

STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2023-05

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 9.14(5) OF THE TOWN OF DELAFIELD MUNICIPAL CODE, CONCERNING THE REGULATION OF VACATION RENTAL

WHEREAS, Town of Delafield regulates vacation rental establishments by Section 9.14(5) of the Town of Delafield Municipal Code; and

WHEREAS, on September 23, 2017, the State of Wisconsin included certain preemptions on municipal authority concerning the regulation of vacation rental property, within the State Budget Bill; and

WHEREAS, the Town of Delafield hereby intends to amend its regulation of vacation rentals in order to comply with the new State laws.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN as follows:

SECTION 1: Chapter 9 of the Town of Delafield Municipal Code entitled "Public Peace and Good Order," Section 9.14 entitled "Minimum Property Standards," Subsection (5) entitled, "Regulation of Vacation Rental," is hereby repealed and re-created as follows:

9.14(5) REGULATION OF VACATION RENTAL.

(a.) Definition: Vacation Rental Establishment. Any property that is regulated by Wisconsin Statutes ~~Chapter 254, subchapter VII Sections 66.1014(2)(d)2. and 97.01(15k),~~ as a tourist rooming house~~;~~ and in addition, any real property that is subject to any verbal or written contract, lease, sublease, rental agreement, easement, instrument or other device (the "Agreement"), if all of the following circumstances apply: (i) the Agreement or Agreements create a right to occupy said property during separate periods of time; (ii) such rights of occupancy have an actual duration of less than one month; (iii) the Agreement requires payment or other remuneration or barter, for the benefit of the property owner; and (iv) the separate rights to occupy the property occur two or more times per calendar year. Nothing herein shall be interpreted to include rental of property which does not qualify as a vacation rental pursuant to this definition.

(b.) Purpose. The following vacation rental establishment licensing regulations are created, to ensure that applicable State laws are followed, to protect persons engaged in this practice either as landlord or tenant; to protect against adverse impacts of noise, odor, disturbance, adverse visual impacts, or other nuisances, that this practice could have upon neighboring properties; to preserve property values for the commercial benefit of the Town; and also to control the impacts of such operations on municipal services, including snow plowing, garbage collection, sanitation, law enforcement and fire protection.

(c.) Minimum Standards.

1. License Required. No vacation rental establishment may operate in the Town unless a Vacation Rental Establishment License for such operation is granted by the Town, and only in full compliance with such License.
2. Procedure. The General Provisions as to Licenses, described in Section 12.02 of this Code, apply to Vacation Rental Establishment licenses.
3. Conditions Under Which Permitted. A license shall not be granted for a vacation rental establishment unless all of the following conditions are met:
 - a. The Petitioner must provide to the Town Clerk a copy of the State Tourist Rooming House [permit-license](#) for the Subject Property, prior to the Town's license being effective; and evidence of each renewal of such State permit shall be filed by the Petitioner with the Town Clerk, such that evidence of a current State permit is always on file for the duration of the Town's vacation rental establishment license.
 - b. Transfer of a license because of transfer or sale of property is not permissible. Should such property be sold, then the license shall become void.
 - c. All vacation rental establishments shall be subject to and comply with Wisconsin Statutes Chapter [254, subchapter VII97](#) including maintaining a tourist rooming house annual [permit-license](#) as required by Wisconsin Statutes Section [254.69\(2\)97.605\(1\)\(a\)](#), which sections are incorporated herein by reference.
 - d. All vacation rental establishments shall be subject to and comply with Wisconsin Administrative Code [HS-195Section ATCP 72](#) which is hereby incorporated by reference.
 - e. Each vacation rental establishment shall be required to keep a register and require all guests to sign such register using their actual names and address before being assigned quarters. The register shall be available for inspection by the Waukesha County Sheriff's Department, and Town Code Enforcement Officer for a period of not less than one year.
 - f. A minimum of one off-street parking stall shall be provided for every guest bedroom with a minimum of three. All parking areas shall meet the size and location requirements of the Town Code and shall be hard-surfaced and maintained in a reasonably dustless condition.
 - g. Every vacation rental establishment shall be properly addressed with numbers on the street side of the structure, a minimum of 5" high and of contrasting color so as to be visible from the street.
 - h. The Town Board shall consider the potential impact to the surrounding neighborhood and proximity to any existing bed and

breakfast establishment or vacation rental establishment when reviewing a request for a vacation rental establishment license.

- i. Whenever the property changes ownership, an occupancy permit and a new license is required to ensure compliance with all State and local regulations and ordinances.
- j. Every license for a vacation rental establishment shall be placed on a February Town Board meeting agenda for consideration and possible action upon annual review, to ensure compliance with all licensing requirements. Such property may be inspected by the Waukesha County Sheriff's Department, Town Fire Department, Town Code Enforcement Officer, or other authorized personnel of the Town to investigate and determine if any violations exist.
- k. All refuse containers shall be screened from view.
- l. If the Town finds that any statement made on the license application is incorrect, at any time, the Town may immediately and summarily revoke the [conditional use permit/license](#).
- m. Sleeping quarters related to a vacation rental establishment use shall only be located within the principal structure on the lot. Accessory buildings cannot be used for sleeping quarters.
- n. Property that is used for a vacation rental establishment must have clearly delineated property lines, by approved fences, vegetation or other means to the satisfaction of the Town Board. Such clear delineation must be maintained for the duration of the license, to ensure that all users of the property are clearly aware of the boundaries of the property and confine their use to the applicable parcel.
- o. Unless the property is connected to a municipal sewer system, the Petitioner/Owner must provide to the Town Code Enforcement Officer, proof that is satisfactory to the Town Code Enforcement Officer that the septic system is properly sized for purposes of the proposed use. Such septic system must be properly maintained at all times for the duration of the conditional use permit.
- p. The vacation rental establishment occupancy limits shall not exceed the number of occupants ~~allows in~~allowed by Wisconsin Administrative Code Section ~~DHS 195.14(2)(b)~~ATCP 72.14(2)(b) per bedroom, and also shall not exceed 8 per 1,000 square feet of living area within the principal structure.
- q. The parcel cannot have more people on site than the higher of 20 people or the maximum number of people allowed under Wisconsin Administrative Code Section ~~DHS 195.14(2)(b)~~ATCP 72.14(2)(b).

r. The Petitioner/Owner must provide a copy of this section and a copy of the license, to all parties using the property for vacation rental purposes, prior to commencement of each such use.

(d.) Annual Limit. If a vacation rental establishment is rented for periods of more than 6, but fewer than 30 consecutive days the vacation rental establishment shall not operate outside of the 180 consecutive day period that begins on the date of the first such rental, for a 365 day period. The owner of the vacation rental establishment shall notify the Town Clerk in writing when the first 365 day period begins, and all subsequent 365 day periods shall be measured from that date. This limitation shall be interpreted in compliance with Wisconsin Statutes Section 66.1014(2)(d) 1.

(e.) Prohibition. Rental of a residential dwelling for 6 days or fewer is prohibited. For purposes of this subsection "rental" includes any real property that is subject to any verbal or written contract, lease, sublease, rental agreement, easement, instrument or other device (the "Agreement"), if all of the following circumstances apply: (i) the Agreement or Agreements create a right to occupy said property; (ii) such rights of occupancy have an actual duration of less than 7 days; and (iii) the Agreement requires payment or other remuneration or barter, for the benefit of the property owner.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.


SECTION 3: EFFECTIVE DATE.

This ordinance shall be effective upon publication or posting as provided by law. Dated this 14th day of February, 2023.

TOWN OF DELAFIELD


Ronald Troy, Town Chair

ATTEST:


Dan Green, Town Clerk

This ordinance posted or published 2/15/2023.