

Re: Proposed Ordinance No. 2065

The Proposed Ordinance will Hurt Local Home Owners who Currently use Marketplace Providers Like AirBnB to Rent Out Unused Space in Their Homes.

There is not enough short-term rental supply in Whitewater to meet the high demand in the short-term rental market. Without local residents being able to include stays over a week in their listing options, these consumers will spend their money renting and dining in neighboring cities.

We Conducted Background Research into a Business Plan

My family has extra space in our home that we do not need. On two occasions we made this space available for 30 days to families in need at the request of Bethel House. During Covid, we were often approached by local citizens to use our space to quarantine. These request made us aware that there is a shortage of short-term rentals available in Whitewater. There are currently only a handful of dwelling spaces in the city of Whitewater, including our own, that are listed on AirBnB.

Two years ago I researched the local ordinances and state laws regarding our ability to rent out this space. I realized that if we renovated the space, it would be financially advantageous to supply our space for both weekend stays and month-long rentals; as well as any duration within this range. This income would allow us to pay for my son to go to college and to otherwise help make ends meet.

We Researched Current State and Local Laws Before Making a Substantial Financial Investment

1) The City of Whitewater Lodging Permit. Whitewater's municipal code currently requires anybody that offers lodging to transients to acquire a city permit and pay taxes. It applies to Hotels and people renting a room in their home. The Permit application collects information regarding marketplace property IDs, room rates, annual revenue. Also the owner grants permission to the city to collect rental information directly from the marketplace provider.

2) The Wisconsin Department of Agriculture, Trade and Consumer Protection requires all lodging facilities to hold a current license. It doesn't not matter if it is rented for a single day, week, month or an entire season. It applies to all AirBnB rentals, Bed and Breakfasts, Motels, Hotels and any other arrangement where transient individuals pay for lodging.

3) Tourist Rooming Houses: The single room I rent in my house requires a Tourist Rooming House License from the State. If I served any food, I would then need an

Bed and Breakfast license instead. If I had more than five rooms that could be booked separately, I would need a hotel or motel license.

4) State Licensing Requirements: State law requires a site visit by a state inspector to verify the dwelling complies with all commercial building codes as well as complying with specific lodging rules for the following items:

- Water Source
- Mattress pads
- Linens
- The way the bed is made to ensure a 12 inch overlay over blankets
- Utensils and food containers and how they are stored
- Sanitization procedures for utensils and kitchen ware
- Waste disposal and recycling with fly-tight containers and lids
- Condiments and coffee provided only in single serving packets
- Plumbing fixtures and showers
- Soaps and Towels
- Fire extinguisher
- Smoke and carbon monoxide alarms
- Appliances
- Door Locks
- Window Screens
- Outdoor Land surfaces
- Fire egress
- Guest registration procedures
- Lodging Capacity based on 400 cubic feet per person over 12 years of age and 200 cubic feet per person 12 years old and younger.

(We personally only allow five guests, although the space can comfortably accommodate more than this and the state license allows for more. The proposed ordinance would limit that occupancy to a maximum of two guests)

We Invested Thousands of Dollars to Renovate Our Space in order to Best Accommodate the Short-term Rental Market into Our Business Plan.

After conducting diligent background research we identified what we believed would be a market that would help supplement income from weekend rentals. This included creating a new private exterior entrance, renovating the kitchen to make space for a refrigerator, running additional plumbing and water to the bathroom, installing new flooring, building more closet space, and purchasing a sofa, dining table and kitchen supplies. These were based on our assessment of the level of comfort we would need to offer to people staying more than one weekend.

**Our Experience Over the Past Seven Months Indicates that
In Order to be Successful We Need to:
1) Rent to Families of More than Two Guests, and
2) We Need to Offer Options for Both
Stays Under Seven Days and Over Six Days.**

We have found it more than sufficient to only used one Marketplace (AirBnB):

Average listing views per month on AirBnB: **111**

Percentage of available days booked: **74%**

(we often block days for our personal use of the space)

Percentage of bookings that were for more than six days: **33%**

Average length of stay: **10.2 days**

Average number of guests per booking: **2.4%**

Bookings that were for more than two guests: **43%**

Percentage of booking days where the guests preferred rental location is more than 20 miles from Whitewater: **69%**

A significant portion of our revenue comes from both weekend and several week stays. We can't rely on regularly receiving bookings from either segment as demand for each fluctuates so we depend on both. We also depend on renting to families with children.

One set of our renters were building a home in Palmyra, but their move-in date was pushed back a few weeks. Another individual had accepted employment in nearby towns and need time to search for permanent housing in that other town. We have hosted several families visiting relatives in other cities. Regardless of where they spend their days, almost everybody eats out at Whitewater restaurants for nearly every evening meal.

This Ordinance Provides No Additional Economic Benefit to the City. Instead, It Loses Tourists and Short-term Visitor Dollars from Our Local Economy

Most guest looking to stay in a short-term rental in Whitewater, would prefer to find a suitable dwelling in a different town. By limiting the ability for local Whitewater citizens to rent out a room in their house for a month or less, the city loses tax dollars, and local businesses lose sales. Home owners lose the ability to make supplemental income.

The city did not conduct a comprehensive economic impact study before developing this ordinance, otherwise it would have interviewed the few homeowners that are using AirBnB and solicited community input. The city also did not talk with Discover Whitewater or else they would see that this organization's most recent blog entry is promoting my property to potential tourists. Discover Whitewater

efforts are at odds with the city's efforts to make it harder to cater to these tourists by diminishing the economic viability of using property in this way.

Its unclear in this ordinance where the city is trying to drive this subset of renters. It appears the city assumes large remodeled homes with out-of-state owners are the primary beneficiaries of this type of business opportunity at the expense of single family occupied homes. My experience indicates that the supply pool of renters are not finding what they need anywhere and are excited to find a suitable space that also has a homeowner who lives onsite. Many renters despise staying in hotels. Using the local inventory of our citizen's unused home space to help meet this market demand has no negative economic impact on anybody.

This Ordinance Provides No Additional Health Protections Beyond those Ensured through State Licensing

The City's strict occupancy load criteria have no clear targeted health and safety purposes. If they did, this load criteria would also apply to hotels, motels, and bed and breakfasts, but they don't. (It is unclear if the city will allow any Tourist Rooming House rentals for less than seven days, but if it does, I assume the city would also follow the state's more permissive occupancy load criteria for these shorter stays.)

The State's licensing rules address indoor and outdoor hazards and the state has more expertise at how to keep transient guests safe. All of the relevant state commercial dwelling codes are thoroughly reviewed in their required on-site visits.

This Ordinance Does Not Increase Preservation of the Traditional Family Neighborhood in Whitewater

The City is simply copying regulations from other communities without first having well defined goals and then drafting a precise targeted ordinance to achieve those unique goals. Different cities need different rules. The city knows where all of its AirBnB rentals are, yet it did not interview any of these home owners or talk to their neighbors. The AirBnB units in Whitewater and their activity blend into their single family neighborhoods. I have never heard of any complaints by any neighbors. I usually don't know my guests are even in my home. We recently had a young man visit us for 29 days to do an internship. I only saw him on a few occasions when we passed each other on the front walk. He left to work at 6:00 am, returned home in the afternoon, left for dinner and came home to go to bed. On the weekends he would go fishing. The extra activity my guests create in the neighborhood is no more than when my son comes home from college over winter and summer breaks, in fact, my children always create substantially more commotion playing outdoors than any one of the guests ever has. The use fits the neighborhood.

Specific Line-item Concerns with the Proposed Ordinance

1. (1)(b)(8) incorrectly states that Wis. Stat. SS 66.0615(1)(dk) defines short-term rental as a unit that is offered for rent for not less than (7) days. Nothing in this state statute defines a minimum number of rental days.
Question: If a dwelling is offered for rent for less than (7) days, does that mean it does not fit into the city's proposed definition of a short-term rental, even if it also offers stays of longer than (6) days? If so, any short-term rental can avoid coverage of this ordinance simply by "offering" stays of less than (7) days.
2. (2)(a) states that no residential dwelling unit may be rented for (6) or fewer days.
Question: Is this just restating the proposed definition of a short-term rental or does this proposed rule apply to all dwelling units in the city? Is it the intent is to prohibit all rentals of (6) days or fewer; even if that dwelling does not also offer longer stays?
3. (2)(c)(1) requires a Rooming House License. However state licensing for short-term rentals anticipates other short-term rental licensing options, including bed and breakfast, hotels, and motels. Some AirBnB properties in Whitewater do not qualify for a Rooming House License.
Question: If an AirBnB rental includes the homeowner making breakfast for the guest, can a Bed and Breakfast license be a sufficient substitute for each Rooming House Licenses wherever that term is listed in this ordinance?
4. (2)(c)(2) requires a seller's permit pursuant to Wisconsin statute 77.53(3m). This particular state statute does not exist.
5. (2)(c)(2) also requires a seller's permit pursuant to Wisconsin statute 77.523(1). However, this state statute only lists the obligations of marketplace providers, not the obligations of the home owner sellers.
6. (2)(d)4, 6, 10 and 14. These are redundant under State and/or local laws.
7. (2)(d)(8) Regarding outdoor use: My short-term rental has outdoor space that is shared between the renters and my family. The application of this section is unclear as the laws that apply to myself and my non-paying guests are not the same that apply to my renters. This should be clarified.
8. (2)(d)(9) makes property owners or managers responsible for complying with room tax requirements set forth in 3.12.020. However, Wisconsin statute 66.0615(1r)(a) states that a municipality may not impose and collect a room tax from the marketplace seller if the seller exclusively use a marketplace provider. The proposed city statute lists no exception to this rule and is therefore in conflict with state law.

9. (2)(d)(11) requires the owners contact information must be on file with the city. This is already required by the city.
10. (2)(d)(11) states that a property owner or manager must be within 25 miles of the property.
Question: Is this in reference to the owner/manager's residence or their physical location? (6)(b) states that the manager's residence must be within 25 miles.
11. (2)(d)(12) lists the license renewal date as April 30th. However, the current City of Whitewater Lodging Permit is valid for a calendar year, which is interpreted by the city as being January, 1.
Question: Will both the Lodging Permit and the Short-term rental license need to be updated on different dates?
12. (2)(d)(14) The State of Wisconsin requires a Register of guest. They use this primarily to track people in case outbreaks such as Legionnaires Disease. The State does not require the property seller to keep this information since the marketplace provider maintains these records. Also, AirBnB uses government issued face IDs, current selfies, and credit card draft tests to verify a renter's identity before booking. This is more extensive and accurate than what an individual seller can obtain. The city does not need to duplicate the State's register requirements in a more burdensome way; especially since all marketplace sellers in Whitewater are currently required through the Lodging Permit to supply marketplace provider information to the city and give permission to the city to obtain this information from the marketplace providers.

Renters like using AirBnB because they can be pre-vetted, book instantly and move in and out all without any direct contact with the property owner.
13. (4)(b)4 requires an application include a floor plan and maximum occupancy request. The Wisconsin State Department of Agriculture, Trade and Consumer Protection already does a site visit and sets an occupancy based on Wisconsin law for commercial dwelling uses.
14. (4)(b)(7) requires a designation of a property manager. It is unclear from this section and under (6)(a)-(e), whether a property owner, who lives at the premises, needs to designate a property manager. And if the owner designates him or herself in that role, whether that owner needs to acquire a manager's permit.
15. (7)(a)1 sets a requirement of one bathroom for every four occupants this exceeds the states health requirements. This specific section would also prohibit hotels and motels from renting most of their rooms to families of

five; where they advertise their pull put sofas and rolling cots. (I currently maximize my occupancy at five even though I am licensed for more.)

16. (7)(a)2 limits the occupancy of any size room at (2). This far exceeds the occupancy load set by the state for commercial dwellings. The ordinance does not explain why this number is used. It is unclear why this would apply to our large 450 square foot studio or a hotel room suite with two queen size beds and sofa is not suitable for more than two guests. The State set's its occupancy license for sleeping rooms based on cubic feet. 400 cubic feet for occupants 12 years old and over and 200 cubic feet for occupants under 6 years old.

Suggested Changes if the Council Decides it Must Create a Special License for Short-Term Rentals.

1. Specifically Exclude Tourist Rooming Houses and Bed and Breakfasts that are operated on the same property as the owner's primary residence.
2. Allow dwellings that are rented for more than six days to also be allowed to be rented for less than seven days. (perhaps they should adhere to two separate sets of codes depending on the length of each booking)
3. Use the state's licensing and inspection process rather than duplicating it and making occupancy rules that are more strict than motels. (motels are basically Tourist Rooming Houses with more than five dwelling units)
4. Limit the ordinance to enforcing community peace such as: not using RVs, signage limits, outdoor event hours, off street parking, traffic patterns.

I encourage the council to hold off on passing this ordinance at this time. You need to first gather more data specific to the actual nature of the short-term rental market in Whitewater. Please be extremely precise with every item in the ordinance to ensure it can best create the results you want without creating unintentional negative impacts on local home owners, local businesses and tourists.

I invite you to come to my home and see the property for yourself. You won't see a home being used in a way that should be restricted. I'm confident you will see a use that reflects our community's values.

Thank You,

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