

TITLE 7
CHAPTER 6

REGULATING AND PERMITTING SHORT-TERM RENTALS
TOWN OF BURKE in DANE COUNTY, WISCONSIN

Sec. 7.6 Purpose

The Purpose of this Chapter is to ensure that the quality of short-term rentals operating within the Town of Burke is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for adequate parking; determining the responsibilities of owners, and operators offering these properties for tourists or transient occupants, to protect the character and stability of all areas within the Town of Burke; and to require a permit for short- term rental activity and provisions for the administration and enforcement thereof.

Sec. 7.6.1 Authority

The Town Board of the Town of Burke has been authorized to exercise village powers pursuant to Wis. Stat. § 60.10(2)(c) and Wis. Stat. § 60.22(3). The Town Board adopts this ordinance under its general town powers authority and Wis. Stat. § 66.1014.

Sec. 7.6.2 Definitions.

- (a) For the purpose of administering and enforcing this section, the terms or words used herein shall be interpreted as follows:
 - (1) Words 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 apply:
 - (1) Clerk. The Town Clerk of the Town of Burke or designee.
 - (2) Lodging marketplace. An entity that provides a platform through which an unaffiliated third party offers to rent a short-term rental to an occupant and collects the consideration for the rental from the occupant.
 - (3) Operate. Advertising, marketing, maintaining, managing, or renting residential dwellings as short-term rentals.
 - (4) Operator. The owner, lessee, or property manager of the residential dwelling that has been rented who is operating the short-term rental business including by interacting with guests in person, by phone, or digitally. An operator may not be an LLC, trust, nonprofit, or other corporate entity.
 - (5) Owner. The individual who or entity that owns the residential dwelling that has been rented.
 - (6) Primary residence. A residential dwelling that serves as an individual's true, fixed, and permanent home for at least 183 days in a calendar year and to which, whenever absent therefrom, that individual intends to return. Additional characteristics of a primary residence

include, but are not limited to, where an individual receives government-issued mail, receives a Wisconsin lottery credit, claims residence for purposes of voter registration, claims as an address on Federal income tax forms, and lists as their address on state issued identification cards and driver's license. An individual can have only one primary residence.

- (7) Property manager. Any individual that is not the property owner and is appointed to act as agent or provides property management services to one or more short-term rentals.
- (8) Residential dwelling. 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 individual or by 2 or more individuals maintaining a common household, to the exclusion of all others.
- (9) Short-term rental. A residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days, as provided in Wis. Stat. §66.0615(1)(dk), and that must obtain a tourist rooming house license or a bed and breakfast establishment license pursuant to Wis. Stat. §97.605(1).

Sec. 7.6.3 Short-Term Rental Permit Requirement.

- (a) It shall be unlawful for any individual to operate or advertise a short-term rental of more than ten (10) days each calendar year in the Town of Burke without a permit issued by the Clerk.
- (b) Application. Any individual intending to advertise or operate a short-term rental more than ten (10) days in any calendar year shall submit an application in writing to the Clerk, prior to the first day of operation or advertisement as a short-term rental, along with a non-refundable application fee as provided in par. (f).

(1) All applications shall include the following:

- i. The name and address of each individual with an ownership interest in the property.
- ii. The name and address of each individual with an ownership interest in the short-term rental business.
- iii. The name and address of the operator, who may also be an owner or lessee.
- iv. The address of the proposed short-term rental.
- v. Two separate items of documentation showing that the proposed short-term rental is the primary residence of the operator, or a statement that the short-term rental is not the operator's primary residence. Identifying documents must contain the operator's current and complete name, including both the given and family name, and a current and complete residential address, including a numbered street address and the name of the Town. Adequate identifying documents that contain the required information include the following:
 - 1. A current and valid operator's license issued under Wis. Stat. § 343.
 - 2. A current and valid identification card issued under Wis. Stat. §343.50.
 - 3. A residential lease.
 - 4. A bank statement.
 - 5. A paycheck or pay stub.
 - 6. A check or other document issued by a unit of government.

- 7. An identification card issued by a federally recognized Indian tribe in this state.
- 8. Any other documentation deemed acceptable by the Clerk.
- vi. Whether the short-term rental will operate for stays of more than six (6) but fewer than thirty (30) consecutive days.
- vii. Number of off-street parking spaces on the property designated by the operator for renter use.
- viii. Proof of insurance required by section 7.6.4(j)
- ix. A site plan showing the location of the Residential Dwelling, accessory buildings, onsite parking spaces and fire pit (if applicable) on the Rental Property.
- x. The number of bedrooms within the residential dwelling and the number of bedrooms intended for use as a short-term rental.
- xi. Contact phone numbers and email addresses of each property owner and operator.
- xii. A signed and notarized affidavit stipulating:
 - 1. that for short-term rentals of any duration, the property is and will remain the operator's primary residence or is immediately adjacent to the operator's primary residence during the period of the permit, or,
 - 2. that the short-term rental will be used solely for stays of no less than seven (7) but fewer than thirty (30) days.
- (c) Term: A permit issued under this Ordinance shall be effective for one year and may be renewed for additional one-year periods.
- (d) Transferability. Permits issued under this section shall not be assigned or transferred to other individuals.
- (e) Renewal. Short-term rental permits shall be renewed by January 1 of each year. Prior to receiving a renewed permit, the operator shall pay applicable fees, provide the Clerk with updated application information required under sec. 7.6.3(b) and submit a signed and notarized affidavit stipulating that for short-term rentals of one (1) to six (6) days duration, the property is and will remain the operator's primary residence during the period of the permit or that the short-term rental will be used solely for stays of more than 6 but fewer than thirty (30) days.
- (f) Fees.
 - (1) Except as provided in 7.6.3(f)(2), fees shall be in accordance with the Town of Burke Fee Schedule.
 - (2) The fees for 2025 shall be as follows:
 - i. Annual permit fee: \$450.00.
 - ii. Reinstatement fee after revocation, inclusive of the annual permit fee: \$1,800.
- (g) Enforcement and violations. The Town Board, Town Clerk (or designee) may issue citations for any violations of this chapter. Any individual who operates or advertises a short-term rental for 10 days or more in a calendar year without a permit or in violation of this section may be assessed a forfeiture of not less than three hundred dollars (\$300) and nor more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense. In addition to issuing citations, the Town may seek, obtain and enforce injunctive relief.
- (h) Denial and revocation. The Town Board may deny or revoke a permit issued hereunder for failure to

comply or maintain compliance with or for violation of any applicable provisions of this chapter, including providing false information on a permit application and advertising the short-term rental in violation of 7.6.4(i). The Town Board may suspend, revoke, or non-renew a short-term rental license following a due process hearing if the board determines that the licensee:

- (1) Failed to comply with any of the requirements of this ordinance.
 - (2) Has been convicted or whose Operator or renters have been convicted of engaging in illegal activity while on the short-term rental premises on two (2) or more separate occasions within the past 24 months.
 - (3) Has outstanding fees, taxes, or forfeitures owed to the town.
- (i) Any such denial or revocation must be made in writing and must include the reasons for which it was made. A revocation shall result in a twelve-month prohibition on the issuance of a new short-term rental permit at the property. If a revocation decision is appealed, the permit remains valid during the pendency of the appeal.
- (j) Appeals. Any such denial or revocation may be appealed as provided under Wis. Stat. § 68.

Sec. 7.6.4 Operation of a Short-Term Rental.

- (a) Rental periods.
- (1) If the short-term rental is not the operator's primary residence, or if the short-term rental is the operator's primary residence and more than two (2) bedrooms are offered for rent, the minimum stay shall be seven (7) consecutive days up to a maximum of 29 consecutive days, and may be operated for no more than 180 consecutive days in any consecutive 365-day period as provided in Wis. Stat. §66.1014(2)(d) or be a stay that is qualified for an exemption of these requirements under 7.6.4(b)(2). The 180 allowable days in any 365-day period must run consecutively and the operator must give the Clerk notice of the first day of the 180-day consecutive period prior to advertising or operating.
 - (2) If the short-term rental is the operator's primary residence and the operator is staying in the dwelling with guests during the entire rental period and the rental is limited to one (1) or two (2) bedrooms, then there is no requirement for the minimum duration of stay and no limit on the number of days the short-term rental may operate during the year.
- (c) Maximum occupancy. Occupancy of the short-term rental shall be limited to the number of bedrooms the existing septic system can serve. The maximum number of occupants shall not exceed two (2) occupants for each bedroom, plus an additional two (2) occupants. For example, a residential dwelling with an approved three (3) bedroom septic system would be allowed a maximum of eight (8) occupants (3 bedrooms x 2 + 2 = 8). Should the short-term rental property be in a public utilities area of the Town, the above calculation remains for determining occupancy.
- (d) Parking. The operator shall designate off-street parking spaces for renters on the property and limit the number of renter vehicles, trailers, and recreational items not to exceed the number of parking spaces the operator provides. At a minimum, the operator must designate not less than one onsite, off-street parking space for every four occupants based upon maximum capacity. Parking space limit shall appear in all advertising for the short-term rental. Absolutely no parking on Town roads.
- (e) Noise/Public Nuisance.
- (1) The operator of the short-term rental shall provide renters with a copy of the Town's Ordinance Title 9 Offences and Nuisances.
 - (2) Quiet time shall be observed between the hours of 10:00 pm and 7:00 am

- (3) Any outdoor event held at the rental shall last no longer than one day and must occur between the hours of 7:00 am and 10:00 pm. Any activities shall comply with other applicable noise regulations, including but not limited to, keeping quiet hours from 10:00 pm to 7:00 am.
 - (4) Outdoor fires are allowed only in a fire pit area shown on the site plan for the rental property. Owners, occupants, and guests at the rental are prohibited from bringing firewood from locations further than ten (10) miles away from the rental property pursuant to Wis. Admin Code NR 45.045(2)(a).
 - (5) Fireworks are strictly prohibited.
 - (6) The discharge of firearms is strictly prohibited, except as set forth in Wis. Stat. §66.0409(b).
 - (7) Pets shall be restricted to the rental property and must be under the control of the renter at all times. Pets must be leashed and under control at all times if off the rental property.
- (f) Required Signage. A sign, no smaller than 8.5 x 11 inches, shall be placed at the junction of the main driveway and the adjoining street. A copy of the sign must be submitted as part of the permit application. The sign shall be legible, placed within 5 feet of the street, and display the following information:
- (1) Owner name and contact information
 - (2) Operator name and contact information
 - (3) Rental property address
 - (4) Maximum occupancy of the short-term rental
 - (5) Dane County Conditional Use permit number
- (g) Registry. Each short-term rental shall keep a registry and make it available to law enforcement upon lawful order, stating the true name of the individual making the short-term rental reservation; the telephone number, mailing address, or email address of the individual making the short-term rental reservation; dates of stay and whether the operator was present or absent during the stay. The registry shall include all information from the current registry year and the year immediately prior.
- (h) Reports. Upon request, the operator of a short-term rental shall provide the Clerk a report of short-term rental activity for each calendar quarter which includes the dates of stay, number of guests for each stay, whether the operator was present or absent during each date of the stay, and a listing of all websites and places where the operator has advertised the short-term rental. Failure of the operator to submit such reports by required deadlines could be grounds for revocation of a short-term rental permit.
- (i) Advertisements. All advertisements of the short-term rental, including advertisements on the website of a lodging marketplace, must contain a valid short-term rental permit number, clearly state the minimum duration of stay, in any, and state the limit for renter parking spaces. Lodging marketplace calendars must block renters from making reservations that are not compliant with the minimum duration of stay requirements. Lodging marketplace calendars must block renters from making reservations outside of the allowable 180-day consecutive period. When required, operators must ensure that lodging marketplaces disable any dynamic scheduling that fills gaps in the rental calendar with stays that do not meet the 7-day minimum. No advertisement can offer rental arrangements that are in violation of this ordinance or that instruct potential renters to contact the host to pursue a rental arrangement that is not in compliance with this ordinance.
- (j) Insurance. All owners shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of Commissioner of Insurance, with

liability limits of not less than \$300,000.00 per individual and \$1,000,000.00 aggregate.

- (k) Operators. An Operator shall be available at all times on days the short-term rental is rented. The owner must notify the Town Clerk within three business days of any change in the contact information of the owner or operator. If the short-term rental is not the Operator's Primary residence, the operator must reside within 30 miles of the rental property.

Sec. 7.6.5 Information Provided to Renters of Short-term Rentals

Operators shall provide renters with the Town's short-term rental standards described in this ordinance.

Sec. 7.6.6 Severability

If any provision of this Chapter and its ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this Chapter or its ordinances. It is hereby declared to be the intention of the Town of Burke that all provisions of this Chapter and its ordinances therein are separable.

Sec. 7.6.7 Covenants and Restrictions

This Chapter shall not invalidate or interfere with any lawful private or other lawful public covenant or restriction on property which prohibits or restricts to a greater extent the uses described and licensed herein.

Sec. 7.6.9 Effective Date and Publication

This ordinance is effective on publication. The town clerk shall properly post or publish this ordinance as required under Wis. Stat. § 60.80.