. Prosecutions of violations of provisions of this article shall be commenced by citation pursuant to Chapter 800, Wis. Stats.