

Memo

To: Village Board

Fr: Trevor Fuller, Director of Planning and Community Development

Re: ACTION RE: ORDINANCE 2024-02, CHAPTER 270, LODGING FACILITIES, OF THE VILLAGE OF ALLOUEZ ORDINANCES

Date: 12 January 2024

The Village Board has been discussing the adoption of a short-term rental ordinance for some time. The Village Board directed staff to put together an ordinance similar to that of the Village of Ashwaubenon at the November 21, 2023 meeting. The Village Board also requested to review Chapter 307: Nuisances as a part of the discussion on short-term rentals.

The draft chapter was reviewed at the two December 2023 Village Board meetings. Attached is the chapter in ordinance form as a result of these discussions.

Village Counsel did review the chapter and provided the below changes. These changes have been incorporated into the presented text.

- Section 270-1-C(3)(a): *The total number of days the dwelling unit may be made available for rent within any 365-day period of an annual license shall not exceed 180 consecutive days from date of first ~~advertisement~~ rental.*

The word “advertisement” was changed to “rental” because the statute allows a municipality to limit the days it is “rented.”

- Section 270-1-C(3)(l); Section 270-1-G(2)(a): *Be a natural person or a corporate entity with a representative available twenty-four (24) hours a day and accessible by phone ~~or in person within an hour from Village or law enforcement initial contact.~~*

This last portion of the sentence was suggested to be removed, as this is language is facing potential litigation in local community in Brown County.

- Section 270-1-K(1): *The denial, revocation, or non-renewal of any license or permit application under this section may be appealed only by filing a written appeal request with the Clerk within ten (10) business days of the Village’s notice of denial, revocation, or non-renewal. The Village Board shall consider the appeal and may approve or deny the appeal.*

Village counsel added this section because they said there needs to be an appeals process when discussing the use of property.

The intent was to have something in place by the end of calendar year 2023. However, staff is suggesting adopting the ordinance, effective March 1, 2024. These extra few weeks would allow staff time to send mailers out to property owners who are known to have short-term rentals and to organize staff operations. **The Village Board is asked to approve and adopt the ordinance as presented.**

ORDINANCE NO. 2024-02

AN ORDINANCE CREATING CHAPTER 270, LODGING FACILITIES OF THE VILLAGE OF ALLOUEZ MUNICIPAL CODE

THE VILLAGE BOARD OF THE VILLAGE OF ALLOUEZ, BROWN COUNTY, WISCONSIN, DOES ORDAIN THAT CHAPTER 270, LODGING FACILITIES, OF THE VILLAGE OF ALLOUEZ MUNICIPAL CODE BE CREATED TO READ AS FOLLOWS:

SECTION 1.

Chapter 270 – Lodging Facilities

Article 1 - Short-Term Rentals

A. Purpose

The purpose of this Article is 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 for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists or transient occupants, to protect the character and stability of all areas, especially to maintain and preserve the existing familial housing in residential areas, within the Village of Allouez; 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.

B. Definitions

- (1) For the purpose of administering and enforcing this Article, the terms or words used herein shall be interpreted as follows:
 - (a) Words used in the present tense include the future.
 - (b) Words in the singular number include the plural number.
 - (c) Words in the plural number include the singular number.
- (2) The following definitions and conditions apply unless specifically modified:

365-Day Period. The term of an annual license from July 1 – June 30. The term is understood to include Leap Year.

Clerk. The Village Clerk of the Village of Allouez or designee.

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

Dwelling Unit. One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping

facilities and a bathroom arranged for exclusive use by one (1) person or one (1) family. Dwelling Units include residential, tourist rooming house, seasonal employee housing and dormitory units.

License. The Short-Term Rental License issued under 370-1-D.

Owner. The owner of a short-term rental.

Owner Occupied. A residential property that is occupied by an individual who has an ownership interest in the property and uses the property as the individual's primary residence.

Person. Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

Property Manager. Any person that is not the property owner and is appointed to act as agent and/or provides property management services to one or more short-term rental.

Primary Residence. A residential property where the property owner resides and maintains full-time residence and to which, whenever absent from, that individual tends to return. Additional characteristics of a primary residence include, but are not limited to, where an individual receives mail, claims residence for purposes of voter registration and tax returns, pays for utilities, and lists their address on state issued identification cards. An individual can only have one primary residence.

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

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

C. Operation of Short-Term Rentals

- (1) No person may maintain, manage, or operate a short-term rental more than 10 nights each year without a short-term rental license. Every short-term rental shall be operated by a Property Owner or Property Manager.
- (2) Each short-term rental is required to have the following licenses and permits:
 - (a) A State of Wisconsin Tourist Rooming House License;
 - (b) A seller's permit issued by the Wisconsin Department of Revenue;

- (c) A Room Tax Permit; and
 - (d) A permit or license issued pursuant to the provisions of this Article.
- (3) Each short-term rental shall comply with all of the following:
- (a) The total number of days the dwelling unit may be made available for rent within any 365-day period of an annual license shall not exceed 180 consecutive days from date of first rental.
 - (b) The Property Owner or Property Manager shall notify the Director of Planning and Community Development or designee in writing when the first rental within a 365-day period begins.
 - (c) No vehicular traffic shall be generated that is greater than normally expected in the residential neighborhood.
 - (d) There shall not be excessive noise, fumes, glare, vibrations generated during the use.
 - (e) No signage advertising the short-term rental is permitted on site. Off-site advertising in media channels relating to the availability of the rental may take place only after all Village, County and State permits and licenses have been obtained.
 - (f) The number of occupants in any unit shall not exceed the limits set forth in the State of Wisconsin Uniform Dwelling Code and other applicable county and village housing regulations based upon the number of bedrooms in each unit.
 - (g) No recreational vehicles (RVs), camper, tent, or other temporary lodging arrangement shall be permitted on site as a means of providing additional accommodations for paying guests, other invitees, or full-time residents.
 - (h) Any outdoor event held at the short-term rental shall last no longer than one day, occurring between the hours of 8:00 a.m. and 10:00 p.m. Any activities shall be in compliance with other noise regulations of the Village.
 - (i) All rentals of the short-term rental shall be subject to payment of the Brown County room tax at the current applicable rate. Permit holders are responsible for complying with all regulations of the room tax.
 - (j) Compliance with all applicable state, county, and local codes and regulations is required.
 - (k) Annual general building inspection is required prior to issuance or renewal of the license.
 - (l) A local property management contact must be on file with the Village at the time of application. The local Property Manager must be available twenty-four (24) hours a day and accessible by phone. The Property Owner must notify the Village within twenty-four (24) hours of a change in management contact information for the short-term rental.
 - (m) A short-term rental license will not be issued until the following contingencies have been met:

- [1] License from the Brown County Health Department received;
- [2] General building and fire code inspection completed by the village and no outstanding orders remain.
- (n) Short-term rental licenses are issued for one year period and must be renewed annually subject to Village approval or denial.
- (o) The Property Owner of the short-term rental shall have appropriate insurance for the home that is used for short-term rental and provide proof of insurance with the license application and renewal.
- (p) Each short-term rental shall provide a register and require all guests to register their true names and addresses before beginning occupancy of the short-term rental. The register shall be kept intact and available for inspection by representatives of the Village for at least one year.
- (q) 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.

D. Short-Term Rental License

- (1) The Director of Planning and Community Development or designee shall issue a short-term rental license to all applicants following the approval of an application and the filing of all documents and records required under this Article. The application shall also contain the following information:
 - (a) Identify the Property Owner with contact information including mailing address, physical address, e-mail address, and twenty-four (24) hour phone number;
 - (b) Identify the Property Manager with contact information including mailing address, physical address, e-mail address, and twenty-four (24) hour phone number capable of receiving text messages;
 - (c) Property Management Agreement, if any ;
 - (d) The maximum days of occupancy for the premises for individual rentals;
 - (e) The license term;
 - (f) State lodging license number, if any;
 - (g) A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal;
 - (h) A copy of State of Wisconsin License for a Tourist Rooming House License issued under Wis. Stat. Sec. 254.64;

- (i) Proof of Insurance;
- (j) A copy of Seller's Permit from the Department, if any;
- (k) Floor plan and requested maximum occupancy;
- (l) Site plan including available onsite parking;
- (m) Certification from the property owner that the property meets the requirements of this Article;
- (n) A Room Tax Permit issued by the Village of Allouez; and
- (o) An employer identification number issued by the Internal Revenue Service, if any.

E. Short-Term Rental License Procedure

- (1) All applications for a short-term rental license shall be filed with the Director of Planning and Community Development or designee on forms provided. Applications must be filed by the Property Owner. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.
- (2) Each application shall include the information and documentation for each short-term rental unit listed in Section 270-1-D of this chapter:
- (3) Terms and Filing date. Each permit and license shall run from July 1 – June 30, annually. The filing fee shall be paid upon filing of the application. The Director of Planning and Community Development or designee may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete.
- (4) Application Review Procedure. When satisfied that the application is complete, the Director of Planning and Community Development or designee shall forward initial applications for permits and licenses to the appropriate Village Departments for review. If the Director of Planning and Community Development or designee in consultation with other Village staff determines that the application meets the requirements of this Article, they may approve the application. If the Director of Planning and Community Development or designee in consultation with other Village staff determines that the application does not meet the requirements of this Article, they may deny the application.
- (5) No permit or license shall be issued or renewed unless there is filed with the Director of Planning and Community Development or designee a completed village inspection report dated not more than one (1) year before the date of issuance or renewal.
- (6) No permit or license shall be issued or renewed, if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, unless arrangements for payment have been approved by the Director of Planning and Community Development or designee.

F. Renewal

- (1) Each application for a renewal of a permit or license shall include updated information for the documentation on file with the Director of Planning and Community Development or designee and payment of the applicable fee. The Director of Planning and Community Development or designee shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Article. The Director of Planning and Community Development or designee shall request reports from the Brown County Sheriff and the Neighborhood Compliance Inspector regarding any complaints received, calls for service or actions taken regarding the short-term rental properties. The Director of Planning and Community Development or designee shall issue renewal licenses within thirty (30) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Article and/or the reports from the Brown County Sheriff and Neighborhood Compliance Inspector indicate that there are complaints or actions involving the property.
- (2) If the Director of Planning and Community Development or designee finds that the license or permit should not be renewed, the Director of Planning and Community Development or designee shall deny the renewal.
- (3) No permit or license shall be issued or renewed unless there is filed with the Director of Planning and Community Development or designee a completed village inspection report dated within one (1) year of the issue date.
- (4) No permit or license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Village ordinances, unless arrangements for payment have been approved by the Director of Planning and Community Development or designee.

G. Property Manager

- (1) Property Manager Permit. No person may act as a Property Manager for a short-term rental without a Property Manager Permit issued in accordance with the provisions of this Article. The Property Manager Permit shall apply to all short-term rentals for which the Property Manager has exclusive rights for the rental of the property. The Property Manager must certify to the Village that each short-term rental operating under the short-term rental license complies with the standards of this Article.
- (2) Property Manager Qualifications. To qualify as a Property Manager the applicant must meet the following requirements:
 - (a) Be a natural person or a corporate entity with a representative available twenty-four (24) hours a day and accessible by phone.
 - (b) The applicant does not have pending any criminal charge and has not been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another.
- (3) Each Property Manager shall be authorized by the Property Owner to act as the agent for the owner for the receipt of service of notice of violation of this Article's provisions and for service of process pursuant to this Article and shall be authorized by the owner to allow Village employees, officers and

their designees, to enter the owner's property for purposes of inspection and enforcement of this Article and/or the Village Municipal Code.

H. Standards for Short-term Rentals

- (1) Each short-term rental shall comply with this Article's requirements or any other applicable Village ordinance. Each short-term rental shall comply with the following minimum requirements:
 - (a) One (1) internal bathroom for every four (4) occupants;
 - (b) Not less one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two people;
 - (c) Not less than one (1) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy;
 - (d) A safe, unobstructed means of egress from the short-term rental leading to safe, open space at ground level;
 - (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) Shall not have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel- Burning Appliances;
 - (g) Shall not have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking or any other purpose on any balcony, deck or under any overhanging structure or within ten (10) feet of any structure;
 - (h) Shall not have a wood burning fire pit or other similar solid fuel fired device used for heating or any other purpose on any balcony, deck or under any overhanging structure or within twenty (25) feet of any structure;
 - (i) Outdoor gas fire pits shall be listed and labeled for the application in which they are used and meet the setback requirements listed in the manufacturer's instructions or UL listing.
 - (j) All 125-Volt, single-phase, 15 and 20 ampere receptacles installed in the locations specified below shall have ground-fault circuit interrupter protection for personnel:

- [1] Bathrooms
 - [2] Garages and accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.
 - [3] Outdoors
 - [4] Crawl Spaces - at or below grade level
 - [5] Unfinished portions or areas of the basement not intended as habitable rooms.
 - [6] Kitchens - where receptacles are installed to serve the countertop services
 - [7] Sinks – where receptacles are installed within six (6) feet from the top inside edge of the bowl of the sink.
- (k) All Property Managers shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of Insurance, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate;
 - (l) Certification of compliance. As a condition of issuance of a license under this Article, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Article.
 - (m) Reporting Requirements. Owners or property managers of any Short-Term Rental shall keep and maintain a registration for all guests in accordance with Allouez Municipal Code. The owner or property manager of the dwelling unit shall submit a quarterly report to the Office of the Clerk on the first business day following January 1st, April 1st, July 1st, and October 1st. The report shall indicate the names of the individuals who rented the unit, the number of guests, and the date and time of check-in and check-out for each rental period during the previous quarter. If there were no rentals during a quarterly period, a report shall be submitted with zero values reflected. The report will be on a form approved and provided by the Office of the Clerk. Any violation of this subsection shall be grounds for revocation, suspension, or nonrenewal of the Short-Term Rental License.

I. Room Tax

- (1) Each short-term rental shall comply with the room tax reporting requirements of Chapter 50 of the Village Municipal Code.
- (2) Each Property Manager Licensee shall file room tax returns for the managed short-term rentals, if not already filed by a lodging marketplace.
- (3) All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under Chapter 50 of the Village Municipal Code and Wis. Stat. Sec. 66.0615 (3) and Wis. Stat. Sec. 77.61.

J. Display of Permit

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

K. Appeal and License Revocation

- (1) The denial, revocation, or non-renewal of any license or permit application under this section may be appealed only by filing a written appeal request with the Clerk within ten (10) business days of the Village's notice of denial, revocation, or non-renewal. The Village Board shall consider the appeal and may approve or deny the appeal.
- (2) A license may be revoked by the Director of Planning and Community Development or designee for one or more of the following reasons:
 - (a) Failure to make payment on taxes or debt owed to the Village in full;
 - (b) Failure to make payment on the Brown County room tax in full;
 - (c) Three (3) or more calls for police service, building inspection, neighborhood compliance inspection, or the health department for nuisance activities or other law violations in a 365-day period as defined in Chapter 307, Article II: Chronic Nuisance Premises, of the Village Municipal Code ;
 - (d) Failure to comply with annual Village building inspection requirements;
 - (e) Failure to maintain all required local, county, and state licensing requirements;
 - (f) Failure to comply with any requirements cited within Chapter 475 of the Village Municipal Code;
 - (g) Any violation of local, county, or state laws that substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.

L. Penalties

- (1) Any person who shall violate any provision of this Article shall be subject to a penalty as provided in Section 1-3: Violations and Penalties, of the Village Municipal Code and in the forfeiture amounts as provided for in the bond schedule for the Village Municipal Court.
- (2) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Article or otherwise.

M. Fees

All Short-Term Rental License fees shall be in accordance with the Village Fee Schedule and updated from time to time by resolution.

N. Severability

If any provision of this Article and its ordinances is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this Article or its ordinances. It is hereby declared to be the intention of the Village of Allouez that all provisions of this Article and its ordinances therein are separable.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect March 1, 2024.

Dated this 16th day of January, 2024.

James F. Rafter, Village President

ATTEST:

Carrie C. Zittlow, Village Clerk