

Ordinance No. 2018-17

**ORDINANCE OF THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS
APPROVING AMENDMENTS TO TITLE 3 AND TITLE 10 OF THE
WEST DUNDEE MUNICIPAL CODE**

WHEREAS, the Village of West Dundee, Kane County, Illinois (the "*Village*") is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois and as such has the power and authority to perform any function pertaining to its government and affairs and to promote the health, safety and welfare of its citizens; and,

WHEREAS, the President and Board of Trustees of the Village (the "Corporate Authorities") have determined that short term rentals for residential purposes may be permitted within the Village Downtown Business District (B-1) as such use would not have an adverse effect on property values of adjoining properties; and,

WHEREAS, the Corporate Authorities have further determined that short term rentals for residential purposes would attract visitors to the restaurants, entertainment venues and other businesses within the Downtown Business District; and,

WHEREAS, the Corporate Authorities have resolved that rules and regulations should be adopted in order to ensure the short term rentals of residential property should not have an adverse effect upon the public health, welfare and safety of the residents of the Village and businesses operating within Village boundaries; and,

WHEREAS, the Village intends to amend its Zoning Code and its Municipal Code in order to permit short term rentals within its Downtown Business District; require the owners of property used for short term rentals to be licensed; and, to impose a tax upon the user, lessee or tenant of short term rentals.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, as follows:

Section 1. Title 10, Chapter 2, Section 10-2-1 of the Village Zoning Regulations is hereby amended to add the following definition:

"Short Term Rental: use of an entire dwelling unit located within the primary structure within the B-1 Downtown Business District for residential purposes for a period of thirty (30) consecutive days or less."

Section 2. Title 10, Chapter 5, Section 10-5-2-5, Article A, Section 10-5A-1 of the Village Zoning Regulations is hereby amended by adding the following under "Permitted Uses" in R-B Residential Business District:

"Bed and Breakfast"

Section 3. Title 10 Chapter 5, Section 10-5-2-5, Article B, Section 10-5B-2 of the Village Zoning Regulation is hereby amended to add the following under “Permitted Uses” in B-1 Residential Business District:

“Short Term Rentals”

Section 4. Title 3, Chapter 1, Section 3-1-1 of the Village Municipal Code is hereby amended by adding the following definitions:

“Short Term Rentals – see definition as provided in Section 10-2-1 of this Code.”

Section 5. Title 3, Chapter 1, Section 3-1-7 of the Village Municipal Code establishing a License Fee Schedule is hereby amended to add:

“Type of License Permit	Amount
Short Term Rentals	\$35.00 per year”

Section 6. Title 3, Chapter 1, Section 3-1-4 of the Village Municipal Code is hereby amended by adding the following item 7:

“7. Applications for a Short Term Rental license, as required by this Chapter, shall be available from the Village Clerk and shall contain the following information in addition to items 1 through 5 under sub-paragraph A:

- (a) The telephone number of the owner or agent to be contacted in the event of an emergency, which owner or agent shall have an office available for contact in Illinois.
- (b) Certification that no Short Term Rental shall rent for a period of time less than twenty-four (24) hours.
- (c) Certification that complimentary beverage and food items, but not prepared meals, may be provided for convenience of any tenant, guest or renter.
- (d) Written confirmation from any condominium, townhouse or homeowner association that a Short Term Rental is permitted and does not violate any associations, covenants or rules.
- (e) Acknowledgement that no license renewal shall be issued if it is demonstrated that such Short Term Rental has had a negative impact in the immediate neighborhood.
- (f) Acknowledgement that annual inspections are required by the Fire Department and/or Community Development Department.

Section 7. Title 3 of the Village Municipal Code is hereby amended by adding the following new Chapter 21:

“Chapter 21

Hotel, Motel, Bed and Breakfast and Short Term Rental Tax Imposed

3-21-1. Tax Imposed. Rental

A tax is hereby levied and imposed upon all users, lessees or tenants renting, leasing, or letting a room or rooms in a Hotel, Motel, Short Term Rental, or Bed and Breakfast Establishment operating in the Village at a rate of six percent (6%) of the gross rental receipts from such rental, leasing or letting. The ultimate incidence of and liability for payment of said tax shall be borne by the user, lessee or tenant of said room or rooms. The tax herein levied shall be in addition to any and all other taxes.

3-21-2. Duty to Collect Tax from User.

The owner and operator of any hotel, motel, Bed and Breakfast Establishment or Short Term Rental licensed by the Village (the “Licensee”) or for a period of less than thirty (30) days, shall jointly and severally bear the duty to collect the tax from each user, lessee or tenant of rooms. Every Licensee required to collect the tax levied by ordinance and shall secure said tax from the user, lessee or tenant of a room or rooms at the time the pricing, charge or rent is collected.

3-21-3. Payments to Village.

- A. Enforcement Officer: The Finance Director hereby is designated as the administration and enforcement officer of the tax hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Finance Director to collect all amounts due the Village from all Licensees in the Village, engaged in the business of renting, leasing, or letting rooms.
- B. Tax Return Filing: An occupancy tax return shall be filed by the Licensee in the Village, engaged in the business of renting, leasing, or letting rooms with the Finance Director, on forms prescribed by him or her, showing all receipts from each renting, leasing or letting of rooms during the reporting period. Effective with the reporting period beginning September 1, 2018, and for all subsequent reporting periods, the tax returns are to be prepared and submitted on a monthly reporting period basis. The tax return and payment of the tax due shall be received or postmarked on or before the last day of the month succeeding monthly reporting period.

- C. Payment: Each tax return shall be accompanied by payment to the Village of all taxes due and owing for the reporting period covered by the tax return provided.
- D. Books and Records: The Finance Director or any person certified by him or her may enter the premises of the Licensee, or may request access from any other persons engaged in the business of renting, leasing, or letting rooms for the purposes of inspection and examination of its books and records for the proper administration of this Chapter, and for the enforcement of collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the Finance Director or any duly authorized deputy or representative in the discharge of the duties of the Finance Director hereunder.
- E. Duty to Maintain Records: The Licensee shall jointly and severally bear the duty and responsibility to maintain records of taxes collected from each user, lessee or tenant of the rooms for a period of three (3) year from the time the tax is due and owing. Any records in excess of three (3) years may be disposed.

3-21-4. Enforcement License Revocation.

- A. Whenever any Licensee shall fail to obtain a License as required by this Code, the Village shall bring or cause to be brought an action to enforce such persons to obtain such Licensee and be liable for all taxes as imposed by this Chapter 21 from the date of commencement of operation and such other fines as determined as a result of such action.
- B. Whenever any person shall fail to pay any taxes herein provided, or when any Licensee in the Village, shall fail to collect the tax hereby imposed from any person who has the ultimate liability for payment of the same, the Village Attorney shall, upon request of the Finance Director, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village.
- C. If the Village President, after a hearing, shall find that the owner, operator or Licensee has willfully evaded his responsibility to collect the tax imposed by this Chapter, the Village President may suspend or revoke all Village licenses held by such tax evader. Said person shall have an opportunity to be heard at such hearing, to be held not less than five (5) days after notice of the time and place thereof, addressed to the last known place of business. Any suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for non-payment of the tax due. “:

Section 8: Title 3, Chapter 1 of the Village Municipal Code is hereby amended by deleting Section 3-1-7 and 3-1-8 and replacing it with the following:

3-1-7: License Fee Schedule:

The following businesses, professions and occupations shall be subject to the provisions of this Chapter. License and permit fees shall be as follows:

Type of License/Permit	Amount
Bakeries	\$35.00 per year
Confectionery manufacturers	\$35.00 per year
Food dealers, meat markets, groceries and restaurants	\$35.00 per year
Mechanical amusement device, as defined in Section 3-5-1 of this Title	\$135.00 per machine annually
Peddlers, solicitors, itinerant merchants	\$50.00 per day ¹ \$200.00 per week (<i>cont'd footnote 1</i>) \$500.00 per year (<i>cont'd footnote 1</i>)
Short Term Rentals	\$35.00 per year
"Video gaming device", as defined in Section 3-5-1 of this Title	\$250.00 per year
Video gaming establishment	\$1,000.00 per year
All other Places of Business	\$35.00 per year

3-1-8: Business License Required:

A. Application to do Business:

1. All persons proposing to engage in business within the municipal limits of the Village shall apply for a license and pay a license fee for each outlet, branch, location or place of business within the municipal limits of the Village prior to engaging in business.
2. Any person filing for issuance or renewal of any business license shall include in the application his current Illinois retail sales tax number (where applicable). Applications for issuance or renewal shall be made at the Village Hall.

B. Imposition of Fee:

1. There is imposed on each place of business located in the Village an annual business registration fee of thirty-five dollars (\$35.00) per annum due and payable in January 1 of each year. Renewal of business license shall be for a full twelve (12) month period and shall not be prorated for business conducted for a portion of the year.

¹ No license fee for any civic, charity, school or service organization.

2. There is imposed on each person who conducts, manages, owns or operates residential rental property located in the Village an annual business license fee of thirty-five dollars (\$35.00) per building per annum due and payable by January 1 of each year. Renewal of business license shall be for a full twelve (12) month-period and shall not be prorated for a business conducted for a portion of the year.
 - a. For bed and breakfast establishment and short term rental, both a business license and a residential rental property license are required.
- C. Exemption: Except for a home based business, no business shall be exempt from the licensing requirements pursuant to this Chapter.
- D. Renewal:
1. Prior to the expiration of a business license, the licensee shall apply to renew the business license. Each application shall be accompanied by a renewal fee of thirty-five dollars (\$35.00) for each place of business to the Village Treasurer's office.
 2. Prior to the expiration of a business license for a residential rental property, the registrant shall apply to renew the business license. Each application shall be accompanied by a renewal fee of thirty-five dollars (\$35.00) for each place of business to the Village Treasurer's office.
- E. Late Fee: There shall be imposed upon each delinquent license fee, a late fee in the amount of thirty-five dollars (\$35.00) in the event a license fee is not paid before commencing business; before conducting, managing, owning or operating a residential rental property; or the annual renewal fee is not paid prior to expiration.
- F. Zoning Notification:
1. Upon receipt of an initial business license application and the Village shall convey the application to the building department for review to ensure compliance with the requirements of this Code, particularly Title 9, "Building Regulations", and Title 10, "Zoning Regulations" of this Code.
 2. Upon issuance of a business license receipt for a new or existing location, the Village shall send a copy of the Building Department.
 3. All business receipts for licensing shall prominently display a disclaimer stating the facts that registration with the Village is not a license to conduct business within the Village and does not constitute a waiver of any requirement or provision contained in any law and that the activity proposed to be conducted at any location must be approved by the Village's Building Department prior to the conduct of such activity.

Section 9. That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law and after publication in pamphlet form pursuant to the authority of the Board of Trustees.

APPROVED and PASSED by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, and approved by the President of said Village this 10th day of September, 2018.


AYES: Trustees Price, Hanley, Yuscka, Wilbrandt and Kembitzky

NAYS: None

ABSENT: Trustee Anderley

ATTEST:


Barbara Traver
Village Clerk


Christopher Nelson
Village President