

To: Elmwood Township Board

From: Sara Kopriva AICP, Planner/Zoning Administrator

Date: February 24, 2021

RE: Short Term Rental Zoning Ordinance and Licensing Ordinance

---

On January 27, 2021 the Township Board directed me to create language that would allow existing short term rentals to continue as lawful non-conforming uses and not allow any new short term rentals. I have discussed with the Township Attorney Wendling and we have made some changes to the zoning amendment and licensing ordinance to accomplish this. These two ordinances need to work together in order to accomplish the end goal. In addition to me, Peter will be available at the meeting to answer any questions the board may have.

The zoning amendment was amended to allow short term rentals in all zoning districts. This is done for two reasons. 1. To allow anyone who is currently operating a short term rental to be able to continue. 2. To make a use non-conforming, it must first be allowed in the Zoning Ordinance. In the future, the Township could adopt a zoning amendment that would remove the use from all districts.

The licensing ordinance was amended to add eligibility requirements, Section 6. In order to apply for a license, you must meet these eligibility requirements. If you do not, you cannot apply or receive a license for a short term rental. As proposed, an individual would need to have rented a dwelling sometime in the previous three years and provide proof to the Township. They must obtain a license this first round of licenses and maintain it annually to be able to continue to operate a short term rental. If a license is not applied for in the first year, when this ordinance becomes effective, the owner will not be able to obtain a license at a future date. Also if the use discontinues, the property transfers, or the license is revoked, the owner is not eligible to obtain a license. This is essentially setting the cap on the number of license and as proposed would gradually phase short term rentals out in the Township.

There were additional changes to the licensing ordinance such as the purpose, a few definitions were added, and the violations section has some minor revisions by Peter.

CHARTER TOWNSHIP OF ELMWOOD  
Leelanau County, Michigan

Ordinance No. \_\_\_\_\_  
ZO 2017-04-08

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE, IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED [MCL 125.3101 ET SEQ.], TO ADD SHORT TERM RENTALS AS A USE TO THE ZONING ORDINANCE.

The Charter Township of Elmwood Ordains:

**Section 1:** Amendment.

The following sections of the Elmwood Township Zoning Ordinance shall be amended to read as follows:

**Section 2.2 Definitions**

Add:

**Short Term Rental:** The commercial use of renting a dwelling, or portions thereof, used for accommodations or lodging of guests, paying a fee or other compensation, for a period of less than 30 days at a time when the owner of the dwelling does not reside in the dwelling during the rental period.

**SECTION 5.4 LAND USE AND ZONING DISTRICT TABLE**

Add Short Term Rentals as number 71 and re-number all following uses:

Commerical Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
71. Short Term Rentals*	P	P	P	P	P	P	P	P	P	P	P
P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

**SECTION 5.5 SPECIAL REQUIREMENTS FOR SPECIFIC USES**

Add:

**L. Short Term Rentals.**

Shall a conflict exist between this section and any other section in this Ordinance, this section shall prevail.

1. Short Term Rentals shall maintain a license as required by the Short Term Rental Licensing Ordinance

2. A land use permit shall not be required for short term rentals

**Section 2:** Severability.

If any sections, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

**Section 3:** Effective Date.

This Ordinance shall become effective eight (8) days after publication.

**CHARTER TOWNSHIP OF ELMWOOD**  
**SHORT TERM RENTAL LICENSING ORDINANCE**  
**Ordinance No. \_\_\_\_\_ of 2021**

AN ORDINANCE PURSUANT TO ACT 359 OF THE PUBLIC ACTS OF 1947, AS AMENDED, TO PROVIDE FOR THE PUBLIC PEACE AND HEALTH AND FOR THE SAFETY OF PERSONS AND PROPERTY IN THE CHARTER TOWNSHIP OF ELMWOOD BY THE LICENSING AND REGULATION OF SHORT-TERM RENTALS, TO PROVIDE PROCEDURES FOR THE SUSPENSION AND REVOCATION OF SHORT-TERM RENTAL LICENSES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE

THE CHARTER TOWNSHIP OF ELMWOOD ORDAINS:

**Section 1: Purpose**

This ordinance is intended to protect and promote the health, safety and welfare of all the citizens of Elmwood Charter Township, as well as those visiting the area, by requiring the licensing of short-term rentals within the Township. Tantamount to this purpose is that the Township also wishes to preserve and maintain the residential community maintain the residential community character within the Township. Thus through this Ordinance the Township also recognizes the need for more long term housing and the need to protect housing stock by providing limits to the availability of short term rental licenses. By allowing through this Ordinance a limited number of licenses for short term rentals, the Township is preserving existing rentals which provide alternative lodging facilities and options for visitors while assisting owners of existing short term rentals utilize their revenue stream for the continued maintenance upgrade deferred cost of such rentals. The transitory nature of occupants of short term rentals warrants registration and other provisions of this Ordinance for purposes of preserving existing short term rentals as well as the continuity of residential neighborhoods within the Township. The provisions of this Ordinance are necessary to prevent the continued burden otherwise placed upon County services within the Township as well as Township services and mitigate any impacts of limited number of short term rentals in the residential neighborhoods in which they exist.

**Section 2: Applicability**

The ordinance applies to all residential dwellings in the Charter Township of Elmwood and owners of those dwelling wherein the dwelling is rented for a period of less than 30 days and where the owner does not reside during the rental period as applicable to short term rental property owners who are eligible to obtain a license under Section 6 of this Ordinance.

### **Section 3: Definitions**

**Bedroom:** A separate room with a door, closet, and window that is used or intended to be used specifically for sleeping purposes, has a minimum horizontal distance in any direction of 7 feet, and not a room by design intended to serve another purpose such as a kitchen, dining area, den, family rooms, or living rooms.

**Dwelling unit:** A group of rooms located within a building and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, sanitation, cooking, and eating purposes. A dwelling unit shall not include an owner-occupied bed and breakfast, hotel, or motel where other lodging facilities as those terms are either defined and/or regulated under the Elmwood Charter Township Zoning Ordinance.

**License Holder:** The owner or owner's agent who applies for and receives a short term rental license from Elmwood Charter Township.

**Local Contact Person:** A local property manager, owner, agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, and authorized by the owner to take remedial action and respond to any violation of this Ordinance.

**Maximum Occupancy:** The maximum number of allowable occupants and the guests of those occupants for a short term rental, as established in Section 4.E. of this Ordinance.

**Occupant:** As used in this Ordinance, is an occupant or renter of a short term rental pursuant to a rental agreement. The term "occupant" as used herein does not include guests of the occupant or renter who are visiting outside quiet hours.

**Owner:** An individual, tenants in common, tenants by entireties, joint tenants, a corporate entity, including all subsidiaries, dba's and/or affiliates of the corporate entity and/or non-corporate owners who lawfully own 100% of the real property.

**Parking Space:** For purposes of this ordinance, a parking space shall be a minimum of 9 feet by 20 feet, located off-street, outside of a road right away, and in one of the following locations:

- A. In a garage or carport
- B. Within a paved or gravel driveway
- C. Within a paved or gravel parking pad

**Short Term Rental:** The commercial use of renting a dwelling unit, or portions thereof, used for accommodations or lodging of guests, paying a fee or other compensation, for a period of less than 30 days at a time when the owner of the dwelling unit does not reside in the dwelling unit during the rental period.

**Special Events:** In association with a short term rental, a wedding, outdoor party, family reunion, or similar gathering that exceeds the maximum number of occupants allowed under the short term rental license.

**Transfer of Property:** A transfer via a bonafide lawful sale; transfer to an individual, corporation of any type; transfer from or to a trust, or transfer as a distribution from a trust to or from a corporate entity of any type; transfer through a probate estate, Lady Bird Deed, or similar lawful transfer. Transfer does not include a transfer into a trust by owners who are also the grantors/settlors of the trust or out of a trust from the grantors/settlors to the original owners.

#### **Section 4: Short Term Rental Standards**

All short term rentals shall meet the following standards:

- A. **Parking-** Parking for all vehicles, including trailers, shall only be in parking spaces identified on the site plan as defined by this ordinance. No on-street parking shall be permitted in association with a short term rental.
- B. **Trash-** Refuse and recyclables shall be stored in appropriate containers with tight fitting lids and shall be regularly picked up by a licensed waste hauler.
- C. **Special Events-** Special events as defined by this ordinance, shall not be allowed.
- D. **Quiet Hours-** Short term rentals shall observe quiet hours between 10:00 pm and 8:00 am Sunday through Thursday and between 11:00 pm and 8:00 am Friday, Saturday, and Federal Holidays. Fireworks as allowed by the Elmwood Township Consumer and Display Fireworks Ordinance.
- E. **Capacity Limit-** The occupancy for the short term rental shall be no more than two (2) occupants per bedroom excluding children under the age of 5 with a maximum occupancy of 10 occupants. At no time, shall additional individuals be allowed to sleep outside of the dwelling.
- F. **Guests-** Guests up to the number equal to the maximum occupancy may be allowed during non-quiet hours listed above.
- G. **Contact-** The owner, or designated caretaker, shall be available by telephone at all times and must be physically located within 30-miles of the property in the event of an emergency or issue that requires immediate attention. This information shall be updated immediately if it changes.
- H. **Signs-** A sign indicating the address of the property that is visible from the road shall be required to obtain a license. No additional signage of any kind is permitted.

- I. **Fire Safety-** Short term rentals shall be required to maintain operating smoke detectors, carbon monoxide detectors, and fire extinguishers. Evacuation routes shall be posted in a conspicuous location in each bedroom as well as the main gathering space in the house.
- J. **Other Ordinance-** Short term rentals shall comply with all requirements of the Elmwood Township Zoning Ordinance as well as all other Ordinances adopted by the Charter Township of Elmwood.

#### **Section 5: Short Term Rental License**

- A. A short term rental license shall be valid until December 31 of the calendar year.
- B. Licenses are not transferrable.
- C. The owner must obtain a license prior to advertising the property as a short term rental. Current license holders may advertise for the future licensing cycle but this shall not obligate the Township to issue a license.
- D. The license number shall be clearly displayed in any advertisement and documents of the short term rental.
- E. New licenses applied for outside of the license renewal period may be issued throughout the calendar year if licenses are available.

#### **Section 6: License Eligibility**

In order to be eligible for a license to operate a short term rental, the owner shall meet the following requirements:

- A. The owner must supply documentation that the short term rental operated sometime during the previous three years (2018, 2019, 2020) from the effective date of this Ordinance. Documentation may include but is not limited to:
  - 1. Rental listing with date, address, and owner listed
  - 2. Three Notarized Affidavits- 1 from the owner stating that the property had been rented and when, 2 from previous renters including dates rented and any documentation of their stay
- B. After the first year, the owner with a valid license may apply for annual renewal unless this initial or renewed license was revoked per Section 9 of this Ordinance.
- C. Failure to obtain a license in the 2021 year or any year following, will disqualify the owner from obtaining a license.

## **Section 7: Application Procedure**

All applications for a short term rental license shall include all of the following information and any other information reasonable necessary for the Zoning Administrator to determine whether the applicable standards for approval have been met:

- A. The name, address, and phone number of the owner
- B. The names and addresses of all officers, directors, owners, and managers of the owner and all persons who hold any direct or indirect ownership interests in the owner's real property for which the license is being sought
- C. The name, address, and phone number of the local contact person
- D. Signature of owner and local contact person
- E. The address of the property for which the short term rental license is being applied for
- F. Proof of ownership via deed or other recorded device which shows ownership of the property
- G. A site plan and floor plan, drawn to scale with dimensions, showing the locations, size, number of bathrooms, number of bedrooms, parking areas, and household waste storage areas on the property and buildings of the short term rental
- H. Proof of Eligibility under this Ordinance including, but not limited to, specific documentation of prior operation as a short term rental under subparagraph 6.A, above.
- I. Fees as determined by the Elmwood Township Board

## **Section 8: Issuance of License**

All short term rental licenses shall expire on December 31. The owner of the short term rental shall apply for the next calendar year at any point between October 1 and October 31. All licenses will be issued by December 31 when applied for by October 31. Any owner that does not submit a renewal application by October 31 shall not be eligible to obtain a license.

For the first year (2021), eligible owners shall apply for a short term rental license by \_\_\_\_\_ in order to be considered for a license. Issued licenses will be valid until December 31, 2022.

## **Section 9: Violations and Administrative Penalties**

- A. Any of the following conduct is a violation of this Ordinance:
  - 1. Any advertising or leasing of a short term rental without first obtaining a short term rental license.
  - 2. The owner has failed to comply with any provisions, standards, or conditions contained in this ordinance or any other ordinance of the Township.
  - 3. Any false or misleading information provided in the application process.



B. The penalties for violations specified in subsection (A) above are as follows:

1. This ordinance shall be enforced by individuals designated by the Township Board. In addition to written violation notices, the Township will attempt to notify the contact via phone of the violation as soon as possible.
2. For a first violation within a calendar year, the penalty is a written warning notice of violation.
3. A second violation within the same calendar year shall be subject to a municipal civil infraction punishable by a fine of not less than two hundred fifty (250) dollars nor more than five hundred (500) dollars. All owners, regardless of their interest in the property, may be responsible for the civil infraction. Each day the violation remains may be a separate offense.
4. A third violation within the same calendar year shall be subject to a municipal civil infraction punishable by a fine of not less than twice the amount of any previous fine but not more than five hundred (500) dollars, and the license shall be revoked.
5. If there are one or more violations each year during any three (3) consecutive year period, the license shall be revoked.
6. An owner may appeal a decision to revoke a license to the Township Board.

C. A violation of this ordinance shall be a nuisance per se. The Township shall have the right to commence a civil action to enforce compliance with this ordinance.

D. Any person who knowingly files a fraudulent, false, or fictitious complaint about a short term rental shall be deemed to be violation of this ordinance and may be subject to court enforcement proceedings and the penalties under this Ordinance.

#### **Section 10: Severability**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent judication, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

#### **Section 11: Effective Date**

This Ordinance shall become effective the day following its publication by the Township as required by Section 8 of the Charter Township Act, MCL 42.8.

Ordinance No. \_\_\_\_\_ of 2021 was adopted on \_\_\_\_\_  
, 2021, by the Elmwood Charter Township Board as follows:

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

\_\_\_\_\_  
Connie Preston, Clerk

\_\_\_\_\_  
Jeff Shaw, Supervisor

I certify that this is a true copy of Ordinance No. \_\_\_\_\_ of 2021 that was adopted at a regular meeting of the Elmwood Charter Township Board on \_\_\_\_\_, 2021 and published in the *Traverse City Record Eagle* on \_\_\_\_\_, 2021.

Dated: \_\_\_\_\_  
Connie Preston, Clerk