

Ordinance 2022-03
TOWN OF BRILLION
TOURIST ROOMING HOUSE ORDINANCE

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1 Purpose. The purpose of this Ordinance is to ensure that the quality of tourist rooming houses operating within the Town of Brillion is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists, to protect the character and stability of all areas within the Town of Brillion; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.

2 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. Full bath.

Clerk. The Clerk of the Town of Brillion, 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, which 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. Adopting 66.1014(1)(b) Wis. Stats.

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.

License. The Property Management License issued under s.4.

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.

Permit. An individual tourist rooming house permit issued under s.4.

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 miles of the Town of Brillion 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.

Tourist Rooming House. Any dwelling unit offered for pay to tourists or transients not operated by a hotel, motel or resort. In this subdivision, "transient" means any person residing in a dwelling unit for a continuous period of less than 29 days.

3. Operation of Tourist Rooming Houses.

A. No person may operate a tourist rooming house without a tourist rooming house permit issued pursuant to the requirements of this Ordinance and payment of \$150 license fee. Every tourist rooming house shall be operated by the owner or licensed Property Manager.

B. Each tourist rooming house is required to have the following licenses and permits:

- 1.** Calumet Health Department inspection report and permit
- 2.** Conditional Use Permit (Fee \$250)
- 3.** Town of Brillion Tourist Rooming House Conditional Use permit 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 Brillion.
5. Property Managers License Fee, if applicable.

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 license issued 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*.

4. **Tourist Rooming House Permit; Property Manager License.**

A. The Clerk shall issue an original tourist rooming house Conditional Use permit to all qualified applicants, after review by the Plan Commission and payment of the \$250 plan commission fee and approval by the Town Board.

B. The Clerk shall issue a Property Manager license to all qualified applicants after the payment of \$150 Property Manager license fee.

C. The Property Manager must 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.

D. Except for qualified property owners, 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 the property manager license complies with the standards of this Ordinance.

5. **Property Manager.**

A. All tourist rooming **houses** owned and/or operated by persons who do not reside within 25 miles of the Town of Brillion, are required to appoint a Property Manager for the receipt of service of notice of violation of this Ordinance provisions and for service of process pursuant to this Ordinance. Such a designation shall be made by the owner and shall accompany each application form. Said applicant shall immediately notify the Clerk of any change in residence or information regarding the Property Manager. To qualify as a Property Manager the person must meet the following requirements:

1. Be residing in or within twenty-five (25) miles of the Town of Brillion; or a corporate entity with offices located within twenty-five (25) miles of the Town of Brillion.
2. The applicant has not been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery,
3. The applicant is authorized by owner to accept service of process for all Town communications, citations and orders.

Property Manager License. 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 permit complies with the standards of this Ordinance.

B. Property Manager Qualifications. To qualify as a Property Manager the applicant must meet the following requirements:

1. Comply with the qualifications for a Property Manager under s. 5 (B) above.
2. Shall hold the following licenses and permits in its name:
 - a. a Seller's Permit issued by the Wisconsin Department of Revenue;
 - b. a Room Tax Permit issued by the Calumet County; and
 - c. an employer identification number issued by the Internal Revenue Service.
3. Except for owners managing their own properties, property managers shall have a written contract with the property owner authorizing management of the tourist rooming house.

C. Each Property Manager shall be authorized by the property owner to act as the agent for the owner for the receipt of service of notice of violation of this Ordinance provisions and for service of process pursuant to this Ordinance and shall be authorized by the owner to allow Town employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Ordinance and/or the Town Municipal Code.

6. Procedure.

A. All applications for a tourist rooming house permit shall be filed with the Clerk on forms provided. Applications must be filed 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 permit is in compliance with the provisions of this Ordinance. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.

B. Each application shall include the following information and documentation for each tourist rooming house unit:

1. Conditional Use Permit, if applicable.
2. State of Wisconsin Department of Health Services License for a tourist rooming house license issued under s.254.64 Wis. Stats.
3. A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal.
4. Proof of Insurance.
5. Floor plan requested maximum occupancy and designated sleeping areas.
6. Site plan including available onsite parking.
7. Property Management Agreement (if applicable).
8. Designation of the Property Manager
9. Certification from the owner or licensee that the property meets the requirements of this Ordinance.

Applications for renewal permits filed by Property Managers are not required to include the documentation for each individual unit for items listed in subparagraphs 4, 7, 8, 9, unless the information on the renewal application has changed.

C. Terms and Filing date. Each permit and license shall run from July 1 through June 30 of the following year. All applications must be filed on or before June 1 of each subsequent year. The filing fee shall be paid upon filing of the application. The Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the required information and documentation shall be considered as incomplete.

D. Application Review Procedure. Upon a determination that application is complete and satisfies the requirements of this Ordinance, the Clerk shall issue the permit or license. If the application does not

meet the requirements of this Ordinance, the Clerk shall deny the application and issue a written determination explaining the reasons for denial.

E. Special Exception Procedure.

1. If the applicant applies for a special exception permit under s.13., the Clerk shall forward the application for Special Exception to the Planning Commission for review - with a Plan Commission fee of \$250. Upon review of the application for Special Exception permit, the Planning Commission shall file its recommendation to the Town Board for approval or denial of the special exception permit subject to the special exceptions and conditions to be placed upon the application. Any denial or conditional approval by the Planning Commission shall be in writing setting forth the reasons for the determination.
2. The Town Board shall consider the application and the recommendation of the Planning Commission at its next scheduled meeting. The Town Board may approve, grant a special exception permit, or deny the application. Any denial or conditional approval by the Town Board shall be in writing setting forth the reasons for the determination.

F. Permits. The Town Clerk shall issue a permit for each tourist rooming house approved by the Town Board. The permit shall include the following information:

1. Identify the Property Owner;
2. Identify the Property Manager with contact information;
3. The maximum occupancy for the premises;
4. The permit term;
5. State lodging license number; and Town Conditional Use Permit number
6. Contact information for the Town.

G. Each application, report and supporting documentation filed under this ordinance shall be filed **in writing** in the manner and forms prescribed by the Town Clerk.

7. Renewal.

A. Each application for a renewal of a permit or license shall include updated information for the documentation on file with the Clerk and payment of the applicable fee. The Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Ordinance. The Clerk shall request reports from the Police/Sheriff Department and the Building Inspector regarding any complaints received, calls for service or actions taken regarding the permitted properties. The Clerk shall issue renewal licenses, by the renewal date, unless the information provided is incomplete or otherwise not in compliance with the requirements of this Ordinance and/or the reports from the Police/Sheriff Department and the Building Inspector indicate that there are complaints or actions involving the property.

B. If the Clerk finds that the license or permit should not be renewed, or that the application should be considered by the Planning Commission, the Clerk shall forward the application to the Planning Commission for action along with a written explanation of the reason for referral. Upon referral to the Planning Commission the procedures set forth in s. 6. (D) shall apply.

C. No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Inspection Report by the Town Building Inspector dated within one (1) year of the issue date.

D. No permit or license shall be renewed if the applicant or property has outstanding fees, taxes or

forfeitures owed to the Town, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Town ordinances, unless arrangements for payment have been approved by the Town Board.

E. All permits in effect prior to the effective date of this Ordinance are eligible for renewal.

8. Room Tax.

A. Each tourist rooming house shall comply with the room tax reporting requirements of State of Wisconsin.

B. Each Property Manager Licensee shall file consolidated room tax returns for the managed tourist rooming houses.

C. All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under ss.66.0615(3) and 77.61 Wisconsin Statutes.

9. Inspections.

A. Each separate unit which is offered for rental as a tourist rooming house is required to be inspected annually by the State. If the State fails to inspect the tourist rooming house, the applicant may request that the building inspector conduct the inspection.

B. If the Building Inspector conducts the inspection, the holder of a permit or license shall be responsible for payment of the inspection fees. 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.

10. Display of Permit, License. Each permit shall be displayed on the inside of the main entrance door of each tourist rooming house.

11. Nontransferable License or Permit. Any license or permit issued under this Ordinance is nontransferable. The holder of any permit or license shall notify the Clerk in writing of any transfer of the legal control of any property covered by the permit or license.

12. Standards for Tourist Rooming Houses. Each tourist rooming house shall comply with this Ordinance requirements or any other applicable Town ordinance or constitutes and/or causes a nuisance. Each tourist rooming house shall comply with the following minimum requirements:

A. Not less than one (1) bathroom for every six (6) occupants.

B. Maximum occupancy shall be determined as follows:

1. Not less 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.

2. The maximum occupancy for any unit without a separate enclosed bedroom is two (2) people, with one (1) enclosed bedroom, four (4) people.

B. Not less than one and one quarter (1 ¼) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy, to be accompanied by a drawing showing the designated parking and a certification from the property owner that such parking is acceptable.

C. Each dwelling unit shall provide a safe, unobstructed means of egress leading to safe, open space at ground level.

D. Each dwelling unit shall have functional smoke detectors, carbon monoxide detectors in accordance with the requirements of Chapter SPS 362 of the Wisconsin Administrative Code.

E. No dwelling unit shall have an accessible wood or solid fuel burning stove or fireplace unless the owner provides a certificate from a licensed, fire inspector, or a verified statement from a reputable

stove or fireplace sales/installer entity, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances. Instructions for use of the stove or fireplace must be prominently displayed. A stove or fireplace not meeting the requirements of this section shall be blocked from access to the satisfaction of the Town Building Inspector. All stoves and fireplaces in multi-unit buildings must be blocked from access to the satisfaction of the Town Building Inspector.

F. Each dwelling unit shall provide at least one (1) UL rated 2A:10B:C fire extinguisher shall be available, within the unit, and 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.

G. 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.

J. 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.

K. All advertisements for rental of a tourist lodging unit shall contain the Town of Brillion identification number assigned to the dwelling unit, including any advertisements by a third party or a Lodging Marketplace.

L. Certification of compliance. As a condition of issuance of a license under this Ordinance, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Ordinance.

13. Special Exceptions Permits.

A. Any person asking to be relieved from the strict enforcement of this Ordinance's provisions may apply for a Special Exceptions Permit. The application shall be on a form provided by the Building Inspector. The completed form and all supporting documents shall be filed with the Building Inspector along with the filing fee. The Building Inspector shall forward the application to the Planning Commission. Within ten (10) days of receiving the application for a Special Exceptions Permit, the Building Inspector shall issue a written report to the Town Board including his recommendation.

B. Following the review and issuance of a report by the Building Inspector, the application will be reviewed by the Planning Commission. The Committee may require the applicant to furnish additional information it deems necessary in its review of the application.

C. When reviewing an application for a Special Exception Permit, the Commission and the Town Board will take into consideration such factors it deems appropriate, including but not limited to:

1. The Special Exceptions Permit will not be unreasonably detrimental to or endanger the public health, safety, comfort or general welfare.
2. The uses, values and enjoyment of other property in the neighborhood shall not be substantially impaired or diminished by the proposed Special Exception Permit.
3. The Special Exception Permit will not unduly create a danger to pedestrians or traffic.
4. The past experience with the applicant or similar business operations.
5. That the issuance of a Special Exception Permit will not violate the terms or conditions of a Conditional Use Permit for the permitted premise.
6. The proposed special exception must comply with all other local ordinances and applicable state laws.
7. Such other factors due to the specific circumstances that the Planning Commissioner or Town Board deems appropriate.

D. After reviewing the application and supporting documentation the Planning Commission shall

forward the application to the Town Board for final action along with its recommendations.

14. Alteration of permitted units. Once a tourist rooming house permit is issued, the subject property cannot be modified or altered in any way unless the owner files an amended application with the Town. The Town shall inspect the subject property to determine compliance with the provisions of this Ordinance. Upon determination by the Department that the subject property meets the requirements of this Ordinance an amended permit shall be issued.

15. Complaint procedure. Any Town officer, and any individual may file a complaint with the Clerk-Treasurer-Planning Commission against the holder of a license or permit issued pursuant to the terms and conditions of this Ordinance. All complaints must be in writing and set forth the nature of the complaint, reciting facts in support of the complaint and include documents or other evidence in support of the complaint.

16. Penalties. The following penalties shall be assessed for violations of this Ordinance:

A. A violation of s.3 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.

B. A violation of s.14 shall be punishable by a forfeiture of not less than \$1,000 nor more than \$2,000 and may result in the suspension or revocation of the permit.

C. 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.

D. A violation of s.12 may result in the suspension of the permit or the license as it applies to the property involved.

E. Each day a violation exists after receiving the violation notice or order shall constitute a separate violation of this Ordinance.

F. In addition to the penalties set forth above, failure to permit the inspection of a premises subject to this ordinance by the Building Inspector, Building Inspector or Fire Inspector, or their designee, may result in the suspension of a permit or license.

G. 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.

17. Enforcement. The provisions of this ordinance shall be enforced by the Building Inspector or Planning Commission. It shall be the duty of the Building Inspector to process applications, conduct inspections and investigate complaints of violations of this Ordinance and/or the existence of a nuisance.

This ordinance was passed by the Town Board, Town of Brillion, Calumet County, Wisconsin, held at the Town of Brillion Municipal Building on July 12, 2022.

This Ordinance is effective upon publication.

TOWN OF BRILLION

Kevin Fischer, Chairman

ATTEST:

Karen Jannette, Clerk