

TOWN OF LIBERTY GROVE PUBLIC MEETING

Plan Commission Meeting

Date: December 13, 2023

Time: 7:00pm

Place: Town Hall, 11161 Old Stage Road

Agenda:

1. Call to order
2. Declaration of Quorum
3. Approve Agenda
4. Approve minutes from 11/8/23
5. Public input
6. Review "Statements of Intent" for amending H-10 language
7. Discuss Q & A's regarding STRs
8. Correspondence
9. Future meeting date(s)
10. Adjourn

All agenda items will include discussion and possible action.

**Report items will not be discussed or voted on.*

Deviation from listed order may occur.

Audience members must ask for permission, during "Public input," to speak on agenda items.

Pamela Donart-Welcome, 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 meeting on November 8, 2023

Agenda:

1. Call to order
2. Declaration of quorum
3. Adopt agenda
4. Approve minutes from 9-13-23
5. Heartland-10 Text Amendment Language
6. Public input
7. Correspondence
8. Future Meeting Dates
9. Adjourn

Quorum present: Chairman Goss called the meeting to order at 6:07 pm. Commissioners Bill Surbaugh, Paul Bokelmann, Ann Miller, Cathy Ward, Cheryl Culver, and Dan Watts were present. Administrator Kalms, Clerk/Treasurer Pamela Donart-Welcome, and one member of the public were in attendance.

Miller moved, Surbaugh second to approve the agenda as posted. **Carried 7 - 0**

Miller moved, Goss second to approve the 9-13-23 minutes as amended to correct typo on word "town.". **Carried 7 - 0**

Heartland-10: Proposed text amendments to existing Heartland-10 zoning were discussed. Goss asked fellow commissioners to create a statement of intent to help the Town understand why they are working on the proposed changes to the Heartland-10 zoning, so they could discuss at the next meeting.

Public input: Jonathan Orrich, Sister Bay asked for clarification on how the proposed text amendments might relate to his property.

Correspondence: none

Future Meeting(s): The next meeting was scheduled for 12/13/23 at 7:00pm .

Watts moved, Goss second to adjourn at 6:46 pm **Carried 7 - 0**

Respectfully submitted,
Pamela Donart-Welcome, Clerk/Treasurer

LEGAL OPINIONS



By Atty. Carol Nawrocki
Assistant Director

Regulating Short-Term Rentals

Q. We are receiving a questions and complaints from residents about people using their properties as short term rentals. Can the town board regulate short term rentals?

A. In recent years, many property owners have decided to pursue the idea of renting out their homes, cabins, and other investment properties for overnight stays to the general public. In 2017, a state law was passed addressing the regulation of short-term rentals. The key provisions of that law are laid out below:

- 1) A political subdivision may not enact or enforce an ordinance that prohibits the rental of a residential dwelling for 7 (seven) consecutive days or longer. Wis. Stat. § 66.1014(2)(a). The inability to ban short-term rentals of 7 days or longer applies regardless of any zoning classification and, therefore, the local government cannot ban these rentals in any part of the municipality. Proceed with caution if you want to require a conditional use permit for short-term rentals as such a permit cannot be overly restrictive and effectively ban certain dwellings from being used for short-term rentals in violation of state law.
- 2) If a residential dwelling is rented for periods of more than 6 but fewer than 30 consecutive days, a political subdivision may limit the total number of days within any consecutive 356-day period that the dwelling may be rented to no fewer than 180 days. The political subdivision may not specify the period of time during which the residential dwelling may be rented, but the political subdivision may require that the maximum number of allowable rental days within a 365-day period must run consecutively. A person who rents their residential dwelling must notify the clerk of the political subdivision in writing when the first rental within a 365-day period begins. Wis. Stat. § 66.1014(2)(d).
- 3) Any person who maintains, manages, or operates a short-term rental for more than 10 nights each year must obtain a local license for conducting such activities, if a political subdivision enacts an ordinance requiring such a person to obtain a license. Wis. Stat. § 66.1014(2)(d)2b. They would also need to obtain a tourist rooming house license from the Wisconsin Department of Agriculture and Consumer Protection.
- 4) Under the law, a “short-term rental” is defined as a residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days. Wis. Stat. § 66.1014(1)(c).
- 5) The room tax statute makes it clear that “lodging marketplaces” (such as an online 3rd party rental platform like Airbnb or VRBO and other entities, like property management companies, that rent short-term rentals for the owner) and owners of short-term rentals must collect room tax and forward such amounts to the municipality if there is a local room tax ordinance in place. Wis. Stat. § s. 66.0615(1m)a. Towns with a room tax should review their room tax ordinances and amend them, if necessary, to make sure that lodging marketplaces and owners of short-term rentals are included in the definitions of who is subject to the ordinance.

Q. If our town has concerns about short-term rentals, are we still able to pass regulations to address the board's concerns and also the complaints we are getting from the neighbors?

A. The law provides that political subdivisions may enact ordinances regulating the rental of a residential dwelling in a manner that is not inconsistent with the provisions of the statute. Wis. Stat. § 66.1014(2)(c). People staying in short term rentals, like any other person in the town, would be required to comply with noise ordinances, parking regulations, and other generally applicable local ordinances your town may already have in place. Beyond that, your town might decide to establish additional regulations owners of short-term rentals must comply with in order to obtain a license from the town. If that is the case, think carefully about what legal authority the town has to establish such regulations. Notably, if your town has been authorized to exercise village powers, your board may wish to consider whether there are any public health, safety, or welfare type concerns created by short term rentals and whether reasonable local regulations are needed to address such concerns. For example, communities with village powers might consider adopting public health and safety provisions that do the following:

1. Prohibit the use of temporary lodging (like tents) on the property in a way that allows the property to have more overnight guests than would otherwise be allowed under the property's tourist rooming house license. For example, if the tourist rooming house license allows the property to safely accommodate up to 12 overnight guests, your ordinance might prohibit the use of additional tents on the property to be used as extra lodging to accommodate overnight guests beyond the allowable number.
3. Require that there be a named property manager or other agent available by phone in case the town, emergency services, or members of law enforcement need to get ahold of that person.
4. Require building and fire code inspection and compliance with all state and county building codes and regulations.
5. Require proof of appropriate insurance for the short-term rental.
6. Require all guests to register and that records be kept with names, addresses and dates of rental. The town might also require that records be kept on the amount of consideration paid for the rental if a room tax ordinance is in place.
7. Require the dwelling to have adequate parking available for those using the property at a given time.

Note that any restrictions or conditions the town may wish to require under its license should be reasonable and not so restrictive as to amount to an illegal prohibition on short-term rentals. A sample short-term rental ordinance is available on the WTA website.

Q. Does our town have to regulate short-term rentals?

A. No, if your town does not have concerns about short-term rentals, you may find there is no need to regulate them locally. The Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) must license "tourist rooming houses" which would include any short-term rental that operates for more than 10 nights per year. When a license application is submitted to them, they assign a sanitarian to inspect the business. The sanitarian will check for building safety issues (clear exits, door locks, fire extinguishers, recent private well test, etc.) and other public health concerns (facility cleanliness, proper linen and towel handling, size of sleeping rooms, garbage disposal, etc.) So, your town board may decide that little or no additional regulation is needed.

Regulating Short-Term Rentals

Q. I've been hearing a lot about people renting out their cabin or homes to people on a short-term basis. Some neighbors have been complaining to the town board that they are annoyed by the constant stream of renters ruining the peace and quiet of the neighborhood. Can the town board do anything about this?

A. In recent years, many property owners have decided to pursue the idea of renting out their homes, cabins, and other investment properties for overnight stays to the general public. Local governments have been concerned about this phenomenon for a variety of reasons. Will renting out pricey lake homes on a short-term basis reduce property values for the next door neighbors because there may be more lake traffic and potential buyers will want to avoid buying a property next to the "party" house? Will the character of the neighborhood change if only a few long-term residents remain and the rest of the properties are owned by absentee landlords? Would these rentals hurt local hotels and motels and reduce the municipality's room tax collections? To combat these concerns, several local governments adopted zoning and other regulations which were intended to limit (or outright prohibit) such rentals. Needless to say, such regulations were not popular with those who wanted the ability to rent out their properties. As a result, as part of the 2017-2019 state budget (**2017 Wisconsin Act 59**), statutory changes were made to protect the homeowner's ability to rent out their home or other properties on a short-term basis. The following is a summary of the key new provisions:

- 1) A political subdivision may not enact or enforce an ordinance that prohibits the rental of a residential dwelling for 7 (seven) consecutive days or longer, s. 66.1014(2)(a), Wis. Stat. (This means that a political subdivision may prohibit short-term rentals that last for 6 days or less.) **Any ordinance currently in place that is inconsistent with this provision does not apply and may not be enforced.** The inability to ban short-term rentals of 7 days or longer applies regardless of any zoning classification and therefore, the local government cannot ban these rentals in any part of the municipality. Proceed with caution if you want to require a conditional use permit for short-term rentals as such a permit cannot be overly restrictive and effectively ban certain dwellings from being used for short-term rentals in violation of state law.
- 2) If a residential dwelling is rented for periods of more than 6 but fewer than 29 consecutive days, a political subdivision may limit the total number of days within any consecutive 356-day period that the dwelling may be rented to no fewer than 180 days. The political subdivision may not specify the period of time during which the residential dwelling may be rented, but the political subdivision may require that the maximum number of allowable rental days within a 365-day period must run consecutively. A person who rents their residential dwelling must notify the clerk of the political subdivision in writing when the first rental within a 365-day period begins, s. 66.1014(2)(d), Wis. Stat.
- 3) Any person who maintains, manages, or operates a short-term rental for more than 10 nights each year must obtain a local license for conducting such activities, if a political subdivision enacts an ordinance requiring such a person to obtain a license, s. 66.1014(2)(d)2b, Wis. Stat. They would also need to obtain a tourist rooming house license from the Wisconsin Department of Agriculture and Consumer Protection.

- 4) Under the law, a “short-term rental” is defined as a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days, s. 66.0615(1)(dk), Wis. Stat.
- 5) The room tax statute was amended to make it clear that “lodging marketplaces” (such as an online 3rd party rental platform like Airbnb or VRBO and other entities, like property management companies, that rent short-term rentals for the owner) and owners of short-term rentals must collect room tax and forward such amounts to the municipality if there is a local room tax ordinance in place, s. 66.0615(1m)a, Wis. Stat. Towns with a room tax should review their room tax ordinances and amend them, if necessary, to make sure that lodging marketplaces and owners of short-term rentals are included in the definitions of who is subject to the ordinance.

Q. So, if we cannot ban all short-term rentals, are we able to regulate them in any way beyond requiring them to pay room tax and limiting rentals to at least 7 consecutive days at a time and not more than 180 days total per year?

A. Yes. The new law provides that political subdivisions may enact ordinances regulating the rental of a residential dwelling in a manner that is not inconsistent with the new provisions, s. 66.1014(2)(c), Wis. Stat. People staying in short term rentals, like any other person in the town, would be required to comply with noise ordinances, parking regulations, and other generally applicable local ordinances your town may already have in place. Beyond that, your town might decide to establish additional regulations owners of short-term rentals must comply with in order to obtain a license from the town. For example, if your town has village powers, your town ordinance might address a number of public health, safety and welfare type concerns such as:

1. Prohibiting the use of temporary lodging on the property such as RV’s, campers and tents that would serve as additional accommodations for paying guests or other invitees.
2. Limiting the hours and number of days that outdoor events can be held at the short-term rental so as to not disturb neighbors.
3. Requiring that there be a local property manager available 24/7 by phone and that the person provide their contact information to the town.
4. Requiring a general building and fire code inspection and compliance with all state and county building codes and regulations.
5. Requiring proof of appropriate insurance for the short-term rental.
6. Requiring all guests to register and that written records be kept with names, addresses, dates of rental, and the amount of consideration paid for the rental.
7. Requiring the dwelling to have adequate off street parking for those using the property at a given time.

Note that any restrictions or conditions the town may wish to require under its license should be reasonable and not so restrictive as to amount to an illegal prohibition on short-term rentals. A sample short-term rental ordinance will be made available on the WTA website.

Q. Does our town have to regulate short-term rentals?

A. No, if your town does not have concerns about short-term rentals, you may find there is no need to regulate them locally. The Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) must license “tourist rooming houses” which would include any short-term rental that operates for more than 10 nights per year. When a license application is submitted to them, they assign a sanitarian to inspect the business. The sanitarian will check for building safety issues (clear exits, door locks, fire extinguishers, recent private well test, etc.) and other public health concerns (facility cleanliness, proper linen and towel handling, size of sleeping rooms, garbage disposal, etc.) So, your town board may decide that little or no additional regulation is needed.