

MINUTES, REGULAR MEETING
CITY COUNCIL, CITY OF LA CRESCENT, MINNESOTA
SEPTEMBER 11, 2023

Pursuant to due call and notice thereof, the first meeting of the City Council of the City of La Crescent for the month of September was called to order by Mayor Mike Poellinger at 5:00 PM in the La Crescent Community Building, La Crescent, Minnesota, on Monday, September 11th, 2023.

Upon a roll call taken and tallied by the City Administrator, the following members were present: Members Cherryl Jostad, Teresa O'Donnell-Ebner, Dale Williams, and Mayor Mike Poellinger. Members absent: Ryan Hutchinson. Also present were City Attorney Skip Wieser, City Administrator Bill Waller, Public Works Director Tyler Benish, and Deputy Clerk Angie Boettcher.

Also present was La Crescent Library Director Jess Witkins.

Mayor Poellinger asked if anyone wished to take action to change the agenda as presented. There were no changes requested.

ITEM 1 – CONSENT AGENDA

At this time, the Mayor read the following items to be considered as part of the Consent Agenda for this regular meeting:

- 1.1 MINUTES – AUGUST 28, 2023
- 1.2 BILLS PAYABLE THROUGH – SEPTEMBER 8, 2023
- 1.3

At the conclusion of the reading of the Consent Agenda, Mayor Poellinger asked if the Council wished to have any of the items removed from the Consent Agenda for further discussion.

Member O'Donnell-Ebner made a motion, seconded by Member Williams, as follows:

A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED.

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.1 – LA CRESCENT LIBRARY – SUMMER READING RECAP

La Crescent Library Director Jess Witkins provided City Council with a recap of the library's summer reading program. This was informational only, no action required.

ITEM 3.2 – SHORT-TERM RENTAL/LODGING TAX ORDINANCE

The following citizens attended the City Council meeting and addressed City Council regarding the Short-Term Rental Ordinance: Vonnie Levenick, Jack Miller, Dave Hanifl, Angela Machi, Jeff Holthaus, Tom Poellinger, Mary Poellinger, and Beverly Burand.

City Attorney Skip Wieser reviewed with City Council the draft amendments to the Lodging Tax Ordinance. It was recommended that City Council approve the amended ordinance. Following discussion, Member O'Donnell-Ebner introduced the following ordinance and moved its passage for adoption:

ORDINANCE NO. 573

LODGING TAX

The City Council of La Crescent ordains:

Ordinance No. 534 adopted on June 10, 2019 and titled "LODGING TAX" is amended to read:

SECTION 1. Definitions: Unless the language or context clearly indicates that a different meaning is intended, the following words, for the purpose of this ordinance, shall have the following meanings and inclusions:

1. "City" means the City of La Crescent, Minnesota, acting by or through its duly authorized representative.
2. "Lodging" means the furnishing for a consideration of lodging at a hotel, motel, rooming house, tourist court, municipal campground, resort or bed and breakfast, other than the renting or leasing of it for a continuous period of 30 days or more.
3. "Operator" means any person who has charge, care, or control of a building in the City, or part thereof, in which dwelling units or rooming units are let.
4. "Person" includes all firms, partnerships, associations, corporations, and natural persons.

5. "Rent" means the total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

6. "Lodger" means the person obtaining lodging from an operator.

SECTION 2. Imposition of Tax. Pursuant to Minnesota Statutes, Chapter 469.190 and provisions of Laws 2019, Chapter 6, Article 6, Section 21, there is hereby imposed a tax of five percent (5%) on the rent charged by an operator for providing lodging to any person. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this ordinance to collect from a lodger.

SECTION 3. Collections. Each operator shall collect the tax imposed by this section at the time the rent is paid. The tax collection shall be deemed to be held in trust by the operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

SECTION 4. Exemptions. An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. No exemption shall be granted except upon a claim therefore made at the time the rent is collected and such a claim shall be made in writing and under penalty of perjury on forms provided by the City. All such claims shall be forwarded to the City when the returns and collections are submitted as required by this Chapter.

SECTION 5. Advertising No Tax. It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part hereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than one cent shall be considered an additional cent.

SECTION 6. Payments and Returns. The taxes imposed by this ordinance shall be paid by the operator to the City monthly not later than twenty (20) days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and continuing such information as the City may require. The return shall contain the following minimum information:

- a. The total amount of rent collected for lodging during the period covered by the return.
- b. The amount of tax required to be collected and due for the period.
- c. The signature of the person filing the return or that of his agent duly authorized in writing.

- d. The period covered by the return.
- e. The amount of uncollectible rental charges subject to the lodging tax.

The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by this ordinance previously paid as a result of any transaction the consideration for which became uncollectible.

SECTION 7. Examination of Return, Adjustments, Notices, and Demands. The City shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the City within ten (10) days after determination of such refund.

SECTION 8. Refunds. Any person may apply to the City for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one (1) year after such tax was paid, or within one (1) year from the filing of the return, whichever period is the longer. The City shall examine the claim and make and file written findings whereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the City shall credit the amount of the allowance against any taxes due under this ordinance from the claimant and the balance of said allowance, if any, shall be paid by the City to the claimant.

SECTION 9. Failure to File a Return.

Subd. 1. If any operator required by this ordinance to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice and demand, file such return or corrected return within ten (10) days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such person shall fail to file such return or corrected return, the City shall make a return or corrected return for such person based upon such knowledge and information as the City can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid within ten (10) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City shall be prima facie correct and valid, and the burden of proving to the contrary rests with any person in any action or proceeding in respect thereto.

Subd. 2. If any portion of a tax imposed by this ordinance, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City may institute such legal action as may be necessary to cover the amount due plus interest, penalties, the costs and disbursements of any action.

Subd. 3. Upon a showing of good cause, the City may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this ordinance provided that interest during such period of extension shall be added to the taxes due at the rate of eight (8) percent per annum.

SECTION 10. Penalties.

Subd. 1. If any tax imposed by this ordinance is not paid within the time herein specified for the payment, or an extension thereof, there shall be added thereto a specific penalty equal to ten (10) percent of the amount remaining unpaid.

Subd. 2. In case of any failure to make and file a return within the time prescribed by this ordinance, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax in addition the penalty provided in Subdivision 1 above, a penalty of five (5) percent for each thirty (30) day period or fraction thereof during which such failure continues, not exceeding twenty-five (25) percent in the aggregate. There shall be a minimum penalty assessed of ten (10) dollars if penalties in the aggregate do not exceed that amount. The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

Subd. 3. If any person willfully fails to file any return or makes any payment required by this ordinance, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such tax or payment thereof, there shall also be imposed as a penalty an amount equal to fifty (50) percent of any tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this section shall be collected as part of the tax and shall be in addition to any other penalties provided by this ordinance.

Subd. 4. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 5. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of eight (8) percent per annum from the time such tax should have been paid until payment is made. Any interest and penalty shall be added to the tax and be collected as part thereof.

SECTION 11. Administration of Tax. The City shall administer and enforce the assessment and collection of the taxes imposed by this ordinance. The City shall cause to be prepared blank forms for the returns and other documents required by this ordinance and shall distribute the same throughout the City. Failure to receive or secure such forms and documents shall not relieve any person from any obligation required of him under this ordinance.

SECTION 12. Examine Records. Persons acting on behalf of the City and authorized in writing by the City may examine the books, papers, and records of any operator in order to verify the accuracy of any

return made, or if no return was made, to ascertain the tax as provided in this ordinance. Every such operator is directed and required to give to the City the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.

SECTION 13. Violations. Any person who shall willfully fail to make a return by this ordinance, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this ordinance after written demand for such payment, or who shall refuse to permit the City's authorized agents to examine the books, records, and papers under his control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

SECTION 14. Use of Proceeds. Ninety-five (95) percent of the proceeds obtained from the collection of taxes pursuant to Minnesota Statutes Section 469.190 and provisions of Laws 2019, Chapter 6, Article 6, Section 21 as may be amended from time to time to fund a local convention or tourism bureau for the purpose of marketing and promoting the City of La Crescent. The City may use up to five (5) percent of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of such tax.

SECTION 15. Appeals.

Subd. 1. Any operator aggrieved by any notice, order, or determination made by the City under this ordinance may file a petition for review of such notice, order, or determination. The petition shall contain the name of petitioner, the petitioner's address, and the location of the lodging subject to the notice, order, or determination.

Subd. 2. The petition for review shall be filed with the City within ten (10) days after the notice, order, or determination for which review is sought has been mailed to or served upon the person requesting review.

Subd. 3. Upon receipt of the petition, the City Administrator/Clerk shall set a date for a hearing and give the petitioner at least ten (10) days prior written notice of the date, time, and place of the hearing.

Subd. 4. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

Subd. 5. The hearing shall be conducted by the City Administrator/Clerk or his authorized agent, and he shall make written findings of fact and conclusions based upon the applicable section of this ordinance and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order or determination made by the City.

Subd. 6. Any decision rendered by the City pursuant to this section may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City within ten (10) days after the decision has been mailed to the petitioner.

The matter will thereupon be placed on the Council agenda as soon as is practical. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that the findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the City Administrator/Clerk or authorized agent under the same standards as set forth in Section.

SECTION 16. Repeal. Ordinance No. 534, an ordinance providing for lodging tax dated June 10, 2019 is hereby repealed upon this ordinance becoming effective.

SECTION 17. This ordinance shall become effective from and after its passage and publication.

The foregoing ordinance was duly passed and adopted by the Council of the City of La Crescent, Minnesota at its regular meeting on _____, 2023.

SIGNED:

ATTEST:

Mayor

City Administrator

The foregoing motion was duly seconded by Member Williams and upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

City Attorney Wieser reviewed with City Council the draft amendments to the Short-Term Rental Ordinance. It was recommended that City Council approve the amended ordinance along with the proposed findings and purpose. Following discussion, Member O'Donnell-Ebner introduced the following ordinance, along with findings and purpose, and moved its passage for adoption:

Findings and Purpose of Ordinance No. 574

The City of La Crescent ("City") is a largely residential city which has several unique local amenities including the Mississippi River and Wagon Wheel Bike Trail. This makes it a natural and likely tourist destination. Historically, transient overnight stays were limited to hotels. However, the advent of certain internet-driven short-term residential/housing rental forums such as VRBO have caused some homeowners

to make their properties available for short-term rentals. These so-called “short-term rentals” often last a day or two, are often during the weekend and are recreationally focused occupancies, vastly different than a typical house rental which involve more connection with the neighborhood and property over time because of the longer length of the occupancy. Recreational occupancy also creates parking congestion impacting and disrupting neighborhoods. Accordingly, this has led many cities to consider and adopt regulations governing short-term rentals. The City and its residents value the need to preserve its essentially residential character while, licensing short-term rentals on terms which make them unintrusive, not disruptive, and which does not lead to the proliferation of absentee-held properties offered only for rent and not materially owner-occupied. Short-term vacation rentals are not conducive to the stability and building of neighborhoods.

Short-term rentals are in the nature of providing accommodations for transient, often vacationing short-term guests who do not maintain an ongoing relationship with the property or its neighbors or its neighborhoods. In cases of short-term rental, the turnover of occupants is more frequent, stays are, by definition, short and recreation-focused. Significant damage deposits are often not comparable to those secured by long-term rental tenancies and tenants likely have no maintenance obligations such as lawn mowing, exterior tidiness, building maintenance or corresponding interest in maintaining ongoing relationships with long-term neighbors. Accordingly, it is evident that there is more potential for nuisances to arise from such uses including increased noise, parties, outdoor activities into the late hours, multiple invitees, intensive uses over short periods and other features of transient stays as the users come to the property for a short period and then leave. The City concludes that an ordinance is necessary to regulate, license and control short-term rentals to minimize potential nuisances. The City finds licensing longer-term stays is in the best interest of the City.

The purpose of this ordinance is to license Short-Term Rentals while mitigating impacts upon surrounding properties and neighborhoods by implementing balanced regulations to protect the integrity of the City as well as protecting the public health, safety and general welfare of the long-term residents by regulating the time period a transient guest is allowed.

ORDINANCE NO. 574

AN ORDINANCE OF THE CITY OF LA CRESCENT REGULATING SHORT-TERM RENTALS IN THE CITY OF LA CRESCENT, MINNESOTA

Ordinance No. 567 adopted on May 22, 2023 and titled “AN ORDINANCE OF THE CITY OF LA CRESCENT REGULATING SHORT-TERM RENTALS IN THE CITY OF LA CRESCENT, MINNESOTA” is amended to read as follows:

I. PURPOSE

The purpose of this Section is to ensure that the short-term rental of dwelling units in the City is conducted, operated, and maintained so as not to become a nuisance to the surrounding neighborhoods or an influence that fosters blight and deterioration or creates a disincentive to reinvest in the community.

II. SCOPE

This section applies to the short-term rental of all dwelling units located within all residential zoning districts of the City of La Crescent. Short-term rentals within the Central Business District shall not be subject to the restrictions of this ordinance, except with respect to the registered agent and Short-Term tax requirements contained herein.

III. DEFINITIONS

The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

Bedroom: A habitable room within a single-family dwelling which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen, dining room, or living room.

Building Official: An employee of the City designated as the Building Official. The term Building Official also includes all City employees authorized to issue citations.

Dwelling unit: One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Occupant: Any person who occupies a dwelling unit or part of the same.

Owner: A person having legal or equitable interest in the dwelling unit or its premises.

Off-street parking space: An area on the permitted premises or within a building that is a legally conforming parking space intended for the use of parking of a motor vehicle which has a means of access to a public street.

Permitted Premises: The platted lot or part of such lot or unplatted parcel of land on which a dwelling unit permitted as a short-term rental is located.

Short-term rental: The rental or lease of a dwelling unit in whole or in part for a period of at least twenty-eight (28) consecutive days, but no more than ninety (90) consecutive days. The rental or lease of a dwelling unit for less than twenty-eight (28) consecutive days is prohibited in all residential districts.

Short-term rental license: The license issued by the City for the rental or lease of a dwelling unit for short-term rental.

Tenant: Any person who is occupying a dwelling unit under any agreement, lease, or contract, whether oral or written, which requires the payment of money as rent for the use of the dwelling unit.

IV. LICENSE REQUIRED

No property, structure or dwelling may be used as a Short-Term Rental unless an application is submitted, and a license is first granted by the City. Short-Term Rentals located within the Central Business District shall not be subject to the restrictions of this Ordinance except with respect to the registered agent and

Short-Term tax requirements as contained herein. The License shall be entered on a short-term rental registry.

Application: A person desiring to undertake or allow the short-term rental of a dwelling unit in the City shall apply to the Building Official for a short-term rental license. The application shall be submitted by the owner. The license application shall be on a form prescribed by the City and include all required information.

Criteria for Issuance. Prior to issuance of a Short-Term Rental License hereunder, the applicant shall ensure and the Building Official will verify the following criteria are met:

- a. The licensee accurately certifies on the application form that all applicable items found in this Section are satisfied. In addition, the certification shall constitute an ongoing assurance of compliance herewith. Such items shall include, but not be limited to, the following:
 - i. A policy number for a valid, in-force liability insurance policy is provided to the City;
 - ii. That all garbage and rubbish are stored in compliance with City's Solid Waste Ordinance;
 - iii. Compliance with all applicable provisions of the City Code;
 - iv. Compliance with any special conditions established in the license.
 - v. The Dwelling must be materially used for its owner's enjoyment-which shall mean to state the owner shall accurately certify and document to the City annually that the Dwelling has been physically inhabited by the owner for more days and nights than it has been rented.
 - vi. Short-Term Rental Tax.
 - a. Minnesota Sales Tax under Minnesota Statutes, section 297A.61
 1. Short-Term Rentals must charge sales tax on lodging.
 - b. City of La Crescent Lodging Tax Ordinance No. 573
 1. Properties in the City of La Crescent who rent Short-Term Rentals are required by law to comply with the City of La Crescent's Lodging Tax Ordinance.

License Fee: Each application shall be accompanied by payment in full of the required license fee. The annual license fee shall be determined by the City Council and set forth in the City fee schedule. The fee shall not be prorated.

Number of Bedrooms. Each license shall indicate the number of bedrooms which are contained in the dwelling. No license shall advertise the dwelling as containing any more than the identified number of bedrooms. The number of bedrooms, as indicated on the license, shall be used for all calculations required herein.

Issuance of Short-Term Rental License:

1. If the Building Official determines that an applicant has met the requirements for issuance of a short-term rental license, the Building Official shall issue the applicant a short-term rental license.
2. If the Building Official determines that an applicant has not met the requirements for issuance of a short-term rental license, the Building Official shall endorse on such application his/her disapproval and his/her reasons for the same and provide the application and recommendation for denial to the City Administrator. The City Administrator may either: (i) deny the application and return the endorsed application to the applicant to notify the applicant that his/her application is denied and that no license will be issued; or (ii) direct the Building Official to issue the applicant a short-term rental license.

Expiration of License: Except as otherwise provided in this Section, all short-term rental licenses shall expire annually on December 31 of each year unless suspended or revoked earlier. Licenses granted hereunder constitute a revocable, limited right. Nothing herein shall be construed as granting a vested property right. No party shall have any expectancy of reissuance of any license after its annual expiration.

Renewal of License: Applications for renewal of an existing short-term rental license shall be made at least thirty (30) days prior to the expiration of the current short-term rental license. All such applications shall be submitted to the Building Official on forms provided by the City and shall be accompanied by the required fee.

License Not Transferable: No short-term rental license shall be transferable to another person or to another dwelling unit. Every person holding a short-term rental license shall give notice in writing to the Building Official within five (5) business days after having legally transferred or otherwise disposed of the legal control of any dwelling unit for which a short-term rental license has been issued. Such notice shall include the name and address of the person succeeding to the ownership or control of such dwelling unit.

Resident Agent Required: No short-term rental license shall be issued without the designation of a local agent. The agent must live within 30 miles of the dwelling unit. The Agent may, but is not required to be, the owner. One person may be the agent for multiple dwelling units. At all times, the agent shall have on file with the Building Official a primary and a secondary phone number as well as a current address. The agent or a representative of the agent shall be available 24 hours a day during all times that the dwelling unit is being rented at the primary or secondary phone number to respond immediately to complaints and contacts relating to the dwelling unit. The Building Official shall be notified in writing within two (2) business days of any change of agent. The agent shall be responsible for the activities of the tenants and maintenance and upkeep of the dwelling unit and shall be authorized and empowered to receive service of notice of violation of the provisions of City ordinances and state law, to receive orders, and to institute remedial action to affect such orders, and to accept all service of process pursuant to law.

Denial of Short-Term Rental License: Any applicant aggrieved by the denial of a short-term rental license, or the non-renewal of an existing license may appeal to the City Council. Such appeal shall be taken by filing with the City Administrator within ten (10) days after the date of issuance of the written denial, a written statement requesting a hearing before the City Council and setting forth fully the grounds for the appeal. A hearing shall be held within sixty (60) days of receipt of the request. Notice of the hearing shall be given by the City Administrator in writing, setting forth the time and place of hearing. Such notice shall be mailed, postage prepaid, to the applicant at his/her last known address at least ten (10) days prior to the date set for hearing.

V. RESPONSIBILITY OF OWNERS:

No owner shall undertake or allow the short-term rental of a dwelling unit in a Residential Use District that does not comply with all applicable City ordinances, the laws of the State of Minnesota, and this Section. It shall be the owner's responsibility to ensure that all tenants, occupants, and guests comply with the following:

Maximum Overnight Occupancy: The number of overnight occupants allowed for a short-term rental shall be limited as set out below. Children under three (3) years of age are not to be counted toward the limit.

For lots of 1/2 acre or more if the livable square footage of the primary building is:

- Under 1,500 square feet: 6 occupants
- 1,500 square feet to 1,999 square feet: 8 occupants
- 2,000 square feet or more: 12 occupants

For lots of less than 1/2 acre:

- Under 1,500 square feet: 4 occupants
- 1,500 square feet to 1,999 square feet: 6 occupants
- 2,000 square feet or more: 8 occupants

Off-Street Parking: The permitted premises shall contain off-street parking spaces equal in number to the number of bedrooms contained in the dwelling unit.

Maintenance Standards: Every dwelling unit used for short-term rental shall conform to all building requirements of the City Code, licenses issued by the City, and the laws of the State of Minnesota.

Rental Limit: No dwelling unit shall be rented for a period of less than twenty-eight (28) consecutive days.

Occupants: The agent shall maintain a fully executed lease for all tenants and a list of all current occupants of each dwelling unit. The agent shall make the lease and list available to City staff and/or law enforcement upon request. In addition, a copy of the fully executed lease shall be kept available at the dwelling unit at all times during the lease term.

VI. DISORDERLY CONDUCT:

Disorderly Conduct Prohibited: Disorderly conduct is prohibited on all permitted premises. It shall be the responsibility of the owner to ensure that all tenants occupying the permitted premises and their guests conduct themselves in such a manner as not to cause the permitted premises to be disorderly. For purposes of this Section, disorderly conduct includes but is not limited to, a violation of any of the following statutes or ordinances:

1. Minn. Stat. §§ 609.75 – 609.76, which prohibit gambling;
2. Minn. Stat. §§ 609.321 – 609.324, which prohibit prostitution and acts relating thereto;
3. Minn. Stat. §§ 152.01 – 152.027, which prohibits the unlawful sale or possession of controlled substances;
4. Minn. Stat. § 340A.401, which prohibits the unlawful sale of alcoholic beverages;
5. Minn. Stat. § 340A.503, which prohibits the underage consumption of alcoholic beverages;
6. Minn. Stat. § 609.595, which prohibits damage to property;
7. Minn. Stat. §§ 97B.021, 97B.045, 609.66-609.67, and 624.712-624.716, and City Code Section 804, which prohibit the unlawful possession, transportation, sale, or use of a weapon;
8. Minn. Stat. § 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the other occupants of the permitted premises or other surrounding premises;
9. Minn. Stat. § 152.027, subd. 4, which prohibits the unlawful sale or possession of small amounts of marijuana;
10. Minn. Stat. § 152.092, which prohibits the unlawful possession or use of drug paraphernalia;
11. Minnesota State Fire Code 302 and 307-307.5, which limit recreational fires to no larger than 3' X 3' feet, natural wood only, attended until extinguished, conditions permitting; and
12. Minn. Stat. §§ 624.20-624.21 which prohibits exploding fireworks.

Determination of Disorderly Conduct:

1. A determination that the permitted premises have been used in a disorderly manner as described in Article VI shall be made by the Building Official upon evidence to support such a determination. It shall not be necessary that criminal charges are brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse permit action under this Section.
2. Upon determination by the Building Official that a permitted premises was used in a disorderly manner, as described in Article VI, the Building Official shall notify the owner and agent by certified mail of the violation and direct the owner and/or agent to take appropriate action to prevent further violations.
3. If a second instance of disorderly use of the permitted premises occurs within one year of an incident

for which notice in Article VI was given, the Building Official shall notify the owner and agent by certified mail of the violation and shall also require the owner and agent to submit within 15 days a written report of the actions taken, and proposed to be taken, by the owner and/or agent to prevent further disorderly use of the permitted premises.

4. If a third incident of disorderly use of the permitted premises occurs within one year after the second of any two previous instances of disorderly use for which notices were sent to the owner and agent pursuant to this subsection, the short-term rental license may be revoked, suspended, or not renewed. An action to revoke, suspend, or not renew a license under Article VI shall be initiated by the Building Official in the manner described below.

VII. LICENSE SUSPENSION OR REVOCATION:

Procedure:

1. Every short-term rental license issued under this ordinance is subject to suspension or revocation by the City Administrator for any violation of this Section or any other ordinance of the City or the law of the state.
2. The Building Official may recommend suspension or revocation of a short-term rental license to the City Administrator. The City Administrator shall review the recommendation and the reasons supporting the recommendation and may suspend or revoke the license. The City Administrator shall provide written notice to the owner and agent of the suspension or revocation. The notice shall inform the owner and agent of the right to appeal the decision of the City Administrator to the City Council.

Any applicant aggrieved by the suspension or revocation of a short-term rental license may appeal to the City Council. Such appeal shall be taken by filing with the City Administrator within ten (10) days after date of issuance of the written suspension or revocation notice, a written statement requesting a hearing before the City Council and setting forth fully the grounds for the appeal. A hearing shall be held within sixty (60) days of receipt of the request. Notice of the hearing shall be given by the City Administrator in writing, setting forth the time and place of hearing. Such notice shall be mailed, postage prepaid, to the applicant at his/her last known address at least ten (10) days prior to the date set for hearing.

Effect of Suspension or Revocation: If a short-term rental license is suspended or revoked, it shall be unlawful for anyone to thereafter allow any new short-term rental occupancies of the dwelling until such time as a valid short-term rental license is restored by the City.

Effect of Revocation: No person who has had a license revoked under this Section shall be issued a short-term rental license for one year from the date of revocation.

VIII. APPEAL

The decision of the City Council to deny, suspend, or revoke a short-term rental license following a hearing as provided can be appealed by petitioning the Minnesota Court of Appeals by a writ of certiorari.

IX. POSTING

The following language shall be posted at or near the entrance of every short-term rental dwelling unit. The posting shall be printed in a minimum 18-point font.

All short-term rental of dwelling units shall comply with this ordinance. These posted regulations are a summary of a portion of the short-term rental regulations. For additional information please refer to Ordinance No. _____ or contact City Hall.

- No owner shall undertake the short-term rental of any dwelling unit without a City license.
- A copy of the lease shall be available at the dwelling unit at all times during the lease term.
- Every permitted premises shall have an agent within 30 miles available during all times the unit is rented, 24 hours a day at the following phone numbers: _____ and/or _____ to respond immediately to complaints and contacts relating to the dwelling unit.
- The Maximum Overnight Occupancy for this dwelling unit is: _____occupants. Not counting children under three (3) years of age.
- Disorderly conduct is prohibited. All disorderly conduct will be reported to the property's agent and the La Crescent Police Department.
- Increased noise regulations are in place between the hours of 10 p.m. and 7 a.m.
- Littering is prohibited.
- Recreational fires are limited.
- Any violation of this Section shall constitute a misdemeanor.

X. COMPLIANCE

If the City has reason to believe that any provisions in this Section are not being complied with, the City has the authority to require the submittal of an executed lease or other information needed to establish compliance.

XI. PENALTY

Any person who undertakes or allows any violation of this Section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine or by imprisonment, or both, in accordance with the provisions of Minnesota State Statutes.

XII. EFFECTIVE

Ordinance No. 567, an ordinance providing for short-term rentals dated May 22, 2023 is hereby amended upon this ordinance becoming effective.

PASSED AND ENACTED this _____ day of _____, 2023.

Mayor

ATTEST:

City Administrator

The foregoing motion was duly seconded by Member Williams and upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following discussion Member Williams made a motion, seconded by Member O'Donnell-Ebner as follows:

MOTION THAT A PRÉCIS FORMAT OF SAID ORDINANCE 573 AND 574 BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE CITY AND WITH "OFFICIAL COPY" SO MARKED BE KEPT ON FILE IN THE OFFICE OF THE CITY ADMINISTRATOR.

Upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.3 – PLANNING COMMISSION MINUTES – SEPTEMBER 5, 2023

City Council reviewed the September 5th Planning Commission minutes. The Planning Commission recommended for City Council approval, the Wagon Wheel final plat, with findings and conditions and the Horse Track Meadows North final plat, with findings and conditions.

ITEM 3.4 – RESOLUTION – WAGON WHEEL FINAL PLAT

City Council reviewed a Resolution regarding the acceptance of the Wagon Wheel final plat for the Wagon

Wheel Substation with the findings and conditions. Following review and discussion, Member Williams introduced the following Resolution and moved its passage and adoption as follows:

RESOLUTION NO. 09-23-33

**A RESOLUTION APPROVING THE FINAL PLAT FOR THE WAGON WHEEL SUBSTATION
IN THE CITY OF LA CRESCENT**

WHEREAS, P & K Shepardson Rentals LLC and Northern States Power Company d/b/a Xcel Energy owner and developer of certain lands lying and being in the City of La Crescent, Houston County, Minnesota, more particularly described in the official plat to which this resolution is referenced, has duly petitioned the City of La Crescent City Council for approval of the final plat of the Wagon Wheel Substation, City of La Crescent, pursuant to Section 13.16, Chapter 13, City Code, City of La Crescent, and have in connection therewith satisfied the requirement of said City Code;

WHEREAS, the recommendations of the City Planning Commission and City Engineer will be satisfied and duly noted;

WHEREAS, the City Council took under consideration the following Findings and Conditions:

Findings:

1. The property owner proposes to use the property in a reasonable manner permitted by the zoning ordinance.
2. The request is in harmony with the general purpose and intent of the ordinance.

Conditions:

1. The applicant/developer will abide by all representations made by the applicant/developer, or their agents, made during the permitting process, to the extent those representations were not negated by the Planning Commission or City Council and to the extent they are not inconsistent with the spirit or explicit conditions of the plat application.
2. The applicant/developer complies with all applicable federal state and local regulations.
3. That no site work shall commence until after approval of the final plat.

NOW THEREFORE BE IT RESOLVED as follows:

1. That the final plat of the Wagon Wheel Substation will be filed with the City Administrator of the City of La Crescent.
2. That the Mayor and City Administrator are hereby authorized and directed to execute the plat in accordance with the laws of the State of Minnesota and City Code thereunto

appertaining and to execute and deliver such other certificates and documents which may be required to effectuate said plat.

Adopted this 11th day of September 2023.

SIGNED:

Mayor

ATTEST:

City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Member O'Donnell-Ebner and upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.5 – RESOLUTION – HORSE TRACK MEADOWS NORTH FINAL PLAT

City Council reviewed a Resolution regarding the acceptance of the final plat for the Horse Track Meadows North subdivision with the findings and conditions. Following review and discussion, Member O'Donnell-Ebner introduced the following Resolution and moved its passage and adoption as follows:

RESOLUTION NO. 09-23-34

**A RESOLUTION APPROVING THE FINAL PLAT FOR HORSE TRACK MEADOWS NORTH
IN THE CITY OF LA CRESCENT**

Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.6 – SEWER AGREEMENT – CITY OF LA CROSSE

City Attorney Skip Wieser reviewed with City Council for approval a new Sanitary Sewer Conveyance Agreement between the City of La Crosse and the City of La Crescent. The existing agreement was established in 2007 and is scheduled to expire on December 31, 2027. In the new agreement, the service territory is expanded, and La Crescent’s flow capacity increases to 0.4 MGC allowing approximately 240 additional single-family home connections per WHKS. The new Agreement would be effective until 2041 with an agreement to commence future negotiations in 2035. Following discussion, Member Williams made a motion, seconded by Member O’Donnell-Ebner as follows:

MOTION TO APPROVE THE SANITARY SEWER CONVEYANCE AGREEMENT BETWEEN THE CITY OF LA CROSSE AND THE CITY OF LA CRESCENT EFFECTIVE THROUGH 2041 WITH AN AGREEMENT TO COMMENCE FUTURE NEGOTIATIONS IN 2035.

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O’Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.7 – AUTHORIZE EXPENDITURE – SEWER EQUIPMENT

Public Works Director Tyler Benish reviewed with City Council for approval a quote from Quality Flow in the amount of \$17,796.00 to purchase a sampler to perform the collection of wastewater for testing. Pending the City Council’s approval of the Sanitary Sewer agreement with the City of La Crosse, the City of La Crescent will be required to collect five (5) day composite wastewater samples. The City of La Crescent has funds in the 2022 capital equipment certificate to cover the cost of the sampler. Following discussion, Member Jostad made a motion, seconded by Member Williams as follows:

MOTION TO AUTHORIZE EXPENDITURE IN THE AMOUNT OF \$17,796.00 TO PURCHASE A SAMPLER TO PERFORM THE COLLECTION OF WASTEWATER FOR TESTING FROM QUALITY FLOW WITH FUNDS FROM THE 2022 CAPITAL EQUIPMENT CERTIFICATE.

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.8 – WINTER PARKING RESTRICTIONS – NORTH 3RD STREET

Public Works Director Tyler Benish reviewed with City Council a request to restrict parking on North 3rd Street during the months from November to April. A draft ordinance was presented for consideration and will be brought back for final approval at a future meeting. This was informational only, no action required.

ITEM 3.9 – STATE OF MINNESOTA – JOINT POWERS AGREEMENT

City Council reviewed a letter from Police Chief Luke Ahlschlager requesting approval of a Joint Power's Agreement (JPA) between the City of La Crescent and the State of Minnesota – CrowdStrike for purchasing a better anti-virus/anti-malware product (CrowdStrike) at a greatly reduced price. This will replace the current LockNet-provided anti-virus/anti-malware product. All Executive Branch agencies are required to use the MN.IT CrowdStrike product. In addition, MN.IT will monitor all CrowdStrike installations with the State's Security Operation Center and will respond to any alerts. Following discussion, Member O'Donnell-Ebner made a motion, seconded by Member Jostad as follows:

MOTION TO APPROVE THE JOINT POWER'S AGREEMENT (JPA) BETWEEN THE CITY OF LA CRESCENT AND THE STATE OF MINNESOTA-CROWDSTRIKE FOR PURCHASING AN ANIT-VIRUS/ANTI-MALWARE PRODUCT TO REPLACE THE CURRENT LOCKNET PROVIDED ANTI-VIRUS/ANTI-MALWARE PRODUCT.

Upon a roll call vote taken and tallied by the City Administrator, the following Members voted in favor thereof, viz;

Cherryl Jostad	Yes
Teresa O'Donnell-Ebner	Yes
Dale Williams	Yes

Mike Poellinger Yes

and none voted against the same. The motion was declared duly carried.

6. STAFF CORRESPONDENCE/COMMITTEE UPDATES

6.1 City Council reviewed the August 29th, 2023 Explore La Crosse Board Meeting Agenda and July 18th, 2023 Board Meeting Minutes.

6.2 City Council reviewed a memo from Public Works Director Tyler Benish regarding the Shore Acres Rd. Train Bridge incident which occurred on Sept 5th, 2023 at 6:00 p.m.

There being no further business to come before the Council at this time, Member Williams made a motion, seconded by Member O'Donnell-Ebner to adjourn the meeting. Upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Cherryl Jostad Yes
Teresa O'Donnell-Ebner Yes
Dale Williams Yes
Mike Poellinger Yes

and none voted against the same. The motion was declared duly carried and the meeting duly adjourned at 6:31 P.M.

APPROVAL DATE: _____

SIGNED:

Mayor

ATTEST:

City Administrator