

Short-Term Rentals:  
What Towns Might  
Consider

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Why an increase in STR's?

- Homeowners seeking supplemental income
- Can assist with mortgage payments allowing home affordability
- Multiple homeowners desire rental income from seasonal rent
  
- Popular in tourist areas or "event" locations
- Unique experience – memorable to the buyer
- Affordable to the buyer (value)
- "Closer to the Action"
- Ability to sell homes (WRA)

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Why regulate?

Protecting Public Health, Safety and Welfare

- Maintain Neighborhood Character
- Ensure Building Safety
- Prevent Over Occupancy
- Controlling Nuisances (Noise, Lighting, ETC.)
- Impacts on Housing
- Service Capacities: Sewer/Septic, Water/Well, Parking Accommodations

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### State Law Change: 2017 WI Act 59

- Sought to address competing interest surrounding the short-term rental of properties.
- Prohibits governments from overly restricting short-term rentals (allows for "reasonable" use of the property by the owner).
- Allows counties and municipalities to "minimally" regulate short-term rentals through zoning and licenses.
- Attempt to provide a Statewide regulation floor.

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### Section 66.1014, Wis. Stats.

- Definition of "Residential Dwelling"
  - 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 or by 2 or more persons maintaining a common household, to the exclusion of all others.
- Municipalities cannot prohibit the rental of a residential dwelling for seven consecutive days or longer.
- However, municipalities can enforce ordinances that prohibit the rental of a residential dwelling for 6 days or less.

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### Section 66.1014, Wis. Stats. (Continued)

- Municipalities can limit total consecutive days one rents (180 minimum).
- If rented for more than 6 but fewer than 29 consecutive days, the municipality may limit the total number of days within any consecutive 365-day period that the dwelling maybe rented, but not fewer than 180 days.
- Cannot specify the period of time during which the residential dwelling may be rented but may require that the maximum number of allowable rental days within the 365 run consecutively.
- The first renter must notify the municipality in writing when the first rental within the 365-day period begins.

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### Section 66.1014, Wis. Stats. (Continued)

- Any person who maintains, manages or operates a short-term rental as defined for more than 10 nights each year shall:
  - Obtain from DATCP, a license as a tourist rooming house, as defined in s.97.01(15k). In Dane County, the County does this.
  - Obtain a license from the municipality for conducting such activity if an ordinance requiring a license is adopted.

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### Local Licensing or Zoning

- The law does not specify the ways and means to which a local license or zoning for an STR is issued. The law does specify some of the do's and don'ts your ordinance can include.
- Consider health, safety and welfare concerns other than duration of rentals.
- Conditional Use Permit or License... depends on timing you want and powers.
- Future court cases will likely determine what ordinances can include.

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### Possible Ordinance Language

- Again, could be a license or in zoning ordinance likely as a CUP.
- **State license.** Anyone who maintains, manages, or operates an STR for more than 10 consecutive nights each year is required to obtain a tourist rooming house license from the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP).
- **County license.** Prior to the establishment of a STR, the operator shall obtain a license from the County Health Department and maintain such license for the life of the use or until the department no longer requires such license.

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### Possible Ordinance Language (continued)

- **Type of dwelling.** An STR shall only occur within a residential dwelling as defined by 66.1014.
- **Maximum stay.** Rentals shall not exceed 29 consecutive days. Rental activity shall be limited to 180 consecutive days within any consecutive 365-day period.
- **Meet ATCP 72 Requirements.** DATCP administers permits, inspections, building codes, sleeping room size, smoke detection, locks plus more.

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### Possible Ordinance Language (continued)

- **Conditional Use Permit (CUP) as part of Zoning.** All STR structures require a onetime Conditional Use Permit as an accessory use to Residential as the Principal Use.
  - However, any prior STR use could be considered "legal non-conforming".
- **A CUP can be transferable to subsequent property owners, or limited.**

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### Possible Ordinance Language (continued)

- **Residency requirement.** The operator or owner of a STR shall maintain the residential dwelling as their primary residence during the time period when rooms are offered. Law does not specify between owner or renter.
- **Exterior character of the dwelling unit.** The exterior appearance of the building shall not be altered from its residential appearance. Signage shall conform with the identified standards as in a sign shall not exceed a certain small number of square feet.

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Possible Ordinance Language  
(continued)

- **Food preparation.** No food preparation or cooking shall be allowed in guest rooms.
- **Meals.** Meals shall only be offered to overnight guests.

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Possible Ordinance Language  
(continued)

- **Required inspection for public safety.** Before the issuance of any license, an inspection of the residential structure shall occur by the Town's Building Inspector. All STR rooms for rent shall be UDC (Uniform Dwelling Code) compliant. Inspections shall occur every five years at a minimum. Basic compliance with ATCP 72.
- **Parking.** All vehicle parking (homeowners and renters) must occur on site. No on-street parking.

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Possible Ordinance Language  
(continued)

- **Tax Filing.** All local, state and federal tax must be filed with the appropriate agencies. STR's must comply with the provisions of the Municipal Code hotel and motel room tax (if applicable).
- **Guest Registry.** Required by ACTP 72.15 anyway. There might be issues with privacy of information. NO GUESTS OF GUESTS.
- Require someone over 21 to register, or all.
- Listing in Westport Code.

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### Suggestions for Avoiding Future Litigation (If that is a goal)

- ➡ Continue to monitor case law which will define ordinance parameters. Start with the knowns and amend as law gets further refined.
- ➡ Consult with your legal counsel for their comfort in wording provisions. There are ... disagreements.
- ➡ Understand and communicate with the Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) and Dane County.
- ➡ Understand that overly aggressive regulations may be challenged (duh). Likely more test cases will surface to define.

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### WESTPORT EXAMPLE

- Went as strict as possible due to Town issues.
- Waunakee followed almost verbatim.
- Reviewed other local ordinances, for instance Mt. Horeb, Ashwaubenon and Madison (Madison revising again).
- Hearings and Licenses issued.
- Challenges?
  - None to date.
- If not an issue in your Town, not looking. But State created this issue by allowing these in rural, quiet neighborhoods.
- Don't look for trouble though...

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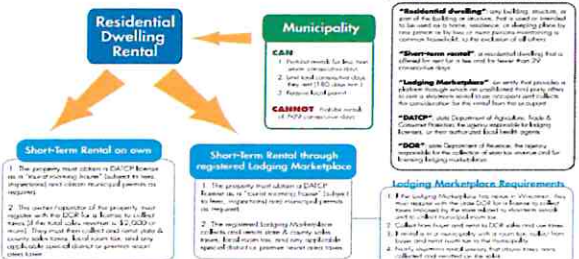
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### NEW SHORT-TERM RENTALS LAW

Wisconsin Act 59 - September 2017



provided by Wisconsin Hotel & Lodging Association | 4023 S. Monks Road, Two 200 Brookfield, WI 53005  
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Contact: Andrea & Royal G.W. Patterson/GED | F: jay@ahla.com lodging.org  
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## Thank You! Questions?

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