

ORDINANCE No. 2065
AN ORDINANCE CREATING CHAPTER 5.39 LICENSING OF SHORT-TERM
RENTALS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 5.39 is hereby created to read as follows:

5.39.010 – Licensing of Short-Term Rentals

(1) Definitions.

- (a) For the purpose of administering and enforcing this section, the terms or words used herein shall be interpreted as follows:
 - 1. Words used in the present tense include the future.
 - 2. Words in the singular number include the plural number.
 - 3. Words in the plural number include the singular number.
- (b) The following definitions apply unless specifically modified:
 - 1. City Clerk – The City Clerk of the City of Whitewater or their designee.
 - 2. Corporate Entity – A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.
 - 3. Residential 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. Residential Dwelling Units include any residential dwelling, tourist rooming house, seasonal employee housing and dormitory units.
 - 4. License – The Short-Term Rental License issued under section 5.39.010(3)
 - 5. Owner – The owner of a short-term rental.

6. 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 Code 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.
7. 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 rentals.
8. Short-Term Rental – A residential dwelling unit that is offered for rent for a fee for not less than seven (7) days nor more than 29 consecutive days, as defined in Wis. Stat. § 66.0615(1)(dk).
9. State – The State of Wisconsin Department of Health or its designee.

(2) Operation of Short-Term Rentals

- (a) No residential dwelling unit may be rented for a period of six (6) or fewer days.
- (b) No person may maintain, manage, or operate a short-term rental more than ten (10) nights each year without a short-term rental license. Every short-term rental shall be operated by a Property Owner or Property Manager.
- (c) Each short-term rental is required to have the following licenses and permits:
 1. A Wisconsin Rooming House License;
 2. A seller's permit issued by the Wisconsin Department of Revenue pursuant to Wis. Stat. §§ 77.53(3m) and 77.523(1);
 3. A City license issued pursuant to the provisions of this Section.
- (d) Each short-term rental shall comply with all of the following:
 1. The maximum number of allowable rental days within any consecutive 365-day period shall not exceed 180 consecutive days.

2. The Property Owner or Property Manager shall notify the City Clerk in writing when the first rental within a 365-day period begins.
3. No vehicular traffic shall be generated that is greater than normally expected in a typical residential neighborhood.
4. There shall not be excessive noise, fumes, glare, or vibrations generated during the use.
5. Name plates or other signage shall not exceed one (1) square foot. No other 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 the City and County licenses have been obtained.
6. The maximum number of occupants in any residential dwelling unit shall not exceed the limits set forth in the State of Wisconsin Uniform Dwelling Code and other applicable county and city housing regulations based upon the number of bedrooms in each unit.
7. 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.
8. Any outdoor event held at a short-term rental shall last no longer than one (1) day and shall not occur before 8:00 a.m. and shall not continue after 10:00 p.m. Any activities conducted at a short-term rental shall be in compliance with other noise regulations of the City of Whitewater.
9. All short-term rentals shall be subject to payment of the City of Whitewater room tax at the current applicable rate. Property owners or property managers holding the short-term rental license for a residential dwelling unit are responsible for complying with all room tax requirements as set forth at section 3.12.020 and 3.12.030 of this Code.
10. Compliance with all applicable state, county, and local codes and regulations is required.
11. The property Owner's or property manager's contact information must be on file with the City Clerk at the time of application. The Property Owner or Property Manager must be within 25 miles of the short-term rental property and must be available 24 hours a day. The

Property Owner must notify the City within 24 hours of a change in management contact information for the short-term rental.

12. Short-term rental licenses are issued for a one- (1-) year period and must be renewed annually, on April 30th, subject to City approval or denial.
13. The Property Owner or Property Manager of the short-term rental shall have appropriate insurance for the residential dwelling unit that is used for short-term rental and provide proof of insurance with the license application and renewal.
14. Each short-term rental shall maintain the following written records for each short-term rental of the residential 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 (the "Register"). A copy of the quarterly Register shall be filed with the quarterly room tax returns required by section 3.12.030 of this Code and a copy of the annual Register shall be filed with the annual room tax return required by section 3.12.030 of this Code.

(3) Short-Term Rental License Required.

- (a) The City Clerk 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 Section. The application shall contain the following information:
 1. Identify the Property Owner with contact information including mailing address, physical address, email address and 24-hour phone number;
 2. Identify the Property Manager, if applicable, with contact information including mailing address, physical address, email address and 24-hour phone number;
 3. The Property Owner or Property Manager shall designate on the application when the first rental within a 365-day period begins.
 4. Subject to City Clerk approval, the Property Owner or Property Manager shall designate on the application when the license term is requested to commence and when the 365-day rental period expires; and
 5. Wisconsin Tourist Rooming House License number.

(4) Short-Term Rental License Procedure

- (a) All applications for a short-term rental license shall be filed with the City Clerk on forms provided. Applications must be filed by the Property Owner or duly authorized Property Managers. No permit shall be issued unless the completed application is accompanied by payment of the required fee.
- (b) Each application shall include the following information and documentation for each short-term rental:
 - 1. A copy of the Wisconsin Tourist Rooming House License.
 - 2. Proof of Insurance.
 - 3. A copy of a seller's permit issued by the Wisconsin Department of Revenue pursuant to Wis. Stat. §§ 77.53(3m) and 77.523(1).
 - 4. Floor plan and requested maximum occupancy.
 - 5. Site plan including available on-site parking.
 - 6. Property Management Agreement (if applicable).
 - 7. Designation of the Property Manager.
 - 8. Certification from the Property Owner or Property Manager that the property meets the requirements of this Section.
- (c) License Terms and Filing Date. Each license shall run for a term of one (1) year commencing on April 1st. The filing fee shall be paid upon filing of the application. The City Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all information and documentation shall not be considered complete.
- (d) Application Review Procedure – When satisfied that the application is complete, the City Clerk shall forward initial applications for licenses to the City Manager, or their designee, for review. If the City Clerk, in consultation with the City Manager, determines that the application meets the requirements of this Section, the City Clerk may approve the application. If the City Clerk, in consultation with the City Manager, determines that the application does not meet the requirements of this Section, the City Clerk may deny the application.

- (e) No permit or license shall be issued, if the applicant or property has outstanding fees, taxes or forfeitures owed to the City of Whitewater, unless arrangements for payment have been approved by the City Clerk.
- (5) License Renewal.
 - (a) Each application for a renewal of a license shall include updated information for the documentation on file with the City Clerk and payment of the applicable fee. The City Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section. The City Clerk shall request reports from the City of Whitewater Police Department regarding any complaints received, calls for service or actions taken regarding the short-term rental properties. The City Clerk shall issue renewal licenses within 30 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section and/or the reports from the Police Department indicate that there are complaints or actions involving the property.
 - (b) If the City Clerk finds that the license should not be renewed, the City Clerk shall deny the renewal.
 - (c) No license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the City, or is under an order issued by the Building Inspector, or their designee, to bring the premises into compliance with City ordinances, unless arrangements for payment have been approved by the City Clerk.
- (6) Property Manager Permit Required.
 - (a) 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 Section. 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 City that each short-term rental operating under a short-term rental license and under management by the Property Manager complies with the standards of this Section.
 - (b) Property Manager Qualifications. To qualify as a Property Manager the applicant must be a natural person residing in or within 25 miles of the City of Whitewater or other legal entity with offices located within 25 miles of the City of Whitewater.
 - (c) 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 Section's provisions and for service of process pursuant to this Section 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 Section and/or the City of Whitewater Municipal Code.

- (d) Permit Term and Filing Date. Each permit shall run for a term of one (1) year. The filing fee shall be paid upon filing of the application. The City Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all information and documentation shall not be considered complete.
- (e) Permit Renewal. Each application for a renewal of a permit shall include updated information for the documentation on file with the City Clerk and payment of the applicable fee. The City Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Section. The City Clerk shall request reports from the City of Whitewater Police Department regarding any complaints received, calls for service or actions taken regarding any of the short-term rental properties managed by the Property Manager. The City Clerk shall issue renewal permits within 30 days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Section and/or the reports from the Police Department indicate that there are complaints or actions involving the Property Manager.

(7) Standards for Short-Term Rentals.

- (a) Each short-term rental shall comply with the following minimum requirements:
 - 1. One (1) internal bathroom for every four (4) occupants.
 - 2. 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 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 (2) people.
 - 3. Not less than one (1) onsite off-street parking space for every four (4) occupants based upon maximum occupancy.

4. A safe, unobstructed means of egress from the short-term rental leading to safe, open space at ground level.
5. Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code.
6. Shall not have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated not more than 30 days prior to submission of the short-term rental application or renewal, 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.
7. 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.
8. Shall not have a fire pit or other similar device used for heating or any other purpose on any balcony, deck or under any overhanging structure or within 25 feet of any structure.
9. 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 \$300,000.00 per individual occurrence and not less than \$1,000,000.00 in the aggregate.
10. Certification of Compliance. As a condition of issuance of a license under this Section, the Property Owner or Property Manager shall certify that each property is in compliance with the terms and conditions of the license and this Section.

(8) Room Tax.

- (a) Each Property Owner or Property Manager shall file room tax returns for the short-term rentals and shall comply with all room tax requirements of section 3.12.020 of the Municipal Code.
- (b) All room tax returns and supporting documentation filed pursuant to section 3.12.020 of the Municipal Code are confidential and subject to the protections provided under Wis. Stat. §§ 66.0615(3) and 77.61.

(9) Display of License. Each license shall be displayed on the inside of the main entrance door of each short-term rental.

(10) Appeal and License or Permit Revocation

(a) The denial of any license or permit application or renewal under this Section may be appealed by filing a written appeal request with the City Clerk within ten (10) days of the City's notice of denial. The appeal shall be heard by the Plan & Architectural Review Commission, which shall make a recommendation to the Common Council. The Common Council shall consider the application or renewal and recommendations and may approve or deny the application or renewal.

(b) A license or permit may be revoked by the Common Council for one (1) 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 Whitewater room tax.
3. Two (2) or more calls in any 12-month period for police services, Whitewater Fire Department services, building code violations, nuisance activities or other ordinance violations as defined in the Municipal Code.
4. Failure to comply with annual City building inspection requirements.
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 19 of the Municipal Code of Ordinances.
7. Any violation of local, county or state laws that harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.

(11) Penalties

(a) Any person who shall violate any provision of this Section shall be subject to a penalty as provided in Section 5.31.010 (11b) of this Municipal Code and the forfeiture amounts as provided for in the bond schedule for the City of Whitewater.

- (b) Penalties set forth in the section shall be in addition to all other remedies of injunction, abatement, or assessment of costs whether existing under this section or otherwise.

(12) Fees

Initial Short-Term Rental application fee	\$150.00
Renewal of Short-Term Rental License fee	\$75.00
Late-Filing feeshall be two times (2x) the applicable fee	
Initial Property Manager Permit application fee	\$100.00
Renewal Property Manager Permit fee	\$75.00”

Section 2. **Repeal of Code.** All ordinances or parts of ordinances heretofore adopted by the City of Whitewater in conflict herewith are hereby repealed.

Section 3. **Severability.** Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Section 4. **Effective Date.** This Ordinance shall take effect upon publication as required by law.

Ordinance introduced by Council Member _____, who moved its adoption.

Seconded by Council Member _____.

AYES:
NOES:
ABSENT:
ADOPTED:

John Weidl, City Manager

Karri Anderberg, City Clerk

