

**TOWN OF BAILEYS HARBOR**  
**Ordinance No. 1-2023**

**AMENDMENT OF THE SHORT-TERM RENTAL OF RESIDENTIAL DWELLINGS  
ORDINANCE OF THE TOWN OF BAILEYS HARBOR, DOOR COUNTY, WISCONSIN**

**WHEREAS**, it is in the public interest and welfare of the Town of Baileys Harbor to regulate short terms rentals within the Town of Baileys Harbor; and

**WHEREAS**, on October 5, 2022, the Town of Baileys Harbor adopted Ordinance No. 2022-01, regulating the operation of short-term rentals within the Town; and

**WHEREAS**, On June 12, 2023, the Town of Baileys Harbor adopted Ordinance No. 2023-01, regulating the operation of short-term rentals within the Town, which rescinded and restated Ordinance No. 2022-01; and

**WHEREAS**, The Town of Baileys Harbor desires to amend said ordinance;

**NOW, THEREFORE**, the Town Board of Supervisors of the Town of Baileys Harbor, Door County, Wisconsin, does ordain as follows:

Ordinance No 2023-01, titled “Amendment of the Short-Term Rental of Residential Dwellings Ordinance of the Town of Baileys Harbor, Door County, Wisconsin” is hereby amended and restated in its entirety as follows:

**Section I: Title**

This Ordinance shall be entitled “The Short-Term Rental of Residential Dwellings Ordinance of the Town of Baileys Harbor, Door County, Wisconsin.”

**Section II: Authority**

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

**Section III: Purpose**

The purpose of this ordinance is to ensure that the quality and nature of the short-term rentals operating within the Town of Baileys Harbor are adequate for protecting public health, safety, and general welfare and to protect the character and stability of neighborhoods within the Town including establishing minimum standards for human occupancy, and for an adequate level of maintenance; determining the responsibilities of owners, agents and property managers offering properties for tourists and transient occupants; to provide minimum standards for the health and safety of persons occupying or using buildings, structures or premises in the Town; and to protect the character and stability of neighborhoods within the Town; and provides for the administration and enforcement thereof.

## **Section IV: Definitions**

1. “Change in Ownership” means a transfer by a Property Owner of all or a percentage of the ownership of the Residential Dwelling to a person who is not: (1) the spouse of the Property Owner, (2) the Issue of the Property Owner, (3) a trust created for the benefit of the Property Owner, or (4) the entity of which the Property Owner holds at least fifty-one percent (51%) of the voting interest. For purpose of this Ordinance, “Issue” means children, grandchildren, great-grandchildren, and lineal descendants of more remote degrees.
2. “DATCP” means the Wisconsin Department of Agriculture, Trade and Consumer Protection.
3. “DCTZC” means the Door County Tourism Zone Commission.
4. “Office of Short-Term Rentals” (“OSTR”) means the agent or agency employed by the Town to administer the regulation of STRs, including but not limited to permitting, collection of fees, and the reporting of instances of non-compliance for enforcement purposes.
5. “Owner-Occupied” means the Property Owner permanently resides at the premises that is considered their Primary Residence and remains at the Short-term Rental through the night and does not reside elsewhere when transient guests have reserved the Short-term Rental.
6. “POWTS” means Private Onsite Wastewater Treatment System.
7. “Primary Residence” means 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 from, that individual intends to return. Additional characteristics of a Primary Residence include, but are not limited to, where an individual receives mail, claims residence for purposes of voter registration, pays for utilities, and lists as their address on state issued identification cards. An individual can have only one primary residence.
8. “Property Owner” means the person or entity who owns the residential dwelling that is being rented.
9. “Resident Agent” means a person or entity who is not the property owner and who provides property management services for one or more short-term rentals and who is authorized to act as the agent of the property owner for the receipt of service of notice of municipal ordinance violations and for service of process pursuant to this ordinance.
10. “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 more persons maintaining a common household, to the exclusion of all others.
11. “Short-term rental” means a residential dwelling that is offered for rent for a fee and for fewer than 30 consecutive days.

## **Section V: Short-Term Rental License**

1. No person may maintain, manage, or operate a Short-term rental more than ten (10) nights each year without a town short-term rental license issued pursuant to this Ordinance.
2. Licenses shall be issued using the following procedures:
  - a. The Town Clerk or OSTR shall provide an application form to obtain an STR license pursuant to the procedures described in Section 7 below which contains all information required for approval of an STR license (the “Application”).
  - b. All applications for a short-term rental license shall be filed with the Town Clerk or OSTR on the forms provided. Applications must be filed by the Property Owner. No license shall be issued unless the completed application form is accompanied by the payment of the required application fee.
  - c. The Town Clerk or OSTR shall issue a short-term rental license to all applicants following payment of the required fee, receipt of all information and documentation requested by the application, and Town Board approval of the application.
  - d. A short-term rental license shall be effective for one year and may be renewed for additional one-year periods. The annual licensing term begins January 1<sup>st</sup> and ends December 31<sup>st</sup> of the same year. A renewal application and renewal fee must be filed with the Town Clerk or OSTR at least 45 days prior to license expiration so that the Town Board has adequate time to consider the application. The renewal application shall include any updated information since the filing of the original application. An existing license becomes void and a new application is required any time a Change in Ownership occurs.
3. If the rental of a Residential Dwelling is to include rentals of less than seven (7) consecutive days the Short-Term Rental must be Owner-Occupied. Notwithstanding the foregoing, all Residential Dwellings holding a license with the DCTZC and in good standing prior to July 15, 2023, shall be exempt from the Owner-Occupied requirement as long as they renew and maintain their Short-term Rental license in good standing.
4. 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:
  - a. failed to comply with any of the requirements of this ordinance.
  - b. has been convicted or whose Resident Agent or renters have been convicted of engaging in illegal activity while on the short-term rental premises on 2 or more separate occasions within the past 12 months.
  - c. has outstanding fees, taxes, or forfeitures owed to the Town in violation of Town Ordinances.

## **Section VI: Operation of a Short-Term Rental**

Each short-term rental shall comply with all of the following requirements:

1. Beginning on January 1, 2024, no person may maintain, manage, or operate a Short-term Rental more than ten (10) nights each year without a Short-term Rental license. Every Short-term Rental shall be operated by a Property Owner or a Resident Agent.
2. If the rental of a Residential Dwelling is less than seven (7) consecutive days, the first day of a subsequent rental of less than seven (7) consecutive days may not begin until the sixth (6<sup>th</sup>) day after the first (1<sup>st</sup>) day of the immediately preceding rental. The rental of a Residential Dwelling for seven (7) days or more is not subject to this restriction. Notwithstanding the foregoing, all Residential Dwellings holding a license with the DCTZC and in good standing prior to July 15, 2023, shall be exempt from the above requirement as long as they renew and maintain their Short-term Rental license in good standing.
3. No recreational vehicle, camper, tent, or other temporary lodging arrangement shall be permitted on site as a means of providing additional accommodations for paying guests or other invitees.
4. Outdoor events by STR guests, including but not limited to weddings, graduations, reunions, bachelor parties and the like, are limited to four (4) days in a calendar year if permitted by house rules and the requirements and policies of the on-line rental marketplace entity, or listing agents and/or property manager for the property.
5. Any outdoor event held at the short-term rental shall comply with the Town of Baileys Harbor noise ordinance or any other applicable Town ordinance.
6. The owner/operator must reside within 75 miles of the Short-Term Rental during periods in which the Short-Term Rental is rented.
  - a. This requirement may be waived if there is a valid Resident Agent (point of contact) located within 25 miles of the Town of Baileys Harbor, in such a case, the owner/operator shall provide a copy of the Resident Agent contract to the Town and notify the Town within 30 days of termination of any such contract.
  - b. To qualify as a Resident Agent the representative must reside within a 25-mile radius of the Town of Baileys Harbor or be a corporate entity with offices located within a 25-mile radius of the Town of Baileys Harbor.
7. The Property Owner and/or Resident Agent must provide the Town with current contact information and must be available 24 hours a day, 7 days a week by telephone. The Town must be notified within 24 hours of any change in contact information.
8. Each short-term rental shall hold a valid State of Wisconsin Tourist Rooming House License, shall be licensed by the Door County Tourism Zone Commission, and shall

provide proof of such licenses by attaching a copy to the initial license application and all subsequent renewal applications.

9. The number of occupants in any Residential Dwelling shall not exceed the limits set forth in the Wisconsin Admin. Code ATCP 72.14 for hotels, motels, and tourist rooming houses. Every sleeping room shall be of sufficient size to afford at least 400 cubic feet (12 cu m) of air space for each occupant. For example, a 12x10 bedroom with an 8-foot ceiling would contain 960 cubic feet of air space and therefore occupancy would be limited to two guests.
10. If the property is not served by a public sanitary sewer, a POWTS in full compliance with this ordinance and in accordance with Chapter 21 of the Door County Code shall serve the property.
11. If the property is served by a POWTS, occupancy shall be limited to the number of occupants for which the POWTS was designed or the occupancy calculated under paragraph 9 above, whichever is less.
12. The Property Owner shall have and maintain homeowner's liability or business liability insurance for the premises that are used for short term rental and shall provide written evidence of such insurance with the initial license application and all subsequent renewal applications.
13. Sufficient off-street parking shall be available to accommodate all vehicles on the Short-Term Rental premises. Off-street parking shall be in compliance with Door County Comprehensive Zoning Ordinance, Chapter 7 and not include lawns.
14. Signage shall conform to applicable Town and Door County ordinances.
15. Rental dwellings shall be able to reasonably accommodate reliable telephone communications in case of emergency, whether such communications are provided through a landline, cellular service, satellite, cable, or internet.
16. The property must have a drive-in garbage service unless licensed garbage refuse services are not available in the Town in which the property is located.
17. A copy of the State of Wisconsin tourist rooming house license issued by DATCP and the Town STR license shall be kept on premises and made available to the renters.
18. Compliance with all applicable State laws and regulations and County and Town ordinances, including the Town's noise and nuisance ordinances.

### **Section VII: Application and Permit Process.**

The Town, in collaboration with its agent OSTR shall provide an electronic, online option for obtaining and renewing an STR license.

The application shall include the following information:

1. Address and tax key of the residential dwelling.

2. Names and addresses of the Property Owner and/or Resident Agent.
3. Copy of current DATCP rooming house license or confirmation of DATCP application. Copy of DCTZC license.
4. Name, address, and phone number of the Owner and/or Agent.
5. Proposed maximum occupancy for the dwelling for overnight guests and the number of bedrooms.
6. Room Size dimensions for all bedrooms. (Example 8 feet by 8 feet with 8-foot ceilings).
7. Proof of design capacity of POWTS (if property is not served by a public sanitary sewer) to accommodate the number of overnight guests proposed for maximum capacity.
8. Copy of applicable Town and property rules as described in Section 8 below.
9. Proof of casualty and liability insurance issued by an insurance company authorized to do business in the State of Wisconsin, identifying the property as used for rental, short-term or otherwise.

#### **Section VIII: Property Rules.**

Property rules shall be made available to the renters and shall include at a minimum the following information:

1. Maximum occupancy of the property.
2. Contact information for the designated operator and any Agent.
3. Property site plan clearly depicting lot lines and parking spaces.
4. Quiet hours of 10:00 p.m. to 8:00 a.m. and compliance with the Town's noise and nuisance ordinances in all hours.
5. Property owner's policy regarding pets, if applicable, which must notify renters of Door County Ordinance 31.04, Animal Regulations.
6. Outdoor burning regulations.
7. Emergency and non-emergency contact information for law enforcement and fire.
8. How to deal with existing POWTS, if applicable (location of high-water alarms, etc.).
9. Garbage and recycling containers and receptacles shall be returned to the designated location on the premises and shall not be allowed to remain at the curb, roadside or within the road right-of-way in excess of 24 hours after scheduled collection.

#### **Section IX: Enforcement.**

1. Any STR license-holder who fails to comply with this ordinance shall be subject to enforcement actions by the Town.

2. The Town will enforce compliance with this ordinance through the application of “good neighbor” best practices and the progressive use of increasingly serious enforcement mechanisms, including warnings, citations, and graduated fines, depending upon the severity of a violation and whether a violation has been repeated.
3. The Town shall adopt and apply a “three-strikes” policy under which a proceeding to determine whether to suspend or revoke a license shall be instituted as described in section 10 below after the Owner is found to be in violation at least three times in an annual permitting cycle or five (5) times within a three (3) year period, including violations by renters of the Town’s noise and nuisance ordinances.

Owners shall receive notice of any violations found by the Town and shall take action promptly to end the violation and to provide confidence that it will not be repeated. Noise and nuisance violations including disruptive behavior must be remedied as soon as possible upon notice.

**Section X: Suspension/Revocation/Non-Renewal.**

1. Renewal of a license shall not be denied unless:
  - a. the License Fee is not paid or a Renewal Application is not completed as provided in section 5; or
  - b. In the event the conditions for suspension or revocation as described herein apply, in which case the procedures described below in section 11 shall apply to such a nonrenewal decision.
2. A license is subject to suspension or revocation if the Owner of the property fails to comply with the requirements of this ordinance under the “three-strikes” policy as set forth in the Enforcement Section above.
3. Notwithstanding the “three-strikes” policy, the Town may immediately suspend, revoke, reject or not renew a STR license or license application if the board determines that the licensee:
  - a. Has been convicted of engaging in illegal activity that substantially relates to the STR’s operation; or
  - b. Has outstanding fees, taxes, or forfeitures owed to the Town which have gone unpaid for thirty (30) days or more.
  - c. Commits a serious violation of this ordinance and fails to respond to a notice from the Town concerning the violation or to take action to end the violation within a reasonable time.

**Section XI: Suspension/Revocation Process.**

If the Town institutes a proceeding to determine whether to suspend and/or revoke a license, the Town shall:

1. Notify the Owner of the property of the grounds of alleged violation upon which the decision to suspend or revoke the license is based.
2. Determine whether the Owner has remedied the violations and the Town has confidence they will not be repeated.
3. Decide whether to schedule a license suspension or revocation hearing before the Town Board.
4. Notify the Owner and attempt to notify all property owners located within 500 feet of the property, and such other neighbors who have requested such notification, of the hearing date at least three weeks prior to the hearing before the Town Board.
5. Hear verbal testimony and examine documentary evidence from witnesses and other affected parties at the time of the hearing before the Town Board.
6. Decide whether to suspend or revoke the license or whether to issue a warning to the Owner that the Town will suspend or revoke the license if the Owner violated the ordinance again within a year or impose other conditions for continuation of the license.
7. Provide its decision in writing to the Owner, setting forth its findings and conclusions, within 30 days of the hearing.

**Section XII: Penalties**

Any person, partnership, corporation, limited liability company, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100.00 nor more than \$1000.00 plus the applicable surcharges, assessments and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance.

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.

**Section XIII: Fees**

The Board Town has established the below application and license fees which are based on and shall not exceed the administrative and related costs involved with the STR licensing process and compliance monitoring. The fee schedule shall be made available for review and is subject to change. Fees will not be prorated.

Initial Short-term Rental License Application fee: .....	\$500
Renewal Short-term Rental License Application fee:.....	\$250
Late fee:.....	\$50



**Section XIV: Severability**

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such a decision shall not affect the validity of any other provisions of this ordinance.

**Section XV: Effective Date and Publication**

This ordinance shall become effective upon adoption and publication as required under s. 60.80, Wis. Stat.

The foregoing ordinance was adopted at a regular meeting of the Town Board of the Town of Baileys Harbor, Door County, Wisconsin on the 23<sup>rd</sup> day of October 2023.

Submitted by:

Dave Eliot

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<b>Board Members</b>	<b>Aye</b>	<b>Nay</b>	<b>Exc.</b>
Dave Eliot	X		
Peter Jacobs	X		
Roberta Thelen	X		
Terry McArdle	X		
Sue Tishler	X		

I, Haley Adams, Clerk of the Town of Baileys Harbor, hereby certify that the above is a true and correct copy of an ordinance that was adopted on the 23<sup>rd</sup> day of October, 2023, by the Board of Supervisors.

Haley Adams

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Haley Adams