

Date: 09.23.2021
From: Sara Kopriva, AICP
To: Elmwood Township Board

Project: Short Term Rental Ordinances

Remarks:

Enclosed in your packet are the updated licensing ordinance and zoning amendment ordinance for short term rentals. Changes made were based on the Board's direction at the September 2, 2021 meeting. Notice for the public hearing and consideration were published in the Leelanau Enterprise on September 9, 2021.

Application Information:

At the September 2 meeting, I mentioned that I would bring back a list of items that would be requested with the application since the licensing ordinance mentions an application form and additional information but does not specify what those are. Below is a list of examples of information that will be requested but may not be complete.

1. Name, address, phone number of owner
2. Name, address, phone number of caretaker
3. Name, address, of all individuals having interest in the property
4. Property address for short term rental
5. A signed statement from the owner and local contact person, verifying that they consent and understand the short term rental ordinances and hold harmless agreement
6. Site plan and floor plan for the rental drawn to scale
7. Number of dwelling units on the property
8. Proof of ownership via deed
9. Acknowledgement by owner that they do not have a deed restriction related to short term rentals
10. Certificate of occupancy for the dwelling that is going to be the short term rental

Application Procedure:

Following the last meeting, I received a couple of questions about how the first round of applications would be processed. The current ordinance is drafted to include a lottery should we receive more applications than available in the first year and a waitlist established. If we do not receive more applications than the number of licenses, they would be processed in a first come basis.

Beckett & Raeder, Inc.
535 West William, Suite 101
Ann Arbor, MI 48103

Petoskey Office
113 Howard Street
Petoskey, MI 49770

Traverse City Office
148 East Front Street, Suite 207
Traverse City, MI 49684

Toledo
419.242.3428 ph

734 663.2622 ph
734 663.6759 fx

231 347.2523 ph
231 347.2524 fx

231 933.8400 ph
231 944.1709 fx

Below is what the process would look like as currently drafted.

1. Ordinance becomes effective
(November 6 at the earliest if adopted at September 30 meeting)
2. Applications are received- Date/time stamped as received by zoning office
3. Application deadline- November 30, 2021
4. Applications are determined if they are complete. Reviewed in the order received.
5. a. Number of complete applications 93 or less

Licenses are issued in the order received

b. Number of complete applications more than 93

Complete application addresses are placed in a hat and drawn for order that licenses will be issued. The first 93 names on the list will receive licenses, the remaining will be placed on the waitlist. ("Placed in a hat and drawn" is meant to explain the process, the Township may utilize a different method to do this such as a random number generator)

6. Applications received after November 30, 2021 will be issued a license, if available, or placed on the waitlist, if no licenses available, in the order determined complete

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initiative

CHARTER TOWNSHIP OF ELMWOOD
Leelanau County, Michigan

Ordinance No. 2021-03
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: A single family dwelling unit, or portions thereof, that is available and licensed for use or is licensed for use 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. Single family dwellings used and licensed as a short term rental shall not be considered a motel as defined by the Zoning Ordinance.

SECTION 5.4 LAND USE AND ZONING DISTRICT TABLE

Add Short Term Rentals as number 25 and re-number all following uses:

Residential Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
25. 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:

M. 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 when Ordinance 2021-02, Short Term Rental Licensing Ordinance, becomes effective.

**CHARTER TOWNSHIP OF ELMWOOD
SHORT TERM RENTAL LICENSING ORDINANCE
Ordinance No. 2021-02**

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. It is also the intent of this Ordinance to preserve and maintain the residential communities within the Township such that short term rentals do not change the residential character of neighborhoods within the Township. This Ordinance limits the number of short term rental licenses allowed within the Township preserving the majority of the housing stock for owner occupied residential use while providing short term rentals for families visiting the area either as tourists or for business purposes which also provides income to license holders to maintain and preserve the licensed short term rental home.

Section 2: Applicability

The ordinance applies to all residential dwelling units in the Charter Township of Elmwood and owners of those dwelling wherein the dwelling is rented for a period of less than 30 days at a time during a calendar year, and where the owner does not reside during the rental period .

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 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 the Township, 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 6.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: Any person holding legal or equitable title to a property or to real improvements upon a property solely, jointly, by the entireties, in common, or as a land contract vendee. Person means an individual, firm, corporation, association, partnership, limited liability company, trust or other legal entity.

Short Term Rental: A single family dwelling unit, or portions thereof, that is available and licensed for use or is licensed for use 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 of any type from a person to another person as defined under MCL 211.27a(6)(a)-(j), being part of Public Act 206 of 1893, as amended.

Section 4: License Required

An owner of any dwelling located within Elmwood Charter Township shall not rent, or allow to be rented, a dwelling unit to another person for less than 30 days at a time, unless the owner has obtained a short term rental license for that dwelling unit in accordance with the requirements of this Ordinance.

Section 5: Application for Short Term Rental License

- A. **Responsibility.** It shall be the responsibility of the owner of a short term rental to apply for a license through the submission of a short term rental license application. The application shall be on a form prepared by the Township's Office of Planning & Zoning.

- B. Application form. A person seeking a license under this ordinance shall submit a complete application, certified as being true, to the Township Office of Planning & Zoning. Electronic submissions shall not be accepted. The application shall include all of the information specified on the short term rental application form and any other information deemed reasonably necessary by the Township Office of Planning & Zoning to determine whether the short term rental standards and regulations under this Ordinance have been met.
- C. Application fee. An application shall be accompanied by an application fee as established and set forth in the Township fee schedule. This fee schedule may also establish an "after the fact" fee that must be paid when an otherwise lawful short term rental is operated but without first complying with the procedural requirements of this Ordinance. This "after the fact" fee is not intended to be a penalty, but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the Township as the result of the applicant's failure to initially comply with the requirements of this Ordinance. The provision for an "after the fact" fee does not waive the Township's right to otherwise enforce this Ordinance when a violation of this Ordinance occurs.
- D. Complete application. Applications shall be reviewed in the order in which they were received by the Township (hard copy). Receipt of an application by a Township employee or designee does not mean an application is considered complete. If an applicant submits an incomplete application, they are not guaranteed a license. A short-term rental application shall not be considered accepted or complete until Elmwood Township's Planner/Zoning Administrator and/or Township Board designee deems it to be complete. Furthermore, if the applicant fails to provide all the information required by this Ordinance and/or fails to pay the required fee, then the application shall be deemed incomplete and may be denied by the Township Office of Planning & Zoning on that basis.
- E. License. Once deemed to be complete, if an application complies with all the standards and regulations of this Ordinance and a license is available, the Township Office of Planning & Zoning shall approve the short term rental license by December 31 when applied during the October renewal period and initial licensing for 2021 or within thirty (30) calendar days when outside of the normal reapplication window. All short term rental licenses issued under this Ordinance shall be sequentially numbered.

Section 6: Short Term Rental Standards and Regulations

In recognition of the unique nature of short term rentals, the following standards and regulations shall apply to all short term rentals in Elmwood Charter Township. These standards and regulations, however, shall not supersede deed restrictions on any property (including subdivision developments), and shall not supersede any provisions of the master deed and/or bylaws of a condominium development which contain provisions that are more stringent and restrictive of short term rentals than those contained in this Ordinance.

- 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. Parking shall comply with the requirements set forth in the Elmwood Township Zoning Ordinance.

- 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. Noise during quiet hours must be limited to that which does not disturb the quiet, comfort or repose of a reasonable person of normal sensitivities. Fireworks noise may occur during the time allowed by the Elmwood Township Consumer and Display Fireworks Ordinance.
- E. **Capacity Limit-** The occupancy for all short term rentals shall be no more than two (2) occupants per bedroom excluding children under the age of 5 with a maximum occupancy, including children under the age of 5, of 10 occupants. At no time, shall additional individuals be allowed to sleep outside of the dwelling unit.
- F. **Guests-** Guests up to the number equal to the capacity limit of the short term rental may be allowed only during non-quiet hours listed above.
- G. **Contact-** The owner, or designated caretaker, of the short term rental 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 by the license holder 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. **Township and County Ordinances, State and Federal Laws-** 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, as well as State, County and Federal laws.
- K. **Certificate of Occupancy-** Short term rentals shall have a certificate of occupancy prior submitting an application for a Short Term Rental License.
- L. **Rules and regulations to be provided to occupants-** The license holder or local agent shall provide all occupants of a short term rental with the following information prior to occupancy

and shall post such information in a conspicuous place within each short term rental:

- (1) The name of the license holder or local agent responsible to perform obligations related to the short term rental under this ordinance, that individual's telephone number(s), and an email address at which that individual may be reached on a 24-hour basis.
 - (2) Notification of the maximum number of overnight occupants permitted in the short term rental.
 - (3) Copies of the Township Fireworks Ordinance and Animal Control Enforcement Ordinance of Leelanau County, as they may be amended from time to time.
 - (4) A copy of this ordinance, as it may be amended from time to time.
 - (5) Notification that an occupant and/or a guest of an occupant may be cited for a violation of this ordinance, and/or the Township Fireworks Ordinance, in addition to any other remedies available to the Township, County and State.
- M. **Pets-** Pets shall be secured on the premises or on a leash at all times. Dogs shall not be allowed to whine, yelp, bark, or howl for a period of ten minutes or longer, as per the Animal Control Enforcement Ordinance of Leelanau County.

Section 7: General Provisions Applicable to Licensees

- A. A short term rental license shall be valid from the date of issuance until December 31 of each calendar year.
- B. Licenses are not transferrable. When a short term rental property is transferred, the license will expire upon the transfer of the property. Licenses will revert to the Township after expiration, and/or transfer of property, revocation by the Township under this Ordinance, or 12 months of no short term rental use, and made available to new applicants based upon those waiting to apply for a license subject to Section 8, Limitations of Number of Licenses, and Section 9, Issuance of License, under this Ordinance.
- 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.

- F. A short term rental license is a privilege, not a property right, and is only held pursuant to and subject to the requirements of this Ordinance.

Section 8: Limitations on Number of Licenses

The Township hereby authorizes 93* short term rental licenses to be issued at any one time within the Township.

(* Based on 4% of the dwelling units in Elmwood Township at the time this Ordinance was adopted)

Section 9: Issuance of License

Upon the effective date of this Ordinance, applications may be obtained for short term rentals licenses. Completed applications will be received until November 30, 2021 for the first year that licenses are available. Should the Township receive more completed applications than licenses available this first year, completed applications received during this time will be placed in a random selected lottery to determine order for license issuance and a wait list established, subject to the limited number of licenses under Section 8 of this Ordinance. All complete applications received after November 30, 2021, will be issued licenses, if available, based on the received date of a completed application by the Township. Should no licenses be available, these applicants will be placed on a wait list until a license becomes available. A annual fee may be required to remain on the waitlist.

All short term rental licenses shall expire on December 31 or upon the transfer of a licensed property. A short term rental license shall also expire upon revocation as provided under Section 10, Violations and Administrative Penalties. The owner of the short term rental shall re-apply for the next calendar year at any point between October 1 and October 31. All licenses, if eligible, will be issued by December 31 when re-applied for by October 31. Any owner that does not submit a renewal application by October 31 will be required to file a new application and will be placed on the wait list should licenses not be available.

Section 10: 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, Grand Traverse County, and/or State and/or Federal law.
 3. Any false or misleading information provided in the application process.
 4. Any person who knowingly files a fraudulent, false, or fictitious complaint about a short term rental shall be deemed to be in violation of this ordinance and may be subject to court enforcement proceedings and the penalties under this Ordinance.

- B. The penalties for violations specified in subsection (A) above are as follows:
1. This ordinance shall be enforced by any individual or individuals designated by the Township Board. In addition to written violation notices, the Township will attempt to notify the violator or the violator's authorized agent via telephone of the violation as soon as possible.
 2. For a first violation of a license by a license holder within a calendar year, the penalty is a written warning notice of violation. A written warning will also be sent to a party who knowingly files a fraudulent, false, or fictitious complaint about a short term rental.
 3. Any person who violates any provision of this Ordinance, including the continued operation of a short term rental after the license for that short term rental has been suspended or revoked as provided in this Ordinance, shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus costs of prosecution up to Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
 4. If there are one or more violations each year during any three (3) consecutive year period, or three (3) violations in a single calendar year, the license shall be revoked.
 5. An owner may appeal a decision to revoke a license to the Township Board within 30 days of the date the written notice of revocation was issued.
- C. A violation of this ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.
- D. In addition to enforcing this ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this ordinance.

Section 11: Severability

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, 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 12: Effective Date

This Ordinance shall become effective 30 days 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