

ORDINANCE

AN ORDINANCE to amend Municipal Code Ordinance Chapter 6, Section 13 of the Municipal Code, Entitled Licensing of Short-Term Rentals creating Subsection 8 "Licensing of Hotels/Motels."

The City Council of the City of Two Rivers ordains as follows:

SECTION 1. That Section 6-13-8 of City Ordinance, entitled "Licensing of Hotels/Motels" is hereby created to read as follows:

CHAPTER 6-13-8 – LICENSING OF HOTELS/MOTELS

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1. Purpose.

The City through the Two Rivers Police Department has determined that some Hotels/Motels within the City have accounted for an excessive number of police calls, including prostitution activity, drug trafficking, other crimes, and disorderly conduct disturbances.

The City through the Two Rivers Police Department has identified from past experience and other jurisdictions that working with area Hotels/Motels in a collaborative effort provides a more effective means of addressing issues involving prostitution activity, drug trafficking, other crimes, and disorderly conduct disturbances.

The creation of this Hotel/Motel ordinance by the City of Two Rivers will provide improved accountability by Owners/Operators of Hotel/Motel businesses with a focus on improving health and safety issues for guests, Hotel/Motel employees, and the Two Rivers community, by requiring Owners/Operators to obtain permits to operate Hotels/Motels in the City, by imposing penalties for inappropriate activities, and by providing an opportunity for Owners/Operators to mitigate those penalties by voluntary cooperation with the Two Rivers Police Department.

2. Definitions.

For the purpose of this chapter, unless otherwise expressly stated, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. **Calls for service ("CFS")** - includes, but is not limited to, any and all calls to emergency services (police, fire, and/or medical) that result in a representative being dispatched or directed to the Hotel/Motel. This shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be traced to the Hotel/Motel staff and/or registered guest(s) and/or visitor(s). Calls for service also include any self-initiated activity and/or investigation based on the observation(s) of an emergency services representative.
- B. **Drug-related arrests** - include, but are not limited to, arrests that involve the manufacture, cultivation, importation, transportation, possession, possession for sale, sale, furnishing, administering, or giving away, or providing a place to use or fortification of a place involving, any controlled drug, narcotic or drug paraphernalia.
- C. **Hotel/Motel** - means a building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, such establishments that fall under the City of Two Rivers definition of short-term rentals and described as inns, motels, hotels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 30 days and accommodations furnished by any hospitals, sanitariums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inured to the benefit of any private shareholder or individual.
- D. **Hotel/Motel Operation** - means the occupancy of any guestroom or use of any Hotel/Motel facility regardless of compensation or remuneration.
- E. **Licensing Authority** - means the Two Rivers City clerk responsible for issuing licenses and permits authorized by the City of Two Rivers

Ordinances and approved by City Council.

- F. **Manager/Agent**- means any person who, in connection with the activities of a Hotel/Motel, manages the Hotel/Motel business's operations, including such things as, but not limited to, the collection of rental charges, issuing of keys, direction of personnel, assigning of rooms to guests, handling guest affairs, and overseeing security. The term shall also include resident manager and assistant manager.
- G. **Owner/Operator** - shall mean any person, firm, association, partnership, limited liability company, or corporation, which is the record owner, part owner, lessee, receiver, sublessee, or franchisee of real property as listed on the last equalized assessment roll as maintained by the City of Two Rivers Assessor at which a Hotel/Motel business is operated, which offers and accepts payment for rooms, guestrooms, sleeping accommodations, or board and lodging, and retains the right of access to, and control of, the dwelling unit on behalf of themselves or any entity listed above.
- H. **Prostitution-related arrests** - includes, but is not limited to, arrests that involve prostitution or prostitution-related crimes, in violation of Wisconsin Statutes, including, but not limited to, §944.30, Prostitution, §944.31, Patronizing Prostitutes, §944.32, Soliciting Prostitutes, §944.33 Pandering, or §944.34 Keeping Place of Prostitution, and City of Two Rivers municipal ordinances referencing prostitution.3. License to Operate required for Owner/Operator.

3. License to Operate required for Owner/Operator.

No Hotel/Motel shall operate in the City without a license issued to the Owner/Operator by the City Clerk pursuant to this chapter. Licenses shall be valid for one year, from July 01 through June 30 of the following year, and shall require renewal on an annual basis. Any hotel or motel in operation without a valid permit issued pursuant to this section shall cease operations.

4. License to Operate-Application for Owner/Operator.

- A. The annual license to operate a Hotel/Motel shall be applied for to the City Clerk by the Owner/Operator of each Hotel/Motel.
- B. Owner/Operator seeking issuance or renewal of a license by July 01 shall submit their application by April 15 with the applicable license fee, as identified in the City's fee schedule.
- C. All Owner/Operators applying to the City Clerk for a license to operate a Hotel/Motel shall file with the City Clerk a sworn application on forms provided by the City and containing information as follows:

1. Current Wisconsin Sellers Permit and Federal ID Number.
2. The name of the Owner/Operator, corporation, partnership, limited liability company, if any, of the Hotel/Motel; the name and address of its agent for service.
3. The name, address, and phone number of the Manager/Agent.
4. The trade name, address, and phone number of the Hotel/Motel, and the emergency contact phone information for the Hotel/Motel.
5. Proof of liability insurance, including the carrier, policy number, agent's name, address and phone number or a statement of self-insurance.
6. Proof of an annual permit issued pursuant to §254.64, Wis. Stats., as well as an inspection report completed by an environmental health specialist/sanitarian, certifying that the facility is in compliance with Manitowoc County Public Health requirements.
7. Proof of compliance with City of Two Rivers Municipal Code, Sec 6-11, Hotel and motel room tax.
8. Any such other information as the City requires. All applications will be reviewed by the Licensing Authority. Upon review, applications will be forwarded to the City Council with a recommendation for approval or denial. The City Council will receive the recommendation to approve or deny the license and take action as appropriate at a City Council Meeting.

5. License to Operate -Report of changes to the application.

Every Owner/Operator of a Hotel/Motel shall report any change in the information upon which the license has been granted, including but not limited to any change in the Manager/Agent or, Owner/Operator to the City Clerk in writing within five business days after the change has occurred. A change in the information on the application is subject to review by the Licensing Authority and may be grounds for suspension or revocation of the license to operate.

6. License to Operate - Display.

The Owner/Operator of a Hotel/Motel shall display the license to operate in an open and conspicuous place on the premises.

7. License to Operate -Non-transferability.

- A. Each license to operate issued pursuant to this section shall be separate and distinct from all others and shall not be transferable

from Owner/Operator to whom it was issued to any other Owner/Operator.

- B. Whenever an Owner/Operator sells or transfers title to, or assigns the lease of or subleases, a Hotel/Motel, the Owner/Operator shall notify the City Clerk in writing within five business days of such transfer.
- C. When a change of Operator occurs at an existing Hotel/Motel, the new Operator shall apply for a license to operate within 10 business days of opening of escrow. If the prior Operator's license to operate the Hotel/Motel was denied or revoked, a provisional license to operate may be issued with special conditions designated by the City Clerk.

8. Complaints seeking suspension, revocation, and nonrenewal.

The City Council, City Manager, or Chief of Police may file with the Licensing Authority a written complaint against any Owner/Operator holding license to operate a Hotel/Motel in the City of Two Rivers at any time that said license is in existence, seeking suspension, revocation, or non-renewal of the license. The Complaint shall set forth the factual grounds for seeking suspension, revocation, or non-renewal as such grounds are set forth in Section 9 below. A copy of the complaint shall be served by certified mail, return receipt requested, or personal service, on the Owner/Operator at the Owners/Operator's address shown on the most recent application for license on file pursuant to this Ordinance.

The Owner/Operator shall file, by mail or personal delivery, a written response to the Complaint with the Licensing Authority within 14 days of receipt. Failure to file an answer shall render the allegations in the Complaint deemed true for purposes of imposition of penalties.

The Licensing Authority shall make a written recommendation to the City Council. The City Council shall make a decision regarding suspension, revocation, or nonrenewal, and issue written notice of the decision to the Owner/Operator.

The Owner/Operator may appeal the decision under Section 10 below, and imposition of the penalty determined by the decision shall be stayed pending completion of the appeal process.

9. License to Operate - Grounds for denial, suspension, revocation or nonrenewal.

The license to operate a Hotel/Motel may be denied, suspended from 5 to 30 days, revoked, or nonrenewed for any of the following reasons:

- A. The Owner/Operator or Manager/Agent has multiple criminal misdemeanor convictions that relate to the Hotel/Motel or has been convicted of a felony that relates to the licensed activity. This

subsection shall not apply to corporations, limited liability companies, or partnerships, but shall apply to all officers, directors of any such corporations and members of any such limited liability companies, and partners of any such partnerships.

- B. The Owner/Operator or Manager/Agent provides incomplete, false, or misleading information on the application, or pursuant to background checks and questions, if any, submitted on behalf of the City to either the Owner/Operator or the Manager/Agent.
- C. The Owner/Operator is unable to establish a degree of financial responsibility required by City of Two Rivers Municipal Code, Sec 6-11, Hotel and motel room tax, has an outstanding debt to the City incurred under Sec 6-11, or is deemed noncompliant with Sec 6-11. The Owner/Operator, Manager/Agent, or Hotel/Motel property has an unabated notice of violation of the City of Two Rivers Municipal Code in excess of 30 days.
- D. Such other relevant facts as the Licensing Authority may discover or deem applicable or necessary in the course of the review of the application of, or complaint against Owner/Operator, Manager/Agent, or Hotel/Motel such as:
 - 1. Incidence of drug related CFS, or arrests;
 - 2. Incidence of prostitution related CFS, or arrests;
 - 3. Incidence of multiple ordinance violations; and
 - 4. Excessive number or nature of CFS.
- E. Noncompliance with federal or state law or City of Two Rivers Municipal Code.
- F. Good cause in the discretion of the City Council showing that the operation of the Hotel/Motel is such that has, is, or will negatively impact the health, safety and/or welfare of its guests, the residents, or businesses of the surrounding community, or the City due to any of the foregoing factors listed above.
- G. In processing a revocation, suspension or nonrenewal, a representative of the Licensing Authority shall prepare an investigative report that details the circumstances that led to the recommendation for suspension, revocation, or nonrenewal. It may include any or all of the foregoing factors, or following factors that are applicable:
 - 1. Frequency of violations, arrests, or CFS;
 - 2. Seriousness of violations, arrests, or CFS in relation to the threat or impact upon public health, safety or welfare;

3. History of the violations, arrests, or CFS;
4. Good faith efforts taken by the responsible party to correct, reduce and/or alleviate violations, arrests, or CFS;
5. Any activity, action or effort taken by the responsible party to obstruct or interfere with correction of the problem;
6. The impact of the violations, arrests, or CFS on the surrounding property and community; The financial impact to the City.
7. Other factors believed relevant.

10. Appeal process - For denial, suspension, revocation or nonrenewal of License to Operate - Notice of hearing.

- A. If the permit is denied, suspended, revoked, or non-renewed by decision of the City Council, the City Clerk shall provide the Owner/Operator a letter stating the reasons for such denial, suspension, revocation, or nonrenewal.
- B. Any Owner/Operator may appeal the above City Council decision by submitting a letter requesting an appeal to the City Clerk within 14 days of receipt of the notice of decision. The letter should state in detail the grounds for requesting reversal of the decision and shall be signed by the Owner/Operator. The City Clerk shall submit the letter and appeal request to the Licensing Authority for further review.
- C. If the Licensing Authority recommends reversal of the decision, the reversal recommendation shall be forwarded to the City Council for consideration. If the Licensing Authority recommends upholding the decision or the City Council rejects the Licensing Authority's recommendation for reversal, the Owner/Operator may request a hearing before the City Council.
- D. The request for hearing before the City Council shall be made in writing to the City Clerk within 14 days of notification of the City Council's final decision, and the hearing will be conducted before the City Council within 30 days of receipt of such request. Notice of the hearing will be given to the Owner/Operator by certified mail sent to the address of the Owner/Operator shown on the Owner/Operator application for license.
- E. The City Council has ultimate authority to affirm or reverse its original decision to deny, suspend, revoke, or nonrenew the license following the hearing, and shall provide the reasons for such denial to the Owner/Operator in writing by regular mail sent to the Owner/Operator's address shown on the application within 10 days of the hearing.

11. Effective date of decision - Posting notice of revocation, suspension or nonrenewal of License to Operate.

- A. Any revocation, suspension or nonrenewal of a license shall not take effect for a period of 30 days following the first decision of the City Council, during which time any party aggrieved by this decision may appeal to the Circuit Court for Manitowoc County pursuant to procedures set forth in Ch. 68, Wis. Stats.
- B. Upon confirmation and final decision issued by the City Council, the Chief of Police or their designee shall post a copy or copies of the notice of suspension, revocation, or nonrenewal of license to operate at the Hotel/Motel, following expiration of the 30-day time limit set forth below if no appeal is taken under Ch. 68 Wis. Stats.
- C. The notice shall not be posted if an appeal is taken under Ch. 68 Wis. Stats. until such an appeal process has concluded. Suspension, revocation, or nonrenewal shall be stayed pending a decision by the Circuit Court and may then be imposed by the City Council in accordance with the Circuit Court decision.

12. Posted notice of revocation, suspension or nonrenewal of License to Operate - Removal or tampering with posted notice.

A posted notice of revocation, suspension or nonrenewal of a license to operate may be removed only by an authorized City official. Any removal, covering, defacing, altering or tampering by unauthorized persons may be prosecuted as a misdemeanor under §946.72(2), Wis. Stats.

13. License to Operate - Surrender following revocation or suspension.

Whenever a license to operate has been revoked or suspended by the City, the Operator of the Hotel/Motel for which such license was issued shall surrender such license to the City Clerk, or their designee, forthwith. The Hotel/Motel operation shall cease all operations immediately following of the posting of the notice of revocation or suspension of the license to operate.

14. Penalties - Voluntary mitigation.

- A. It is unlawful to operate a Hotel/Motel without a valid license to operate or to fail to comply with any of the requirements established by this section. Violations of this section shall be subject to enforcement by any and all remedies listed in Two Rivers Municipal Code. Furthermore, this section may be enforced by injunctive relief prosecuted through the Circuit Court for Manitowoc County in the event the Hotel/Motel Owner/Operator fails to comply with directives to cease operations issued by City officials declaring the Hotel/Motel to be in violation of this section.
- B. In addition to the foregoing remedies, Owner/Operators shall be subject to civil forfeitures of \$1,000 per day for operating a

Hotel/Motel without a license, each day being a separate offense. The City Council may bring action in the name of the City against the Owner/Operator to reduce such forfeitures to a civil judgment for purposes of collection from the Owner/Operator in addition to any other remedy available at law or in equity.

- C. The Owner/Operator may mitigate penalties authorized herein, and may also mitigate and delay imposition of, or shorten the term of, the suspension, revocation, or nonrenewal pursuant to such conditions as recommended by the Two Rivers Police Department and approved by the Licensing Authority for recommendation to the City Council for final approval.

15. License to Operate - Reissuance after suspension, revocation, or nonrenewal.

- A. A license that is suspended shall not be re-issued until the term of suspension has expired, which shall be a minimum of 5 days and a maximum of 30 days, unless the period of suspension is either delayed or shortened by the City Council due to voluntary mitigation action by the Owner/Operator, and such mitigation action is approved by the City Council.
- B. A license to operate that is revoked shall not be reissued for a period of one year from the date of such revocation, unless the period of revocation is either delayed or shortened by the City Council due to voluntary mitigation action by the Owner/Operator, and such mitigation action is approved by the City Council.
- C. A license to operate that is nonrenewed shall not be reissued for a period of one year from the date of such nonrenewal unless the period of nonrenewal is either delayed or shortened by the City Council due to voluntary mitigation action by the Owner/Operator, and such mitigation action is approved by the City Council.
- D. If there is a transfer or sale of the Hotel/Motel or the real estate on which the Hotel/Motel is operated, at the time the license is either under suspension, revocation, or nonrenewal, the license may not be reissued if the following apply:
 1. The new Owner/Operator or Manager/Agent is related to the former Owner/Operator by blood, adoption, or marriage, or common ownership or control.
 2. The new Owner/Operator or Manager/Agent held a business or financial interest in the previous permitted Hotel/Motel business, real estate at which the Hotel/Motel business is operated, or equipment utilized by the Hotel/Motel business.
 3. The former Owner/Operator retains a business or financial

interest in the Hotel/Motel business, or real estate at which the Hotel/Motel business is operated or equipment used by the Hotel/Motel business.

4. The new Owner/Operator's acquisition of the Hotel/Motel business did not involve an arm's length transaction consisting of an open market sale in which the former Owner/Operator is willing but not obligated to sell and the new Owner/Operator is willing, not obligated, to buy.

16. Severability.

It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this section are severable, and if any phrase, clause, sentence, paragraph or section of this section shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this section.

SECTION 2. This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 5th day of September, 2023.

Adam Wachowski
President, City Council

Gregory E. Buckley
City Manager

Attest:

Amanda Baryenbruch
City Clerk

Approved as to form and legality:

John M. Bruce
City Attorney