
ORDINANCE NO. 20-21-15

*An Ordinance Amending Section 16, Conditional Uses, and Section 16 Table 1
Conditional Use Chart, to Add Short Term Rentals as well as Section 3, Definitions
of the Johnsbury Zoning Ordinance*

AN ORDINANCE PASSED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF JOHNSBURG
AT A REGULAR MEETING ON OCTOBER 6, 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. 20-21-15

An Ordinance Amending Section 16, Conditional Uses, and Section 16 Table 1 Conditional Use Chart, to Add Short Term Rentals as well as Section 3, Definitions of the Johnsburg Zoning Ordinance

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, public hearings on said petition were held before the Planning and Zoning Commission on July 14, 2020 and July 28, 2020 in the manner prescribed by ordinance and statute, and as a result of said hearing, the Planning and Zoning Commission recommended to the Village Board the adoption of certain requested zoning text amendments as set forth herein; and

WHEREAS, the Planning and Zoning Commission recommended 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 amended to read as follows:

16.7 Penalty: Any person 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 offense 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, Short Term Rentals, which shall read as follows:

16.8 SHORT TERM 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 paying compensation for and staying in a short term rental guestroom overnight for one or more days, up to a maximum of 90 days, as well as any invitee thereof listed on the rental agreement, and having a permanent residence at an address other than the address of the short term rental temporarily occupied.

GUESTROOM (OR GUEST UNIT): A room equipped with a closet and bed(s) intended as habitable space for sleeping purposes (this is declarative of existing law). Short term rental guests may not stay overnight in any portion of the short term rental not designated as a guestroom in the floor plan attached as an exhibit to an ordinance granting a conditional use for a short term rental for a given property.

MANAGER: An authorized agent of the Owner who is located within a fifteen (15) mile radius of the short term rental and is available to respond to complaints at all times during the rental period.

OWNER: Any natural person who is an owner of record of the subject property.

PRIMARY RESIDENCE: An Owner's usual place of return for housing as documented by each of the following: current motor vehicle registration; current driver's license; current voter registration; and property tax documents showing the subject property as the Owner's residence for the purposes of a homeowner's property tax exemption. A person may have only one Primary Residence.

SHORT TERM RENTAL: A dwelling unit or portion thereof located in the B-1, B-2 or B-5 business zoning district and offered for and occupied as overnight accommodations on a temporary basis to one or more paying guests in no more than six (6) guestrooms for a period not to exceed ninety (90) consecutive days to such guest or guests. If the rental arrangement is for a period of more than 90 days and allows a guest or guests the option of terminating such rental prior to the expiration of a 90-day period, and such termination in fact occurs prior to the expiration of such 90-day period, such occupancy by such guest or guests shall be deemed to be a short term rental. Short term rental Owners may, but are not required to, live in the short term rental during the periods when the property is rented, however the short term rental property must be the Owner's primary residence. The term "short term 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 and no money is exchanged. No short term rental is permitted in any residential zoning district within the Village.

VISITOR – A person visiting the guest(s) of a short term rental, who is not included as a guest in the short term rental agreement with the Owner. No visitor shall stay overnight at the short term rental property. The number of visitors shall be regulated by the special use permit specific to the subject property.

- 16.8-2 Conditional Use Required for Short Term Rental: A conditional use permit is required to operate a short term rental, as defined in this Section 16.8, within the Village. No conditional use permit for a short term 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 short term rental without an applicable conditional use permit is prohibited.

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

- A. A statement as to whether the Owner or any other person with an ownership interest in the property on which the short term rental is proposed to be located has ever been convicted in any jurisdiction of any felony;
- B. Proof from the Owner of the subject property on which the short term rental is proposed to be located that the property is his, her or their Primary Residence; and
- C. The names, addresses, ownership interest and current contact information for the Owner of such property; and
- D. If the proposed short term rental property is subject to regulations or restrictions by a property owners' association or condominium association, the Owner must provide documentary evidence that the applicable association or board has approved the use of the subject property as a short term rental.
- E. If the proposed short term rental property is located on a private road, the applicant must provide documentary evidence that all property owners along the roadway have been notified via certified mail of the public hearing to pursue the conditional use permit for a short term rental in addition to any publication requirements set forth in Section 14.4 of the Zoning Code. Said certified mail notifications must be postmarked at least 15 days prior to the hearing but in no case more than 30 days prior to the hearing.
- F. If the proposed short term rental property is accessed through a shared driveway access, the Owner must provide documentary evidence that all persons sharing the driveway access have been notified via certified mail of the public hearing to pursue the conditional use permit for a short term rental in addition to any publication requirements set forth in Section 14.4 of the Zoning Code. Said certified mail notification must be postmarked at least 15 days prior to the hearing but in no case more than 30 days prior to the hearing.
- G. Plat of survey of the subject property, floor plan of the principal building on the subject property along with a plan depicting the proposed parking of cars and the proposed occupancy of the subject property and an aerial image of the proposed short term rental property which also reflects all adjacent properties.
- H. Documentation demonstrating that the Owner has occupied the subject property for no less than 275 days out of the calendar year as his or her Primary Residence or, if the Owner has not owned the subject property for the full preceding calendar year, for no less than 75% of the days he or she has owned the subject property.

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 short term rental before the initial renting out of any short term 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 short term rental at least once every two (2) years. Short term 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, among other requirements set forth herein, a short term rental must comply with all Village Building, Fire, Property Maintenance and other code requirements and Village and State regulations.
- B. The Village's Administration Department shall maintain a list of approved short term rental properties and post same on the Village's website. Said list shall include the rental address, and the Owner's and Manager's (if any) name and phone number.
- C. No Owner of a short term rental shall:
 - 1. Rent any short term rental for any period of time shorter than seven (7) consecutive days;
 - 2. Rent any short term rental more than once within any consecutive twenty-four (24) hour period measured from the expiration of one rental to the commencement of the next;
 - 3. Rent the property as a short term rental for more than ninety (90) consecutive days to any guest;
 - 4. Rent the property as a short term rental for more than ninety (90) days in a calendar year;
 - 5. Advertise an hourly rate or any other rate for a short term rental based on a rental period of fewer than seven (7) consecutive days;
 - 6. 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
 - 7. Cause or permit, by action or failure to act, the short term rental or its use to suffer from and/or create any violation of the Zoning Code.

- D. The Owner of every short term rental shall post, in a conspicuous place within the short term rental, the name and telephone number of the Owner or his or her Manager, notice that the short term 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.
- E. Every short term rental Owner or its Manager must be located within a fifteen (15) mile radius of the short term rental when it is being rented to one or more guests and must be available to respond at the subject property to complaints at all times during the short term rental period within one hour's time commencing from the time of the complaint. If the Owner or Manager does not make him or herself available at the subject property subject to the short term rental within such one hour's time, such failure shall be a violation of this subsection 16.8-4(E). 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. In the event that there is a material violation of this subsection 16.8-4(E) or the specific conditional use permit for the subject property, such Owner shall terminate the rental promptly at such time.
- F. The kitchen of each short term 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.
- G. The Owner or Manager of each short term 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.
- H. Any overnight parking for short term rentals must be accommodated on the subject property or in another approved location as specified in the specific conditional use ordinance for the subject property. The number of vehicles permitted shall be set forth in the conditional use ordinance. All parking provisions, including overnight parking, shall be in conformance with Zoning Code requirements.
- I. The Owner or Manager of a short term rental shall compile a list of guests and their associated vehicle license plate numbers upon check-in and make such information immediately available to the Village's Police Department at any time upon request.

16.8-5 Prohibitions: No conditional use permit for a short term rental shall be issued to or allowed to be held by:

- A. Any Owner, if such Owner or any other person with an ownership interest in the property on which the short term rental is located, including any co-owner, has ever been convicted in any jurisdiction of any felony.

- B. Any Owner whose special or conditional use permit (or license, if outside the Village) to operate a short term 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 Owner or any other person with an ownership interest in the property on which the short term rental is located, including any co-owner, has failed to pay to the Village any 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 short term rental is located, or any other property owned within the Village by the Owner or any co-owner of the property.

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

- A. Provide the Village with an insurance certificate indicating that the Owner and the subject property are covered by commercial 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 and after 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 short term rental location. A single violation of this subsection shall result in suspension or revocation of the conditional use permit for the subject property.
- B. Maintain current guest registration records, which contain the following information about each guest; the guest's name, address, signature, room assignment (if applicable) 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 or 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 short term 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 and the Village of Johnsburg for operation of a short term rental, including the payment of any and all applicable hotel taxes.
- F. Notify the Village of any change in ownership of the short term rental within 14 days of the change in ownership. A new Owner is then required to provide the Village all necessary contact information, a new insurance certificate and an affirmation that they will comply with the conditions set forth herein as well as any conditional use ordinance.
- G. Occupy the subject property for no less than 275 days out of the calendar year as his or her Primary Residence or, if the Owner has not owned the subject property for the full preceding calendar year, for no less than 75% of the days he or she has owned the subject property.
- H. Maintain records for two years demonstrating compliance with subsections 16.8-6(G) and (H), including not limited to information demonstrating the number of days per calendar year that the Owner has occupied the subject property as his or her Primary Residence, the number of days per calendar year the subject property has been rented as a short term rental, and compliance with the insurance requirements herein. These records shall be made available to the Village immediately upon request.

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

- A. Exceed the scope of the conditional use permit;
- B. Allow occupancy of the property where the short term rental or any part thereof is situated to exceed the following occupancy limits:
 - 1. In order for a guest room to be utilized as habitable space for sleeping purposes within a short term rental and, for the purpose of determining the number of permitted guests, such room must be a minimum of seventy (70) square feet. For a guest room to be used for sleeping by any guest, such guest room must be a minimum of a seventy (70) or more square feet. Each guest room occupied by more than one person shall contain not less than fifty (50) square feet of floor area for each guest.
 - 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. When a short term rental is being rented, the persons allowed at such short term rental shall be limited to Guests and their children ages seventeen (17) and under, plus the Owner, co-owners, Manager, and Owner's family members. Any adult, 18 years of age and older, shall be considered a guest and must be listed on the rental agreement for such short term rental. Visitors of the Guests, if any, shall be regulated by the specific conditional use permit ordinance. The total number of persons

allowed at the short term rental property during the rental period shall be based upon the number of guestrooms and minimum square footage of habitable space required for sleeping purposes per guest..

- C. Rent any short term rental for more than ninety (90) consecutive days, or fewer than seven (7) consecutive days, to the same guest;
 - D. Rent any portions of the short term rental concurrently to separately booked guests;
 - E. Rent the short term rental for more than 90 days in a calendar year.
 - F. Allow any outdoor activity on the property of the short term rental between ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M.;
 - G. Hold out or utilize a short term rental property as a venue for weddings, conferences, parties, or other events, regardless of the number of attendees;
 - H. Erect any external signage regarding the short term rental;
 - I. 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;
 - J. 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 the property, in connection with any conditional use permit application submitted pursuant to this Section 16.8; and
 - K. 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.
 - L. No Owner of a property, or any other party, shall allow or cause to be conducted a short term rental on any property in any residentially zoned district within the Village. If there is any inconsistency between this provision and any other provision in the Zoning Ordinance, the terms of this provision shall control, govern and prevail.
- 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 short term 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: The Section 16, Table 1 Conditional Use Chart be amended to include Short term Rental as a conditional use in the B-1, B-2 and B-5 zoning districts.

SECTION 5: 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 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: This Ordinance shall be in full force and effect ten days after its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

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

Voting Nay: Trustee McEvoy

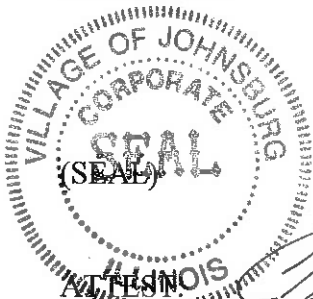
Abstain: None

Absent: None

APPROVED:



Village President Edwin P. Hettermann


Village Clerk Claudett E. Sofiakis

Passed: October 6, 2020

Approved: October 6, 2020

Published: October 9, 2020

CERTIFICATION

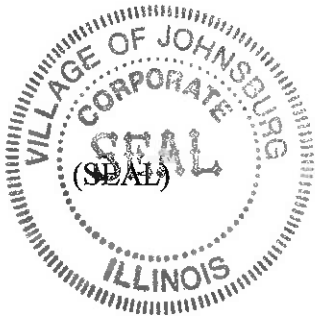
I, CLAUDETT E. SOFIAKIS, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of Johnsburg, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village of Johnsburg.

I do further certify that at a regular meeting of the President and Board of Trustees of the Village of Johnsburg, held on the 6th day of October, 2020 the foregoing Ordinance *An Ordinance Amending Section 16, Conditional Uses and Section 16 Table 1 Conditional Use Chart, to Add Short Term Rentals as well as Section 3, Definitions of the Johnsburg Zoning Ordinance*, was duly passed by the President and Board of Trustees of the Village of Johnsburg.

The pamphlet form of Ordinance No. 2020-21-12 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 9th day of October, 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 9th day of October, 2020.



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