

**AN ORDINANCE REPEALING SECTION 11.04 MOTELS, TOURIST CABINS & ETC.
AND RECREATING AND RENAMING SECTION 11.04 MOTELS, TOURIST CABINS & SHORT TERM RENTALS
OF THE MUNICIPAL CODE OF THE CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN**

BE IT ORDAINED by the Common Council of the City of Pewaukee, Waukesha County, Wisconsin, that Section 11.04 of the Municipal Code of the City of Pewaukee is hereby amended to read as follows:

11.04 HOTELS, TOURIST CABINS & SHORT-TERM RENTALS

(1) Purpose

- a. To ensure that the quality of short-term rentals operating within the City is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and parking and for an adequate level of maintenance;
- b. To determine the responsibilities of owners and property managers operating or managing these rental properties for tourists or transient occupants, including, but not limited to, the responsibility to expeditiously and personally respond to, stop, mitigate, or prevent the reoccurrence of unreasonable activities on, or conditions, uses or misuses of, these rental properties which adversely impact or substantially annoy, disturb, threaten, harm, offend or interfere with the residential uses, nature or values of other properties in the neighborhoods in which these rental properties operate, or with the comfort, health, enjoyment, security, life, health, or safety of others, or which substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any lane, street, road, bridge or other public or private way used by emergency vehicles or protective service personnel to gain access to property or a navigable body of water to provide services, (i.e., public nuisances);
- c. To protect the character and stability of all areas, especially residential areas, within the City of Pewaukee;
- d. To provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises;
- e. To require the provision of liability insurance in connection with the operation of short-term rentals so that persons on these properties, and the owners and occupants of adjacent properties, who suffer bodily injury or property damage arising from the condition or operation of the short-term rental, or from acts or omissions occurring thereon, are afforded a potential source of recovery to pay such damage claims; and
- f. To provide for the administration and enforcement hereof.

(2) Definitions

- a. **Clerk** - The City Clerk of the City of Pewaukee or designee.
- b. **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) or more persons maintaining a common household. Dwelling units include residential, tourist rooming house, seasonal employee housing and dormitory units.

c. **Entity** - A corporation, investment company, limited partnership, limited liability partnership, limited liability company, cooperative association, unincorporated cooperative association, common law trust, or any other group or organization licensed to do business in this state.

d. **Guest Register** – the official record provided and kept by a Property Owner or Property Manager in which short-term rental guests are required to list their true names and addresses before being assigned sleeping quarters, pursuant to Wisconsin Administrative Code § ATCP 72.16.

e. **Hotel** – All places wherein sleeping accommodations are offered for pay to transients as a part of a single building of five (5) or more rooms and all places used in connection therewith. The terms motel, tourist court, inn and similar phrases shall be construed as synonymous with hotel.

f. **License** - The Hotel or Short-Term Rental License issued under § 11.04.

g. **License Year** – The period from July 1st of each year to June 30th of the following year.

h. **Occupant** – Any person, over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit.

i. **Person** – An individual, group of individuals, or an entity.

j. **Property Manager** - Any person who is not the Property Owner and is authorized by the property owner, expressly or impliedly, to act as agent and as the local contact person on behalf of the property owner for one or more short-term rental, and to take remedial action and promptly respond to any violation of this chapter or the City Code relating to the licensed premises.

k. **Property Owner** – The owner of a short-term rental.

l. **Renewal License** – Any license issued under this Section 11.04 which will be or is in effect for the License Year immediately following a License Year for which the City Clerk issued a license under this chapter for the same short-term rental property.

m. **Short-Term Rental** - A residential dwelling that is offered for rent for a fee and for more than 6 consecutive days, fewer than twenty-nine (29) consecutive days, and no more than 180 days within any consecutive 365-day period as defined in Wisconsin Statutes § 66.0615(1)(dk).

n. **Tourist or Transient** – Any person who travels to a location away from their permanent address and occupies a temporary living accommodation for a period of time which is less than 30 consecutive days for vacation, pleasure, recreation, culture, business or employment.

o. **Tourist Cabin** – All other lodging places and tourist cabins and cottages other than hotels as herein defined wherein sleeping accommodations are offered for pay to tourist and transients.

(3) Tourist Cabins Prohibited.

No premises in the City of Pewaukee shall be used for the purpose of operating tourist cabins.

(4) Operation of Hotels.

a. No hotels as herein defined shall be permitted to be erected or used for habitation of humans within the City of Pewaukee without first obtaining a permit therefore from the City Clerk as hereinafter provided.

b. Hotel Permits.

Applications for hotel permits shall be made to the City Clerk upon forms to be provided for that purpose. No permit shall be issued unless such building complies in every respect with the statutes of the State of Wisconsin relating to hotels and restaurants and also complies with the rules and regulations of the Wisconsin State Department of Health and Social Services relating to hotels and tourists rooming houses. A license fee as shall be established from time to time by resolution of the Common Council shall be paid at the time of making the application, said fee to run from July 1 of each year to June 30 of the succeeding year. A fee for any fraction of the license year shall likewise be as established from time to time by resolution of the Common Council.

c. Regulation by the City Common Council

I. The owner and operator of any hotel within the City of Pewaukee shall at the time of registration of each guest require the driver of any motor vehicle using such premises to produce for inspection his driver's license. A record shall be kept for at least one (1) year by the operator of each hotel of the registration of each guest assigned accommodations upon said premises and the license number of each motor vehicle used by such guest in connection with such accommodations.

II. The records of each such hotel relating to registration and use of said premises shall be open for inspection to members of the City Common Council the City Clerk and the City Building Inspector at all reasonable times.

(5) Operation of Short-Term Rentals.

a. No person may maintain, manage or operate a short-term rental more than ten (10) nights each License Year without a short-term rental license. Every short-term rental shall be operated by a Property Owner or Property Manager.

b. Each short-term rental Property Owner is required to have the following licenses, permits and inspections:

I. A state of Wisconsin Tourist Rooming House license.

II. A seller's permit issued by the Wisconsin Department of Revenue.

III. A license from the Waukesha County Parks and Land Use - Division of Environmental Health.

IV. A license from the City of Pewaukee issued pursuant to this chapter.

V. An inspection of the premise, prior to issuance of a license and renewal of a license, shall be completed by the City's Fire Inspector, Building Inspector, and Electrical Inspector, and the

property owner shall be subject to the minimum inspection fee for each inspection as dictated by the City's fee schedule.

- c. Each short-term rental shall comply with all of the following:
- I. No residential dwelling unit may be rented for a period of six (6) or fewer consecutive days or more than twenty-nine (29) consecutive days, and no more than 180 days within any consecutive 365-day period.
 - II. There shall not be excessive noise as prohibited by § 6.04 of the City Code, excessive fumes, glare, or vibration, any nuisance activities prohibited pursuant to Chapter 7 of the City Code, dogs at large as prohibited by § 11.05(3)(c) of the City Code, or trespass onto neighboring properties as prohibited by § 7.08 of the City Code.
 - III. Name plates or other signage related to the short-term rental property shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site.
 - IV. The number of occupants shall not be more than allowed under Wisconsin Administrative Code Chapter ATCP 72 or any other state regulation, state statute, or local ordinance.
 - V. Not less than one (1) on-site, off-street parking space shall be provided for every four (4) occupants, based upon maximum occupancy.
 - VI. No recreational vehicles (RVs), campers, tents or other temporary lodging arrangements shall be kept on site in contrary to provisions set forth within the City's Zoning Code or be permitted on site as a means of providing additional accommodations for paying guests or other invitees.
 - VII. The short-term rental premises shall have functioning smoke detectors and carbon monoxide detectors pursuant to the requirements of Wisconsin Administrative Code Chapter SPS 321.
 - VIII. The Property Owner shall have and maintain homeowner's liability or business liability insurance for the premises that are used for short-term rental and shall provide written evidence of such insurance with the license application and renewal application forms.
 - IX. The Property Owner or Property Manager of each short-term rental shall provide a guest register and require all guests to register their true names and addresses and rental time period(s) before being assigned sleeping quarters. The guest register shall be kept by the Property Owner or Property Manager and available for inspection for at least one (1) year, as required by the Wisconsin Administrative Code.
 - X. Each short-term rental shall comply with this chapter's requirements and any other applicable state, county or local laws, codes, rules or regulations.
 - XI. Certification of compliance: As a condition of issuance of a license under Section 11.04 of the City Code, the Property Owner or Property Manager shall certify in writing in each initial application and renewal application form that the short-term term rental property is in compliance with the terms and conditions of the license and this chapter.
 - XII. Upon probable cause to believe that a violation of this chapter, 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, the City Building Inspector, Fire Inspector or a local health officer may request that the Property Owner or Property Manager allow him or her, upon presenting proper identification, access to the short-term rental premises at any reasonable time for any of the following purposes:

1. to determine if there has been a violation of this chapter, or of a law, code, rule or regulation related to the short-term rental or its operation;
2. to determine compliance with previously written violation orders;
3. to examine and copy relevant documents and records related to the operation of the short-term rental; or
4. to obtain photographic or other evidence needed to enforce this chapter. As used in this subsection, “probable cause” means facts and circumstances within an officer’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. If consent is refused, the Building Inspector, Fire Inspector or health officer may apply for a special inspection warrant issued under Wisconsin Statutes § 66.0119, or other warrant, subpoena or order as may be necessary or appropriate.

d. Short-Term Rental License.

- I. The City Clerk shall issue a short-term rental license if an applicant demonstrates compliance with the provisions of Section 11.04 of the City Code. A short-term rental license is issued for one (1) License Year and may be renewed annually as provided in § 11.04(5)(f). The license shall contain the following information:
 1. The name of the Property Owner, with contact information including mailing address and a telephone number at which the Property Owner is available.
 2. The name of the Property Manager, with contact information including mailing address and a telephone number at which the Property Manager is available.
 3. The license term.
 4. The state of Wisconsin Tourist Rooming House license number.

e. Short-Term Rental License Procedure.

- I. All applications for a short-term rental license shall be filed with the City Clerk on forms provided by the Clerk. Applications must be filed by the Property Owner or the Property Manager. No license shall be issued unless the completed application form is accompanied by payment of the required application fee, which fee shall be non-refundable.
- II. Each application shall include the following information and documentation for each short-term rental unit in order to demonstrate compliance with all requirements of this chapter:
 1. The name of the Property Owner, with contact information including mailing address and a telephone number at which the Property Owner is available.
 2. A copy of the state of Wisconsin Tourist Rooming House license issued under Wis. Stat. § 97.605; or proof that such state license has been applied for, in which event a provisional short-term rental license may be issued under this chapter for a period of thirty (30) days but shall be conditioned upon the City Clerk’s receipt of a copy of such state license from the applicant within said thirty (30) day period, and if a copy of such state license is not received by the Clerk within said period, then such provisional license shall expire and be void at and after the end of said thirty (30) day period.
 3. A copy of a completed state of Wisconsin Lodging Establishment Inspection form dated within one (1) year of such inspection.

4. Written evidence of liability insurance as required by § 11.04(5)(c)(VII).
 5. A copy of a current Seller's Permit issued by the Wisconsin Department of Revenue.
 6. A diagram drawn to scale showing the location of buildings and the on-site, off-street parking area(s) designated for tenants and invitees on the premises.
 7. Designation of a Property Manager, unless the Property Owner is acting as the Property Manager, with contact information including mailing address and telephone number at which the Property Manager is available, and an affirmative statement that the Property Manager is authorized to act as agent and as the local contact person for the Property Owner with respect to operation of the short-term rental.
 8. Written certification by the Property Owner that the short-term rental meets the requirements of this chapter and applicable state and county laws, ordinances and regulations.
 9. For renewal licenses only, written certification that a guest register has been kept as required by the Wisconsin Administrative Code.
- III. Unless earlier revoked, each license shall run from July 1st of one year to June 30th of the following year and may be renewed for additional one (1)-year periods. The application fee shall be paid upon filing of the application. Any application that does not include all of the information and supporting documentation required by this chapter shall not be considered as complete.
 - IV. When the City Clerk determines that an application is complete and meets the requirements of this chapter, the Clerk shall approve the application and issue a short-term rental license (or, if applicable, a provisional short-term rental license) to the applicant. If the Clerk determines that the application is incomplete or does not meet the requirements of this chapter, the Clerk shall deny the application and inform the applicant, in writing, of the reason(s) why the application was denied and what action is needed to obtain approval of the application.
 - V. No short-term rental license (or, if applicable, a provisional short-term rental license) shall be issued or renewed if the applicant or short-term rental property has outstanding fees, taxes, special charges or forfeitures owed to the City.
 - VI. No short-term rental license (or, if applicable, a provisional short-term rental ordinance) shall be issued if the applicant or short-term rental property is found to be subject to one of the grounds for revocation as provided in § 11.04(5)(i)(IV).

f. Renewal

- I. Each application for renewal of a short-term rental license shall include updated information for the documentation on file with the City Clerk, and payment of the renewal fee. A renewal application must be filed with, and a nonrefundable renewal fee must be paid to, the Clerk at least ninety (90) days prior to the license expiration date to allow the City Clerk adequate time to review the application. The Clerk shall determine whether the information provided in the renewal application is complete and meets the requirements of this chapter. The Clerk may also request reports from the City Building Inspector, the Fire Inspector, the Sheriff's Department and other law enforcement agencies regarding any enforcement actions taken with respect to the short-term rental properties and operations, and their owners, tenants, occupants or visitors. The Clerk shall review the renewal application and may approve or deny the application after taking into consideration the number, frequency and/or severity of law

violations relating to the short-term rental property and operations, and its owner(s), tenant(s), occupant(s) or visitor(s), and whether such violations substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood. If after such consideration the Clerk determines not to renew the license, the Clerk shall notify the applicant in writing of the reason(s) for such decision, and the applicant's right to appeal the decision to the Common Council as provided in § 11.04(5)(i).

- II. No license shall be renewed if the short-term rental property is under an order issued by the Building Inspector or a local health officer, or his or her designee, to bring the premises into compliance with state, county or local laws, codes, rules or regulations.

g. Display of Permit.

Each license shall be displayed on the inside of the main entrance door of each short-term rental.

h. Appeal of Licensing Decisions; License Revocation; Appeal Procedure; Judicial Review.

- I. The City Clerk's decision to deny an initial short-term rental license or to deny renewal of a short-term rental license shall specify the reason(s) for such denial, in writing. Prior to the time for the renewal of the license, the City Clerk shall notify the licensee in writing of the City's intention not to renew the license and notify the licensee of his or her right to an appeal hearing as provided in § 11.04(5)(i)(II).
- II. The City Clerk's decision to deny an initial license or to deny renewal of a license may be appealed to the Common Council by filing a written appeal with the Clerk within twenty-one (21) calendar days (excluding legal holidays) after the date of mailing of the written notice of the City Clerk's decision denying such license or renewal license. The Common Council shall conduct a due process hearing and issue a written decision on the appeal within thirty (30) calendar days of the City's receipt of the written appeal, or the license shall be deemed granted. If the appellant appears at the hearing, he or she may produce and cross-examine witnesses, present relevant evidence, and be represented by counsel of his or her choosing, at his or her expense. If the Common Council finds the City Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. If the Common Council finds the City Clerk's reason(s) for his or her decision insufficient, the decision shall be reversed, and the license shall be granted and issued. If the appellant does not appear at the hearing and the Common Council finds the City Clerk's reason(s) for his or her decision sufficient, the decision shall be affirmed. The Common Council's written decision on the appeal must specify the reason(s) for its determination. The City Clerk shall give written notice of the Common Council's decision to the applicant or licensee.
- III. A license may be revoked by the Common Council during the term of a License Year and following a due process hearing for one or more of the following reasons:
 1. Failure by the licensee to make payment of delinquent fees, taxes, special charges, forfeitures or other debt owed to the City.
 2. Failure to maintain all required local, county and state licensing requirements.
 3. Any violation of local, county or state laws or regulations which, based upon their number, frequency and/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.

- IV. Revocation. Any resident of or owner of property within the City may file a sworn written complaint with the City Clerk alleging one or more violations of § 11.04(5)(c) as grounds for revocation of a short-term rental license issued under this chapter. Upon the filing of the complaint, the Common Council shall notify the licensee of the complaint by certified mail and provide the licensee with a copy of the complaint. The notice shall direct the licensee to appear before the Common Council on a day, time and place included in the notice, not less than ten (10) days and not more than forty-five (45) days from the date of the notice and show cause why his or her license should not be revoked. The hearing shall be conducted as provided in § 11.04(5)(i)(II). If a license is revoked, the City Clerk shall give notice of revocation to the licensee by certified mail – return receipt requested. No part of the fee paid for any license so revoked may be refunded.
- V. Judicial Review. The action of the Common Council in granting or renewing, refusing to grant or renew, or revoking a license under this chapter may be reviewed by the Waukesha County Circuit Court upon appeal by the applicant, licensee, or a resident of or owner of property within the City. Such appeal shall be filed within thirty (30) days of the date of mailing by the City Clerk of the notice of the Common Council’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 Wisconsin Statutes Chapters 801 to 807.

i. Penalties

- I. Any person who violates any provision of this chapter shall be subject upon conviction thereof to a forfeiture of not less than \$10 nor more than \$2,000 for each offense, together with the costs of prosecution. Each violation and each day a violation occurs or continues to exist shall constitute a separate offense.
- II. The penalties set forth in this section shall be addition to all other remedies of injunction, abatement, or costs, whether existing under this chapter or otherwise.

j. Fees

Any person applying for an initial short-term rental license or renewing a license pursuant to this chapter shall be subject to the fees as established by resolution of the Common Council.

k. Severability.

The several sections of this Ordinance are declared to be severable. If any section shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance.

This Ordinance shall become effective upon passage and posting.

Adopted this 18th day of October, 2021.

COMMON COUNCIL OF THE CITY OF PEWAUKEE

WAUKESHA COUNTY, WISCONSIN

Attest:

/s/ Steve Bierce, Mayor

/s/ Kelly Tarczewski, Clerk/Treasurer