

## Report to the Manitowoc Plan Commission

**Meeting Date:** January 22, 2020

**Request:** PC 6-2020: Amendment to Chapter 15 Regarding Bed and Breakfasts, Residential Dwellings and Short-Term Rentals.

**Report:** The City Attorney and Community Development Departments have been working on the proposed amendment to the Zoning Code to address residences being used as short term rentals such as VRBO (Vacation Rentals by Owner). Currently the Zoning Code is silent regarding short term rentals; the code only addresses Bed and Breakfasts, Motels and Hotels. Historically throughout the State each city, village, town or county addressed short term rentals differently. To address these inconsistent ordinances by the varying municipalities the State created a new law.

Attached is an article that discusses the State Law which addresses short term rentals.

The proposed changes to the Zoning Ordinance would mirror the statutes. With amendments to the Zoning Ordinance short term rentals and bed & breakfasts would be permitted uses in any zoning district that allows residential uses (R-1, R-2, R-3, R-4, R-5, R-6, R-7, & B-1). Bed and Breakfasts were historically permitted as conditional use permits but now would be permitted.

Bed & Breakfasts and short term rentals would be required to pay room tax and they also would need to obtain any permits or licenses from DATCP (Dept. of Agriculture, Trade and Consumer Protection). On behalf of DATCP the County Health Department administers the local licensing.

### Timeline

- January 22, 2020 Plan Commission meeting
- February 17, 2020 Public Hearing at the Common Council. Notices of the hearing will be in the newspaper the 2 weeks preceding the Council meeting.

**Recommendation:** Approve the proposed amendments to Chapter 15 – Zoning Code.

**ORDINANCE**

An Ordinance to amend Chapter 15 of the Manitowoc Municipal Code regulating Comprehensive Zoning.

The Mayor and Common Council of the City of Manitowoc do ordain as follows:

**Section 1.** Section 15.030 is amended to read as follows:

**“15.030 Definitions.**

...  
**Basement-Cellar.** Basement shall mean ...

**Bed and Breakfast Establishment** means any place of lodging that ~~provides four or fewer rooms for rent for more than 10 nights in a 12-month period, is the owner’s personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.~~ Satisfied all of the following:

1. Provides eight or fewer rooms for rent to no more than a total of twenty tourists or transients at any time;
2. Provides no meals other than breakfast and provides the breakfast only to renters of the place;
3. Is the owner’s personal residence;
4. Is occupied by the owner at the time of rental;
5. Was originally built and occupied as a single-family, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

...  
**Residential care apartment complex** means ...

...  
**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 person or by two or more persons maintaining a common household, to the exclusion of others, as defined in Wis. Stat. §66.0615(1)(d).

...  
**Shopping center** means ...

**Short-Term Rental** means a residential dwelling that is offered for rent for a fee for fewer than 29 consecutive days, as defined in Wis. Stat. §66.0615(1)(dk).

...”

**Section 2.** Section 15.090 is amended to read as follows:

**“15.090 R-1, Residential-Agricultural District**

...  
(2) Specific Uses Permitted. ...

...  
(p). Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted. ...

...  
~~(k) Bed and breakfast establishment meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 2.** Section 15.110 is amended to read as follows:

**“15.110 R-2, Single-Family District.**

...  
(2) Specific Uses Permitted....

...

(f) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...

~~(h) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 3.** Section 15.130 is amended to read as follows:

**“15.130 R-3, Single-Family District.**

...

(2) Specific Uses Permitted....

...

(g) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...

~~(h) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 4.** Section 15.150 is amended to read as follows:

**“15.150 R-4, Single- and Two-Family District.**

...

(2) Specific Uses Permitted....

...

(g) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...

~~(h) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 5.** Section 15.170 is amended to read as follows:

**“15.150 R-5, Low Density Multiple-Family District.**

...

(2) Specific Uses Permitted....

...

(h) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...

~~(h) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 6.** Section 15.190 is amended to read as follows:

**“15.190 R-6, Multiple-Family District.**

...

(2) Specific Uses Permitted....

...

(h) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...

~~(f) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ repealed;

...”

**Section 7.** Section 15.210 is amended to read as follows:

**“15.210 R-7, Central Residence District.**

...  
(2) Specific Uses Permitted....

...  
(h) **Bed and Breakfasts and short-term rentals.**

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

...  
~~(k) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ **repealed;**  
...”

**Section 8.** 15.230 is amended to read as follows:

**“15.230 B-1, Office-Residential District.**

...  
(2) Specific Uses Permitted....

...  
(p) Bed and Breakfasts and short-term rentals.

Accessory buildings and uses to the specific uses permitted shall also be permitted.

(3) Conditional Uses Permitted....

~~(a) Bed and breakfast establishments meeting all State Statutes and local ordinance requirements;~~ **repealed;**  
...”

**Section 9.** 15.430 is amended to read as follows:

“...  
**(4) Minimum Off-Street Parking Space Requirements**

...  
7. Bed and Breakfast Establishments, **Short Term Rentals.** A minimum of one parking space for each guest room, plus two spaces per dwelling unit.  
...”

**Section 10.** This ordinance shall take effect the day after publication.

INTRODUCED \_\_\_\_\_ ADOPTED \_\_\_\_\_

\_\_\_\_\_  
Justin M. Nickels, Mayor APPROVED \_\_\_\_\_

**Fiscal Impact:** \$0  
**Funding Source:** n/a  
**Finance Director Approval:** /sc  
**Approved as to form:** /em

This resolution was drafted by Elizabeth Majerus, Assistant City Attorney



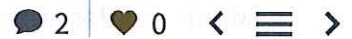
Murdock Law<sub>SC</sub>



By Andrea Murdock

Real Estate

January 16, 2018



## WISCONSIN VACATION HOME RENTALS GET A BOOST FROM A NEW STATE LAW

Wisconsin is a popular destination for tourists. With coastlines on two Great Lakes, rolling hills dotted with farms, expansive forests offering the unforgettable smell of pine, and many cultural attractions in its two largest cities—Milwaukee and Madison—tourists find plenty of reasons to escape to Wisconsin.

After settling on a destination, the next question for most travelers is where to stay. Hotels and resorts have been the traditional option for years, but tourists are now more frequently turning to vacation

rentals as a lodging option. Homeowners advertise their homes for rent on websites like Airbnb and VRBO (Vacation Rental By Owner), and travelers snap up these properties for a weekend or week or two, citing the draw of being able to house their entire family or group under one roof and have a unique backdrop for their vacation memories. It seems like a win-win for homeowners and travelers.

## LOCAL ORDINANCES FOR VACATION RENTALS

But vacation rentals have a spotted history in Wisconsin, with local municipalities enforcing varying laws regarding vacation home rentals. With different laws being enforced by each county, city, town and village, and with at least one local zoning agency enforcing what were mere guidelines outlined in an unpublished memo tucked away in a file cabinet for years, homeowners were often left guessing what they were and were not allowed to do when renting their homes. Murdock Law has helped many homeowners challenge enforcement actions by local zoning agencies trying to shut down vacation rentals. We were delighted, then, last fall when state legislators took action to allow short-term rentals, within certain guidelines.

## NEW WISCONSIN VACATION RENTAL LAW

Effective September 23, 2017, Governor Walker signed into law the 2017-2019 state budget (2017 Wisconsin Act 59) That state budget includes some provisions relating to short-term rentals of residential dwellings in Wisconsin. Here are the highlights of the new law:

- Short-term rentals are now defined as “a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days.”
- Municipalities are permitted to enforce local room taxes on owners of short-term rentals, subject to certain caps.
- Cities, villages, towns, and counties are prohibited from enacting or enforcing an ordinance that prohibits the rental of a residential dwelling for 7 consecutive days or longer.
- If a residential dwelling is rented for periods of between 7 and 28 consecutive days, cities, villages, towns, and counties may limit the total number of days within any consecutive 365-day period that the dwelling may be rented to no fewer than 180 days, and they may require that the days run consecutively.
- Anyone who maintains, manages, or operates a short-term rental for more than 10 nights each year is now required to obtain a tourist rooming house license from the Wisconsin DATCP and also obtain a license for conducting such activities from the city, village, town, or county if any of these enact an ordinance requiring such a license.

In short, Wisconsin homeowners may now rent their houses on a short-term basis for periods of one week or longer, but local governments may impose a tax on such rental activity and may require that the rental activity be limited to 180 days, consecutive or non-consecutive. Homeowners may also have to obtain state and local licenses to rent their properties, depending on how frequently they rent and the licensing laws of the village, town, city, or county where their properties are located. Even with these restrictions, the new State law was welcome news for many homeowners who have opened up their homes to travelers from across the United States and even from other countries.

If you are a homeowner who wants to offer your house for vacation rentals, be sure to keep your rental activity in line with the new State law and watch for any changes to local laws regarding short-term rentals so that you can ensure that you are in compliance. Reach out to the attorneys at Murdock Law if you need additional guidance.

Now, if you are a homeowner who has been renting your house to tourists for years, sometimes for less than one-week periods, you may be asking whether you can continue renting for weekends or other periods of less than one week. The short answer is: Maybe. Depending on your use of the property, you may be able to establish your property as an existing nonconforming use under what are colloquially referred to as “grandfather laws.” Contact the attorneys at Murdock Law if you think this might be your situation and if you need help navigating the laws. We’re here to help protect your property rights.



## COMMENTS (2)



**MATT RADISH**

January 2, 2019 at 12:40 PM

[REPLY](#)

Great article. Does the legislation address a condo unit as a residential unit and does this legislation supersede provisions within the condo by-laws governing the use of one's condo unit.