
ORDINANCE NO. 20-21-04

*An Ordinance Petitioning the Village of Johnsburg Planning and Zoning Commission
for Text Amendments to the Village Zoning Ordinance*

AN ORDINANCE PASSED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF JOHNSBURG
AT A REGULAR MEETING ON JUNE 16, 2020
PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF JOHNSBURG

President

Edwin P. Hettermann

Board of Trustees

Tom Curry
Beth Foreman
Kyle Frost
Josh Hagen
Greg Klemstein
Kevin McEvoy

Village Administrator

Claudett E. Sofiakis

ORDINANCE NO. 20-21-04

***An Ordinance Petitioning the Village of Johnsburg Planning and Zoning Commission
for Text Amendments to the Village Zoning Ordinance***

WHEREAS, the Village's corporate authorities wish to refer and submit for consideration and recommendation, after conducting a public hearing, proposed zoning text amendments as set forth in Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Johnsburg, McHenry County, Illinois, as follows:

SECTION 1: The Village's corporate authorities hereby propose that the following zoning action be taken and that the Commission conduct the appropriate public hearings and make recommendations to the Village Board for the Zoning Ordinance text amendments as set forth in Exhibit A.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Voting Aye: Trustees Foreman, McEvoy, Curry, Hagen, Frost and Klemstein

Voting Nay: None

Abstain: None

Absent: None


APPROVED:



Village President Edwin P. Hettermann

(SEAL)

ATTEST:



Village Clerk Claudett E. Sofiakis

Passed: June 16, 2020

Approved: June 16, 2020

Published: June 16, 2020

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EXHIBIT A

ORDINANCE NO. 20-21-_____

An Ordinance Amending Section 16, Conditional Uses, of the Village of Johnsburg Zoning Ordinance to Add Vacation Rentals as well as Section 3 entitled Definitions

WHEREAS, a request has been made by the corporate authorities of the Village of Johnsburg (the "Village") that the Village's Planning and Zoning Commission, sitting as a Special Zoning Commission, after conducting the necessary public hearings, make recommendations regarding proposed text amendments to the Village of Johnsburg Zoning Ordinance as set forth herein; and

WHEREAS, a public hearing on said petition was held before the Planning and Zoning Commission on _____, 2020 in the manner prescribed by ordinance and statute, and as a result of said hearing, the Planning and Zoning Commission _____ to the Village Board the adoption of certain requested zoning text amendments as set forth herein; and

WHEREAS, the Planning and Zoning Commission _____ the adoption of text amendments as requested by the corporate authorities; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Johnsburg, McHenry County, Illinois, as follows:

SECTION 1: Section 16.7, Penalty, of Section 16, Conditional Uses, of the Johnsburg Zoning Code shall be renumbered and amended to read as follows:

16.6 Penalty: Any person, firm or corporation violating any provision of subsection 16.5-3 through subsection 16.5-6 of this Ordinance shall be fined not less than one hundred fifty dollars (\$150.00) nor more than seven hundred fifty dollars (\$750.00) for each offense and a separate offence shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 2: The caption of the definition of "SINGLE FAMILY" in Section 3 of the Zoning Code is hereby revised to read "FAMILY".

SECTION 3: Section 16, Conditional Uses, of the Johnsburg Zoning Code shall be amended to add Section 16.8, Vacation Rentals, which shall read as follows:

16.8 VACATION RENTALS:

16.8-1 Definitions: As used in this Section 16.8, the following words and phrases shall have the following meanings:

GUEST: A person or persons staying in a vacation rental guestroom overnight and having a permanent residence at an address other than the address of the vacation rental temporarily occupied.

A vacation rental guest may not stay overnight in any portion of the vacation rental not designated as a guestroom.

GUESTROOM: A sleeping room or group of rooms within a dwelling unit, forming a separate area, used or intended to be used for sleeping, but not for cooking purposes.

MANAGER: An authorized agent of the Owner who is located within a thirty (30) mile radius of the vacation rental and is available to respond to complaints at all times during the rental period.

OWNER: An individual with a least a fifty percent (50%) legal or beneficial ownership interest in the property on which the vacation rental is situated.

VACATION RENTAL: A dwelling unit or portion thereof located in a residential zoning district and offered for overnight lodging on a temporary basis to paying guests in no more than six (6) guestrooms for period not to exceed thirty (30) consecutive days to any person other than a member of the Owner's family. A vacation rental shall be the Owner's primary residence. Vacation rental Owners may, but are not required to, live in the vacation rental during the periods with the property is rented. The term "vacation rental" shall not include "house swapping" where a homeowner switches or trades homes with another homeowner in a different town for a short period of time for a vacation and no money is exchanged.

16.8-2 Conditional Use Required for Vacation Rental: A conditional use permit is required to operate a vacation rental, as defined in this Section 16.8, within the Village. No conditional use permit for a vacation rental shall be issued unless authorized by the Board of Trustees following a public hearing, consistent with the requirements of the Village's Zoning Code. The use of any building as a vacation rental without an applicable conditional use permit is prohibited.

16.8-3 Application; Information Required: An application for a conditional use permit for a vacation rental shall be accompanied by the following information:

- A. A certificate of insurance, as required under subsection 16.8-6 of this Section 16.8;
- B. A statement as to whether the applicant or any other person with an ownership interest in the property on which the vacation rental is proposed to be located, including co-owners, partners, members, managers, or officers of any owning partnership, limited liability company or corporation, has ever been convicted in any jurisdiction of any felony;
- C. Proof that the applicant is a legal or beneficial Owner of the property on which the vacation rental is located, that the vacation rental is the applicant's primary residence, and names, addresses, ownership interest and current contact information for each of the applicants, co-owners, partners, members, managers, and officers of the Owner of such property, if any; and

- D. If the proposed vacation rental property is subject to regulations or restrictions by a homeowners' association or condominium association, the applicant must provide documentary evidence that the applicable association or board has approved the use of the property as a vacation rental.

16.8-4 Departmental Duties; Requirements and Standards:

- A. The Village's Building Department and the McHenry Fire Protection District (the "Fire Protection District") shall inspect each vacation rental before the renting out of any vacation rental for compliance with all applicable Village Building, Fire, Property Maintenance and other code requirements as well as Village and State regulations. Thereafter, the Village Building Department and the Fire Protection District shall inspect the vacation rental at least once every two (2) years. Vacation rentals shall be subject to compliance inspections by officers of the Village's Police Department and staff members of Building Department as well as the Fire Protection District, at any time upon reasonable notice. In order for a conditional use permit to issue, a vacation rental must comply with all Village Building, Fire, Property Maintenance and other code requirements and Village and State regulations.
- B. No owner of a vacation rental shall:
 - 1. Rent any vacation rental for any period of time shorter than twenty-four (24) consecutive hours;
 - 2. Rent any vacation rental more than once within any consecutive twenty-four (24) hour period measured from the commencement of one rental to the commencement of the next;
 - 3. Rent the property as a vacation rental for more than ninety (90) days in a twelve-month period;
 - 4. Advertise an hourly rate or any other rate for a vacation rental based on a rental period of fewer than twenty-four (24) consecutive hours;
 - 5. Serve or otherwise provide to any guest any food or beverage other than food or beverages that are pre-packaged and sealed by the manufacturer for individual serving; or
 - 6. Cause or permit, by action or failure to act, the vacation rental or its use to suffer from and/or create any violation of the Zoning Code.
- C. Every vacation rental shall post, in a conspicuous place within the vacation rental, the name and telephone number of the Owner or his or her Manager, notice that the vacation rental shall have quiet hours from ten o'clock (10:00) P.M. to eight o'clock (8:00) A.M., an emergency exit floor plan, and the location of fire and safety equipment.

- D. Every vacation rental Owner or its Manager must be located within a thirty (30) mile radius of the vacation rental and must be available to respond to complaints at all times during the rental period. The name and phone number of the Owner or the Manager must be submitted to the Village Police Department as well as the Fire Protection District.
- E. The kitchen of each vacation rental shall be cleaned and sanitized between guests and all opened or perishable food and beverages shall be discarded. All dishes, utensils, pots, pans and other cooking utensils shall be cleaned and sanitized between rental periods of guests.
- F. The Owner or Manager of each vacation rental shall change supplied bed linens and towels therein at least once each week, and prior to the letting of any guest room to any new guest. The Owner or Manager shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- G. Any overnight parking for vacation rentals must be accommodated on the site or in another approved location, and parking, including overnight parking, shall be in conformance with Zoning Code requirements.
- H. The owner or manager of the vacation rental shall compile a list of guests and their associated vehicle license plate numbers upon check-in and make such information available to the Village's Police Department at any time upon request.

16.8-5 Prohibitions: No conditional use permit for a vacation rental shall be issued to:

- A. Any applicant, if such applicant or any other person with an ownership interest in the property on which the vacation rental is located, including co-owners, partners, members, managers, or officers of any owning partnership, limited liability company or corporation, has ever been convicted in any jurisdiction of any felony that is rationally related to the individual's fitness or capacity to operate a vacation rental.
- B. Any applicant whose special use permit to operate a vacation rental or similar establishment at any location within or outside the Village has been revoked for cause within the last three (3) years.
- C. Any applicant where the applicant or any other person with an ownership interest in the property on which the vacation rental is located, including co-owners, partners, members, managers, or officers of any owning partnership, limited liability company or corporation, is in default to the Village regarding payment of water and sewer charges, special taxes or assessments, parking and other Village violation citations or judgments, motor vehicle tax or any other taxes or fees that are due and unpaid by such person to the Village, or where there was delinquent property taxes owed to McHenry County on the property on which the vacation rental is located, or any other property owned within the Village by the applicant or co-owners, partners, members, managers, or officers of any owning partnership, limited liability company or corporation.

16.8-6 Legal Duties: Each Owner who receives a conditional use permit for a vacation rental shall be required to:

- A. Provide the Village with an insurance certificate indicating that the applicant and subject property is covered by liability insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence, for bodily injury and property damage arising in any way from the issuance of the conditional use permit. Each policy of insurance required under this subsection shall:
 - 1. Be issued by an insurer authorized to insure in the State of Illinois;
 - 2. Include a provision requiring thirty (30) days' advance notice to the Village prior to cancellation or lapse of the policy. The Owner shall maintain the insurance required under this section in full force and effect for the duration of the conditional use for each vacation rental location. A single violation of this subsection shall result in suspension or revocation of the conditional use permit.
- B. Maintain current guest registration records which contain the following information about each guest; the guest's name, address, signature, room assignment and dates of accommodation. The registration records shall be kept on file for three (3) years and, upon request by any authorized Village official, shall be made available for inspection by such Village official during regular business hours on in case of an emergency;
- C. Comply with all applicable Village building, fire, property maintenance and other code requirements and Village and State regulations, including but not limited to the State Fire Marshal's requirements for one- and two-family dwellings;
- D. Conspicuously display within the vacation rental the name and telephone number of the Owner or his or her Manager, notice of the required quiet hours of 10:00 p.m. to 8:00 a.m., an emergency exit floor plan and location of fire and safety equipment; and
- E. Fulfill all requirements of the Illinois Department of Revenue for operation of a vacation rental, including the payment of any applicable hotel taxes.

16.8-7 Prohibited Acts: It shall be unlawful for the Owner of any vacation rental to:

- A. Exceed the scope of the conditional use permit;
- B. Allow occupancy of the property where the vacation rental or any part thereof is situated to exceed the following occupancy limits:
 - 1. In order for a room to be considered habitable space for sleeping purposes, it must be a minimum of seventy (70) square feet. A seventy (70) square foot room may sleep

one person. Each sleeping room occupied by more than one person shall contain not less than fifty (50) square feet of floor area for each occupant.

2. Kitchens, bathroom, hallways, and closets are not considered habitable rooms for sleeping purposes, thus the square footage represented by these rooms shall not be used.
 3. Authorized persons on a vacation rental property while a vacation rental is taking place are a maximum of two (2) guests per room and their children age twelve (12) and under, plus the Owner, co-Owners, Manager, and Owner's family members. No other persons are allowed on the vacation rental property while a vacation rental is taking place, and the total number of persons at the vacation rental property may not exceed ten (10) at any one time.
- C. Rent any vacation rental for more than thirty (30) consecutive days, or fewer than two (2) consecutive days, to any guest;
 - D. Rent any portions of the vacation rental concurrently to separately booked guests;
 - E. Allow any outdoor activity on the property of the vacation rental between ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M.;
 - F. Hold out or utilize a vacation rental property as a venue for weddings, conferences, parties, or other events, regardless of the number of attendees;
 - G. Erect any external signage regarding the vacation rental;
 - H. Permit any criminal activity or public nuisance, including excessive noise, to take place on the property. If an Owner or Manager knows or suspects that any criminal activity or public nuisance is taking place on or immediately adjacent to the property, the Owner and/or Manager shall immediately notify the Village's Police Department of such fact and cooperate with the Village Police Department in any investigation that may ensue;
 - I. Knowingly make any false or incomplete or misleading statement about the Owner's criminal background, or the criminal background of any other person with an ownership interest, in connection with any conditional use permit application submitted pursuant to this Section 16.8; and
 - J. Be in violation of any other requirement of this Section, the Zoning Code, any Village ordinance or any rules or regulations promulgated under any of the foregoing.

16.8-8 Penalty: Any one violation of Section 16.8, or any rules or regulations promulgated under this Section, may result in fines, suspension or revocation. A violation of this Section 16.8 is subject to a fine of not less than seven hundred fifty dollars (\$750.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day that a violation continues shall constitute a separate and

distinct offense. In addition to any other penalty, suspension or revocation provided for by this Section 16.8 or by law, three (3) or more violations of this Section 16.8, any Village ordinance or this Zoning Code, or any rules or regulations promulgated under any of the forgoing, by the Owner, Manager or related to the vacation rental property, on three (3) different days within any twelve (12) month period, shall result in a mandatory suspension of the conditional use permit.

SECTION 4: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Voting Aye:

Voting Nay:

Abstain:

Absent:

APPROVED:

Village President Edwin P. Hettermann

(SEAL)

ATTEST: _____
Village Clerk Claudett E. Sofiakis

Passed: _____

Approved: _____

Published: _____

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CERTIFICATION

I, CLAUDETT E. SOFIAKIS, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village of Johnsburg.

I do further certify that at a regular meeting of the President and Board of Trustees of the Village of Johnsburg, held on the 16th day of June, 2020 the foregoing Ordinance entitled *An Ordinance Petitioning the Village of Johnsburg Planning and Zoning Commission for Text Amendments to the Village's Zoning Ordinance* was duly passed by the President and Board of Trustees of the Village of Johnsburg.

The pamphlet form of Ordinance No. 2020-21-04, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was available in the Village Hall, commencing on the 16th day of June, 2020, and will continue for at least 10 days thereafter. Copies of such Ordinance are also available for public inspection upon request in the office of the Village Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

Given under my hand and seal of the Village of Johnsburg, this 16th day of June, 2020.

Claudett E. Sofiakis, Village Clerk
Village of Johnsburg,
McHenry County, Illinois

(SEAL)

CERTIFICATION

I, CLAUDETT E. SOFIAKIS, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village of Johnsburg.

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I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

Given under my hand and seal of the Village of Johnsburg, this 16th day of June, 2020.



Claudett E. Sofiakis, Village Clerk
Village of Johnsburg,
McHenry County, Illinois

(SEAL)