

TOURIST ROOMING HOUSE ORDINANCE

Licenses/Regulation

I. PURPOSE.

The purpose of this Ordinance is to establish and provide for the administration and enforcement of tourist rooming house standards in the Town of Calumet, which:

- ensure the quality of such properties are adequate to protect the public health, safety and general welfare;
- maintain the character and stability of all areas of the Town, especially densely populated residential areas wherever located within the Town of Calumet;
- inform owners and property managers operating or managing tourist rooming houses of their responsibilities including, but not limited to, expeditiously and personally addressing unreasonable activities or conditions which adversely impact other properties or interfere with passage of 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); and
- afford a potential source of recovery for 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 tourist rooming houses.

II. AUTHORITY

The Town Board of the Town of Calumet has been authorized to exercise village powers pursuant to Wisconsin Statutes §§ 60.10(2)(c) and s. 60.22(3). The Town Board adopts this ordinance under its general village powers authority and Wisconsin Statutes § 66.1014.

III. DEFINITIONS.

- A.** For the purpose of administering and enforcing this Ordinance, the terms or words used herein shall be interpreted as follows:
1. Words used in the present tense include the future.
 2. Words in the singular number include the plural number.
 3. Words in the plural number include the singular number.

B. The following definitions and conditions apply unless specifically modified:

Bathroom.

a water closet, lavatory and a bathtub or shower located together on the same floor level.

Clerk.

The Clerk of the Town of Calumet, or designee.

Corporate Entity:

A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.

Dwelling Unit/Unit:

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 person or by 2 or more persons maintaining a common household, to the exclusion of all others.

Floor space:

The floor space of each dwelling unit is determined using interior measurements of each room excluding kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code and DATCP requirements for occupancy.

Lodging Marketplace.

An entity that provides a platform through which an unaffiliated 3rd party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.

Owner.

The owner of a tourist rooming house.

Operator.

An Owner or a Property Manager who is responsible for compliance with this Ordinance, collection of rent, and payment of taxes.

Person.

Shall include a corporation, firm, partnership, association, organization, and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Ordinance prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include

the officers, agents, or members thereof who are responsible for any violation of such section.

Property Manager.

Any person providing property management services to owners of tourist rooming houses. An owner residing within twenty-five (25) miles of the Town of Calumet is not required to engage a Property Manager.

Short Term Rental.

The rental of a dwelling unit for a period of less than twenty-nine (29) consecutive days.

State.

The State of Wisconsin Department of Health, or its designee.

Transient

Any person residing in a dwelling unit for a continuous period of less than twenty-nine (29) days.

Tourist Rooming House.

Any dwelling unit offered for pay to tourists or transients not operated by a hotel, motel, or resort.

IV. OPERATION OF TOURIST ROOMING HOUSES.

A. Required Licenses and Permits. Each Tourist Rooming House owner is required to have the following licenses and permits:

1. State of Wisconsin Tourist Rooming House License as required under Wis. Stat. § 97.605;
2. Conditional Use Permit to utilize the property as a Tourist Rooming House issued pursuant to Section 3.9 of the Town of Calumet Zoning Ordinance and consistent with this Ordinance;
3. Town of Calumet Short-Term Rental License issued pursuant to the provisions of this Ordinance;
4. Seller's Permit issued by Wisconsin Department of Revenue identifying the licensed premises as located in the Town of Calumet;

B. Standards. Each Tourist Rooming House offered for short-term rental shall comply with all of the following:

1. Short-Term Rental shall last no less than seven (7) consecutive days. Short-Term Rentals for six (6) days or less are prohibited.
2. One onsite off-street parking space per bedroom but not less than two (2) parking spaces.
3. Compliance with all state, county and local codes and regulations is required.
4. There shall be no excessive noise, fumes, glare, or vibrations generated during the use of the dwelling as a short-term rental. Quiet hours are to be observed on weekdays between 10:00 PM and 7 AM, and on weekends and holidays, they are to be observed between 11:00 PM and 7:00 AM. Quiet means that noise levels at the property line shall not exceed 55 dBA.
5. All tourist rooming houses, during any rental period, shall comply with all conditions set forth in the properties' Town of Calumet Conditional Use permit.
6. A copy of the Short-Term Rental License and, if applicable, Property Manager License shall be displayed on the inside of the main entrance door of each Tourist Rooming House.
7. Each dwelling unit shall provide two safe, unobstructed means of egress leading to safe, open space at ground level.
8. Each dwelling unit shall have functional smoke detectors as follows: One (1) in each bedroom or sleeping area, one (1) outside of the bedroom or sleeping area within 21 feet of the bedroom(s) in the direction of egress, one per floor. Carbon monoxide detectors as follows: one (1) per floor if a fuel burning appliance or attached garage is present.
9. No dwelling unit shall have an accessible wood or solid fuel burning stove or fireplace unless the owner provides a "cleaning and inspection" certificate by a certified chimney sweep professional.
10. Each dwelling unit shall provide at least one (1) UL rated 2A:10B:C fire extinguisher within the unit, which shall be maintained on an annual basis. If the extinguisher is not readily visible, one or more signs shall be posted indicating the location of the extinguisher.
11. No dwelling unit shall have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking, heating, or any other purpose on any balcony, deck or under any overhanging structure or within ten (10)

feet of any structure.

12. All dwelling units shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of Insurance, with liability limits of not less than three hundred thousand dollars (\$300,000) per individual and one million dollars (\$1,000,000) aggregate.
13. All advertisements for rental of a tourist lodging unit shall contain the Town of Calumet identification number assigned to the dwelling unit, including any advertisements by a third party or a Lodging Marketplace.
14. If the property owner resides within twenty-five (25) miles of the Town of Calumet, a local property manager is not required to be designated. The property owner must be available by phone 24 hours a day, 7 days per week throughout the year. The property owner must notify the Town Clerk within three (3) business days of any change in the property owner's contact information and submit the revised contact information to the Town Clerk within the same time period.
15. If the property owner resides more than twenty-five (25) miles from the Town of Calumet, a local property manager must be designated for contact purposes and his or her name must be included in the application filed with the Town Clerk. The property manager must be available by phone 24 hours a day on days the property is rented. The property owner must notify the Town Clerk within three (3) business days of any change in the property manager's contact information for the short-term rental and submit the revised contact information to the Town Clerk within the same time period.
16. 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 year, as required by the Wisconsin Administrative Code. If the property owner or property manager does not consent to inspection of the guest register, the register shall be subject to disclosure to an authorized official pursuant only to a proper search warrant, administrative subpoena, judicial subpoena, or other lawful procedure to compel the production of records that affords the property owner or property manager an opportunity for pre-compliance review by a neutral decision maker.
17. 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 Town Building 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: 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; to determine compliance with previously written violation orders; to examine and copy relevant documents and records related to the operation of the short-term rental; or 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 or health officer may apply for a special inspection warrant issued under Wis. Stats. § 66.0119, or other warrant, subpoena or order as may be necessary or appropriate.

C. Exemptions. The following operations are exempt from complying with the requirements of this Ordinance:

1. A private boarding or rooming house, ordinarily conducted as such, not accommodating tourists or transients.
2. A hotel, motel or resort licensed by the State of Wisconsin Department of Health, pursuant to s. 97.605 Wis. Stats.
3. Bed and breakfast establishments. Licensed under *DATCP Chapter 72*.

D. Inspections.

1. Each separate unit which is offered for rental as a tourist rooming house is required to be inspected annually by the State or by a local health department that is granted agent status. If the State or its agent fails to inspect the tourist rooming house, the applicant may request that the building inspector conduct the inspection.
2. If the Building Inspector conducts the inspection, the holder of a permit or license shall be responsible for payment of the inspection fees.
3. If the Building Inspector or Fire Inspector at any time is unable to conduct an inspection due to denial of access, the tourist rooming house shall not operate until it has passed the inspection.

V. LOCAL PERMITS AND LICENSING

A. Conditional Use Permit for Tourist Rooming Houses.

1. A Tourist Rooming House may be an appropriate use within a specific zone provided that conditions can be met to limit the adverse effects of the use on the Town's and immediately surrounding area's health, general welfare, and safety.
2. Property Owners who wish to operate a Tourist Rooming House must obtain a conditional use permit in accordance with the procedures set forth in Section 3.9 "Conditional Uses" of the Town of Calumet Zoning Ordinance.
3. In addition to the standards set forth in Section 3.9.5 and 3.9.6 of the Town of Calumet Zoning Ordinance, the Planning Commission shall also consider and may recommend conditions addressing the following:
 - a. The amount and size of signage on the property identifying it as a Tourist Rooming House;
 - b. The impact of outside activities on nearby properties and the need for designated quiet hours;
4. Once a Conditional Use Permit for a tourist rooming house is issued, the subject property cannot be modified or materially altered unless the owner files an amended application with the Town. The Town shall inspect the subject property to determine compliance with the provisions of the existing Conditional Use permit and this Ordinance.
5. Use of recreational vehicles (RVs), campers, tents, or other temporary lodging arrangements as a means of providing additional accommodations for paying guests or other invitees is prohibited.

6. Maximum capacity of the property as a Tourist Rooming House shall be based on
 - i. Not less than one (1) bathroom for every six (6) occupants;
 - ii. Not less than one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area; and
 - iii. Maximum occupancy for any unit without a separate enclosed bedroom is two (2) people, with one (1) enclosed bedroom, four (4) people;

B. Short-Term Rental License.

1. Initial applications for a Town of Calumet Short-Term Rental License shall be filed with the Town Clerk on forms provided. Applications must be filed by a property owner or on the owner's behalf by an authorized agent. Each applicant shall certify to the Town that the tourist rooming house included in the license is in compliance with the provisions of this Ordinance. No license shall be issued unless the completed application form is accompanied by payment of the required fee.
2. Each application shall include the following information and documentation for each Tourist Rooming House:
 - a. Conditional Use Permit, if applicable.
 - b. SA Lodging License for a tourist rooming house issued by the Fond du Lac County Health Department, pursuant to Wis. Stat. § 97.605 *et seq.*
 - c. A copy of a completed Fond du Lac County Health Department Lodging Establishment Inspection report dated within one (1) year of the date of license issuance or renewal.
 - d. Proof of Insurance.
 - e. Floor plan, requested maximum occupancy and designated sleeping areas.

- f. Site plan including available onsite parking.
 - g. Property Management Agreement, if applicable.
 - h. Designation of the Property Manager
 - i. Certification from the owner or licensee that the property meets the requirements of this Ordinance.
3. The Clerk shall review the initial application for completeness and verify the applicant and property are current on all fees, taxes, special charges, or forfeitures owed to the Town. Any application which does not include all of the required information, documentation, and filing fee shall be considered incomplete. If complete, the Clerk shall refer the application to the Town Plan Commission along with a report indicating whether the applicant and property are current on all fees, taxes, special charges, or forfeitures owed. The Plan Commission shall review the application and recommend approval or denial to the Town Board. If recommending denial, the Plan Commission shall give a written explanation of the reasons for the recommended denial. The Town Board shall review the application along with the Plan Commission's recommendation and approve or deny the license.
4. The Town Clerk shall issue a license for each tourist rooming house approved by the Town Board. The license shall include the following information:
- a. Identity of the Property Owner;
 - b. Identity of the Property Manager with contact information;
 - c. The maximum occupancy for the premises;
 - d. The license term;
 - e. State lodging license number;
 - f. Town Conditional Use Permit number;
 - g. Contact information for the Town.
5. License Term. Each license shall run from July 1 through June 30 of the following year. The Clerk may conditionally accept late applications, subject to payment of the late filing fee.

6. Nontransferable. A Short-Term Rental License issued under this Ordinance is nontransferable. The license holder shall notify the Clerk in writing of any transfer of the legal control of any property covered by the permit or license.

C. Property Manager License.

1. All Tourist Rooming Houses owned and/or operated by persons who do not reside within twenty-five (25) miles of the Town of Calumet, are required to appoint a Property Manager.
2. No person may act as a Property Manager for a tourist rooming house without a Property Manager License issued in accordance with the provisions of this Ordinance. The Property Manager License shall apply to all tourist rooming houses for which the Property Manager has exclusive rights for the rental of the property. The Property Manager must certify to the Town that each tourist rooming house operating under its license complies with the standards of this Ordinance.
3. A Property Manager must meet the following requirements:
 - a. Reside in or within twenty-five (25) miles of the Town of Calumet; and must be available by phone 24 hours a day.
 - d. Be authorized by the property owner to accept service of process for all Town communications, citations and orders;
 - e. Be authorized to allow Town employees, officers, and their designees, to enter the owner's property for purposes of inspection and enforcement of this Ordinance.
4. The Clerk shall issue a Property Manager license to all qualified applicants after receiving the required fee.

5. In addition to the standards set forth in Section 3.9.5 and 3.9.6 of the Town of Calumet Zoning Ordinance, the Planning Commission shall also consider and may recommend conditions addressing the following:
 - a. Property managers record of conviction for a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery.

VI. Fees.

Any person applying for a Conditional Use Permit, Short-Term Rental License, Property Manager License, or any required renewals thereof, shall be subject to the fees identified in the Town's fee schedule, which may be revised from time to time by resolution of the Town Board.

VII. License Renewals.

- A. Renewal Applications.** Each application for renewal of a Short-Term Rental License or Property Manager License shall include updated information for the documentation on file with the Town 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 90 days prior to the license expiration date to allow the Town 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 Ordinance. The Clerk may also request reports from the Town Building 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 the property owners, property manager, tenants, occupants, or visitors. The Clerk shall review the renewal application and may approve or refer the application to the Town Board after taking into consideration the number, frequency and/or severity of any law violations relating to the short-term rental property and operations, and its owner(s), property manager, tenant(s), occupant(s), or visitor(s). If after such consideration the Clerk determines to refer the license, the Clerk shall notify the applicant in writing of the reason(s) for such decision.
- B. Town Board Review.** The Town Board shall review renewal applications referred by the Clerk. The Town Board shall determine whether to 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.

- C. **Pending Orders.** 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.

VIII. ROOM TAX.

- A. **Tax Imposed.** Pursuant to Wis. Stat. § 66.0615(1m), a tax is hereby imposed on the privilege of furnishing at retail, except sales for resale, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of 8% of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by Wis. Stat. § 77.52(2)(a)1, and may not be imposed on sales to the federal government and persons listed under Wis. Stat. § 77.54(9a).
- B. **Revenue Distribution.** The proceeds of the room tax when collected shall be apportioned 30% to the Town for general purposes and the remaining 70% shall be forwarded to a tourism entity to be spent on tourism promotion and development as defined in Wis. Stat. § 66.0615(1)(fm). Disbursements of the room tax shall be administered by the Town Treasurer, who shall ensure that at least 70% is spent on tourism promotion and development.
- C. **Administration.** Collection of the room tax shall be administered by the Town Treasurer. The room tax is due and payable within 30 days of the end of the calendar quarter for which imposed.
- D. **Tax Returns.** Each Property Owner or Property Manager Licensee are required to collect and pay the room tax on the owner's behalf. shall file with the Town Treasurer consolidated room tax returns for the managed tourist rooming houses on or before the same date on which the tax is due and payable. All quarterly returns shall be signed by the Property Manager or authorized agent but need not be verified by oath. All tax returns and supporting documentation filed with the Treasurer are confidential and subject to the protections provided under Wis. Stat. §§ 66.0615(3) and 77.61.
- E. **Late or Unfiled Returns.** If a person required to file a return fails, neglects, or refuses to do so for the amount, in the manner and form and within the time prescribed herein, the Town Treasurer may determine the amount of room tax according to his or her best judgment. All late taxes under this ordinance shall bear interest at a rate of 1% per month from the due date of the tax until the first day of the month following the month in which the tax is paid or deposited with the Town Clerk.

- F. Audit.** Whenever the Town Clerk has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the Town Treasurer may inspect and audit the financial records of any person subject to the tax to determine whether the correct amount of tax is assessed and whether any room tax return is correct.

IX. LICENSE REVOCATION

- A. Grounds for Revocation.** A license may be revoked by the Town Board during the term of a license year and following a due process hearing for one or more of the following reasons:
1. Failure to make payment on taxes or debt owed to the Town of Calumet.
 2. Three or more police officer-verified violations in a twelve-month period for nuisance activities or other law violations.
 3. Three or more citations issued in relation to building inspection or the health department in a twelve-month period.
 4. Failure to comply with applicable building inspection requirements.
 5. Failure to maintain all required local, county, and state licensing requirements.
 6. Any violation of local, county or state laws that substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.
- B. Resubmission.** Upon revocation of a license under this section, a new application for the same property or property manager will not be permitted for one (1) calendar year.
- C. Complaint procedure.** 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 above as grounds for revocation of a license issued under this chapter. Upon the filing of the complaint, the Town Board shall notify the licensee of the complaint by certified mail, return receipt requested and provide the licensee with a copy of the complaint. The notice shall direct the licensee to appear before the Town Board 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. If a license is revoked, the Town 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.

D. Hearings and Appeals

1. The Town Board shall conduct a due process hearing before revoking a license under this Ordinance and issue a written decision within thirty (30) calendar days of the hearing. If the license holder 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 Town Board finds there are sufficient grounds for revocation under this Ordinance, it shall revoke the license. The Town Board's written decision on the revocation must specify the reason(s) for its determination. The Town Clerk shall give written notice of the Town Board's decision to the license holder.
2. The Town Board's decision on a complaint for license revocation under this Ordinance may be reviewed by the Fond du Lac County Circuit Court upon appeal by the license holder or the complainant. Such appeal shall be filed within thirty (30) days of the Town Clerk mailing the Town Board's decision. 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.

X. Penalties.

- A. The following penalties shall be assessed for violations of this Ordinance:
1. Operating a Tourist Rooming House without the permits and licenses required by this Ordinance shall be punishable by a forfeiture of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000) for each violation committed hereunder.
 2. Operating a Tourist Rooming House in violation of the properties Conditional Use Permit shall be punishable by a forfeiture of not less than \$1,000 nor more than \$2,000 and may result in revocation of the permit.
 3. A violation of Section IV for collection of Room Tax shall be punishable by a forfeiture, together with applicable costs and fees, as follows:
 - a. A forfeiture equal to no more than 5% of the room tax imposed herein for failure to comply with an audit request.
 - b. A forfeiture equal to no more than 25% of the room tax due for the previous year or \$5,000, whichever is less, for failure to pay the room tax due.
 4. Any other violation of any provision of this Ordinance shall be punishable by a forfeiture of not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500) for each violation committed hereunder and may result in revocation of the applicable license.
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5. Each day a violation exists after receiving the violation notice or order shall constitute a separate violation of this Ordinance.
6. In addition to the penalties set forth above, failure to permit the inspection of a premises subject to this Ordinance by the Zoning Administrator, Building Inspector or Fire Inspector, or their designee, may result in the suspension of a permit or license.
7. Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement, or costs whether existing under this Ordinance or otherwise.

XI. Severability. If any portion of this ordinance is ever determined by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable, said portion shall be removed so as to allow the remaining provisions of this ordinance to be enforceable.

Signed and dated this 1st day of December 2021

_/ Donald M. Breth, Jr./_____

Donald M. Breth, Jr. Town Chair

_/ Jodie Goebel / _____

Jodie Goebel, Clerk