

TOWN OF LIBERTY GROVE PUBLIC MEETINGS

Plan Commission

Date: Wednesday, August 23, 2023

Time: 6:00 PM

Place: Town Hall, 11161 Old Stage Road

Agenda:

1. Call to order
2. Declaration of quorum
3. Adopt agenda
4. Approve Minutes: 8-9-23
5. Short Term Rental Ordinance
6. Public Input
7. Correspondence
8. Future Meeting Dates
9. Adjourn

All agenda items will include discussion and possible action. Deviation from listed order may occur

***Audience members must ask for permission, during public input, to speak on agenda items ***

Anastasia Bell, Clerk/Treasurer

Members of the Town Board or any other Town Committee, who are not members of the body whose meeting agenda is published in this notice, are entitled, as any other citizen of the Town of Liberty Grove, to attend this meeting in an unofficial capacity. It is possible the attendance of one or more non-members may create a quorum of the membership of another body. Such a quorum is unintended, and the non-members are not meeting for the purpose of exercising the powers or duties attendant upon their membership on any Town Committee or Board

Town of Liberty Grove
Minutes of the Plan Commission & Special Board meetings on August 9, 2023

Agenda:

1. Call to order
2. Declaration of quorum
3. Adopt agenda
4. Approve Minutes: 7-26-23
5. Short-Term Rental Ordinance – Section 6 (E)
6. Public Input
7. Correspondence
8. Future Meeting Dates
9. Adjourn

Chairman Nancy Goss called the meeting to order at 7:00pm. Commissioners Anne Miller, Dan Watts, Cathy Ward, Cheryl Culver, and Bill Surbaugh were present with Administrator Walter Kalms, Clerk/Treasurer Anastasia Bell, and approximately 7 members of the public. Commissioner Paul Bokelmann was excused.

Surbaugh moved, Miller second to approve the agenda as posted. Carried 6-0.

Miller moved, Surbaugh second to approve the 7/26/23 minutes as presented. Carried 6-0.

Short-Term Rental Ordinance – Section 6(E) of the ordinance was reviewed, and the following items were noted:

- ATCP 72 identifies occupancy based on the cubic feet of bedrooms and age of occupants and compliance is determined by inspection.
- Request lawyer to replace the phrase “limited to lesser of the following” with something like “determined at the point any of the following limits are met.”
- (i) add a direct reference to occupancy/bedroom section of ATCP 72.

Public Input – Russ Forkert, Birchwood Dr., asked when an STR becomes a business and if the ordinance applies to long-term rentals. Goss noted Act 59 defined STRs as a residential use, a Town cannot have different regulations based on zoning, and the ordinance does not apply to rentals greater than 29-days. Jim Maronek, E Door Bluff Road, noted he found 13 issues and specifically identified the following: POWTS are designed for people, each STR should not be required to have a separate license, occupancy and parking information shouldn’t be required in advertising, owners shouldn’t be penalized for the illegal activities of their renters, and not everyone should be able to file a complaint. Goss noted that a revocation proceeding is not anticipated for every complaint filed, the process will be to act after three complaints have been filed and requested the additional items be submitted to the Town Office for the Plan Commission to consider at a future meeting.

Correspondence – Bell noted two emails regarding STRs.

The next meetings will tentatively be 8/23/23 and 9/13/23 at 6:00pm.

Miller moved, Goss second to adjourn at 8:13pm. Carried 6-0.

Anastasia Bell, Clerk/Treasurer

TOWN OF LIBERTY GROVE
ORDINANCE __ – 23
REGULATING SHORT-TERM RENTALS

The Town Board of the Town of Liberty Grove (hereinafter referred to as “the Town”), in the County of Door, State of Wisconsin, does hereby ordain as follows:

All previous ordinances regulating short-term rentals are hereby rescinded, to be replaced by this ordinance __-23 (“Ordinance”).

Section 1. Purpose

The Town of Liberty Grove recognizes the State-imposed limitations on local regulation of short-term rentals (see 2017 Wisconsin Act 59; Wis. Stat. § 66.1014). The following Town Ordinance complies with the short-term rental portion of Act 59 and § 66.1014, Wisconsin Statutes.

The purpose of this Ordinance is to balance the interests of property owners to use their property as short-term rentals, on the one hand, with the interests of residents who seek to protect the quality of life and the character and stability of neighborhoods, on the other hand. The Town has carefully considered these interests and enacts this Ordinance to protect the public health, safety, and welfare of its residents and visitors.

Additionally, due to the fractured bedrock and karst topography of most of Door County, short-term rentals that are rented “over capacity” for their private onsite wastewater treatment system risk contamination of and, thereby, the health and quality of the potable water supply. This Ordinance takes into consideration these considerations in setting reasonable restrictions related to private onsite wastewater treatment systems.

Section 2. State Statutes Adopted – Authority

The Board of Supervisors of the Town is granted authority for adopting this Ordinance under § 60.10(2)(c), § 60.22(3), and § 66.0113(1)(a), Wisconsin Statutes. The Town Board adopts this Ordinance under its general village powers authority and § 66.1014 of the Wisconsin Statutes, 2017 Act 59.

Section 3. Definitions

- A. “Agent” means a person or an entity who is authorized to act as the Agent of the Owner and Operator for the receipt of service of notice and remedy of municipal Ordinance violations and for service of process pursuant to this Ordinance. An Agent may also be an Owner or the Operator.
- B. “DATCP” means the Wisconsin Department of Agriculture Trade and Consumer Protection.
- C. “DCTZC” means the Door County Tourism Zone Commission.
- D. “Good Neighbor Best Practices” means the guidelines set forth in DCTZC’s Good Neighbor Best Practices document, available at the Town of Liberty Grove’s clerk office and at www.doorcountytourismzone.com.
- E. “License” means a short-term rental license issued under this Ordinance.
- F. “Office of Short-Term Rentals,” or “OSTR” means the agent or agency employed by the Town to administer the regulation of STRs, including but not limited to permitting, collection of fees, and the reporting of instances of non-compliance for enforcement purposes.
- G. “Operator” means the Person who manages or operates an STR, including but not limited to being identified in short-term rental listings as the “host.” An Operator may also be an Owner or the Agent.

- H. "Owner" means any Person who owns a Residential Dwelling operated as or proposed to be operated as an STR.
- I. "Person" includes all individuals, entities, trusts, partnerships, associations, and bodies corporate.
- J. "POWTS" means Private Onsite Wastewater Treatment System.
- K. "Property" means the real property on which an STR is being operated.
- L. "Residential Dwelling" means any building, structure or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one or more persons maintaining a common household, to the exclusion of all others.
- M. "STR" or "Short-Term Rental" means a Residential Dwelling that is offered for rent for a fee and for fewer than 29 consecutive days. A Short-Term Rental is a "tourist rooming house" as that term is defined in ATCP § 72.03(20), Wisconsin Administrative Code.

Section 4. Short-Term Rental License Required

- A. No Person may maintain, manage, or operate an STR more than ten (10) nights each year without a License issued pursuant to this Ordinance.
- B. Each STR operated in the Town requires a separate License.
- C. A License issued pursuant to this Ordinance is non-transferable and non-assignable.

Section 5. Application and License Issuance and Renewal Procedure

- A. The application for a License shall include the following:
 - 1. Address and parcel identification number of each STR for which a License is sought.
 - a. A single application can request issuance of a License for more than one STR so long as the Owner, Operator, and Agent are the same for each STR listed.
 - 2. Property Identification number(s) for all utilized marketplace providers, as defined in Wis. Stat. § 66.0615(1), including online platforms.
 - 3. Name, mailing address, physical address (if different from mailing address), phone number and email address of each Owner and the Operator.
 - 4. Name, mailing address, physical address (if different from mailing address), phone number and email address of the Agent, if other than the Operator.
 - 5. Name, mailing address, physical address (if different from mailing address), phone number and email address of each Person with an ownership or beneficial interest in any entity that is an Owner, Operator, or Agent.
 - 6. If designating an Agent different than the Operator, an affirmative statement that the Agent is authorized to act as agent and as the local contact person for the Owner(s) and Operator with respect to the operation of the STR, including taking remedial action and promptly responding to any violation of this Ordinance or other law or regulation relating to the STR, and receiving service of process of notice of violations of this Ordinance.
 - 7. Copy of current DATCP rooming house license, except that renewal applications need only include the DATCP rooming house license number if there has not been an updated DATCP rooming house license issued for the STR.
 - 8. Copy of DCTZC permit, except that renewal applications need only include the DCTZC permit number if there has not been an updated DCTZC permit issued for the STR.
 - 9. Proposed maximum occupancy for each STR.

10. POWTS permit number on record with the Door County sanitarian for each STR.
 11. Proof of design capacity of POWTS for each STR, except that renewal applications need only include proof of design capacity if there has been changes to the design capacity of the POWTS.
 12. The number of bedrooms within each STR and the number of bedrooms intended for use as a short-term rental.
 13. Written proof of liability insurance required under Section 6.
 14. For renewal applications, if during the prior STR licensing period the STR was excepted from the 180-day rental limitation pursuant to Section 6.A.2., below, and any ownership interest in the STR was transferred in the prior year, documentation that the new Owner(s) qualify for an extension of the exception to the rental limitation.
 15. For renewal applications, the number of days that each STR was rented during the prior license period.
 16. Signed certifications from all the Owners and the Operator acknowledging that the contents of the application are true, that the STR is in compliance with the terms and conditions of this Ordinance, and that as signatories they are individually and collectively responsible for compliance with this Ordinance.
 17. Signed certification from the Agent acknowledging that ~~Agreed~~ Agent agrees to assume the responsibilities assigned to Agents under this Ordinance.
- B. The Town shall issue a License using the following procedures:
1. All applications for a License or renewal shall be filed with the Town Clerk, or the designee of the Town Clerk, on forms provided. No License shall be issued unless the completed application form is accompanied by the payment of the required application fee.
 2. The Town Clerk shall issue a License to all applicants following payment of the required fee, receipt of all fully completed documentation and information requested by the application, and application approval by the Town Board, or its designee.
 3. A License shall be effective for one year. The annual licensing terms begins January 1st and ends December 31st the same year.
 4. A fully completed renewal application and renewal fee shall be filed with the Town Clerk at least forty-five (45) days prior to License expiration so that the Town Board or its designee, if required, has adequate time to consider the application. The renewal application shall include all information requested and identify changes since the previous application.
 5. Any changes in ownership of the STR require a new License per Wisconsin Administrative Code §72.04(b) prior to obtaining a permit from the Town.
- C. No License shall be issued or renewed if the applicant or STR has outstanding fees, taxes, special charges or assessments, or forfeitures owed to the Town.
- D. No License shall be issued if the applicant or STR is found to be subject to one of the grounds for revocation as provided in Section 8.
- E. A new License for any STR may be applied for no less than 12 months after being revoked (see Section 8, "Revocation," and Section 9, "Revocation Process," below.)

Section 6. Operation of a Short-Term Rental

Each Short-Term Rental shall comply with all of the following requirements:

A. Rental periods.

1. Except as provided in Paragraph A.2., below, for all STRs the total number of days that any STR may be rented shall not exceed 180 days within any calendar year. Reservations made prior to the adoption of this Ordinance shall not be counted as part of the 180 allowable days, but the Operator or Agent shall provide proof to the Town of the date of reservation upon request, to the Town's satisfaction.
2. Any STR with a valid and unrevoked License as of January 1, 2024 is exempt from the rental restrictions under Paragraph A.1., above if all of the following apply:
 - i. The License has not been revoked pursuant to this Ordinance;
 - ii. The STR is in compliance with all applicable terms and conditions of this Ordinance; and
 - iii. The Property has not been transferred to any Person except to a parent, child (by blood or adoption), or spouse of the Owner(s) of record as of January 1, 2024.

B. Availability of Operator or Agent.

1. The Operator or Agent must be located within 35 miles of the STR for contact purposes.
2. The Operator or Agent must be available between the hours of 8:00 a.m. and 11:00 p.m. on those days when the STR is rented. The Operator's or Agent's contact information, including phone number and address, must be filed with the Town Clerk. The Town must be notified within 24 hours of any change in contact information and submit the revised contact information in writing to the Town Clerk within three-business days.

C. No additional lodging. No recreational vehicle, camper, tent, or other temporary lodging arrangement shall be permitted on the Property as a means of providing additional accommodations for paying guests or other invitees.

D. POWTS. If the STR is not served by a public sanitary sewer or holding tank a private onsite wastewater treatment system (POWTS) in full compliance with this Ordinance and in accordance with Chapter 21 of the Door County Code shall serve the STR.

E. Maximum occupancy. Occupancy shall ~~be limited to the lesser of not exceed any of the following:~~ (i) the maximum sleeping occupancy of all legal bedrooms to be rented in the STR as determined pursuant to Wis. Admin. Code ATCP § 72.14(2)(b) two times the number of legal bedrooms to be rented in the STR, (ii) if the STR is served by a POWTS, the number of occupants for which the POWTS was designed, or (iii) 12. Maximum occupancy shall appear in all advertising for the STR. Children under the age of six (6) do not count towards determining occupancy limits under (ii) or (iii) above.

F. Detectors. The STR shall have functioning smoke detectors and carbon monoxide detectors pursuant to the requirements of Ch. ATCP 72, Wisconsin Administrative Code.

G. Parking. Sufficient off-street parking shall be available to accommodate all vehicles on the Property. Off-street parking shall be in compliance with Door County Comprehensive Zoning Ordinance, Chapter 7. The parking space limit shall appear in all advertising for the STR.

H. Signage. Signage shall conform to applicable Town and Door County Ordinances.

I. Emergency service. The STR shall be able to reasonably accommodate reliable telephone communications in case of emergency.

- J. Outdoor events. Outdoor events including but not limited to, weddings, graduations, reunions and the like are limited to six (6) in a calendar year as per Door County Zoning §2.07(1)(a).
- K. Quiet hours. Quiet hours of 10:00 p.m. to 7:00 a.m.
- L. Compliance with other laws and regulations. Applicable Town of Liberty Grove ordinances, the Door County Code, and Wisconsin laws and regulations.
- M. Insurance. The Owner shall have and maintain homeowner's liability or business liability insurance issued by an insurance company authorized to do business in Wisconsin and effective during all short-term rental periods for the premises that are used for short-term rental. The insurance policy shall identify that the Residential Dwelling is used as an STR. The Owner shall provide written evidence of such insurance with the License application and renewal application forms. This insurance requirement may be satisfied through such sources as the Owner may choose, including but not limited to conventional insurance or insurance offered through a lodging marketplace.
- N. Registry. Pursuant to Wis. Admin. Code § 72.16, the Operator of each STR must keep a guest register and require the guest who booked the STR to register the true names and addresses of all guests and rental time period(s) before being assigned sleeping quarters. The guest register shall be kept by the Operator for at least one (1) year following a guest's rental.
- O. Reporting. No later than January 31 of each year, the Operator shall provide the Town Clerk with a report of STR activity for the prior calendar year, which includes a monthly accounting of the dates of stay, number of guests aged 6 years and older for each stay, and a listing of all websites and places where the operator has advertised the short-term rental. Failure of the operator to submit 2 such reports by the required deadline or 2 incidents of inaccurate reporting in any one-year period shall be grounds for revocation of a License.
- P. Advertising. All advertisements of the STR, including advertisements on the website of a lodging marketplace, must contain a valid STR License number, clearly state the minimum duration of stay, if any, state the maximum occupancy, and state the limit for renter parking spaces. No advertisement can offer rental arrangements that are in violation of this Ordinance, that are for less than the required minimum stay, or that instruct potential renters to contact the host to pursue a rental arrangement that is not in compliance with this Ordinance.

Section 7. Information to be Posted

A copy of the State of Wisconsin tourist rooming house license and the Town License shall be posted on the property. Property rules shall be made available to the renters and shall include at a minimum the following information:

- A. The Good Neighbor Best Practices.
- B. Maximum occupancy of the property.
- C. Contact information for the designated operator.
- D. Parking limit and where to park.
- E. Quiet hours of 10:00 p.m. to 7:00 a.m.
- F. Owner's policy regarding pets, if applicable.
- G. Outdoor burning regulations.
- H. Emergency contact information for law enforcement, fire, and emergency medical services (EMS).
- I. Non-emergency contact information for law enforcement and fire.

- J. How to deal with existing POWTS or holding tank if applicable (location of high-water alarms, etc.).
- K. How to deal with waste and recyclables.

Section 8. Revocation

The Town Board may suspend, revoke, or non-renew a License during the term of a license year, or reject a License application, and following a due process hearing for one or more of the following reasons:

- A. Failure to comply with the requirements of this Ordinance on three or more separate occasions within the prior 12 months.
- B. Failure by the Owner to make payment of delinquent fees, taxes, special charges, forfeitures or other debt owed to the Town or County.
- C. Failure to maintain all required local, county, and state licensing requirements.
- D. The Owner, Operator, Agent, or renters have been convicted of engaging in illegal activity while on the short-term rental property.
- E. Any violation of local, county, or state laws or regulations which, based upon their number, frequency, or severity, and their relation to the short-term rental property, its owner(s), tenant(s), occupant(s), or visitor(s), substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.

In addition to action by the Town, any resident of or owner of property within the Town may file a sworn written complaint with the Town Clerk alleging one or more of the reasons set forth in this Section 8 as grounds for revocation of a License issued under this Ordinance. Upon filing of the complaint, the Town Board shall notify the Agent of the complaint by certified mail, return receipt requested, and provide the Agent with a copy of the complaint.

Section 9. Revocation Process

The Town, at its discretion, shall:

- A. Notify the Agent of any noncompliance or complaint.
- B. Determine whether the violation has been remedied.
- C. Schedule a License revocation hearing, before the Town Board, if the violation is not remedied immediately or if the STR is subject to “three strikes” under Section 8.A. above.
- D. Notify the Agent and attempt to notify all owners of property located within 150-feet of the property of the hearing time, date, and place at least two weeks prior to the hearing before the Town Board.
- E. Hear written or verbal testimony from the Agent, Operator, or Owner, any complainant, any town official or enforcement officer, and other affected parties at the time of the hearing before the Town Board. If an Agent, Operator, or Owner appears at the hearing, that individual may produce and cross-examine witnesses, present relevant evidence, and be represented by counsel, at that individual’s expense.
- F. The Town Board shall provide its decision in writing to the Agent, specifying the reasons for its determination, within 30-days of the License revocation hearing.

Section 10. Judicial Review

The action of the Town Board in granting or renewing, refusing to grant or renew, or revoking a License under this Ordinance may be reviewed by the Door County Circuit Court upon appeal by the

applicant, Owner, Operator, Agent, or a resident of or owner of property within the Town. Such appeal shall be filed within 30 days of the date of mailing by the Town Clerk of the notice of the Town Board's action granting or renewing, refusing to grant or renew, or revoking a License. The procedure on review shall be the same as in civil actions commenced in the circuit court pursuant to Wis. Stats. Chs. 801 to 807.

Section 11. Inspection and Enforcement

A. Inspection.

1. Upon probable cause to believe that a violation of this Ordinance, or of a law, code, rule or regulation relating to buildings, housing, electrical, plumbing, heating, gas, fire, health, safety, environmental pollution, water quality, food or zoning has occurred or is occurring, an enforcement officer under Subsection B, the Town Building Inspector, the OSTR, or a local health officer (an "Inspector") may, upon presenting proper identification, request that the Owner, Operator or Agent allow him or her access to the STR at any reasonable time for any of the following purposes:
 - i. to determine if there has been a violation of this Ordinance, or of a law, code, rule or regulation related to the STR or its operation;
 - ii. to determine compliance with previously written violation orders;
 - iii. to examine and copy relevant documents and records related to the operation of the STR; or
 - iv. to obtain photographic or other evidence needed to enforce this Ordinance.
2. As used in this Section 11, "probable cause" means facts and circumstances within an Inspector's knowledge and of which he or she has reasonably trustworthy information that are sufficient to warrant a reasonable Officer in believing that a violation has been or is being committed.
3. If consent is refused, the Inspector may apply for a special inspection warrant issued pursuant to Wis. Stats. § 66.0119, or other warrant, subpoena or order as may be necessary or appropriate.

B. Enforcement Officers. The provisions of this ordinance may be enforced by the Town Chairperson, Town Administrator, Town Clerk, or any of their designees. In addition, the Town may contract with an outside provider to assist with enforcing this ordinance.

C. Form of Citation. Citations shall be issued per § 66.0113, Wisconsin Statutes, as may be amended, or any successor statute. The provisions of § 66.0113, Wisconsin Statutes, are hereby adopted as if set forth in full in this ordinance.

D. Penalties.

1. Any Person that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$250.00 nor more than \$1,000.00, plus the applicable surcharges, assessments, and costs, for each violation. Each day a violation occurs or continues to exist constitutes a separate offense under this ordinance.
2. The penalties set forth in this Subsection shall be in addition to all other remedies, including but not limited to injunction, abatement, or costs, and whether existing under this ordinance or otherwise.

Section 12. Fees

The License application fees shall be established by the Town of Liberty Grove Board of Supervisors and shall correlate with the administrative and related costs involved with compliance monitoring. The fees may be changed without notice or amendment to this Ordinance. The current schedule of fees is available from the Town Office.

Section 13. Severability

If any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such a decision shall not affect the validity of any other provisions of this Ordinance.

Section 14. Effective Date and Publication

This Ordinance shall become effective upon adoption and publication as required under § 60.80 Wisconsin Stats. Except as provided in Section 6, an existing short-term rental holding a currently valid and unrevoked License as of the Effective Date of this Ordinance shall come into compliance with Section 6 of this Ordinance at the time of License renewal or application for a new License.

Adopted at a regular meeting of the Town Board of the Town of Liberty Grove, Door County, Wisconsin, on this ___st day of _____ 2023.

Motion to adopt: Ward Second: Johnson Vote: Aye: 5 Nay: 0

I, Anastasia Bell, Clerk/Treasurer of the Town of Liberty Grove, Door County, Wisconsin do hereby certify that the above is a true and correct copy of an Ordinance that was adopted on the ___st day of _____ 2023 by the Liberty Grove Town Board.

Dated this ___st day of _____ 2023.

Anastasia Bell, Clerk/Treasurer