

--MEMORANDUM--

TO: City Council

FROM: Gregory E Buckley
City Manager



DATE: January 24, 2025

SUBJECT: Discussion on Short-Term Rentals Planned for January 27 Work Session

Monday's work session agenda includes a discussion via teleconference with City Attorney Andrew Adams and possible Council direction to City staff, regarding possible changes to City ordinances pertaining to short term rentals (STR's).

Attorney Adams has prepared the attached document that identifies some of the issues associated with STR's and how such issues might be addressed in the Zoning Ordinance (Title 10 of City Ordinances) or in the Ordinance on Licensing of Short-Term Rentals (Section 6-13 of Ordinances, copy attached). These issues have been identified based on discussions with City staff and at past Council meetings.

Monday's discussion is intended to deal with CONCEPTS associated with licensing and regulation of STR's. I recommend that any possible changes to City ordinances that the Council might be interested in pursuing would then be referred to the Plan Commission for its review and comment, and to staff and the City Attorneys for development of draft ordinance amendments. Such ordinances would then come back to the City Council for its consideration (following a required public hearing, if any of the ordinances involve amending the Zoning Ordinance).

As STR's are licensed by the City on a calendar year basis, I expect that most any ordinance changes resulting from this process would only apply to current licensees as of January 1, 2026, but **could** apply to new applicants immediately following adoption and publication.



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Andrew J. Adams
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1/24/2025

Via Electronic Mail

City of Two Rivers
% Greg Buckley
1717 E. Park St.
Two Rivers, WI 54241

Re: Short Term Rentals, Room Tax, and Zoning

Dear Mr. Buckley,

You have asked us to provide a bullet-point list summarizing the status of Short Term Rentals, Room Tax, and the relevant pieces of the Zoning Code in the City's Code of Ordinances and to provide changes which could clarify and improve the efficacy of the relevant Ordinances. The following list is intended solely to provide such an overview and the outline of potential changes. It is not exhaustive and contains some shorthand to convey said information quickly.

Summary

- Short Term Rentals
 - Wis. Stat. § 66.1014 prohibits municipalities from banning STRs for rentals of 7 consecutive days or more. It does not allow municipalities to limit total rental days to fewer than 180 in a 365-day period for rentals between 6 and 29 days, which can run based on the first rental date.
 - The statute preserves local authority to regulate other aspects of STRs and to require licensing, as long as regulations don't conflict with the statute's other provisions.
 - Current, day-to-day regulations imposed, Two Rivers Ord. § 6-13-5:
 - The noise levels must be reasonable.
 - Signage advertising the property on the property is not allowed and no advertising is allowed anywhere until after the city and county licenses have been obtained.
 - No temporary lodging (e.g., tents or RVs) is allowed as a means of providing additional accommodations for additional guests.
 - No public nuisances.

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- Subject to room tax.
- The sexual offender residency restrictions apply.
- Compliance with all applicable state, county, and local codes, laws, and regulations.
- Display proof of a current (annual) inspection by the County Health Department and contact information for the City PD, FD, and property owner or property manager.
- Each must maintain a guest register for two years containing the full name and current address of renters, the time of rental, and the amount paid. A copy of the register must be available if requested by the city.
- Vehicle parking must be on a paved or gravel surface.
- Each unit must have at least one, off-street parking space with the exception of the downtown area.
- A safe means of egress from the dwelling leading to open space at ground level is required.
- Must have functional smoke and carbon monoxide detectors.
- Cannot have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated no more than 30 days prior to submission of the license application or renewal, certifying some specific safety items.
- Cannot have a charcoal grill, or other similar devices used for cooking, on any balcony, deck or under any overhanging structure or within ten feet of any structure.
- Outdoor cooking and heating devices must be used in accordance with the ordinances.
- All property owners must carry casualty and liability insurance with liability limits of not less than \$300,000.00 per occurrence and \$1,000,000.00 aggregate.
- Room Tax
 - Ordinance: Creates a tax of 8.0% on amounts paid to rent any form of lodging.
 - Statutory: Room tax is paid by lodging marketplaces (e.g., AirBnB or VRBO) in a lump sum. This likely precludes ordinances on the subject.
 - Statutory: Challenges to amounts paid are allowed by right to the taxpayer for a period of one year after the payment. The municipality may review, audit, and adjust the amount collected from a taxpayer, as compared to the amount initially paid, for up to four years.
- Zoning
 - Currently, no mention of Short-Term Rentals.

Clarifying Changes

- Current definition of “Family” and the applicable section of R-1 permitted uses:

§ 10-1-7: *Family*. One or more persons related by blood, marriage, adoption or a group of not more than four persons who need not be related, living together as a single housekeeping organization. A “family” includes any domestic servants and not more than one gratuitous guest residing with said family.

§ 10-1-20.A.(5): [Use. In the R-1 single-family residence district no building or premises shall be used and no building shall hereafter be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:] Not more than three boarders or lodgers not members of the family.

- Issue: Attempting to define “family” as a method for limiting the number of people in a dwelling is fraught with unnecessary complications. For example, the R-1 district does not allow for “more than three boarders or lodgers not members of the family”.
 - If the “family” residing at the dwelling is a single renter, staying for 7 days, do friends of that renter count as guests, or are the first three friends of the renter considered “family” and the next three friends not members of the family? How many of them are required to pay to stay there?
 - Is a nuclear family of four barred from having another nuclear family of four as “boarders”? That would be 8 unrelated people.
 - The term “family” can include 1 gratuitous guest, but does that mean no one else is allowed to stay for free? What if a “family” of four wants to help out an older couple? Is the couple required to pay something for one of the two people but not the other?
 - Alleged violations could require proof by the occupants of very personal information, like adoption records, marriage certificates, and birth certificates.
- Potential Clarifying Change 1: Use the fire code to determine the number of people that can stay in a given dwelling.
 - This provides a clear answer as long as the livable square footage of the building is known.
 - Determining this number could be made part of the application for an STR license or related CUP.
 - The fire code will be updated over time, allowing this definition to stay up to current standards without needing to be amended as long as the fire code is invoked properly.
 - An issue with this requirement is that measuring the livable square footage is not necessarily going to be identical between people or firms which do the measuring, which could lead to contests by people who believe they should be allowed to house more renters.

- Currently, 150 sq. ft. for the first person and 100 sq. ft. for each additional person. Each additional person only requires 70 sq. ft. if the dwelling is a mobile home.
- Potential Clarifying Change 2: Allow the number of people staying in a dwelling to be two people per bedroom, plus two people.
 - This requirement provides a clear number of occupants without requiring measurement of the livable square footage.
 - This is easily enforceable by someone without specialized knowledge beyond what constitutes a legal bedroom.
 - The maximum occupancy will be lower than the fire code requires in every instance.
 - This allows for the possibility of couples in every bedroom with a small allowance for children.
 - An issue with this requirement is that it may occasionally require visitors to rent more space than they would otherwise need, especially in dwellings with particularly large living spaces.
- The term “Short Term Rental”
 - Issue: It is not used in the zoning code.
 - Clarifying Change: This term should be defined as it is in § 6-31-1, and it needs to be added as a use in every zoning district as it cannot be banned. See Wis. Stat. § 66.1014.
- Two calls to authorities “that relate to criminal or nuisance activities at the short-term rental” or similar reasons can be cause for revocation under § 6-13-6.B.(3).
 - Issue: This language could be read to mean that any two calls about the wrong subject. It is more equitably read as two calls for activities which result in convictions under the described conditions.
 - Clarifying Change: This language should be clarified such that it cannot be read to allow a bad neighbor to get a place shut down simply by making two calls.
- Penalties
 - Issue: Right now, the penalties for violating the STR license regulations are split among three different sections.
 - Clarifying Change: The penalties should be aggregated into one section.

Substantial Changes

- Conditional Use Permits
 - Short term rentals may be made a conditional use in all zoning districts
 - This would allow the City Council to review and impose conditions upon each new application to make a property a short-term rental property
 - This somewhat reduces the Council's discretion in granting such permits, but that may be retained on the licensure side
- Add a time limit for reapplication
 - The ordinance appears to suggest that the denial of a license application or renewal should be appealed, but the applicant can instead just reapply.
 - There is no minimum wait time for reapplication, so after a denial, the applicant can review the reason for the denial, address it, and immediately reapply.
 - Generally, the required wait time for reapplication is one year, but there are no statutory requirements for such wait times.
- License suspension or bond while challenges are pending
 - While matters are pending before a court, a licensee is not stopped from continuing to rent.
 - The Council could be allowed to suspend an STR license or require a bond from the owner, at the Council's discretion, while allegations of noncompliance are pending.
- Add CUP application to license requirements
 - To further tie the STRs to their status as a conditional use, issuance of an STR license could be based upon whether the applicant has submitted an application for a CUP or has been granted a CUP to run an STR on the application premises.
- Regular room tax reporting by property
 - The City likely cannot require marketplace providers to report income from individual properties.
 - The City already requires STR owners to maintain a ledger with rental information. The City does not require that information to be reported on a regular basis.
 - The City could require reports from STR owners based on the required ledgers instead of only requiring owners to share the reports upon request by the City.

STRs, Room Tax, and Zoning

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Please let me know what of the above items you would like to discuss further or build upon, if any, and we will arrange a time to do so.

Sincerely,
WEST & DUNN

Andrew J. Adams

cc: Sean Griffin (via email)

CHAPTER 6-13. - LICENSING OF SHORT-TERM RENTALS

Sec. 6-13-1. - Definitions.

A. The following definitions apply unless specifically modified:

City clerk. The city clerk of the City of Two Rivers or their designee.

License. The short-term rental license issued after an application for a license is submitted and approved following the process in [section 6-13-2](#).

Owner. The person owning a short-term rental property.

Person shall include a corporation, firm, partnership, association, organization, limited liability company 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 code prescribing a penalty or fine, as to partnerships, limited liability companies or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or shareholders thereof who are responsible for any violation of such section.

Property manager. An individual who is not the property owner and who is authorized to act as the agent of the property owner for the receipt of services, remedy of municipal ordinance violations, and for acceptance of service of process pursuant to this chapter.

Residential dwelling unit. Any building, structure, or part of a building or structure with living, cooking, sanitary, and bathroom facilities that is intended to be used as a home, residence or sleeping place by one or more persons related by blood, marriage or adoption or a group of not more than four persons who need not be related. Residential dwelling units include any residential dwelling, tourist rooming house licensed by Manitowoc County, seasonal employee housing and dormitory units.

Short-term rental. A residential dwelling unit that is offered for rent for a fee with a rental term of fewer than 30 consecutive days, as defined in Wis. Stats. § 66.0615(1)(dk).

State. The State of Wisconsin Department of Health or the Wisconsin Department of Agriculture, Trade and Consumer Protection or their designees.

([Ord. of 6-17-2022\(1\)](#), eff. 1-1-2023, § 1)

Sec. 6-13-2. - Application for a short-term rental license.

- A. No person shall maintain, manage or operate a short-term rental more than ten nights a year without a license issued by the City of Two Rivers pursuant to this section.
- B. Applications for a license shall follow the following procedures:
- (1) All applications for a license shall be filed with the city clerk on forms provided. Applications must be signed by the property owner and, if applicable, the authorized property manager(s). The property owner's contact information including mailing address, physical address, email address and 24-hour phone number shall be provided. No license shall be issued unless the completed application is accompanied by payment of the required fee.
 - (2) Upon receipt of each application, the applicant shall undergo a criminal records inspection and background check by the chief of police or their designee and the chief of police shall make and complete an investigation of the statements made in such registration, and may refuse to approve the application if:
 - (a) There are any material omission or materially inaccurate statements; or
 - (b) Repeated complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns in which the applicant or the property manager conducted similar business; or
 - (c) The applicant or designated property manager have criminal convictions that are materially related to the services being provided.
 - (d) The applicant failed to comply with any applicable provision of the application process as state herein.
- C. No license may be issued unless the completed application is accompanied by payment of the required fee. Fees shall be as set forth in [section 1-2-1](#).
- D. The city clerk shall issue a license to applicants following payment of the required fee, satisfactory completion of the investigation by the chief of police, and receipt of all completed documentation and information requested in the application. If the city clerk shall determine if the application meets the requirements of this ordinance, the city clerk may approve the application. If the city clerk determines that the application does not meet the requirements of this section, the city clerk may deny the application.
- E. Licenses will only be issued if the applicant provides a copy of a completed Manitowoc County Tourist Rooming House License with a copy of the property inspection report dated within one year of the date of filing the application with the city clerk.

([Ord. of 6-17-2022\(1\)](#), eff. 1-1-2023, § 1; [Ord. No. 2023-017](#), § 7, 1-16-2023)

Sec. 6-13-3. - Property manager.

- A. *Property manager.* No person may act as a property manager for a short-term rental without authorization from the property owner and contact information on file in accordance with this section.
- B. *Property manager qualifications.* The property manager, as the authorized agent, shall be accessible 24 hours a day by phone or in person in the event of an emergency at the property the manager is responsible for.
- C. Each property manager shall be authorized by the property owner to act as the agent for the owner to provide or facilitate services to the short-term rental property, in the event of an emergency, for the receipt of notice of ordinance violation(s), accept service of process, and shall be authorized by the owner to allow city employees, officers, and their designees, to enter the owner's property for purposes of inspection and enforcement of this ordinance and/or any other city ordinance.

(Ord. of 6-17-2022(1), eff. 1-1-2023, § 1)

Sec. 6-13-4. - License renewal.

- A. The license shall be effective for one year and may be renewed for additional one-year periods. The annual license term is from January 1 to December 31 of each year. A fully completed renewal application and renewal fee must be filed with the city clerk by December 1 of each year if the short-term rental will be continued. The renewal application shall contain any updated information since the filing of the original application. Licenses shall lapse upon a change in ownership.
- B. No license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the city unless arrangements for payment have been approved by the city clerk. Also, the license shall not be renewed if the applicant or property is under an order issued by the building inspector or zoning administrator to bring the premises into compliance with city ordinances.
- C. A license may be suspended, revoked, or not renewed following a due process hearing of the city council if the council determines that the licensee:
 - (a) fails to comply with any of the requirements of this section;
 - (b) owner(s) or renter(s) have been convicted of engaging in illegal activity while on the licensed premises on two or more separate occasions within the past 12 months; or
 - (c) has outstanding fees, taxes, or forfeitures owed to the city.

(Ord. of 6-17-2022(1), eff. 1-1-2023, § 1)

Sec. 6-13-5. - Standards for short-term rentals.

- A. Each short-term rental shall comply with all of the following:
 - (1) The noise levels shall comply section 9-2-5.
 - (2) Signage advertising the short-term rental is not permitted. Off-site advertising in media channels relating to the availability of the rental may take place only after the city and county licenses have been obtained.
 - (3) No recreational vehicles (RVs), campers, tents, or other temporary lodging arrangements shall be permitted on any residential dwelling unit site as a means of providing additional accommodations for paying guests or other invitees.
 - (4) Activities at the premises shall not become a public nuisance. All activities conducted shall comply with chapter 9-6.
 - (5) All short-term rentals shall be subject to payment of the City of Two Rivers room tax at the applicable rate. Property owners or property managers holding the license are responsible for complying with all room tax requirements as set forth in chapter 6-11.
 - (6) The provisions of title 9, article 9 of the city's ordinances, regarding sexual offender residency restrictions, including but not limited to sections 9-9-3.A. and 9-9-3.C., shall apply to all short-term rentals and compliance with those provisions is required.
 - (7) Compliance with all applicable state, county, and local codes, laws and regulations is required.
 - (8) All short-term rentals shall display proof of a current inspection by the Manitowoc County Health Department and contact information for the Two Rivers Police Department (non-emergency), fire department, property owner or property manager.
 - (9) Each short-term rental shall maintain a guest register for two years. The register shall contain the full name and current address of any person renting the property, the time of rental, and the monetary amount or consideration paid. A copy of the register shall be available if requested by the city. The required room tax payments shall be filed as required by chapter 6-11.
 - (10) Vehicle parking shall be on a paved or gravel surface in accord with chapter 8-2.
 - (11) Each short-term rental unit shall have a minimum of one, off-street parking space with the exception of the downtown area in accord with section 10-1-14.A.(2)(c) off-street parking and loading requirements.
 - (12) A safe, unobstructed means of egress from the dwelling leading to safe, open space at ground level shall be provided.
 - (13) Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
 - (14)

Shall not have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated no more than 30 days prior to submission of the license application or renewal, certifying that the fireplace and chimney have been inspected and comply with the National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

- (15) 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 feet of any structure.
- (16) Outdoor cooking and heating devices shall be used in accordance with [section 3-1-3](#).
- (17) All property owners 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 \$300,000.00 per individual occurrence and not less than \$1,000,000.00 in the aggregate.

[\(Ord. of 6-17-2022\(1\)](#), eff. 1-1-2023, § 1)

Sec. 6-13-6. - Appeals.

- A. The denial of any license application or renewal under this section may be appealed by filing a written appeal request with the city clerk within ten days of the city's notice of denial. The appeal shall be heard by the city council. The city council shall consider the application or renewal and recommendations and may approve or deny the application or renewal.
- B. A license may be revoked by the city council for one or more of the following reasons:
 - (1) Failure to make payment on taxes or debt owed to the city.
 - (2) Failure to make payment on any City of Two Rivers room tax.
 - (3) Two or more calls in any 12-month period for police department services that relate to criminal or nuisance activities at the short-term rental, fire department services that relate to criminal or nuisance activities at the short-term rental, building code violations, nuisance activities or other ordinance violations as defined in [chapter 9-6](#).
 - (4) Failure to comply with city building inspection requirements that may occur on an as needed basis.
 - (5) Failure to maintain all required local, county, and state licensing requirements.
 - (6) Failure to comply with any applicable zoning regulations as described in [chapter 6-10](#).
 - (7) Any violation of local, county or state laws that harm or adversely impact the predominantly residential uses and nature of the property or of the surrounding neighborhood.

[\(Ord. of 6-17-2022\(1\)](#), eff. 1-1-2023, § 1)

Sec. 6-13-7. - Penalties.

- A. Any person that violates any provisions of this section shall be subject to license revocation. Appeals shall be handled by the process identified per [section 6-13-6](#).
- B. Any person who violates any provision of this chapter or any other order or regulation issued hereunder shall be subject to a penalty as provided in [section 1-1-5](#) of this Code.

[\(Ord. of 6-17-2022\(1\)](#), eff. 1-1-2023, § 1)