

To: Elmwood Township Board

From: Sara Kopriva, AICP, Planner/Zoning Administrator

Date: January 13, 2021

RE: Short Term Rental Zoning Ordinance and Licensing Ordinance

Enclosed is a copy of the zoning ordinance amendment for short term rentals, as well as, the licensing ordinance that the Planning Commission has recommended approval on. Also provided are minutes from the Elmwood Planning Commission meetings for the public hearing and decision and the Leelanau County Planning Commission recommendation. While the Planning Commission has made this recommendation, the Board can approve, deny, or make modifications to the documents.

Also included is a zoning map and other ordinance from around the county that have regulations on short term rentals. If a Leelanau County township/village ordinance is not included in this packet, they do not have any thing on the books regarding short term rentals.

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=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

Add to end of table:

P+ - Allowed if existed and was in operation as a short term rental during the 24 months prior to Zoning Board of Appeals March 20, 2019 meeting. A license shall be obtained within 1 year of the effective date of this ordinance or the use shall not be re-established. Should the use discontinue, the use shall not be re-established.

**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.

**Police Power Ordinance**

CHARTER TOWNSHIP OF ELMWOOD

SHORT TERM RENTAL LICENSING ORDINANCE

AN ORDINANCE TO REGULATE SHORT TERM RENTAL OF RESIDENTIAL PROPERTY WITHIN THE CHARTER TOWNSHIP OF ELMWOOD AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE CHARTER TOWNSHIP OF ELMWOOD ORDAINS:

**Section 1: Purpose**

The Charter Township of Elmwood Board of Trustees finds and declares as follows:

- A. The Township wishes to preserve and maintain the residential community character of the Township.
- B. This Ordinance is intended to protect and promote the health, safety, and general welfare of all the citizens of the Charter Township of Elmwood by requiring the registration and permitting of short term rentals.
- C. The Township understands the need for more long term housing and is interested in protecting the housing stock by limiting the number of licenses available.
- D. Short term rentals provide a community benefit by expanding the number and type of lodging facilities available and assisting owners of short term rentals by providing revenue which may be used for maintenance upgrades and deferred costs.
- E. The transitory nature of occupants of short term rentals makes continued enforcement difficult without registration and contact information.
- F. The provisions of this ordinance are necessary to prevent the continued burden placed upon county and township services and impacts on residential neighborhoods posed by short term rentals.

**Section 2: 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.

**Caretaker:** A caretaker is an individual, other than the owner, who is responsible for the oversight and care of the short term rental and is authorized to act on behalf of the owner. The owner may be the caretaker.

**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, 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.

**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 3: 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.

### **Section 4: Licensing Limitations**

The Township hereby authorizes **40** short term rental licenses to be issued at any one time within the Township. An owner shall be allowed to hold one (1) license at a time in the Charter Township of Elmwood.

### **Section 5: 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 and Saturday.
- E. **Capacity Limit-** The maximum occupancy for the short term rental shall be no more than two (2) occupants per bedroom excluding children under the age of 5. 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 post 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 6: 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 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 caretaker, if different from the owner
- D. Signature of owner and caretaker
- E. The address of the property for which the short term 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. Fee as determined by the Elmwood Township Board

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

Owners that have a valid license and are in good standing with the Township shall have first priority in receiving a license for the following calendar year. The remaining balance of the licenses may be issued to owners who have submitted a complete application. If the number of applications, including renewal applications exceeds the number of licenses authorized in Section 4 of this Ordinance on October 31, then the Township will conduct a lottery to determine which of the new applicants shall receive a 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 have their application processed as a new application as licenses are available.

### **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 warning notice of violation which shall be in writing.
  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. An owner may reapply for a license no sooner than twelve (12) months after revocation of a license.
  5. If there are one or more violations each year during any three (3) consecutive year period, the license may 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 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 11: Effective Date**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

**Charter Township of Elmwood  
Planning Commission**

**Special Meeting**

**September 22, 2020**

**7:00 PM**

**Approved November 17, 2020**

**\*Meeting held remotely per the governor's executive order due to Covid-19**

**A. CALL TO ORDER:** Chairman Bechtold called the meeting to order at 7:02 PM.

**B. PLEDGE OF ALLEGIANCE:** Chairman Bechtold led the Pledge of Allegiance.

**C. ROLL CALL:** Jeff Aprill, Kyle Trevas, Doug Roberts, Jonah Kuzma, Kendra Luta, Nate McDonald, Rick Bechtold

**D. PUBLIC COMMENT:** Jack Kelly 10100 E. Avondale Ln., Todd Space, Ann Marie Wigton, Anna Heiges, Kelsey Zaryczny, Kelly Ignace, Comment on behalf of Del Moore, Joe Sanok,

**E. AGENDA MODIFICATIONS/APPROVAL: (18:10) MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER TREVAS TO APPROVE THE AGENDA AS WRITTEN. ROLL CALL VOTE: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KYLE TREVAS, JONAH KUZMA, KENDRA LUTA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**

**F. DECLARATION OF CONFLICT OF INTEREST:** None

**G. PURPOSE OF SPECIAL MEETING:**

**1. ZO 2017-04-11-Brock, Uses allowed in the Rural Resort Zoning District: (21:16)**  
Staff noted they talked about this in May and June and then the applicant asked that it be removed from the agenda for the regular June meeting. They are now getting back into it so she included the application in the Commissioner's packets and the applicant had a couple of slides they provided.

Nate Elkins, Planner for his company, iDF, representing Steve Brock, owner of the property at the top of the former Timberlee Ski Resort, gave a brief synopsis of the property. They understand the property is currently zoned Rural Resort and any commercial uses, other than recreational uses, generating more than 50 trips per day would require an amendment to the zoning. They also understand that prior to completing a Site Master Plan and submitting a Planned Development Application the property would require a

rezoning to include those commercial uses. Proposed uses include special events and tasting rooms that would not currently be allowed.

The Commissioners discussed the project and asked questions of the applicant.

**MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER TREVAS, TO TABLE THE APPLICATION FOR FURTHER INFORMATION INCLUDING ITEM #5 UNDER RURAL RESORT WHICH THE SITE CONTAINS NO MORE THAN 5% OF SUPPORTING USES. ROLL CALL: AYE-DOUG ROBERTS, KYLE TREVAS, JEFF APRILL, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION APPROVED UNANIMOUSLY.**

**2. DELIBERATION ZO 2017-04-08 SHORT TERM RENTAL ZONING ORDINANCE AMENDMENT: (1:13:17) (Public Hearing closed 9/15/2020 @ 8:59 p.m.)**

Commissioners discussed the Short Term Rental Zoning Ordinance Amendment, public hearing comments, and went through Standards for Approval finding that they either did not apply or were met.

**MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER KUZMA TO RECOMMEND TO ADOPT ZO 2017-04-08 TO THE TOWNSHIP BOARD FOLLOWING THE REVIEW OF THE GUIDELINES IN THE ORDINANCE.**

**ROLL CALL: AYE-KYLE TREVAS, JONAH KUZMA, DOUG ROBERTS, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. NAY-KENDRA LUTA. MOTION PASSED 6-1.**

**H. COMMENTS FROM THE CHAIR:** Chairman Bechtold thanked the Planning Commission for the hard work and massive thought they put into this. He thanked the members of the community that provided excellent written and verbal testimony. They know their beliefs in their comments are deeply seeded and they understand and recognize that while ideally if they had some type of magic wand to grant everybody's wish, they would pull it out and use it.

**I. COMMENTS FROM COMMISSIONERS:** Commissioner Aprill also thought it's been a very tough decision and a case well made by both sides. Commissioner Trevas thanked everybody who has been involved.

**J. COMMENTS FROM STAFF:** Staff said something they didn't do and she wanted to clarify, there were no additional changes to the licensing ordinance or anything proposed at the Planning Commission had interest in before forwarding it on to the Township Board.

**MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER ROBERTS TO  
FORWARD THE LICENSING ORDINANCE TO THE TOWNSHIP BOARD.**

**DISCUSSION**

**ROLL CALL: AYE-KYLE TREVAS, DOUG ROBERTS, JONAH KUZMA, KENDRA LUTA,  
NATHAN MCDONALD, JEFF APRILL, RICK BECHTOLD. MOTION PASSED.**

**K. PUBLIC COMMENT: (2:10:19)** Ann Marie Wigton, Joe Testa, Kelly Ignace, Comment on  
behalf of Del Moore

**L. ADJOURN: ROLL CALL FOR ADJOURNMENT: AYE-JEFF APRILL, KYLE TREVAS,  
DOUG ROBERTS, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD.  
Meeting adjourned at 9:19 p.m.**

**Respectfully submitted,**

**Carrie M. Schaub**

**Charter Township of Elmwood  
Planning Commission**

**Regular Meeting**

**September 15, 2020**

**7:00 PM**

**Approved November 17, 2020**

**\*Meeting held remotely due to Covid-19**

- A. CALL TO ORDER:** Chairman Bechtold called the meeting to order at 7:03 PM.
- B. PLEDGE OF ALLEGIANCE:** Chairman Bechtold led the Pledge of Allegiance.
- C. ROLL CALL:** Jeff Aprill, Kyle Trevas, Doug Roberts, Jonah Kuzma, Nate McDonald, Kendra Luta, Rick Bechtold
- D. PUBLIC COMMENT: (2:49)** Sue Jones 12684 S. Cedar Ln., Rod Jones, Colleen Mulligan, comment on behalf of Del Moore, Ann Marie Wigton
- E. AGENDA MODIFICATIONS/APPROVAL: (20:44) MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER ROBERTS TO APPROVE AGENDA AS PRINTED. ROLL CALL VOTE-AYE: DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KYLE TREVAS, JONAH KUZMA, KENDRA LUTA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**
- F. MINUTES-AUGUST 18, 2020 REGULAR MEETING (21:54): MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER KUZMA TO APPROVE MINUTES OF AUGUST 18, 2020 WITH CORRECTIONS. ROLL CALL VOTE-AYE: KENDRA LUTA, NATE MCDONALD, JONAH KUZMA, DOUG ROBERTS, KYLE TREVAS, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.**
- G. CONSENT CALENDAR (26:00): APPROVE/RECEIVE AND FILE**  
**1. PLANNER'S REPORT-None**
- H. DECLARATION OF CONFLICT OF INTEREST: None**
- I. OLD BUSINESS-None**
- J. NEW BUSINESS (27:20):**



**1. PUBLIC HEARING-ZO 2017-04-08 Short Term Rental Zoning Ordinance  
Amendment**

**In accordance with the official notice, as read by the Chair, the public hearing opened at 7:30 p.m.**

Staff stated the notice for the public hearing was published August 27<sup>th</sup> in the Leelanau Enterprise for the zoning text amendment that also provided information for logging in to the ZOOM meeting. Chairman Bechtold said as a courtesy to the public, try to specify their comments to deal specifically with the zoning ordinance text versus the licensing ordinance.

**Public Comment opened at 7:41 p.m.**

Mark Breiderland 9483 E. Harbor Hills he knows Elmwood Township is the largest populated township in Leelanau County abutting the City of Traverse City and Grand Traverse County; a county with over 90,000 residents. He attended some Elmwood Township Planning Commission meetings earlier on the topic of short term rentals and at one of those, it was stated by our own Elmwood Township attorney that the Garfield Charter Township in Grand Traverse County, the largest populated governmental unit in Grand Traverse found they had situations where illegal short term rentals were occurring and the township board reaffirmed and barred the practice. He knows Garfield was legally challenged up to the state court of appeals on this and in 2018 the township prevailed and was able to uphold their short term rental ban. He doesn't understand why Elmwood Township Government has not taken the same action prior to tonight. It seems to him that it's become bogged down in a myriad of issues. Let's be clear, here in Elmwood, neighborhoods are paramount to both Elmwood as well as Garfield Charter Township's. Neighborhoods should not be where mini hotels are located but where residents reside and raise families and provide dwelling units for workers in our community. Elmwood Township should not allow a non-owner occupied whole house dwelling unit to be operated in Elmwood residential neighborhoods under any circumstances. Mini hotels simply don't belong and he's quite confident the vast majority of his neighbors believe the same. So, further with the pandemic, it seems to him there's even further economic pressure for out of area, out of state purchase of our limited community neighborhood homes and possible used as short term rentals if allowed by this township. So he urged the Planning Commission and the Township Board of Elmwood Charter Township, our largest residential township in the county to ban short term rentals as Garfield Charter Township did and was legally successful back in 2018. The before mentioned case should bolster their resolve to protect the neighborhood in Elmwood Charter Township.

Sue Jones 12684 S. Cedar Ln. said in an effort to understand and visualize the scope of the short term rental issue in Elmwood Township, she compiled a spreadsheet for review and a map of locations of the short term rentals. With data from Host Compliance made available through a FOIA request, and information from Airbnb, VRBO, and Leelanau County Property Search websites, the spreadsheet includes the locations, PRE %, number of occupants, bedrooms, baths, date first reviewed, etc. The data can change from day to day as listings are added or are taken down, but it is raw data and would require a little more analysis. Out of the 100 listings she identified, the data indicates that excluding 8 that likely qualify as B & B's, and one duplicate listing, 45 listings have begun since March 20, 2019, that's an increase of 100% since this process started. Per the current listings, 7 is the average number of occupants allowed which is a more intense use of single family dwellings in our neighborhoods, where the average household size is only 2.3 occupants and that doesn't include the number of children under 5 or additional guests that would be allowed on the property outside of quiet hours. The Michigan Supreme Court ruling in June of 2020 upheld in Reaume vs Spring Lake Township that a short term rental property fell within their definition of motel, which is a near identical to Elmwood Township's definition in the Zoning Ordinance. There has been no demonstrated need to amend the Zoning Ordinance to allow conversion of our single family homes into motels for the purpose of lodging tourists. At this time, the Zoning Ordinance is firmly in our (the residents') corner so she continues to advocate for their rights under the current zoning that does not allow this type of commercial use property to operate in their neighborhoods without a primary resident present especially in their most densely populated neighborhoods. They need the scarce housing stock maintained as directed by the Master Plan for primary residents to represent the workforce, retirees, families and long term renters; they are the backbone of the community and contribute to its livability and character. She fully supports the proposed Zoning Ordinance Text Amendment in its current form that does not allow non-owner occupied short term rentals in our residential neighborhoods.

Rod Jones 12684 S. Cedar Ln. supports the proposed zoning ordinance text amendment. It confirms that short term rentals should not be an allowed commercial related use in our residential neighborhoods. In their Master Plan each township lays out their vision based on the type of community desired and the kind of lifestyle its citizens wish to follow. The goals and objectives of the plan are achieved by adopting a Zoning Ordinance. In previous public comment, investors have tried to draw a comparison between Elmwood and other townships in Leelanau County and have been critical when they cited Traverse City and other townships in Grand Traverse County for comparison. To counter that, he included on page 2 excerpts from Glen Arbor, Leland, and Empire townships' Master Plans which specifically draw attention to the seasonal nature of their communities and their economies primarily anchored by tourism. He included in page 3 excerpts from Elmwood Township's Master Plan which is much different in focus than the other townships in

Leelanau County. When they looked for reasonable arguments to justify the need to amend the Zoning Ordinance, they find nothing to indicate that one of the goals is to lodge tourists in single family dwellings in our residential neighborhoods. Instead, we find that consistent with the township's definition of motel, transient lodging; a commercial activity is only allowed in the general and shoreline commercial districts. The major narrative and theme of the recently adopted Master Plan maintains its previous focus on residential qualities of the township with consideration given to multi-generational and workforce housing. It reaffirms that the residents want limited commercial development within the township and are satisfied with depending on Traverse City for their shopping, dining, and commercial needs. With the guidance provided by the Master Plan, he does not believe there has been a demonstrated need to allow the conversion of our single family homes into short term rentals. Don't let investors and transients compete for the scarce housing in our densely populated residential neighborhoods and don't let them override the carefully crafted and recently adopted Master Plan. Please vote to recommend the Zoning Ordinance text amendment be passed in its current form.

Jack Kelly said for the past year and ½, SONIE has maintained that illegal non-owner occupied short term rentals should not be allowed to operate in Elmwood's residential neighborhoods. In so doing, they've provided public comment during 47 separate township meetings before the Township Board, the Township Planning Commission, the township ZBA, and 2 public input sessions mediated by Kathy Egan. From the outset, they were extremely confident that their efforts to protect the character and integrity of their residential neighborhoods accurately reflected the opinion and convictions of a large segment of the silent majority of our neighbors who felt likewise. Earlier today, that confidence and sustained conviction manifested itself front and center when Rod Jones delivered a petition to Planner Sara Kopriva signed by 263 residents of Elmwood Township, 80% of whom live in neighborhoods in and around E. Cherry Bend Road that reads as follows: We the undersigned residents of Elmwood Township oppose and hereby strongly urge that the Township Board of trustees and the Township Planning Commission not enact any zoning ordinance or police power ordinance permitting currently illegal non-owner occupied short term rentals to be operated in Elmwood Township's residential neighborhoods. If someone is currently operating one of these illegal non-owner occupied STRs, they should be given a maximum of 1 year to cease and desist such operations, which were commenced without any legal authorization in the first place. No one is above the law. Because Township officials decided to hold this public hearing remotely out of public safety Covid-19 concerns, every Planning Commissioner and the Township Attorney should already have electronic copies of the petition signature listing summary before them, given that this information was provided via email to Township Planner Kopriva prior to 5 p.m. today. Individualized folders containing hard copies for each Planning Commissioner were also delivered earlier today, along with a spreadsheet compiled by Sue Jones about STRs

and a copy of Township Attorney Peter Wendling's July 29, 2020 letter to Sara Kopriva that was obtained through FOIA. Furthermore, a hard copy of all this documentation was mailed to Attorney Wendling's law firm earlier today, and a copy of the actual petition signatures was also provided earlier today to Planner Kopriva for inclusion in this public hearing's official public record. Some final thoughts: His September 4<sup>th</sup> 5 page letter, which discusses Attorney Wendling's July 29<sup>th</sup> letter, and Planner Kopriva's September 8<sup>th</sup> 2 page memo, similarly conclude the need for the Planning Commission to address through Findings of Fact, all of the guidelines in Section 11.12.D1 a-j including a & c he would add, in preparing its recommendation to the Township Board. Since Home Businesses represent a similar intense commercial impact and require a SUP under Section 5.4, even though they are owner-occupied, perhaps a SUP should be required in the NC district as well. Also, the actual use of a structure is what's regulated under zoning, not its outward appearance and he still maintains that a LUP should be required. In closing, STRs don't belong in our residential neighborhoods, and he commends the Planning Commission for its extensive deliberations which ultimately came to the same conclusion as those of us living in same.

Tina Martin 10055 E. Avondale Ln. moved to an Elmwood Township residential neighborhood for a safe, clean, neighborhood with familiar neighbors. Our pristine parks, friendly neighbors, safe neighborhoods, quiet nights, tolerable traffic, and people who respect their property are what drew her to this area. We all know it's a desirable place to live or it wouldn't be on the agenda tonight. Non-owner occupied STRs are illegal here and it takes up housing for local working families and long term rentals for families who may not afford to buy. The legal age to rent a STR is 18 and there is not much limit on occupancy, quantity, or how renters respect neighbors or neighborhoods. She is sure STRs will not be managed, guarded, or maintained by laws and they are not now. She knows from experience residential neighborhoods turn to commercial, bring house value down, and unfamiliar neighbors and issues up. She wants to keep her residential neighborhood safe, clean, respected, commercial, and STR free. Please consider the consequences.

Todd Space said the STR survey last year showed more respondents want STRs to be allowed in all neighborhoods than oppose them; 801-610. A majority of respondents, 956, wanted STRs allowed on the waterfront; it's part of our heritage. Yet, in this draft amendment, you have completely ignored the survey and arbitrarily ruled that STRs are not allowed in the R-1 district. Have you looked at your zoning map? Almost all the waterfront is in R-1. Except for the dense subdivisions in the heart of Elmwood, most of R-1 looks just like R-2. This draft is a product of fear mongering by a few from the 35% minority who opposed STRs in the survey, often falsely claiming... to our community. If you are worried about the housing stock, simply limiting the number of STRs achieves this goal regardless of the zoning district. You claim STRs don't belong in R-1 because they are commercial, yet you have no problem with Bed and Breakfasts in R-1. Neon signs, striped

parking lots, unlimited guests sleeping anywhere in RBs rent by the hour, they're all ok if you are a Bed and Breakfast in R-1, clearly commercial. This inconsistency is a clear deficiency. Countless hours, thousands of dollars were spent to produce the current ordinance and published just 3 years ago and you chose not to address STRs. You deliberately left them unregulated while at the same time are continuing to allow STRs to operate. That's not much different than affirming them as out right legal. Regardless, that is how the public and all township officials took it as well. They could assume they were legal. It is just too rich that the former supervisor whos administration gave us the permission to operate now wants us treated as outlaws as he bullies you into this draconian change, destroying our legacy of vacationing in Elmwood. I remind you, not a single township official new STRs were not allowed, let alone the public until the ZBA ruled as such. The ZBA could have, and he thinks should have ruled differently, that short term rentals both owner occupied and non-owner occupied are similar to B&B's, not exactly the same, but all similar use. All 3 are commercial use on Residential property for transient short term rentals. Two of them are still allowed and completely unregulated by you. I ask you this, if you were told by the township that Elmwood does not regulate STRs and there is no ordinance specifically prohibiting them, how would you interpret that information? Does that sound like they're illegal to you? I doubt it. Of course not and it's on that basis that many Elmwood resident such as myself invested in a community millions of dollars. You the township are complicate and need to recognize that, own it, as such STRs should be considered non- conforming prior use going forward. Regulate them, but allow them in all districts. Because you have the power to declare STRs unlawful commercial ventures in R-1 doesn't mean you should. These homes remain residential despite the short term nature of their use.

Joe Testa 10271 S. Center Hwy. thanked Commissioners for taking the time to hear his thoughts as a resident of Elmwood regarding STRs in Elmwood Township. He owns a STR in Elmwood and absolutely loves using it personally for his family as well as blessing others with the chance to spend money at local restaurants, wineries, and other businesses. This past week a co-worker of his shared with him the process that Elk Rapids walked through regarding STRs and he encouraged the township to consider emulating what they did. Just for clarity, an earlier commenter mentioned the population size of Elmwood Township. Elk Rapids Township has 2,000 less people, not that much different in size, yet significant where they landed in their STR process. They grandfathered all STRs in up to the March 1<sup>st</sup> date when they set the ordinance. They respected those who were already using their homes for STR. They made a decision and moved forward. The process Elmwood has been in has been very confusing with little clear communication. There still is nothing on Elmwood's website to document anything regarding the STR controversy. They took into consideration all the benefits of STRs when they made their decision. How much STRs help the local economy. They led well through the process, communicating clearly and

definitively. There will be no confusion about someone who purchased a home after March 1<sup>st</sup> with the hopes of using it for STRs in that township. The ordinance is clear. They also allow the STR license to be passed on when properties are sold. It's his hope that the Township Board and the Planning Commission will see that STRs are a tremendous asset to the township. He's glad to be a part of CHER because he's gotten to see the tremendous quality of person and leadership made up by this group. Just to be clear, he asked the board to decide on an ordinance that would allow STRs and then set that as the date that all who have been operating STRs would be grandfathered in under.

Levi Meeuwenberg 9789 E. Cherry Bend Rd. he's a 4<sup>th</sup> generation resident of Elmwood Township, and his family helps to manage a non-owner occupied STR and he's also a neighbor to a STR that he does not manage. He was there to speak in support of STRs and specifically would like to see the number of licenses increased to at least cover and grandfather in all the existing STRs that currently exist. They have been running there's since 2015, so that's a 5 year old local business run by residents here and at the time they called the township and were told they were allowed. One of the things he's trying to understand was what grounds these regulations were being proposed. When it comes to things like his neighbor being concerned about loud noises, then we can pass a noise ordinance and it should probably apply to all homes, not just STRs. If there's a concern with parking, we can pass a regulation to control parking on the street. Those things are reasonable because they affect everyone in the neighborhood. What he doesn't understand is imposing on the right of homeowners of how they use the interior of their home, because with STRs the exterior experience of it is not all that different than just a regular residence, most of what is going on is happening in the interior of the home. He could understand if there was a matter of public health or safety in terms of passing some regulations but he hasn't heard a good strong case for those, just imagined threats and fears. It seems more like the people who are against them are simply trying to impose their personal taste and preferences about what their neighbors should do or should be allowed to do with their property and imposing on other people's liberties to do so. He doesn't agree with that political philosophy. He doesn't agree with imposing his personal taste about how he wants his neighborhood to feel on other homeowners unless it really threatens public health and safety. He just wanted to reiterate that he doesn't think STRs should be totally unlimited, but he thinks there is a reasonable number that should be closer to 150 that would grandfather in.

Susan Newman 10975 Mann Rd. called in support of STRs including the R-1 zoning district. She and her husband have an owner occupied STR so technically this is the competition but she still thinks it's the right thing to do. She's very disappointed with the Zoning Ordinance Amendment as it stands right now particularly with the 11<sup>th</sup> hour decision to restrict STRs in R1 zoning districts. She's been following this and that's a pretty big deal and seems that

decision was made very hastily. Again, this was brought up from the beginning not because there had been major disturbances or destruction from non-owner occupied STRs but from a concerned resident of Elmwood Township. Indeed there's an incentive on part of both the owner of the home and the guests that are staying there to be on their best behavior because there is a peer review that goes for both people. There's a huge incentive on the owners of these houses to keep them looking extremely well because that's important for people that are going to pay to stay there. She supports limiting granting STR licenses to those individuals who have primary residences within Elmwood Township and limited surrounding areas. These people are our neighbors and residents of Elmwood Township that are just trying to make ends meet for their family in a way that allows them flexibility and she thinks that is very important. They need to balance the rights of the people that own these other rental homes with their neighbors but completely eliminating them is limiting the rights of those owners of the homes and that are trying to do those STRs. There is a big support to the local economy. If there are issues, those should be addressed at a place that impacts all residences. For example, noise ordinance should be applied to everyone that lives in Elmwood Township, not just STRs. She doesn't care if it's a STR or regular neighbor if they're playing their music loud. In conclusion STRs are an asset to the township and she supports a grandfather clause to those that are already out there and please take a common sense approach as you're making your final decision.

Karyl Moore lives in Elmwood Township in one of the many residential subdivisions. From the onset they have continuously looked at legal written verbiage in our 2017 zoning as well as the 2018 Master Plan for guidance on the issue. Regardless of the presumed, suspected, or fabricated cottage rentals of back in the day, that no longer exist and regardless of what other communities have done, are doing, or whatever, it is Elmwood Township's specific documents already in place that is what matters most. In our Zoning Ordinance Article I, section 1.3 the ordinance has been established for the purpose explicitly permitted by Michigan Zoning Enabling Act to provide for the legislation of land development and the establishment of districts in the township. Section 1.4 the provisions of the Zoning Ordinance are the minimum requirements for the promotion of public health, safety, and welfare to determine the intent of the provisions of the ordinance the provisions should be read as a whole and by applying applicable laws statutory and ordinance interpretations. On July 5, 2020 Michigan Supreme Court ruling set precedence on a residential STR use. Last month the PC was provided with an extensive document on Spring Lake Township Zoning Ordinance case where they reaffirmed the Court of Appeals decision on the STR property as a motel as defined in their township's ordinance. Elmwood's motel definition is very similar to Spring Lake's. During the township's March 20<sup>th</sup> ZBA interpretation, this was looked at strictly from a residential standpoint. If all of the zoning definitions had been reviewed, as they were in the above cases, the language in our motel definition would no doubt have prevailed as well. In addition to our motel

definition, Article 2, terms of use, the word *use* shall be deemed to include the word intended, arranged for, designed for, etc. The word *occupied* is applied to any land or building shall be construed to include the words intended to; designed for. The word *shall* is mandatory, laws and rules exist, must be followed for text amendment. Some of these rules are already in place in Elmwood Zoning, a land use change without a proper process or without a demonstrated need for a zoning change would be devastating to the entire community, especially since final approval of our Master Plan and Land Use Map occurred only a few months before this topic emerged in the township in January, 2019 and conditions have not changed significantly since that plan was developed and adopted. Above all, with our motel definition, which states terms shall include by any other title intended to identify them as providing lodging for compensation on transient basis and being that the dwelling definition says, used exclusively for residential purposes and a single family dwelling definition says for the purpose of housing one family. She asked, what are our homes intended and designed to be used for? With just over 2300 houses in Elmwood, giving away 40 of them to tourists...

Colleen Mulligan 12702 S. Cedar Ln. making comment on behalf of herself and Joe and Christina Sanok, who could not attend. She's a member of the pro STR group known as Citizens Hosting Elmwood Renters, or CHER for short. Specific to the zoning ordinance amendment, she asked that they allow existing STRs in all zoning districts and strike the March 20, 2019 date and change it to the date the police powered ordinance actually goes into effect. She referred to the documents she submitted for tonight's meeting on behalf of CHER that includes the 3 letters written and previously submitted by the group's attorney as well as the cover letter listing their current membership list among other things. And last but not least she wanted to discuss the letter of support they included and was approved by local businesses and area residents, many of whom are in Elmwood Township that are also in favor of STRs. She hoped they took the time to read that and that the Planning Commission as a whole does care about the businesses in Elmwood that benefit from STRs because it's more than a few. The part of the letter she found most persuasive were the comments that the signers made as part of their approval to be included in support of STRs. She asked that they would seriously reconsider their stance on this matter and take a hard look numbers that show the majority of STRs are in the Residential area where you aren't going to allow STRs at all. She also asked that they remember that most of the STRs have been operating without issues for years and years and that if you want to address the concern of having them take up residential areas, you can do that by not allowing anymore once the police power ordinance in place instead of stopping those of us that have invested in this community and their futures believing they did so in an area that allowed STRs. One complaint is that STRs are taking over housing which was just talked about. The fact is that Elmwood has 2,000 houses, over 1,000 of which are non-homestead. Of those 1,000, 103 are listed as STRs which is owner occupied and non-owner



occupied combined. Many using STRs are using them to help pay the bills for future retirement homes. If less than 4.9% of secondary homes are STR and those are the only ones we are fighting for right now, why are residents in opposition blaming STRs?

Anna Heiges 12903 S. Meadowbrook Dr. is disappointed with the Planning Commission's recommendation. She's confused as to why the Planning Commission would make a recommendation to not allow STRs in the R-1 district when the surveys that were sent out were in favor of allowing STRs. For the most part, any individual who rents a home through Airbnb, VRBO, or whatever, are law abiding citizens from other areas and they're just coming to enjoy the area and spend money to support our community. Her fear is that if you stop STRs from operating, you are going to have more high cost, long term rentals with long term rental homes, a lot of them are not kept up, the renters do not take as much pride or care into keeping up a home. It's not going to free up affordable housing, it's not going to accommodate those individuals that work in the community because a lot of our community workers are being paid minimum wage. STRs have been in operation for years and for the most part they have operated without issues. She would rather have an STR vs. a huge hotel blocking her view.

Paul Soma 9965 E. Avondale Ln., speaking on behalf of himself and his wife in agreement with the first 5 commenters and the 9<sup>th</sup> commenter to not allow non-owner occupied STRs. Most of them spoke way more eloquently than he can speak. There are 2 points he wanted to make, one is that they have something special in this region, in this area in Elmwood Township and to allow STRs turns us into everyone else. Some commenters who have said they were imposing our will on somebody who's been operating this way since 2015 or whatever. He moved here in 2002 and he didn't move into a neighborhood that allowed STRs with a next door neighbor who changes every day, to raise a family which he's been able to raise in a beautiful community that's special in that it does not allow the non-owner occupied STRs. To be clear, he does not support non-owner occupied STRs and the other part is this idea, you don't have to read too much into the Airbnb story to understand what they've done, that they've taken advantage of the fact that folks haven't had regulation around this to establish themselves without paying attention to, because they didn't have to, it's a new industry that was able to operate within a loophole, and townships and other municipalities have had to catch up to that and what they've caught up to is, well, we established this when it was allowed. Well, that's part of the strategy and to join in that, he understands the risk involved in that, but you took that risk and that shouldn't dictate that now that the township zoning is catching up to that, just like it's done across the country, it seems actually like most ordinances have lost because of that, basically the townships have had to succumb to well, you were here already so therefore you can be allowed. That's been a strategy of Airbnb and he would suggest that they don't follow it, let's be special,

let's keep this area special and allow for something that's different. Different being that they don't allow non-owner occupied STRs.

Comment on behalf of Del Moore, SONIE president. He stated for the record that he can support the proposed text amendment specifically because according to the proposed Land Use & Zoning District Tables in Section 5.4, it does not allow short term vacation rentals to operate in our R-1 subdivision neighborhoods. The Planning Commissions recently approved by-laws, p. 11 state states that it's your responsibility to understand applicable laws as well as court decisions as they relate to your duties. So in February 2020 they provided them with an extensive list of Michigan Court cases that have continuously concluded that commercial STRs are out of conformity with residential land uses, some of them were even more specific to platted subdivisions intended and designed for single family dwellings and uses. Therefore, they appreciate their due diligence regarding them. As pointed out on several occasions, the zonings intent can be seen in multiple areas throughout the entire zoning document as a whole. Therefore in June, July & August they provided them with substantial evidence of this and referred to areas such as Article 7 which regulates subdivision standards and use requirements, Article 8 Site Plan review and approval process for them, along with Article 4.3 Establishment of Zoning Districts Intent. The R-1 zoning district is intended to accommodate single family residential and related uses. They further pointed out that accessory uses are conditioned upon being conducted by the occupant of the dwelling and indicated that no other residential commercial related use is allowed to operate as a non-owner occupied, non- principal use operation like the STRs that are being proposed per zoning definitions in Section 2.2 of accessory use, a use incidental and subordinate to the principal use...and principal use, the use of the property which is the main use to which the premise is devoted. These commercial transient mini motels would be incompatible with the single family neighborhood character and with their existing uses. They've continuously pointed to the Master Plan as it influences regulations and standards of our zoning and any future changes to it. Since zoning affects how the land can be used and the recent 2018 Master Plan was based in part on surveys of what residents want our future land uses to look like over the next 20 years and consistently describes that residents want to protect the residential neighborhoods and the rural aspect of the township and limit commercial use-not expand it to create inconsistent land use patterns with adjacent properties. Based upon what's been expressed to them over the last several months along with this outlined summary, the Michigan court case rulings and updates, the 2018 Master Plan, as responsible caretakers of the plan, the Michigan Zoning Enabling Act which requires that a demonstrated need be shown for a Zoning change, which has not occurred and given the fact that our area has housing shortage, especially for modest housing, and the language in the rewritten 2017 zoning ordinance, the intended document as a whole, they were duty bound to prohibit this type of use as they have in the proposed R-1 neighborhoods which furthers the goals and

objectives of our Master Plan and they support decisions that continue to do so as this benefits all of them equally.

Marissa Wege who owns 2 homes, one at 8600 E. Fouch Rd. and one at 9440 E. Cherry Bend Rd. She is calling in support of STRs. She is a young mother with her first business and she has bought old dilapidated homes and restores them to the highest quality that she was able to. She employs 6 Elmwood Township residents full time and any time she's doing any sort of work, she looks locally. She looks as local as she can because she wants to support the neighbors. She was disappointed to hear that the board was going to go this far with STRs. She's never had any issues and she's never had any concerns from any of her guests. She finds it disheartening that they refer to these beautiful spaces as motels because she's put her heart and soul into each of her homes and she wanted to share that with people. She grew up, she's a 3<sup>rd</sup> generation Traverse City native and grew up in this beautiful area and she's moved away over the years and came back to live here full time and what she's realized is that they are so lucky in that life is so short and they should share anything good they have in their life because who's to say that they're guaranteed tomorrow, and that's what it's all about. Her entire business she's created is based around on being able to share this beautiful area they live in. She wrote a book that she put in her home that specifically showcases local businesses because she loves where she lives and loves the local businesses and all the people that are putting together these beautiful restaurants, and the lovely people that come and clean the TART trail and do so much for our community and these STRs have given people the opportunity to see a side of Michigan they may have never seen before from a perspective that gives them insight into what life is like here and it brings money to our community, it brings so much money and she will be so disappointed to tell her kids that she couldn't continue on with her business because of other people's decisions. She was also disheartened to hear, she has friends that live in the Elmwood community, in the neighborhoods and they said there was a man that was canvassing the neighborhoods scaring people into signing petitions and it was fear mongering and it was really disheartening for her friends, young family members of the community to be approached this way and that's not what they're doing.

Phil Putney 10545 E. Cherry Bend Rd. said perhaps someone on the board can explain to him why they're not acting to correct the 100+ homes that they've said are in violation, we know they're in violation of the current zoning but whether they're trying to change the text and license something that is illegal at the moment. He's watched what happens, he lives on Cedar Lake and what goes on, on the lake and some of the disrespect. Homeowners have a different view of what residents should look like in the neighborhood than people that come for the weekend, and there's a lot of partying going on and a lot of troubles. They're adamantly against STRs; they just don't belong in residential areas. So, he would appreciate them acting as such.

Ann Marie Wigton, president of CHER which supports responsible STR hosting in Elmwood Township. She's also 4<sup>th</sup> generation Elmwood Township resident. She's disappointed by the PCs proposed zoning amendment. The Elmwood Township Board, our elected officials, tasked them with creating a balance in the zoning amendment to allow STRs. Instead of completing this task, you've taken your own personal bias in creating this ordinance. It was clear from the start, there are many aspects to the STR that you are uninformed on and from this position you should not be creating policy on things you do not understand. Policy that if approved, will devastate so many Elmwood Township residents. When surveying for the Master Plan, she referred to table 11, 82% of residents thought the noise ordinance should be considered. Only 45% of residents thought that STRs should be considered and it wasn't. Both of those items not being addressed is failure on the part of the board at that time, but it was relevant. Also at the time 61% of residents felt they had a voice when they were listened to when speaking to the board, something that has not carried through to this Planning Commission. What happens...to the locals when they realize that it is the local residents that live and work here like her family that were told it was ok by the township to invest in these properties, properties they live in, and live right next door to, and can manage. Can we come to a more reasonable balanced ordinance? For every concern that you've had, STR owners have been here and, and have been able to present fact based, educated rebuttals with which they had hopes would guide their decision. She believes they can create a zoning amendment that does not take away the rights to property owners, that represents a balanced approach for all the citizens of Elmwood. So, fulfill the goals of the Master Plan, maintain the character of the neighborhoods, and allow for responsible hosting, there's only 103 of them. Your proposed amendment falls short in so many ways. She asked that they go back to the drawing board and continue to work on the ordinance to meet these goals. She also asked if you wanted to know, Elmwood Township has over 2,000 homes right now, over 1,000 are non-homestead. Out of 1,000, only 103 are listed as STRs. 103 is less than 5%. So when someone talks about the housing stock, STRs in our area, if we're just asking to approve those that have been doing it, we are not the issue, we're less than 5%, and a lot of them that are even doing it for secondary homes are just trying to pay the bills for future retirement homes. They're a young family here and this is really important to them and she asked that they reconsider and go back to the drawing board.

Nancy Colby 11800 S. West-Bay Shore Dr. stated they are against the ordinance, they own a STR. She feels they are taking their property rights and that's not right. Property rights are basis for the Constitution. Their house is zoned in R-1 and they only have one neighbor on one side and have never had any problems. If they're going to make rules to address the problem, to generalize one type of property and exclude it seems odd to her. If there's a problem at a residence, they should address that. Rules for rentals should be the same whether they're long term rentals or whether they're STRs, there shouldn't be a

differentiation. If you have a noise problem, if you have a parking problem, if people are parking on the grass, multiple things, over the years they've had rental houses in other places and long term rentals, they have the same problems that they are speaking of. In this property, they hope to use it to supplement their retirement. She and her husband are both retired and they have never had a complaint, they all of their neighbors and talk to them on a regular basis to see if there's been any problems, they have their telephone number to call them if there were a problem, they live 5 minutes down the road. She strongly objects to excluding the R-1 and feels like they added that to exclude most of the people who are doing STRs and thinks it's very unfair to add another piece the township has to look in to.

Tammy Space 11100 S. West-Bay Shore Dr. speaking as a supporter and owner of an STR in Elmwood Township, she would say this has been a very difficult and emotional experience. As she has stated in previous meetings, she got into this to help her family with extra income, to have a flexible schedule for their school aged daughter. Also to provide visitors to our beautiful area and affordable and comfortable place to stay. She and her husband have put countless resources and time to make their homes welcoming as well as make their homes clean and attractive to the neighborhood. They, as short term owners, have public pride in their homes that they rent. They have worked hard throughout this process by offering suggestions. They have even encouraged regulation if it's fair and just. The top concerns they've heard over and over, noise and parties, we have house rules addressing this and they enforce them. They asked the board for a noise ordinance, they as a board, did not want one. So, she's assuming, it really wasn't an issue. Housing stock, concerns about housing being taken over by STRs. What was looking reasonable, 100 permits in all districts; immediately stop any new STRs. The March 2019 date, right away, limits permits. Inability to pass on to family again stops the progression of STRs. However, in the last 2 months, that all went away. It has left them with an unfair, unjust, and punishing ordinance. The way the ordinance stands, it will create profound hardship on STR owners. Many of them live in Elmwood Township. They have families, kids to raise, and bills to pay. Many of them depend on the income. She is certain there is a better compromise that doesn't directly hurt so many people living in the township.

Kelsey Testa 10271 S. Center Hwy. thanked commissioners for taking the time to hear her thoughts as a resident of Elmwood regarding STRs in Elmwood Township. She owns an STR in Elmwood and absolutely loves using it personally for her family as well as blessing others with a chance to spend time and money at local restaurants, wineries, and other businesses. As a taxpayer in the township, she has 4 STRs. One of the opponents stated that the Master Plan states a goal to get young families into the township. The only way many young families including theirs can afford to live in the township, is to find creative ways to pay a mortgage. That's one of the main reasons they have their homes on the STR

market. The housing stock in the township will never be affordable. In a recent conversation with a realtor friend of theirs, mentioned many are calling the area the Hamptons of the north and property values are sky rocketing. Only the elite can afford to live in this area. She asked that they strike the date of the ZBA of March 2019 and allow STRs to be grandfathered in when an official ordinance is actually established.

Joe Sanok 10626 E. Cherry Bend Rd. said the first month they moved into their Cherry Bend house, the next door neighbor had parties almost every night of the weekend even though they had a newborn baby. She had a light that was green and red that she would turn on and off depending on whatever business she was doing out of her house. Her grass was overgrown, and when he finally met her, a month into owning the house, he said, what do you do for a living, and she said she didn't want to tell him that. These are the type of people that often times, long term rent. Much of the framing by people that are talking about STRs are talking about not wanting a certain type of people in their area. He was calling the police almost every weekend and they said their hands were tied, there's no noise ordinance. He asked why they haven't passed a noise ordinance. Why haven't they listened to what the people want? When they travel as a family, there's no way he's going to sit in a hotel room when his young kids are going to go asleep and talk to his wife either out on a patio or in the bathroom. Their kids go to bed at 8:30. An Airbnb is ideal for a family. Just recently they had some guests that were staying and he welcomed them and he told them there's been some harassment by local people stopping to take pictures of Airbnb's and talking to people. He just wanted to warn them because he wanted them to know Northern Michigan is friendly. They asked why and he told them for some reason they're against STRs. These were young people and they laughed and said seriously? He replied yes. To young people, the idea of being against STRs that are reasonable, that have rules, that have rules that apply to everybody, that is normal for them, and you are alienating an entire generation from Northern Michigan. He asked how many of them have actually stayed at an Airbnb, because at the first meeting he attended, one of the county officials asked about the difference between Gmail and Airbnb. So he asked how well they've informed themselves. In their packets they'll see that over 50 businesses and individuals have said they would be economically impacted. Places like West End Tavern, Cherry Bend Grocery, all sorts of other places in Elmwood that are flagships of the area say that STRs being eliminated would directly affect their bottom line. He asked commissioners if they want to be responsible for that, because he doesn't want to be. He wants to support the local economy. He wants to be a good neighbor. Their neighbors ask if their friends can stay at their STR. So, please vote in favor of STRs and don't be opposed to them like this handful of people say that you should be.

Chris Creamer owns a rental property in Elmwood Township. His family, like many others, doesn't look at renting a box, basically a hotel room and eating out 3 times a day, not to

mention the cost as a viable option when taking a vacation, especially like a place like Traverse City, Michigan. As people need a place to stay, in Traverse City, it's directly tied to tourism. If you start eliminating STRs, people won't have a place to stay and it's going to really affect the economy a lot. He's been in property management and real estate for 35 years and just wanted to give them his thoughts and experiences with rentals. The Traverse City economy is largely dependent on tourism which is STRs in today's world is a key part. He heard a comment in a previous meeting that there were very few commercial businesses in Elmwood that benefited from the patronage of STRs and he thinks this is just the wrong view to take. He thinks we all benefit from STRs in a lot of ways. A large portion of the people locally have jobs that are directly or indirectly tied to tourism, including Elmwood Township residents. No tourism, no jobs, no money to pay the mortgage or rent or whatever. So, let's not create through bad decisions or short sightedness another situation like we had in 2008. He knows people want to have nice neighborhoods, him too, but you can have a great neighborhood to raise your children but if there's no jobs because tourism has been impacted so negatively, that's not good for anyone. His experience with STRs versus long term rentals, he has never had in 9 years, a single complaint from a neighbor from his STR. The first day he put it on the market, he have them all his contact information, phone numbers, emails, whatever. Long term rentals, the same property that he has during the winter, they had the police out twice last year including an arrest for a DUI and a firearm. It's hard to find long term renters and certainly there are many fine long term rentals out there, but he goes through 15-20 applications before he finds one that's suitable and look what happened last year. The thing with a bad STR is they check out on Saturday. With a long term rental it's a little different situation. He thinks you have...in place with STRs where guests review the owners, but also, the owners have a way to review the guests. So basically if someone comes in and makes a lot of noise or has a party or trashes the house, because of Airbnb and VRBO you can comment on that and they'll never rent to them again.

Sophia Dakoske 7795 E. Fouch Rd. is supportive of the STRs. She's had a full time job helping manage these STRs in our area and they just bring so many good people and it's a good way to support all our local businesses in the area and she's never had any complaints or any issues and they really don't have any neighbors in any of the houses or at her own house and without STRs, she wouldn't be able to afford to live in the area. So she hopes that reconsider the zoning because this is going to impact a lot of people negatively if this changes.

George Bowers 10430 E. Grandview said Mr. Chair, after nearly a year and a half and by Mr. Kelly's assessment 47 meetings of consideration, work groups, public meetings, this issue of STRs still persists unresolved and this has presented an administrative burden upon yourselves, this commission, and our staff of the township. It appears that there are 2

distinct factions that have arisen from this debate both of which to claim to represent the opinions and interests of the majority of the residents of Elmwood Township. Countless hours of time and resources having already have been expended on this issue. It seems logical that the proposed ordinance amendment should be drafted into a valid item and put to a vote. We've heard all this ongoing public comment, emotionally charged public comment, people have things to gain, people have things to lose, it just seems like an item at this point after so long and so much debate, he hasn't verified that it's been 47 meetings, but it's been a lot. It's been a lot of consideration. It just seems like something that neither side in his view can safely say that they actually represent the majority of the constituents. So let's see this go to a vote otherwise this commission cannot truthfully say the interests of the residents of Elmwood Township have been met fairly and democratically.

Megan Luce 9203 S. West-Bay Shore Dr. stated there are so many townships around the region that have done the same thing we are discussing and not previously had a Zoning Ordinance regarding STRs on the books and they are in the process of defining or have defined their ordinances and have come up with some very good ordinances that actually have been in those cases on the books for a year or more and are working very smoothly. They do include noise ordinances which are able to be enforced in regards to time, the time of day that it is as well as things such as fireworks and other noise issues that can occur. Prior to this discussion, there was no ordinance on the books as we all know and homeowners regulated their own homes. They have done that in the past and they will continue to do so going forward hopefully, as the zoning ordinance is defined. But very often it would be more restrictive than what is currently on the books. We are not having this discussion because there have been so many issues and so many problems with STRs; we are having this discussion because it's a hot topic and because townships are one by one beginning to define their ordinances. The owners of STRs in our region are local families. Everyone you are hearing on the calls is local families. They love the communities they live in, they live here, they have neighbors, they love the homes they are renting, and they enforce their own rules, and they do that not only to protect their own homes but because they also want to protect their neighbors. They are neighbors and they live in this community. With the platform in which they rent their homes, they do have reviews. They are able to review the tenants and they are able to review them. As a result, they are able to choose renters that receive various strong reviews that are good tenants and people that are respectful of their homes and of their community. Knowing this, they are able to be very selective about who is in their home and that is very important to them as homeowners and as residents of this community we live in and they find that very, very important. She reiterated, this is a private property right and when you start taking away private property rights, where is the limit, where does this stop? We have to protect our private property rights.



Mark Hoffman owns a STR in Elmwood Township. He resides at 10624 E. Pico Dr. He also owns a long term rental. He's in favor of STRs because he has one but one of the benefits is the fact is a neighbor of theirs where the STR is, is employed by them to clean the home, it is supplemental income for their neighbor. They stay in Airbnb's that are owned by homeowners and that money stays in their community, just like what happens when folks stay at their STR, the money stays there with them to spend and the time spent here by their guests, they're out spending money, so it's a financial benefit on more than one level. As far as the value of homes, the difference between a STR and a long term rental, he's rarely benefited with the value of a home going up with a long term rental. They've had multiple situations where they've had bad tenants and had property destruction, they have none of that with STR and personally they are a 5 star reviewed home and they keep their home up to snuff significantly and you can't demand that in a long term rental. So, he's in favor of STRs and thinks there are many more benefits than cons and he hopes they consider a modest approach when they look at the zoning.

**Public Comment and the Public Hearing closed at 8:59 p.m.**

The Chair noted this would be the time the Commissioners would start the deliberation. Because it was almost 9:00 p.m., he asked Commissioners if they wanted to proceed or recess.

**MOTION BY COMMISSIONER TREVAS SECOND BY COMMISSIONER MCDONALD TO TABLE THEIR DELIBERATIONS UNTIL THE SPECIAL MEETING ON SEPTEMBER 22, 2020 AT 7:00 PM.**

**DISCUSSION**

**ROLL CALL: AYE-KYLE TREVAS, NATE MCDONALD, JEFF APRILL, KENDRA LUTA, DOUG ROBERTS, JONAH KUZMA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**

**K. COMMENTS FROM THE CHAIR:** Chairman Bechtold thanked everyone for their patience with the \*6 feature for making public comment. He thanked the Commissioners for their attentiveness and their diligence in reviewing the volume of documents they have and for thoughtful consideration of this matter.

**L. COMMENTS FROM COMMISSIONERS:** Commissioner McDonald asked if the public hearing continues with deliberation at the next meeting.

The attorney explained the public hearing is a statutory requirement as part of the process of the legislative act of either deciding to amend the ordinance or eventually deciding not to

amend the ordinance; that's now been closed. The next meeting is basically discussion, deliberation, and then making a recommendation on the ordinance based upon the information they have including the public comment they received.

Commissioner Aprill thanked all those that participated in the meeting, they did a very nice job of explaining themselves and it's definitely not an easy decision for the Commission to make. He knows there was a lot of time and effort that went into both sides of this process. He thinks there are some very eloquent speakers within the township and he was glad to have them as part of the deliberation.

Commissioner Roberts concurred with Commissioner Aprill.

**M. COMMENTS FROM STAFF:** Staff mentioned that she won't be sending anything additional on the STR items since nothing has changed, they've received all the public comment and the amendment and the ordinance, it'll just be the additional agenda item they had for the Rural Resort Area they talked about back in May and June, and they asked for it to be taken off the agenda, they've asked for it to come back.

**N. PUBLIC COMMENT:** Jack Kelly, Joe Testa, Levi Meeuwenberg, Colleen Mulligan, Karyl Moore, Marissa Wege, Ann Marie Wigton, Todd Space, Kelly Ignace, George Bowers

**O. ADJOURN: MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER MCDONALD TO ADJOURN THE MEETING. ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KENDRA LUTA, JONAH KUZMA, KYLE TREVAS, RICK BECHTOLD. MEETING ADJOURNED.**

Respectfully submitted,

Carrie M. Schaub

**A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, OCTOBER 27, 2020, AT THE LEELANAU COUNTY GOVERNMENT CENTER.**

**Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.**

**EXCERPT OF DRAFT MINUTES**

**CALL TO ORDER**

Meeting was called to order at 5:30 p.m. by Chairman Goldschmidt who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI and via ZOOM.

**ROLL CALL**

**Members Present:** R. Miller, T. Nixon, S. Yoder, D. Hubell, C. Noonan  
(via ZOOM)

**Members Present:** V. Goldschmidt, E. Winkelman, D. McCulloch, G. Carlson  
(At Government Center) M. Black, M. Lautner

**Members Absent:** None.  
(prior notice)

**Staff Present:** G. Myer, Senior Planner  
(At Government Center)

**Public Present:** S. Jones, R. Jones  
(At Government Center)

**Public Present:** Sara Kopriva, Steve Patmore  
(via phone)

**CONSIDERATION OF AGENDA**

Winkelman added "Change meeting dates for November and December" as "Item C" under "New Business."

***Motion by McCulloch, seconded by Winkelman, to accept the agenda as amended. Motion carried 11-0.***

**CONFLICT OF INTEREST**

Nixon stated the second item under "New Business" pertains to Suttons Bay Township which is a conflict of interest. He will be commenting, but not voting on this.

## **PUBLIC COMMENT**

Sue Jones of Elmwood Township read from a prepared statement which was emailed prior to the meeting, regarding short term rentals (STR) in Elmwood Township. (A copy of the comments submitted are on file in the Planning & Community Development Office)

Rod Jones of Elmwood Township read from a prepared statement which was emailed prior to the meeting, regarding STR in Elmwood Township. (A copy of the comments submitted are on file in the Planning & Community Development Office)

Jack Kelly of Elmwood Township spoke regarding documents submitted by “Save Our Neighborhoods In Elmwood” (SONIE) (A copy of the documents submitted are on file in the Planning & Community Development Office)

Joseph Testa of Elmwood Township stated he was against the proposed STR amendment from Elmwood Township. He is in favor of STR, but disappointed by the lack of communication of where the township landed on this subject. Testa said it has been requested many times that the township put it in writing so that people would not continue to buy houses to use for STR. The township and the Planning Commission ignored these requests, so many people, including him, have made investments to use personally and as STR. Nothing was made public to let residents know where the township was at in this process. Testa concluded by stating that they have appealed many times regarding the fact that there was poor leadership and communication for those in the process of buying properties.

Emmett Mulligan of Citizens Hosting Elmwood Renters (CHER) read comments submitted prior to the meeting. (A copy of the comments submitted are on file in the Planning & Community Development Office)

Goldschmidt stated the County Planning Commission does not write amendments for the township. The Township Planning Commission does the amendments for the township.

Todd Space of CHER spoke in support of STR in the R-1 District, where most of them currently exist, and where they have always been allowed by right of property ownership. Space stated they have been allowed literally forever and written permission has been given to some by the township. 956 of the 1753 Elmwood Township residents that responded to a survey, wanted short term rentals to be allowed on the waterfront. Space said the proposed amendment will have a negative impact throughout the county on a wide range of businesses going well beyond tourism alone. According to the township's legal council, the purpose of a Police Power Ordinance is to ensure that STR fit into the Master Plan. CHER welcomes the regulations to satisfy the community, but believes that STR have always fit in. Not because of the regulations, but because they are just residential homes being used for short term residential use, no other commercial use is happening. Space continued by saying the commercial act of renting out your home for others to live in does not change the residential nature of the home. Also, this proposed amendment contradicts the Elmwood Township Master Plan, which states “provide for a range of residential styles and densities to meet the needs of the township's diverse population.” This amendment decreases the range and diversity of housing options for citizens of Elmwood and Leelanau County. Space said most STR's operate long term on a month to month basis, outside the peak summer season, and are the only flexible option for their diverse population with diverse needs that at times can be transient. Space concluded by saying that situations can change, often suddenly, where will you go and how far will you go. Citizens everywhere need this option as a safety valve or back up, particularly in this tight, expensive housing market.

Ann Mari Wigton, President of CHER, stated she is a fourth-generation resident who has a young family and is in support of STR in all districts, including R-1. CHER would like the zoning amendment to be less restrictive allowing people to host when they want. STR's do have a place in Elmwood Township and within their Master Plan, helping those with young families, and retirees with supplemental incomes.

An email was received when staff was out of the office, preparing for the meeting, from Ben and Jenna Belyea of Elmwood Township. A copy of this email was forwarded to County Planning Commission members after the meeting, as well as to the Elmwood Township Planner/Zoning Administrator. (A copy is on file in the Planning & Community Development Office.)

**STAFF COMMENTS - None**

## **CONSIDERATION OF SEPTEMBER 22, 2020 MEETING MINUTES**

***Motion by McCulloch, seconded by Winkelman, to accept the minutes as presented. Motion carried 11-0.***

## **NEW BUSINESS**

### Elmwood Township Text Amendment – Short Term Rentals.

Goldschmidt stated he was impressed with the commitment and interest from those who submitted comments and documents regarding this item.

Myer reviewed the staff report saying this is a request from Elmwood Township to amend their zoning ordinance with regard to short-term rentals. The township has also worked on a separate ordinance, a Police Power Ordinance. It is mentioned in our staff report and a copy is included but it is not for review at tonight's meeting. The county has 30 days to review and provide a report back to the township, with the 30 days expiring November 13.

Myer continued, on page 6 of the agenda packet, we note that the Elmwood Township master plan and the county's General Plan do not specifically address short-term rentals. The township planning commission held a meeting on September 15 and then September 22. The motions from those meetings are on page 6. Page 7 of the agenda packet starts Staff comments and we have listed what the township is proposing to change in the ordinance. This amendment addresses short-term rentals where the owner does not occupy the dwelling while it is being rented out. On page 8 we provide some information about short-term rentals and how communities might decide if they want to regulate them, or not. We then provide some history and note that we received documents from 2 townships groups: CHER and SONIE. These documents were mailed to all county planning commission members, and they are listed on the county website for this meeting, along with other written public comments that were received.

Myer continued; short-term rental discussion started in the township some time ago when a citizen asked the township board to do amendments to prevent these activities in the high-density neighborhoods. The township board then requested the Zoning Board of Appeals for an interpretation of the ordinance. In March of 2019, the Zoning Board of Appeals held a meeting and then made a motion that Bed and Breakfast were allowed, but short-term rentals were not allowed. The staff report includes information from the zoning ordinance on several sections regarding duties of the zoning administrator and the

zoning board of appeals. Following the decision of the zoning board of appeals, the township planning commission worked on a proposed amendment and held a joint meeting with the township board on November 6, 2019, as well as numerous other township planning commission meetings. Also, the township board passed a resolution imposing a moratorium on July 22, 2019 against non-owner-occupied rentals. They extended the moratorium a couple of times, most recently on May 11, 2020 for 6 months. The Police Power Ordinance previously mentioned is not being reviewed tonight but it is similar to the one adopted by Suttons Bay Township in 2017, and it addresses such things as parking, licensing, trash pickup, quiet hours, a contact person, etc. Also, Bingham Township recently adopted a Police Power Ordinance for short-term rentals. The proposed amendment to the zoning ordinance would allow non owner-occupied short-term rentals in all districts except the R-1 District. They would be allowed in the A-R and R-2 district only if they existed during the 24 months prior to the zoning board of appeals decision AND they acquire a license.

Myer continued, on pages 10 and 11 of the agenda packet, we have included some comments and suggestions on the text for the township to consider. We have suggested a couple minor changes and a spelling correction. We have suggested they remove short-term rentals from the Municipal Center district as that is township owned property. We have questioned why they don't allow it in the R-1 district as that district lies along most of the shoreline in the township and is probably a highly popular area for rentals. We've asked how they will confirm if there were short-term rentals in the A-R and R-2 district and how will these owners be notified that they now have to get a license? Also, why only 40 licenses? Suttons Bay and Bingham Townships both allow for more and Elmwood Township is more densely populated.

Myer concluded, after the county planning commission meeting, the report and copy of draft minutes will be sent to the township for consideration. The decision of the township board is final, unless it is petitioned under the Michigan Zoning Enabling Act for submission to the electors of the township, for their approval.

Sara Kopriva, from Elmwood Township, stated staff did a thorough review of the history and they look forward to hearing the Planning Commissioners comments.

Yoder commented he was impressed with the process the township went through, and questioned how the township arrived at the number of 40 STR's to be allowed.

Nixon said it was evident the township did an exemplary job, and there was a lot of community involvement. The volume of letters and public opinion clearly shows that this community has arrived at a point where a decision needs to be made. With regard to how the township settled on allowing 40 STR's, Nixon suggests the township look at a percentage because the number of residential homes is going to vary over the next few years. This is something that could be reviewed every five years. Also, be careful that the enforcement language in the Police Power Ordinance doesn't promote any intrusion, by the township, in any home. There are liability issues involved when you enter a home to determine if the conditions of an ordinance are being followed.

Hubbell stated the township Planning Commission did a great job. Miller questioned how they arrived at 40 STR's also and asked if it was an appropriate number. He also felt the township did a great job. Carlson agreed with the comments made and asked why 40. It would be a great idea to consider a percentage instead. She commends them on all of the work and effort that has gone into this. McCulloch also wondered why 40. Winkelman questioned who you call when there is an issue if the

landlord is not there. He suggests requiring the landlord to live within 20 miles of the M-22 and M-72 intersection. Or, if a local professional is handling the rental for the owner, then they must live within 30 miles of this intersection. Adjacent neighbors will have a recourse if there is a problem.

Black agreed that the township did a lot of work on this. He can appreciate those living in the R-1 District as far as having a rental next door. STR's have been a hot button here in Leelanau County. Black suggested townships look into forming a Home Owners Association (HOA) within their group, to look at rentals and determine where and what is appropriate. There are also property managers who can manage these properties for out of state owners.

Lautner commented that a percentage rather than a number seems to be a more logical way to approach this. The township as a whole seems to be in favor of STR's, so it seems this should go back to the Township Planning Commission for further review. Lautner said a lot of work was done on the ordinance, including parking and the number of occupants, which in itself should limit small homes being used as STR's, which would cut down on the number of people "packed" in to a home. Traffic must also be considered, grandfathering could also be considered, and some could be allowed on a trial basis or step back for a couple of years with regulations put in place. Lautner concluded by saying she feels the survey is a very interesting aspect of it.

Goldschmidt stated he was confused reading the document until he realized there were three alternatives. Allow none in R-1, none in A-R or R-2 unless a) in operation two years prior, and b) license granted yearly; otherwise forbidden c) delete some wording and qualify. Goldschmidt also said some of the concerns verbalized are not related to the zoning ordinance, but rather a police power ordinance which we are not reviewing. That is where you put conditions like number of cars allowed that can be enforced by a policeman. The zoning ordinance relates to the location, the activities involved, and how it affects the public.

Kopriva responded, the township hired Host Compliance to review the number of STR's currently listed in the township. They found 100 STR's operating on average in a month and then they identified which zoning districts they were in. Most were found to be in the R-1 district, and 40 represents what was left in the other districts. Kopriva continued, saying there was a lot of discussion regarding whether or not STR's belonged in the R-1 District. There were concerns with the waterfront which historically is where the STR's were located. In the end, the majority of the Planning Commission felt that the R-1 District was not appropriate in addressing some of the vested findings in the zoning ordinance and so they were removed. Kopriva said they feel comfortable with the number of STR's they have, but when you remove them from the R-1 District, and still allow 100, it would cause quite an increase in some of the districts that just don't have that density for STR's. Kopriva said she just had a conversation with the township supervisor regarding a percentage instead of a number, so that may be something that would come up at the township board level. The Planning Commission recognizes that 4-5% of their housing population is STR's and people are pretty comfortable with that. With regard to who neighbors call when there are issues, Kopriva said the township will have Host Compliance be the enforcing agency. There is a 1-800 number to call 24/7, the neighbor must provide documentation to Host Compliance who will reach out to the homeowner or manager and ask them to deal with the issue. Host Compliance will then send a report to the township the next day.

Winkelman asked if Host Compliance would call the police? Kopriva stated there is nothing stopping the neighboring property owners from calling the Sheriff's Office. She isn't sure what the police would enforce is this type of situation. The township doesn't have a noise ordinance, but STR's do have certain noise requirements through the Police Power Ordinance.

Goldschmidt commented that Host Compliance is an international corporation. Kopriva responded that Suttons Bay Township and East Bay Township in Grand Traverse County both use them. Miller stated, we are drifting into the Police Power Ordinance rather than the zoning. Winkelman questioned how you could separate them. Goldschmidt said the details in the Police Power Ordinance cover some of the concerns raised here.

***Motion by Lautner, seconded by McCulloch, to forward staff report, minutes, and all comments to Elmwood Township Planning Commission. Motion carried 11-0.***

Vg 201027

Observations Re:CHER

- 1) We appreciate the magnitude of work and concern on the part of CHER
- 2) The County Planning Commission is not empowered to make changes on a Township's zoning ordinance
- 3) This is a sensitive issue, and legal counsel might assist.
- 4) It would have been desirable to review the definitions of "STR" and "commercial" for the other villages and townships in the County..

Observations Re: SONIE

- 1) We recognize the thoroughness and professionalism on the part of the preparers.
- 2) The March 20, 2019 minutes of the ZBA reflect on a call to "see what the Zoning Ordinance says about short term rentals". The final motion clearly stated that their interpretation was that "Short Term Rentals ... are not currently allowed". The recourse to that can only be a request for amendments to the Zoning Ordinance. This was a request for interpretation; which is in order for a ZBA, but it would have been desirable to have had legal counsel guide and review the ZBA prior to their taking action. Normally pronouncements by the ZBA, if contested, have to go to a Circuit Court.
- 3) Exhibit 10 includes a petition dated September 9. This leads to questions: a) has there been a response to the petition? b) Is there a legal authority declaring these non-owner occupied STRs are illegal? c) does the proposed amendment fully address a response? (It appears to so do).
- 4) Just as a clarification; it appears that it reads that it assumes – maybe based on the ZBA action, that there are no words in the ZO allowing STRs.
- 5) A word of caution: police power ordinances do not allow grandfathering; zoning ordinances are in effect only when formally approved and could be grandfathering instances.

Relationships of the Proposed Petition and the Amendment

Petition: none in residential neighborhoods; existing ones given one year of existence

Proposed Amendment: none in R-1; none in A-R and R-2 unless a) in operation 2 yrs prior, and b) license granted yearly; otherwise forbidden.

CHER: delete the word commercial for STR; either a) allow in all districts, or b) qualify for A-R, R-1, and R-2 provided existence or intended for use prior to the enactment of a STR police power ordinance.



**TEXT AMENDMENT REVIEW  
PC09-20-04, Elmwood Township**

**Reviewing Entity:** Leelanau County Planning Commission  
**Date of Review:** October 27, 2020

**Section 1: General Information**

**Date Request Received:** October 15, 2020

**Last Day of Review Period:** November 13, 2020 (The county has 30 days to provide a review back to the Township, according to the Michigan Zoning Enabling Act).

**Requested Action:** Review and comment on a proposed amendment to the Elmwood Township Zoning Ordinance, ZO 2017-04-08, Short Term Rentals.

**Applicant:** Elmwood Township Planning Commission

**Section 2: Proposal**

See Appendix for a copy of the proposed text amendment.

**Section 3: Other Planning Input**

**Township Plan:** The Elmwood Township Master Plan (2018) does not specifically address short-term rentals.

**Leelanau General Plan:** The Leelanau General Plan (2019) does not specifically address short-term rentals.

**Township Planning Commission:**

A public hearing was held via ZOOM, on September 15, 2020. Following the public hearing, the township planning commission passed the following motion:

***MOTION BY COMMISSIONER TREVAS SECOND BY COMMISSIONER MCDONALD TO TABLE THEIR DELIBERATIONS UNTIL THE SPECIAL MEETING ON SEPTEMBER 22, 2020 AT 7:00 PM.***

***ROLL CALL: AYE-KYLE TREVAS, NATE MCDONALD, JEFF APRILL, KENDRA LUTA, DOUG ROBERTS, JONAH KUZMA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.***

A Special Meeting was held via ZOOM, on September 22, 2020. Following the Special Meeting, the township planning commission passed the following motion:

***MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER KUZMA TO RECOMMEND TO ADOPT ZO 2017-04-08 TO THE TOWNSHIP BOARD FOLLOWING THE REVIEW OF THE GUIDELINES IN THE ORDINANCE.***

***ROLL CALL: AYE-KYLE TREVAS, JONAH KUZMA, DOUG ROBERTS, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. NAY-KENDRA LUTA. MOTION PASSED 6-1.***

**Section 4: Analysis**

**Compatibility**

A. Is the proposed text compatible with other language in the zoning ordinance?

See Section 5.

B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?

See Section 5.

- C. Do the land uses or other related dimensional standards (height, bulk, area, setback, etc.) in the proposed text amendment(s) conflict with the existing zoning ordinance?

No

#### Issues of Greater Than Local Concern

- A. Does the proposed text amendment(s) include any issues of greater than local concern? Please list.  
Short term rentals exist in all townships in the county. Each township has its own zoning ordinance and determines the regulations for uses in their township.

#### Comparison with Local Plans or Ordinances

- A. Do the contents in the proposed text amendment(s) conflict with the community's plan? Please list.  
Short-term rentals are not specifically listed in the township plan.

#### Comparison with County Plans or Ordinances

- A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.  
Short-term rentals are not specifically listed in the General Plan.

Current Zoning District: For Current text: <https://www.leelanau.cc/elmwoodtwppord.asp>

#### Section 5: Staff Comments

Elmwood Township has proposed changes to Section 2.2 Definitions, Section 5.4 Land Use and Zoning district Table, and Section 5.5 Special Requirements for Specific Uses.

The proposed text amends Section 2.2 Definitions by **adding**:

**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.

The proposed text amends Section 5.4 by **Adding Short Term Rentals as number 71 in the Section 5.4 Land Use and Zoning district table and re-numbering all following uses:**

Commercial 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=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

**The proposed text amends the end of the table in Section 5.4 by Adding:**

P+ - Allowed if existed and was in operation as a short-term rental during the 24 months prior to Zoning Board of Appeals March 20, 2019 meeting. A license shall be obtained within 1 year of the effective date of this ordinance or the use shall not be re-established. Should the use discontinue, the use shall not be re-established.

The proposed text will also **add** the following **Section 5.5 Special Requirements for Specific Uses:**

#### **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.

Short term rentals are not new, and they are not going away. They can be found everywhere, including neighborhoods and in rural locations. In Michigan, it is a \$78 million-dollar annual industry and the 10-county northwest region has 25% of the state's short-term rentals. Six of these 10 counties are in the top 20 counties in Michigan with the most listings with Leelanau being ranked as #2 in the state. (2018 data, December 2, 2019 presentation, Networks Northwest).

There are many viewpoints and a community has to understand why they are choosing to regulate: impacts on neighborhood/community? Noise, parking or other nuisances? Preservation of year-round housing? How will enforcement be done and who will do it? There are many approaches to regulation as well as various court cases which have upheld restrictions on short-term rentals. Each community needs to determine if they want or need regulation of short-term rentals. Why do you want to regulate? What is important to your community? Communities need to understand that these uses are difficult to regulate. Standards need to be enforceable and communities should only adopt what they can and will enforce and take into consideration the time limits of staff that will do the enforcement.

#### History:

*Staff Note: some of the documents referenced in this section were included in correspondence provided to staff by either **Citizens Hosting Elmwood Renters (CHER)** or **Save Our Neighborhoods in Elmwood (SONIE)**, as well as being listed on the township's website under the meeting packets/handouts. Copies of the documents provided by **CHER** and **SONIE** were mailed to each county planning commission member on October 20, and a copy is on file at the Planning & Community Development office.*

Township minutes indicate the topic of short-term rentals has been discussed for some time. At the January 14, 2019 Township Board meeting, a citizen read a prepared statement asking for the township to authorize amendments to the zoning ordinance to prevent short-term rental activities in high density neighborhoods. A motion was passed 6-1 to table this for 3 months. At the February 11, 2019 Township Board meeting (pg 36 of the agenda packet), a memo was presented to the Board from the Township Planner/Zoning Administrator, recommending the ZBA provide an interpretation of the Zoning Ordinance to determine if short-term rentals are allowed. The minutes from that meeting state:

#### **Request for ZBA to Interpret Short Term Rentals**

Planner Sara Kopriva presented the request to have the ZBA interpret the zoning ordinance to determine if short term rentals are included in the definition of single-family dwelling or another use listed in the ordinance. This will help the board determine if any changes are needed when deciding how to deal with short term rentals.

**MOTION BY TRUSTEE TREVAS, SECONDED BY CLERK PRESTON TO HAVE THE ZBA PROVIDE AN INTERPRETATION OF THE ZONING ORDINANCE TO DETERMINE IF SHORT TERM RENTALS ARE ALLOWED. Motion passed unanimously by a voice vote.**

(Minutes and agenda items for this meeting and other township meetings can be found online at: <https://www.leelanau.gov/elmwoodtwpmtg.asp> )

On March 20, 2019, the Township Zoning Board of Appeals (ZBA) held a meeting. The purpose of the meeting, as stated in the minutes, was a "request from Township Board for an interpretation of the Elmwood Township Zoning Ordinance to determine if short term rentals are allowed". After some discussion, the ZBA opened the public hearing and listened to public comments for approximately 30 minutes. After the Public Comment was closed, the following motion was passed:

"Motion by Jeff Aprill, second by Jason Razavi, according to the definition sections as it reads, we allow a Bed and Breakfast, but as to short term rentals it's not designated specifically within the ordinance and so as to Section 3.4 states that those which are not specifically stated within the ordinance are not currently allowed, they are not currently allowed within Elmwood Township with a recommendation this topic be addressed by the Township Board." Motion carried 5-0.

At the June 25, 2019 meeting of the ZBA, the agenda was modified to add short term rentals. Discussion was then held on the written transcript from the March 20, 2019 ZBA meeting provided to the Township Board and whether the members were in agreement with the motion. After some discussion, the ZBA made no changes.

On November 6, 2019, the Township Board and Planning Commission held a joint meeting to discuss short term rentals. The township attorney was present and it is noted he would research and provide legal opinion to the township.

The current Sections 3.3, 12.9 and 12.12 of the current zoning ordinance state:

### **SECTION 3.3 SIMILAR USE DETERMINATIONS**

Since every type of potential use cannot be anticipated in this Ordinance, the Zoning Administrator shall determine if the use is similar to a use listed in this Ordinance. The Zoning Administrator may refer matters wherein a use not specifically listed in this Ordinance or may be substantially similar to a permitted use or permitted special land use to the Zoning Board of Appeals for its interpretation and decision. The Zoning Board of Appeals determination shall be in writing and provided to the applicant.

### **SECTION 12.9 ZONING ORDINANCE INTERPRETATIONS**

The ZBA may hear and decide upon requests for the interpretation of the text provisions of this Ordinance.

- A. Text interpretations shall be narrow and address only the situation being interpreted, be based on a thorough reading of this Ordinance for the purpose of implementing the intent of this Ordinance, and not have the effect of amending this Ordinance.
- B. Interpretations shall give weight to practical interpretations by the Zoning Administrator and other administrative officials if applied consistently over a long period of time.
- C. Records shall be kept of all interpretations.
- D. Interpretation of the zoning map shall be subject to the provisions of Article 4 of this Ordinance.

### **Section 12.12 DECISIONS**

Excerpt: Decisions shall contain a full record of the findings and the determination of the ZBA in each particular case.

*Staff note: It is proper for the ZBA to make an interpretation of the language in the zoning ordinance or interpretation of a use. Staff did not find any information on a full record of findings and determination by the ZBA, except for the meeting minutes. There was no legal opinion provided to the ZBA prior to the meeting. It should also be noted that the timeframe for any appeal of the ZBA decision has expired (Section 125.3606 Michigan Zoning Enabling Act).*

At a special meeting of the Township Board on July 22, 2019, the Board passed a resolution imposing a **moratorium** on the Elmwood Charter Township Zoning Ordinance against non owner-occupied vacation rentals. The moratorium included a Planning Commission Directive for the township planning commission to begin its study and consideration concerning any appropriate amendments to the current zoning ordinance regulating/addressing non owner-occupied vacation rentals to determine whether it is appropriate to allow such a use within the Township or to continue prohibiting the use along with any language necessary to in the zoning ordinance which may be appropriate with respect to the regulation of non-owner occupied vacation rentals. (The moratorium was for 6 months and was extended in February of 2020, and recently extended for 6 months at the May 11, 2020 Township Board meeting).

The Township has also proposed a Police Power Ordinance for Short Term Rental Licensing. This document was sent to the county for reference purposes. The county does NOT review Police Power Ordinances, but it is included for reference. This ordinance has not been adopted yet – it will be considered at the same time as the proposed text amendment to the zoning ordinance. The Police Power Ordinance covers such things as: parking, licensing, trash pickup, special events, quiet hours, capacity limit, guests, a contact person, signs, fire safety, application procedure, issuance of license, violations and penalties, etc. This document is very similar to the document adopted by Suttons Bay Township in 2017.

Setting aside the ZBA action and the Police Power Ordinance, the proposed text amendment to the Elmwood Township Zoning Ordinance, ZO 2017-04-08 would allow for short term rentals where the owner does not reside in the dwelling during the rental period, as a permitted use in the following districts: Residential-3 (R-3),

Manufactured Home Park (MHP), Municipal Center (MC), Neighborhood Commercial (NC), General Commercial (GC), Light Industrial (LI), Shoreline Commercial (SC), and Rural Resort (RR). It does not allow them in the Residential-1 (R-1) District. It would allow them in the Agricultural-Rural (A-R) and Residential-2 (R-2) districts if they existed in these districts as a short-term rental during the 24 months prior to the ZBA March 20, 2019 meeting. It requires those in the A-R and R-2 district to obtain a license within 1 year of the effective date of this ordinance or the use shall not be re-established. If the use discontinues, it shall not be re-established. (see the township zoning map included in the Appendix for zoning districts). Will owners in the A-R and R-2 district be notified of this requirement should this ordinance be passed by the Township Board? They will need to be aware of this amendment to the zoning ordinance in order to get properly licensed within 1 year.

The minutes from the September 15, 2020 township planning commission meeting include comments from the public questioning why short-term rentals were not allowed in the R1 district and much of the waterfront includes the R-1 district. The township planner/zoning administrator informed staff that the number of 40 licenses was based on the number of short-term rentals currently in existence and then removing the number in the R-1 district. The Township contracted with Host Compliance to provide a list of units in the township. Also, the planning commission reviewed Section 11.12.D.1 and felt they could not approve the amendment with the R-1 district included.

Prior drafts of this zoning ordinance amendment (included in agenda packets for the township planning commission) show this use allowed with footnote P+ in the A-R, **R-1** and R-2 districts (allowed if existed prior to the ZBA 3/20/19 meeting and with a license). The September 15 minutes also include comments that over 100 homes are currently used as short-term rentals. (Exhibit 11 in the packet from **SONIE** is a map showing the location of current short-term rentals). In addition, a memo from the Planner/Zoning Administrator to the township planning commission in their September 15 agenda packet, shows a breakdown of active short term rental listings as 103 with the majority (50) in the R-1 district, followed by 17 in the A-R district and 13 in the R-2 district with a couple others spread among other zoning districts and 16 of them not identified. For reference, Suttons Bay Township, with a 2018 estimated population of 2,994 has a maximum of 150 licenses in a calendar year. Elmwood Township's estimated 2018 population is 4,528. Suttons Bay has about ½ the number of households of Elmwood Township.

Elmwood Township has done a lot of work on this topic. A joint meeting with the Township Board and Planning Commission was held November 6, 2019 and the Planning Commission held a Workshop on June 25, 2020 as well as several subsequent meetings. A survey of residents was also done in 2019 (see attached for a copy of the survey results).

The township has the right to amend its zoning ordinance. The township planning commission has held meetings to discuss this topic and prepared a draft amendment to the zoning ordinance for the Township Board to consider. Short-term rentals are everywhere and there are many viewpoints on how or if they should be regulated. Both the proposed text amendment and the Police Power ordinance include a definition for short term rentals and that definition states that the owner of the dwelling does not reside in the dwelling during the rental period. (Owner-occupied short-term rentals are permitted in the township). This proposed amendment, and the Police Power Ordinance, address the non owner-occupied rentals.

Staff also notes that the correspondence received from **CHER** asks the county planning commission to make changes to the proposed zoning ordinance amendment. The county planning commission is advisory and provides a third-party review of zoning ordinance amendments, and plans. While the county may not 'tell you what you want to hear', the county review focuses on the available information and data, and suggestions to consider. The advisory role is important as the county tries to provide the best information possible to the township, to assist them in making their decision. The county does not have the authority to change anything in a proposed zoning amendment from a township.

#### **Comments / suggestions:**

Staff suggests that the text added at the end of the table "P+....." also be added to Section 5.1 Land Use and Zoning District Table on page 5-1 of the zoning ordinance.

“Commercial” is spelled wrong on the top of the chart in Section 5.4 Land Use and Zoning District Table. This should be corrected.

Remove short term rentals as a permitted use in the Municipal Center (MC) district. This district encompasses the Elmwood Township Hall, Fire Department, and park along E. Cherry Bend Rd. and E. Lincoln Rd. This property won't have short term rentals.

The R-1 district includes most of the shoreline in the township and is most likely one of the most sought-after locations for short term rentals, but this use is not allowed in the R-1 district.

How will the township confirm that a property in the A-R district or R-2 district was in operation as a short-term rental during the 24 months prior to the ZBA March 20, 2019 meeting and eligible for a license?

Is the 2017 number in the Ordinance title correct? If it is to reference the year, shouldn't it be “Ordinance No. ZO 2020-\_\_\_\_\_”?

The Police Power Ordinance states that only 40 licenses will be allowed and an owner shall only be allowed to hold one (1) license at a time. Can this license cover more than one rental unit?

From the material supplied to the county by Elmwood Township and meeting minutes and materials listed on the website, it appears the Township Planning Commission has reviewed this topic for some time and gathered public input from a survey as well as public meetings and correspondence. The township attorney's input has also been obtained throughout the process. Following the review and report from the county planning commission to the Township, the Township Board will take final action on the request. The decision of the Township Board is final, unless a Notice of Intent and a Petition are properly filed according to the Michigan Zoning Enabling Act (MZEa – Public Act Act 110 of 2006), requesting the submission of the ordinance to the electors for their approval.

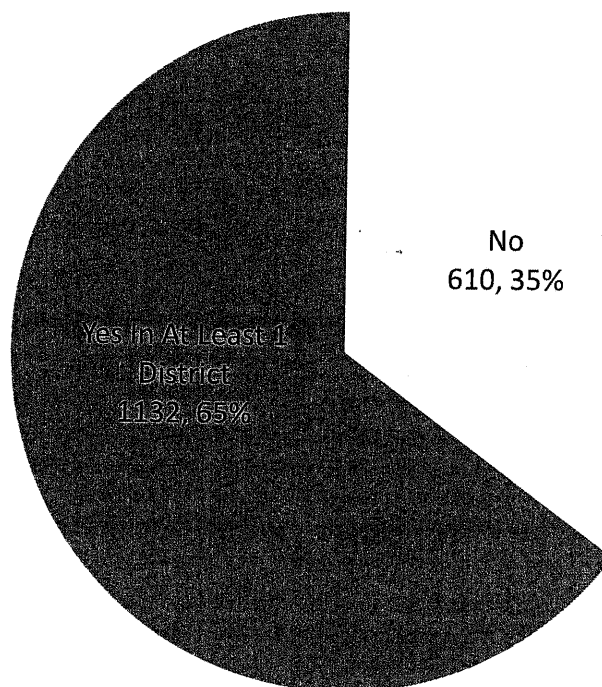
## Short Term Rental Survey Results 2019

The following are the results of surveys returned through August 30, 2019.

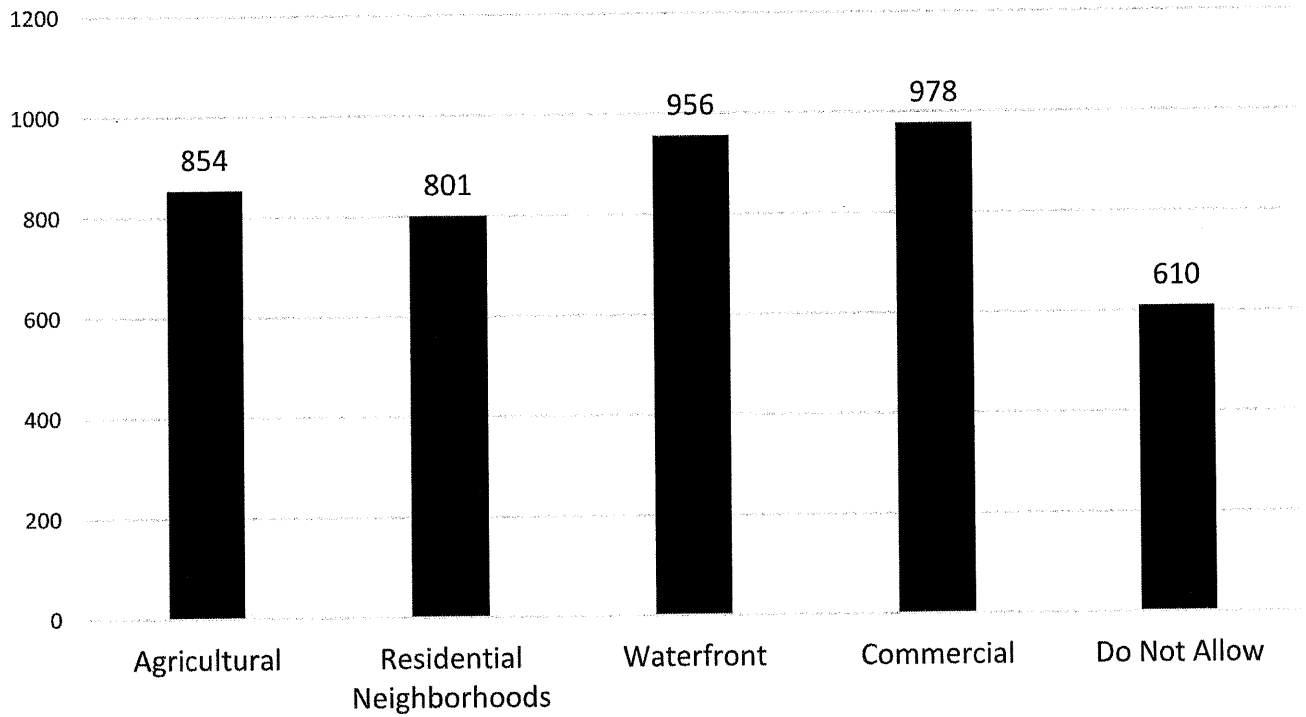
4625 Surveys Mailed (Registered Voters and non-PRE property owners)  
1753 Total Returned  
38% Return Rate

\*7 surveys were returned with no answers or illegible. Not all respondents answered both questions.

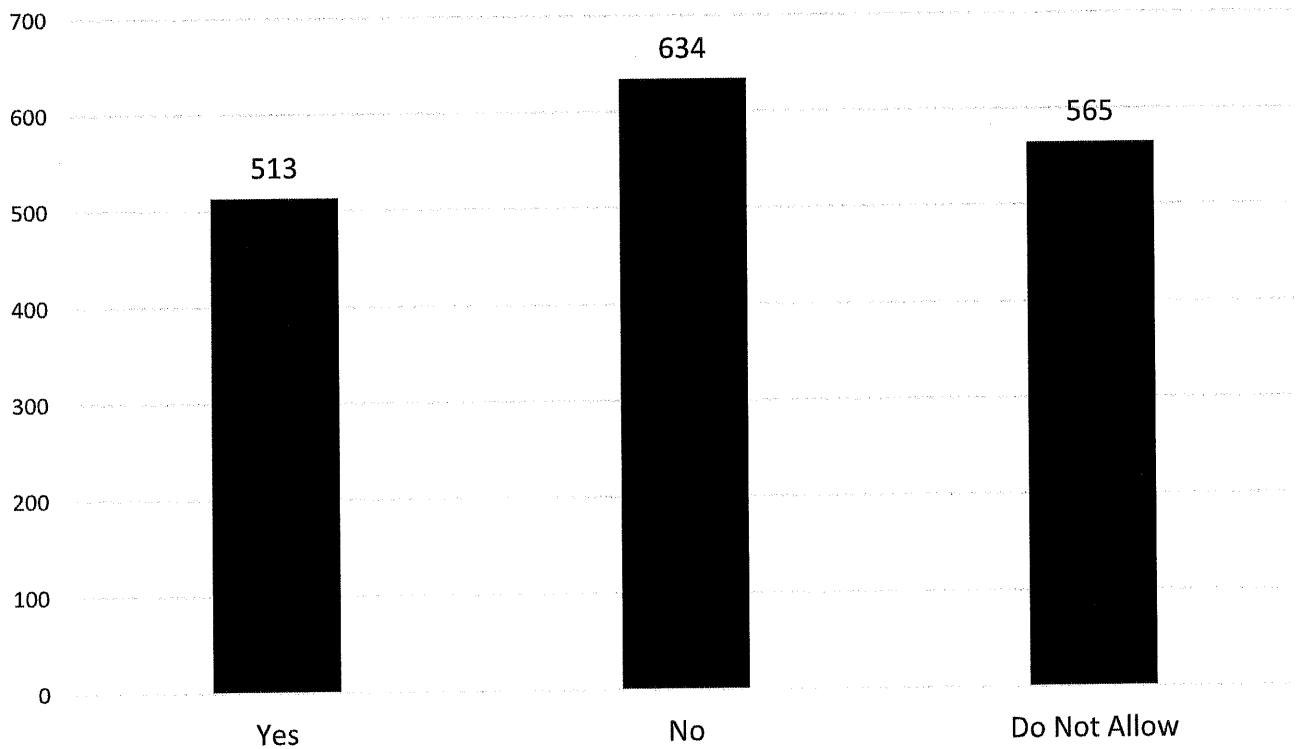
### Should Short Term Rentals (STRs) Be Allowed?



## Which Districts Should STRs Be Allowed?



## Should There Be A Limited Number of STR Licenses Available?





## Short Term Rental Survey Questions with Response Numbers

*Below is the survey mailed. The numbers after the response represent the number of responses received for that item.*

Elmwood Township Board is looking for input on whether or not to allow property owners to regularly rent out their whole house for periods of less than 30 days (short term rental). To help the Board in their deliberations. Please respond to this survey.

1. Should short term rentals be allowed by license with regulations in the following areas? Check all that apply.
  - ☐ Agricultural -157
  - ☐ Residential Neighborhoods-104
  - ☐ Waterfront- 259
  - ☐ Commercial- 281
  - ☐ All of the above -697
  - ☐ Not at all -610
  
2. If short term rentals are allowed, should the Township limit the number of licenses available?
  - ☐ Yes -513
  - ☐ No -634
  - ☐ Do not allow short term rentals -565

## **Appendix - Submittal from Elmwood Township**

**From:** [Trudy Galla](#)  
**To:** [Gail Myer](#)  
**Subject:** FW: Amendment for PC-Short Term Rentals  
**Date:** Thursday, October 15, 2020 11:33:15 AM  
**Attachments:** [Ordinance 2017-04-08 draft.pdf](#)  
[Licensing Ordinance 09 15 20.pdf](#)  
[PC minutes 9-15-20.pdf](#)  
[PC minutes 9-22-20.pdf](#)

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**From:** planner@elmwoodtownship.net <planner@elmwoodtownship.net>  
**Sent:** Thursday, October 15, 2020 11:29 AM  
**To:** Trudy Galla <tgalla@co.leelanau.mi.us>  
**Subject:** Amendment for PC-Short Term Rentals

Hi Trudy,

Attached is an amendment for review by the Leelanau County Planning Commission.

As you are aware, short term rentals have been a hot topic in not only Elmwood Township but in the county, region and nation. Attached are multiple items. If you would like any more details on anything, let me know.

1. Ordinance 2017-04-08- This is the zoning amendment to allow short term rentals in various districts.
2. Licensing Ordinance (Police Power Ordinance)- As discussed, this is being forwarded as a curtesy. I'm not sure how familiar the Leelanau County Planning Commission is with the difference between Police Power Ordinances and Zoning Ordinances. If the PC needs more information on Police Power Ordinances, let me know. Many of the questions that come up when talking about short term rentals are items that can be addressed in our Licensing Ordinance and the Township Attorney recommended creating the 2 separate ordinances to regulate Short Term Rentals. (The attorney has been involved in this process and reviewed the ordinance language) The Township Board asked the Planning Commission to work on a first draft of this ordinance on behalf of the Board. While this is not required, the Planning Commission took on the responsibility while working on the zoning amendment. The Licensing Ordinance was not subject to the Public Hearing at the Planning Commission level.
3. PC Minutes 9-15-20- These are the minutes from the public hearing.
4. PC Minutes 9-22-20- These are minutes when the motion to recommend approval to the Township Board. There were no changes to the draft ordinances between these two meetings.

Let me know if you have any questions or need any additional information.

Sara

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Sara Kopriva, AICP  
Planner / Zoning Administrator  
Elmwood Township  
(231)946-0921

Township Office Hours  
Monday - Friday  
9:00 am - 5:00 pm

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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=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

Add to end of table:

P+ - Allowed if existed and was in operation as a short term rental during the 24 months prior to Zoning Board of Appeals March 20, 2019 meeting. A license shall be obtained within 1 year of the effective date of this ordinance or the use shall not be re-established. Should the use discontinue, the use shall not be re-established.

**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.

**Police Power Ordinance**

CHARTER TOWNSHIP OF ELMWOOD  
SHORT TERM RENTAL LICENSING ORDINANCE

AN ORDINANCE TO REGULATE SHORT TERM RENTAL OF RESIDENTIAL PROPERTY WITHIN THE CHARTER TOWNSHIP OF ELMWOOD AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE CHARTER TOWNSHIP OF ELMWOOD ORDAINS:

**Section 1: Purpose**

The Charter Township of Elmwood Board of Trustees finds and declares as follows:

- A. The Township wishes to preserve and maintain the residential community character of the Township.
- B. This Ordinance is intended to protect and promote the health, safety, and general welfare of all the citizens of the Charter Township of Elmwood by requiring the registration and permitting of short term rentals.
- C. The Township understands the need for more long term housing and is interested in protecting the housing stock by limiting the number of licenses available.
- D. Short term rentals provide a community benefit by expanding the number and type of lodging facilities available and assisting owners of short term rentals by providing revenue which may be used for maintenance upgrades and deferred costs.
- E. The transitory nature of occupants of short term rentals makes continued enforcement difficult without registration and contact information.
- F. The provisions of this ordinance are necessary to prevent the continued burden placed upon county and township services and impacts on residential neighborhoods posed by short term rentals.

**Section 2: 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.

**Caretaker:** A caretaker is an individual, other than the owner, who is responsible for the oversight and care of the short term rental and is authorized to act on behalf of the owner. The owner may be the caretaker.

**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, 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.

**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 3: 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.

### **Section 4: Licensing Limitations**

The Township hereby authorizes **40** short term rental licenses to be issued at any one time within the Township. An owner shall be allowed to hold one (1) license at a time in the Charter Township of Elmwood.

### **Section 5: 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 and Saturday.
- E. **Capacity Limit-** The maximum occupancy for the short term rental shall be no more than two (2) occupants per bedroom excluding children under the age of 5. 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 post 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 6: 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 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 caretaker, if different from the owner
- D. Signature of owner and caretaker
- E. The address of the property for which the short term 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. Fee as determined by the Elmwood Township Board

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

Owners that have a valid license and are in good standing with the Township shall have first priority in receiving a license for the following calendar year. The remaining balance of the licenses may be issued to owners who have submitted a complete application. If the number of applications, including renewal applications exceeds the number of licenses authorized in Section 4 of this Ordinance on October 31, then the Township will conduct a lottery to determine which of the new applicants shall receive a 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 have their application processed as a new application as licenses are available.

### **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 warning notice of violation which shall be in writing.
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. An owner may reapply for a license no sooner than twelve (12) months after revocation of a license.
5. If there are one or more violations each year during any three (3) consecutive year period, the license may 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 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 11: Effective Date**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

**Charter Township of Elmwood  
Planning Commission  
Regular Meeting  
September 15, 2020  
7:00 PM**

**\*Meeting held remotely due to Covid-19**

**A. CALL TO ORDER:** Chairman Bechtold called the meeting to order at 7:03 PM.

**B. PLEDGE OF ALLEGIANCE:** Chairman Bechtold led the Pledge of Allegiance.

**C. ROLL CALL:** Jeff Aprill, Kyle Trevas, Doug Roberts, Jonah Kuzma, Nate McDonald, Kendra Luta, Rick Bechtold

**D. PUBLIC COMMENT: (2:49)** Sue Jones 12684 S. Cedar Ln., Rod Jones, Colleen Mulligan, comment on behalf of Del Moore, Ann Marie Wigton

**E. AGENDA MODIFICATIONS/APPROVAL: (20:44) MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER ROBERTS TO APPROVE AGENDA AS PRINTED. ROLL CALL VOTE-AYE: DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KYLE TREVAS, JONAH KUZMA, KENDRA LUTA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**

**F. MINUTES-AUGUST 18, 2020 REGULAR MEETING (21:54): MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER KUZMA TO APPROVE MINUTES OF AUGUST 18, 2020 WITH CORRECTIONS. ROLL CALL VOTE-AYE: KENDRA LUTA, NATE MCDONALD, JONAH KUZMA, DOUG ROBERTS, KYLE TREVAS, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.**

**G. CONSENT CALENDAR (26:00): APPROVE/RECEIVE AND FILE**

**1. PLANNER'S REPORT-None**

**H. DECLARATION OF CONFLICT OF INTEREST: None**

**I. OLD BUSINESS-None**

**J. NEW BUSINESS (27:20):**

## **1. PUBLIC HEARING-ZO 2017-04-08 Short Term Rental Zoning Ordinance Amendment**

**In accordance with the official notice, as read by the Chair, the public hearing opened at 7:30 p.m.**

Staff stated the notice for the public hearing was published August 27<sup>th</sup> in the Leelanau Enterprise for the zoning text amendment that also provided information for logging in to the ZOOM meeting. Chairman Bechtold said as a courtesy to the public, try to specify their comments to deal specifically with the zoning ordinance text versus the licensing ordinance.

### **Public Comment opened at 7:41 p.m.**

Mark Breiderland 9483 E. Harbor Hills he knows Elmwood Township is the largest populated township in Leelanau County abutting the City of Traverse City and Grand Traverse County; a county with over 90,000 residents. He attended some Elmwood Township Planning Commission meetings earlier on the topic of short term rentals and at one of those, it was stated by our own Elmwood Township attorney that the Garfield Charter Township in Grand Traverse County, the largest populated governmental unit in Grand Traverse found they had situations where illegal short term rentals were occurring and the township board reaffirmed and barred the practice. He knows Garfield was legally challenged up to the state court of appeals on this and in 2018 the township prevailed and was able to uphold their short term rental ban. He doesn't understand why Elmwood Township Government has not taken the same action prior to tonight. It seems to him that it's become bogged down in a myriad of issues. Let's be clear, here in Elmwood, neighborhoods are paramount to both Elmwood as well as Garfield Charter Township's. Neighborhoods should not be where mini hotels are located but where residents reside and raise families and provide dwelling units for workers in our community. Elmwood Township should not allow a non-owner occupied whole house dwelling unit to be operated in Elmwood residential neighborhoods under any circumstances. Mini hotels simply don't belong and he's quite confident the vast majority of his neighbors believe the same. So, further with the pandemic, it seems to him there's even further economic pressure for out of area, out of state purchase of our limited community neighborhood homes and possible used as short term rentals if allowed by this township. So he urged the Planning Commission and the Township Board of Elmwood Charter Township, our largest residential township in the county to ban short term rentals as Garfield Charter Township did and was legally successful back in 2018. The before mentioned case should bolster their resolve to protect the neighborhood in Elmwood Charter Township.

Sue Jones 12684 S. Cedar Ln. said in an effort to understand and visualize the scope of the short term rental issue in Elmwood Township, she compiled a spreadsheet for review and a map of locations of the short term rentals. With data from Host Compliance made available through a FOIA request, and information from Airbnb, VRBO, and Leelanau County Property Search websites, the spreadsheet includes the locations, PRE %, number of occupants, bedrooms, baths, date first reviewed, etc. The data can change from day to day as listings are added or are taken down, but it is raw data and would require a little more analysis. Out of the 100 listings she identified, the data indicates that excluding 8 that likely qualify as B & B's, and one duplicate listing, 45 listings have begun since March 20, 2019, that's an increase of 100% since this process started. Per the current listings, 7 is the average number of occupants allowed which is a more intense use of single family dwellings in our neighborhoods, where the average household size is only 2.3 occupants and that doesn't include the number of children under 5 or additional guests that would be allowed on the property outside of quiet hours. The Michigan Supreme Court ruling in June of 2020 upheld in Reaume vs Spring Lake Township that a short term rental property fell within their definition of motel, which is a near identical to Elmwood Township's definition in the Zoning Ordinance. There has been no demonstrated need to amend the Zoning Ordinance to allow conversion of our single family homes into motels for the purpose of lodging tourists. At this time, the Zoning Ordinance is firmly in our (the residents') corner so she continues to advocate for their rights under the current zoning that does not allow this type of commercial use property to operate in their neighborhoods without a primary resident present especially in their most densely populated neighborhoods. They need the scarce housing stock maintained as directed by the Master Plan for primary residents to represent the workforce, retirees, families and long term renters; they are the backbone of the community and contribute to its livability and character. She fully supports the proposed Zoning Ordinance Text Amendment in its current form that does not allow non-owner occupied short term rentals in our residential neighborhoods.

Rod Jones 12684 S. Cedar Ln. supports the proposed zoning ordinance text amendment. It confirms that short term rentals should not be an allowed commercial related use in our residential neighborhoods. In their Master Plan each township lays out their vision based on the type of community desired and the kind of lifestyle its citizens wish to follow. The goals and objectives of the plan are achieved by adopting a Zoning Ordinance. In previous public comment, investors have tried to draw a comparison between Elmwood and other townships in Leelanau County and have been critical when they cited Traverse City and other townships in Grand Traverse County for comparison. To counter that, he included on page 2 excerpts from Glen Arbor, Leland, and Empire townships' Master Plans which specifically draw attention to the seasonal nature of their communities and their economies primarily anchored by tourism. He included in page 3 excerpts from Elmwood Township's Master Plan which is much different in focus than the other townships in

Leelanau County. When they looked for reasonable arguments to justify the need to amend the Zoning Ordinance, they find nothing to indicate that one of the goals is to lodge tourists in single family dwellings in our residential neighborhoods. Instead, we find that consistent with the township's definition of motel, transient lodging; a commercial activity is only allowed in the general and shoreline commercial districts. The major narrative and theme of the recently adopted Master Plan maintains its previous focus on residential qualities of the township with consideration given to multi-generational and workforce housing. It reaffirms that the residents want limited commercial development within the township and are satisfied with depending on Traverse City for their shopping, dining, and commercial needs. With the guidance provided by the Master Plan, he does not believe there has been a demonstrated need to allow the conversion of our single family homes into short term rentals. Don't let investors and transients compete for the scarce housing in our densely populated residential neighborhoods and don't let them override the carefully crafted and recently adopted Master Plan. Please vote to recommend the Zoning Ordinance text amendment be passed in its current form.

Jack Kelly said for the past year and ½, SONIE has maintained that illegal non-owner occupied short term rentals should not be allowed to operate in Elmwood's residential neighborhoods. In so doing, they've provided public comment during 47 separate township meetings before the Township Board, the Township Planning Commission, the township ZBA, and 2 public input sessions mediated by Kathy Egan. From the outset, they were extremely confident that their efforts to protect the character and integrity of their residential neighborhoods accurately reflected the opinion and convictions of a large segment of the silent majority of our neighbors who felt likewise. Earlier today, that confidence and sustained conviction manifested itself front and center when Rod Jones delivered a petition to Planner Sara Kopriva signed by 263 residents of Elmwood Township, 80% of whom live in neighborhoods in and around E. Cherry Bend Road that reads as follows: We the undersigned residents of Elmwood Township oppose and hereby strongly urge that the Township Board of trustees and the Township Planning Commission not enact any zoning ordinance or police power ordinance permitting currently illegal non-owner occupied short term rentals to be operated in Elmwood Township's residential neighborhoods. If someone is currently operating one of these illegal non-owner occupied STRs, they should be given a maximum of 1 year to cease and desist such operations, which were commenced without any legal authorization in the first place. No one is above the law. Because Township officials decided to hold this public hearing remotely out of public safety Covid-19 concerns, every Planning Commissioner and the Township Attorney should already have electronic copies of the petition signature listing summary before them, given that this information was provided via email to Township Planner Kopriva prior to 5 p.m. today. Individualized folders containing hard copies for each Planning Commissioner were also delivered earlier today, along with a spreadsheet compiled by Sue Jones about STRs

and a copy of Township Attorney Peter Wendling's July 29, 2020 letter to Sara Kopriva that was obtained through FOIA. Furthermore, a hard copy of all this documentation was mailed to Attorney Wendling's law firm earlier today, and a copy of the actual petition signatures was also provided earlier today to Planner Kopriva for inclusion in this public hearing's official public record. Some final thoughts: His September 4<sup>th</sup> 5 page letter, which discusses Attorney Wendling's July 29<sup>th</sup> letter, and Planner Kopriva's September 8<sup>th</sup> 2 page memo, similarly conclude the need for the Planning Commission to address through Findings of Fact, all of the guidelines in Section 11.12.D1 a-j including a & c he would add, in preparing its recommendation to the Township Board. Since Home Businesses represent a similar intense commercial impact and require a SUP under Section 5.4, even though they are owner-occupied, perhaps a SUP should be required in the NC district as well. Also, the actual use of a structure is what's regulated under zoning, not its outward appearance and he still maintains that a LUP should be required. In closing, STRs don't belong in our residential neighborhoods, and he commends the Planning Commission for its extensive deliberations which ultimately came to the same conclusion as those of us living in same.

Tina Martin 10055 E. Avondale Ln. moved to an Elmwood Township residential neighborhood for a safe, clean, neighborhood with familiar neighbors. Our pristine parks, friendly neighbors, safe neighborhoods, quiet nights, tolerable traffic, and people who respect their property are what drew her to this area. We all know it's a desirable place to live or it wouldn't be on the agenda tonight. Non-owner occupied STRs are illegal here and it takes up housing for local working families and long term rentals for families who may not afford to buy. The legal age to rent a STR is 18 and there is not much limit on occupancy, quantity, or how renters respect neighbors or neighborhoods. She is sure STRs will not be managed, guarded, or maintained by laws and they are not now. She knows from experience residential neighborhoods turn to commercial, bring house value down, and unfamiliar neighbors and issues up. She wants to keep her residential neighborhood safe, clean, respected, commercial, and STR free. Please consider the consequences.

Todd Space said the STR survey last year showed more respondents want STRs to be allowed in all neighborhoods than oppose them; 801-610. A majority of respondents, 956, wanted STRs allowed on the waterfront; it's part of our heritage. Yet, in this draft amendment, you have completely ignored the survey and arbitrarily ruled that STRs are not allowed in the R-1 district. Have you looked at your zoning map? Almost all the waterfront is in R-1. Except for the dense subdivisions in the heart of Elmwood, most of R-1 looks just like R-2. This draft is a product of fear mongering by a few from the 35% minority who opposed STRs in the survey, often falsely claiming... to our community. If you are worried about the housing stock, simply limiting the number of STRs achieves this goal regardless of the zoning district. You claim STRs don't belong in R-1 because they are commercial, yet you have no problem with Bed and Breakfasts in R-1. Neon signs, striped



parking lots, unlimited guests sleeping anywhere in RBs rent by the hour, they're all ok if you are a Bed and Breakfast in R-1, clearly commercial. This inconsistency is a clear deficiency. Countless hours, thousands of dollars were spent to produce the current ordinance and published just 3 years ago and you chose not to address STRs. You deliberately left them unregulated while at the same time are continuing to allow STRs to operate. That's not much different than affirming them as out right legal. Regardless, that is how the public and all township officials took it as well. They could assume they were legal. It is just too rich that the former supervisor whos administration gave us the permission to operate now wants us treated as outlaws as he bullies you into this draconian change, destroying our legacy of vacationing in Elmwood. I remind you, not a single township official new STRs were not allowed, let alone the public until the ZBA ruled as such. The ZBA could have, and he thinks should have ruled differently, that short term rentals both owner occupied and non-owner occupied are similar to B&B's, not exactly the same, but all similar use. All 3 are commercial use on Residential property for transient short term rentals. Two of them are still allowed and completely unregulated by you. I ask you this, if you were told by the township that Elmwood does not regulate STRs and there is no ordinance specifically prohibiting them, how would you interpret that information? Does that sound like they're illegal to you? I doubt it. Of course not and it's on that basis that many Elmwood resident such as myself invested in a community millions of dollars. You the township are complicate and need to recognize that, own it, as such STRs should be considered non- conforming prior use going forward. Regulate them, but allow them in all districts. Because you have the power to declare STRs unlawful commercial ventures in R-1 doesn't mean you should. These homes remain residential despite the short term nature of their use.

Joe Testa 10271 S. Center Hwy. thanked Commissioners for taking the time to hear his thoughts as a resident of Elmwood regarding STRs in Elmwood Township. He owns a STR in Elmwood and absolutely loves using it personally for his family as well as blessing others with the chance to spend money at local restaurants, wineries, and other businesses. This past week a co-worker of his shared with him the process that Elk Rapids walked through regarding STRs and he encouraged the township to consider emulating what they did. Just for clarity, an earlier commenter mentioned the population size of Elmwood Township. Elk Rapids Township has 2,000 less people, not that much different in size, yet significant where they landed in their STR process. They grandfathered all STRs in up to the March 1<sup>st</sup> date when they set the ordinance. They respected those who were already using their homes for STR. They made a decision and moved forward. The process Elmwood has been in has been very confusing with little clear communication. There still is nothing on Elmwood's website to document anything regarding the STR controversy. They took into consideration all the benefits of STRs when they made their decision. How much STRs help the local economy. They led well through the process, communicating clearly and

definitively. There will be no confusion about someone who purchased a home after March 1<sup>st</sup> with the hopes of using it for STRs in that township. The ordinance is clear. They also allow the STR license to be passed on when properties are sold. It's his hope that the Township Board and the Planning Commission will see that STRs are a tremendous asset to the township. He's glad to be a part of CHER because he's gotten to see the tremendous quality of person and leadership made up by this group. Just to be clear, he asked the board to decide on an ordinance that would allow STRs and then set that as the date that all who have been operating STRs would be grandfathered in under.

Levi Meeuwenberg 9789 E. Cherry Bend Rd. he's a 4<sup>th</sup> generation resident of Elmwood Township, and his family helps to manage a non-owner occupied STR and he's also a neighbor to a STR that he does not manage. He was there to speak in support of STRs and specifically would like to see the number of licenses increased to at least cover and grandfather in all the existing STRs that currently exist. They have been running there's since 2015, so that's a 5 year old local business run by residents here and at the time they called the township and were told they were allowed. One of the things he's trying to understand was what grounds these regulations were being proposed. When it comes to things like his neighbor being concerned about loud noises, then we can pass a noise ordinance and it should probably apply to all homes, not just STRs. If there's a concern with parking, we can pass a regulation to control parking on the street. Those things are reasonable because they affect everyone in the neighborhood. What he doesn't understand is imposing on the right of homeowners of how they use the interior of their home, because with STRs the exterior experience of it is not all that different than just a regular residence, most of what is going on is happening in the interior of the home. He could understand if there was a matter of public health or safety in terms of passing some regulations but he hasn't heard a good strong case for those, just imagined threats and fears. It seems more like the people who are against them are simply trying to impose their personal taste and preferences about what their neighbors should do or should be allowed to do with their property and imposing on other people's liberties to do so. He doesn't agree with that political philosophy. He doesn't agree with imposing his personal taste about how he wants his neighborhood to feel on other homeowners unless it really threatens public health and safety. He just wanted to reiterate that he doesn't think STRs should be totally unlimited, but he thinks there is a reasonable number that should be closer to 150 that would grandfather in.

Susan Newman 10975 Mann Rd. called in support of STRs including the R-1 zoning district. She and her husband have an owner occupied STR so technically this is the competition but she still thinks it's the right thing to do. She's very disappointed with the Zoning Ordinance Amendment as it stands right now particularly with the 11<sup>th</sup> hour decision to restrict STRs in R1 zoning districts. She's been following this and that's a pretty big deal and seems that

decision was made very hastily. Again, this was brought up from the beginning not because there had been major disturbances or destruction from non-owner occupied STRs but from a concerned resident of Elmwood Township. Indeed there's an incentive on part of both the owner of the home and the guests that are staying there to be on their best behavior because there is a peer review that goes for both people. There's a huge incentive on the owners of these houses to keep them looking extremely well because that's important for people that are going to pay to stay there. She supports limiting granting STR licenses to those individuals who have primary residences within Elmwood Township and limited surrounding areas. These people are our neighbors and residents of Elmwood Township that are just trying to make ends meet for their family in a way that allows them flexibility and she thinks that is very important. They need to balance the rights of the people that own these other rental homes with their neighbors but completely eliminating them is limiting the rights of those owners of the homes and that are trying to do those STRs. There is a big support to the local economy. If there are issues, those should be addressed at a place that impacts all residences. For example, noise ordinance should be applied to everyone that lives in Elmwood Township, not just STRs. She doesn't care if it's a STR or regular neighbor if they're playing their music loud. In conclusion STRs are an asset to the township and she supports a grandfather clause to those that are already out there and please take a common sense approach as you're making your final decision.

Karyl Moore lives in Elmwood Township in one of the many residential subdivisions. From the onset they have continuously looked at legal written verbiage in our 2017 zoning as well as the 2018 Master Plan for guidance on the issue. Regardless of the presumed, suspected, or fabricated cottage rentals of back in the day, that no longer exist and regardless of what other communities have done, are doing, or whatever, it is Elmwood Township's specific documents already in place that is what matters most. In our Zoning Ordinance Article I, section 1.3 the ordinance has been established for the purpose explicitly permitted by Michigan Zoning Enabling Act to provide for the legislation of land development and the establishment of districts in the township. Section 1.4 the provisions of the Zoning Ordinance are the minimum requirements for the promotion of public health, safety, and welfare to determine the intent of the provisions of the ordinance the provisions should be read as a whole and by applying applicable laws statutory and ordinance interpretations. On July 5, 2020 Michigan Supreme Court ruling set precedence on a residential STR use. Last month the PC was provided with an extensive document on Spring Lake Township Zoning Ordinance case where they reaffirmed the Court of Appeals decision on the STR property as a motel as defined in their township's ordinance. Elmwood's motel definition is very similar to Spring Lake's. During the township's March 20<sup>th</sup> ZBA interpretation, this was looked at strictly from a residential standpoint. If all of the zoning definitions had been reviewed, as they were in the above cases, the language in our motel definition would no doubt have prevailed as well. In addition to our motel

definition, Article 2, terms of use, the word *use* shall be deemed to include the word intended, arranged for, designed for, etc. The word *occupied* is applied to any land or building shall be construed to include the words intended to; designed for. The word *shall* is mandatory, laws and rules exist, must be followed for text amendment. Some of these rules are already in place in Elmwood Zoning, a land use change without a proper process or without a demonstrated need for a zoning change would be devastating to the entire community, especially since final approval of our Master Plan and Land Use Map occurred only a few months before this topic emerged in the township in January, 2019 and conditions have not changed significantly since that plan was developed and adopted. Above all, with our motel definition, which states terms shall include by any other title intended to identify them as providing lodging for compensation on transient basis and being that the dwelling definition says, used exclusively for residential purposes and a single family dwelling definition says for the purpose of housing one family. She asked, what are our homes intended and designed to be used for? With just over 2300 houses in Elmwood, giving away 40 of them to tourists...

Colleen Mulligan 12702 S. Cedar Ln. making comment on behalf of herself and Joe and Christina Sanok, who could not attend. She's a member of the pro STR group known as Citizens Hosting Elmwood Renters, or CHER for short. Specific to the zoning ordinance amendment, she asked that they allow existing STRs in all zoning districts and strike the March 20, 2019 date and change it to the date the police powered ordinance actually goes into effect. She referred to the documents she submitted for tonight's meeting on behalf of CHER that includes the 3 letters written and previously submitted by the group's attorney as well as the cover letter listing their current membership list among other things. And last but not least she wanted to discuss the letter of support they included and was approved by local businesses and area residents, many of whom are in Elmwood Township that are also in favor of STRs. She hoped they took the time to read that and that the Planning Commission as a whole does care about the businesses in Elmwood that benefit from STRs because it's more than a few. The part of the letter she found most persuasive were the comments that the signers made as part of their approval to be included in support of STRs. She asked that they would seriously reconsider their stance on this matter and take a hard look numbers that show the majority of STRs are in the Residential area where you aren't going to allow STRs at all. She also asked that they remember that most of the STRs have been operating without issues for years and years and that if you want to address the concern of having them take up residential areas, you can do that by not allowing anymore once the police power ordinance in place instead of stopping those of us that have invested in this community and their futures believing they did so in an area that allowed STRs. One complaint is that STRs are taking over housing which was just talked about. The fact is that Elmwood has 2,000 houses, over 1,000 of which are non-homestead. Of those 1,000, 103 are listed as STRs which is owner occupied and non-owner

occupied combined. Many using STRs are using them to help pay the bills for future retirement homes. If less than 4.9% of secondary homes are STR and those are the only ones we are fighting for right now, why are residents in opposition blaming STRs?

Anna Heiges 12903 S. Meadowbrook Dr. is disappointed with the Planning Commission's recommendation. She's confused as to why the Planning Commission would make a recommendation to not allow STRs in the R-1 district when the surveys that were sent out were in favor of allowing STRs. For the most part, any individual who rents a home through Airbnb, VRBO, or whatever, are law abiding citizens from other areas and they're just coming to enjoy the area and spend money to support our community. Her fear is that if you stop STRs from operating, you are going to have more high cost, long term rentals with long term rental homes, a lot of them are not kept up, the renters do not take as much pride or care into keeping up a home. It's not going to free up affordable housing, it's not going to accommodate those individuals that work in the community because a lot of our community workers are being paid minimum wage. STRs have been in operation for years and for the most part they have operated without issues. She would rather have an STR vs. a huge hotel blocking her view.

Paul Soma 9965 E. Avondale Ln., speaking on behalf of himself and his wife in agreement with the first 5 commenters and the 9<sup>th</sup> commenter to not allow non-owner occupied STRs. Most of them spoke way more eloquently than he can speak. There are 2 points he wanted to make, one is that they have something special in this region, in this area in Elmwood Township and to allow STRs turns us into everyone else. Some commenters who have said they were imposing our will on somebody who's been operating this way since 2015 or whatever. He moved here in 2002 and he didn't move into a neighborhood that allowed STRs with a next door neighbor who changes every day, to raise a family which he's been able to raise in a beautiful community that's special in that it does not allow the non-owner occupied STRs. To be clear, he does not support non-owner occupied STRs and the other part is this idea, you don't have to read too much into the Airbnb story to understand what they've done, that they've taken advantage of the fact that folks haven't had regulation around this to establish themselves without paying attention to, because they didn't have to, it's a new industry that was able to operate within a loophole, and townships and other municipalities have had to catch up to that and what they've caught up to is, well, we established this when it was allowed. Well, that's part of the strategy and to join in that, he understands the risk involved in that, but you took that risk and that shouldn't dictate that now that the township zoning is catching up to that, just like it's done across the country, it seems actually like most ordinances have lost because of that, basically the townships have had to succumb to well, you were here already so therefore you can be allowed. That's been a strategy of Airbnb and he would suggest that they don't follow it, let's be special,

let's keep this area special and allow for something that's different. Different being that they don't allow non-owner occupied STRs.

Comment on behalf of Del Moore, SONIE president. He stated for the record that he can support the proposed text amendment specifically because according to the proposed Land Use & Zoning District Tables in Section 5.4, it does not allow short term vacation rentals to operate in our R-1 subdivision neighborhoods. The Planning Commissions recently approved by-laws, p. 11 state states that it's your responsibility to understand applicable laws as well as court decisions as they relate to your duties. So in February 2020 they provided them with an extensive list of Michigan Court cases that have continuously concluded that commercial STRs are out of conformity with residential land uses, some of them were even more specific to platted subdivisions intended and designed for single family dwellings and uses. Therefore, they appreciate their due diligence regarding them. As pointed out on several occasions, the zonings intent can be seen in multiple areas throughout the entire zoning document as a whole. Therefore in June, July & August they provided them with substantial evidence of this and referred to areas such as Article 7 which regulates subdivision standards and use requirements, Article 8 Site Plan review and approval process for them, along with Article 4.3 Establishment of Zoning Districts Intent. The R-1 zoning district is intended to accommodate single family residential and related uses. They further pointed out that accessory uses are conditioned upon being conducted by the occupant of the dwelling and indicated that no other residential commercial related use is allowed to operate as a non-owner occupied, non- principal use operation like the STRs that are being proposed per zoning definitions in Section 2.2 of accessory use, a use incidental and subordinate to the principal use...and principal use, the use of the property which is the main use to which the premise is devoted. These commercial transient mini motels would be incompatible with the single family neighborhood character and with their existing uses. They've continuously pointed to the Master Plan as it influences regulations and standards of our zoning and any future changes to it. Since zoning affects how the land can be used and the recent 2018 Master Plan was based in part on surveys of what residents want our future land uses to look like over the next 20 years and consistently describes that residents want to protect the residential neighborhoods and the rural aspect of the township and limit commercial use-not expand it to create inconsistent land use patterns with adjacent properties. Based upon what's been expressed to them over the last several months along with this outlined summary, the Michigan court case rulings and updates, the 2018 Master Plan, as responsible caretakers of the plan, the Michigan Zoning Enabling Act which requires that a demonstrated need be shown for a Zoning change, which has not occurred and given the fact that our area has housing shortage, especially for modest housing, and the language in the rewritten 2017 zoning ordinance, the intended document as a whole, they were duty bound to prohibit this type of use as they have in the proposed R-1 neighborhoods which furthers the goals and

objectives of our Master Plan and they support decisions that continue to do so as this benefits all of them equally.

Marissa Wege who owns 2 homes, one at 8600 E. Fouch Rd. and one at 9440 E. Cherry Bend Rd. She is calling in support of STRs. She is a young mother with her first business and she has bought old dilapidated homes and restores them to the highest quality that she was able to. She employs 6 Elmwood Township residents full time and any time she's doing any sort of work, she looks locally. She looks as local as she can because she wants to support the neighbors. She was disappointed to hear that the board was going to go this far with STRs. She's never had any issues and she's never had any concerns from any of her guests. She finds it disheartening that they refer to these beautiful spaces as motels because she's put her heart and soul into each of her homes and she wanted to share that with people. She grew up, she's a 3<sup>rd</sup> generation Traverse City native and grew up in this beautiful area and she's moved away over the years and came back to live here full time and what she's realized is that they are so lucky in that life is so short and they should share anything good they have in their life because who's to say that they're guaranteed tomorrow, and that's what it's all about. Her entire business she's created is based around on being able to share this beautiful area they live in. She wrote a book that she put in her home that specifically showcases local businesses because she loves where she lives and loves the local businesses and all the people that are putting together these beautiful restaurants, and the lovely people that come and clean the TART trail and do so much for our community and these STRs have given people the opportunity to see a side of Michigan they may have never seen before from a perspective that gives them insight into what life is like here and it brings money to our community, it brings so much money and she will be so disappointed to tell her kids that she couldn't continue on with her business because of other people's decisions. She was also disheartened to hear, she has friends that live in the Elmwood community, in the neighborhoods and they said there was a man that was canvassing the neighborhoods scaring people into signing petitions and it was fear mongering and it was really disheartening for her friends, young family members of the community to be approached this way and that's not what they're doing.

Phil Putney 10545 E. Cherry Bend Rd. said perhaps someone on the board can explain to him why they're not acting to correct the 100+ homes that they've said are in violation, we know they're in violation of the current zoning but whether they're trying to change the text and license something that is illegal at the moment. He's watched what happens, he lives on Cedar Lake and what goes on, on the lake and some of the disrespect. Homeowners have a different view of what residents should look like in the neighborhood than people that come for the weekend, and there's a lot of partying going on and a lot of troubles. They're adamantly against STRs; they just don't belong in residential areas. So, he would appreciate them acting as such.

Ann Marie Wigton, president of CHER which supports responsible STR hosting in Elmwood Township. She's also 4<sup>th</sup> generation Elmwood Township resident. She's disappointed by the PCs proposed zoning amendment. The Elmwood Township Board, our elected officials, tasked them with creating a balance in the zoning amendment to allow STRs. Instead of completing this task, you've taken your own personal bias in creating this ordinance. It was clear from the start, there are many aspects to the STR that you are uninformed on and from this position you should not be creating policy on things you do not understand. Policy that if approved, will devastate so many Elmwood Township residents. When surveying for the Master Plan, she referred to table 11, 82% of residents thought the noise ordinance should be considered. Only 45% of residents thought that STRs should be considered and it wasn't. Both of those items not being addressed is failure on the part of the board at that time, but it was relevant. Also at the time 61% of residents felt they had a voice when they were listened to when speaking to the board, something that has not carried through to this Planning Commission. What happens...to the locals when they realize that it is the local residents that live and work here like her family that were told it was ok by the township to invest in these properties, properties they live in, and live right next door to, and can manage. Can we come to a more reasonable balanced ordinance? For every concern that you've had, STR owners have been here and, and have been able to present fact based, educated rebuttals with which they had hopes would guide their decision. She believes they can create a zoning amendment that does not take away the rights to property owners, that represents a balanced approach for all the citizens of Elmwood. So, fulfill the goals of the Master Plan, maintain the character of the neighborhoods, and allow for responsible hosting, there's only 103 of them. Your proposed amendment falls short in so many ways. She asked that they go back to the drawing board and continue to work on the ordinance to meet these goals. She also asked if you wanted to know, Elmwood Township has over 2,000 homes right now, over 1,000 are non-homestead. Out of 1,000, only 103 are listed as STRs. 103 is less than 5%. So when someone talks about the housing stock, STRs in our area, if we're just asking to approve those that have been doing it, we are not the issue, we're less than 5%, and a lot of them that are even doing it for secondary homes are just trying to pay the bills for future retirement homes. They're a young family here and this is really important to them and she asked that they reconsider and go back to the drawing board.

Nancy Colby 11800 S. West-Bay Shore Dr. stated they are against the ordinance, they own a STR. She feels they are taking their property rights and that's not right. Property rights are basis for the Constitution. Their house is zoned in R-1 and they only have one neighbor on one side and have never had any problems. If they're going to make rules to address the problem, to generalize one type of property and exclude it seems odd to her. If there's a problem at a residence, they should address that. Rules for rentals should be the same whether they're long term rentals or whether they're STRs, there shouldn't be a



differentiation. If you have a noise problem, if you have a parking problem, if people are parking on the grass, multiple things, over the years they've had rental houses in other places and long term rentals, they have the same problems that they are speaking of. In this property, they hope to use it to supplement their retirement. She and her husband are both retired and they have never had a complaint, they all of their neighbors and talk to them on a regular basis to see if there's been any problems, they have their telephone number to call them if there were a problem, they live 5 minutes down the road. She strongly objects to excluding the R-1 and feels like they added that to exclude most of the people who are doing STRs and thinks it's very unfair to add another piece the township has to look in to.

Tammy Space 11100 S. West-Bay Shore Dr. speaking as a supporter and owner of an STR in Elmwood Township, she would say this has been a very difficult and emotional experience. As she has stated in previous meetings, she got into this to help her family with extra income, to have a flexible schedule for their school aged daughter. Also to provide visitors to our beautiful area and affordable and comfortable place to stay. She and her husband have put countless resources and time to make their homes welcoming as well as make their homes clean and attractive to the neighborhood. They, as short term owners, have public pride in their homes that they rent. They have worked hard throughout this process by offering suggestions. They have even encouraged regulation if it's fair and just. The top concerns they've heard over and over, noise and parties, we have house rules addressing this and they enforce them. They asked the board for a noise ordinance, they as a board, did not want one. So, she's assuming, it really wasn't an issue. Housing stock, concerns about housing being taken over by STRs. What was looking reasonable, 100 permits in all districts; immediately stop any new STRs. The March 2019 date, right away, limits permits. Inability to pass on to family again stops the progression of STRs. However, in the last 2 months, that all went away. It has left them with an unfair, unjust, and punishing ordinance. The way the ordinance stands, it will create profound hardship on STR owners. Many of them live in Elmwood Township. They have families, kids to raise, and bills to pay. Many of them depend on the income. She is certain there is a better compromise that doesn't directly hurt so many people living in the township.

Kelsey Testa 10271 S. Center Hwy. thanked commissioners for taking the time to hear her thoughts as a resident of Elmwood regarding STRs in Elmwood Township. She owns an STR in Elmwood and absolutely loves using it personally for her family as well as blessing others with a chance to spend time and money at local restaurants, wineries, and other businesses. As a taxpayer in the township, she has 4 STRs. One of the opponents stated that the Master Plan states a goal to get young families into the township. The only way many young families including theirs can afford to live in the township, is to find creative ways to pay a mortgage. That's one of the main reasons they have their homes on the STR

market. The housing stock in the township will never be affordable. In a recent conversation with a realtor friend of theirs, mentioned many are calling the area the Hamptons of the north and property values are sky rocketing. Only the elite can afford to live in this area. She asked that they strike the date of the ZBA of March 2019 and allow STRs to be grandfathered in when an official ordinance is actually established.

Joe Sanok 10626 E. Cherry Bend Rd. said the first month they moved into their Cherry Bend house, the next door neighbor had parties almost every night of the weekend even though they had a newborn baby. She had a light that was green and red that she would turn on and off depending on whatever business she was doing out of her house. Her grass was overgrown, and when he finally met her, a month into owning the house, he said, what do you do for a living, and she said she didn't want to tell him that. These are the type of people that often times, long term rent. Much of the framing by people that are talking about STRs are talking about not wanting a certain type of people in their area. He was calling the police almost every weekend and they said their hands were tied, there's no noise ordinance. He asked why they haven't passed a noise ordinance. Why haven't they listened to what the people want? When they travel as a family, there's no way he's going to sit in a hotel room when his young kids are going to go asleep and talk to his wife either out on a patio or in the bathroom. Their kids go to bed at 8:30. An Airbnb is ideal for a family. Just recently they had some guests that were staying and he welcomed them and he told them there's been some harassment by local people stopping to take pictures of Airbnb's and talking to people. He just wanted to warn them because he wanted them to know Northern Michigan is friendly. They asked why and he told them for some reason they're against STRs. These were young people and they laughed and said seriously? He replied yes. To young people, the idea of being against STRs that are reasonable, that have rules, that have rules that apply to everybody, that is normal for them, and you are alienating an entire generation from Northern Michigan. He asked how many of them have actually stayed at an Airbnb, because at the first meeting he attended, one of the county officials asked about the difference between Gmail and Airbnb. So he asked how well they've informed themselves. In their packets they'll see that over 50 businesses and individuals have said they would be economically impacted. Places like West End Tavern, Cherry Bend Grocery, all sorts of other places in Elmwood that are flagships of the area say that STRs being eliminated would directly affect their bottom line. He asked commissioners if they want to be responsible for that, because he doesn't want to be. He wants to support the local economy. He wants to be a good neighbor. Their neighbors ask if their friends can stay at their STR. So, please vote in favor of STRs and don't be opposed to them like this handful of people say that you should be.

Chris Creamer owns a rental property in Elmwood Township. His family, like many others, doesn't look at renting a box, basically a hotel room and eating out 3 times a day, not to

mention the cost as a viable option when taking a vacation, especially like a place like Traverse City, Michigan. As people need a place to stay, in Traverse City, it's directly tied to tourism. If you start eliminating STRs, people won't have a place to stay and it's going to really affect the economy a lot. He's been in property management and real estate for 35 years and just wanted to give them his thoughts and experiences with rentals. The Traverse City economy is largely dependent on tourism which is STRs in today's world is a key part. He heard a comment in a previous meeting that there were very few commercial businesses in Elmwood that benefited from the patronage of STRs and he thinks this is just the wrong view to take. He thinks we all benefit from STRs in a lot of ways. A large portion of the people locally have jobs that are directly or indirectly tied to tourism, including Elmwood Township residents. No tourism, no jobs, no money to pay the mortgage or rent or whatever. So, let's not create through bad decisions or short sightedness another situation like we had in 2008. He knows people want to have nice neighborhoods, him too, but you can have a great neighborhood to raise your children but if there's no jobs because tourism has been impacted so negatively, that's not good for anyone. His experience with STRs versus long term rentals, he has never had in 9 years, a single complaint from a neighbor from his STR. The first day he put it on the market, he have them all his contact information, phone numbers, emails, whatever. Long term rentals, the same property that he has during the winter, they had the police out twice last year including an arrest for a DUI and a firearm. It's hard to find long term renters and certainly there are many fine long term-rentals out there, but he goes through 15-20 applications before he finds one that's suitable and look what happened last year. The thing with a bad STR is they check out on Saturday. With a long term rental it's a little different situation. He thinks you have...in place with STRs where guests review the owners, but also, the owners have a way to review the guests. So basically if someone comes in and makes a lot of noise or has a party or trashes the house, because of Airbnb and VRBO you can comment on that and they'll never rent to them again.

Sophia Dakoske 7795 E. Fouch Rd. is supportive of the STRs. She's had a full time job helping manage these STRs in our area and they just bring so many good people and it's a good way to support all our local businesses in the area and she's never had any complaints or any issues and they really don't have any neighbors in any of the houses or at her own house and without STRs, she wouldn't be able to afford to live in the area. So she hopes that reconsider the zoning because this is going to impact a lot of people negatively if this changes.

George Bowers 10430 E. Grandview said Mr. Chair, after nearly a year and a half and by Mr. Kelly's assessment 47 meetings of consideration, work groups, public meetings, this issue of STRs still persists unresolved and this has presented an administrative burden upon yourselves, this commission, and our staff of the township. It appears that there are 2

distinct factions that have arisen from this debate both of which to claim to represent the opinions and interests of the majority of the residents of Elmwood Township. Countless hours of time and resources having already have been expended on this issue. It seems logical that the proposed ordinance amendment should be drafted into a valid item and put to a vote. We've heard all this ongoing public comment, emotionally charged public comment, people have things to gain, people have things to lose, it just seems like an item at this point after so long and so much debate, he hasn't verified that it's been 47 meetings, but it's been a lot. It's been a lot of consideration. It just seems like something that neither side in his view can safely say that they actually represent the majority of the constituents. So let's see this go to a vote otherwise this commission cannot truthfully say the interests of the residents of Elmwood Township have been met fairly and democratically.

Megan Luce 9203 S. West-Bay Shore Dr. stated there are so many townships around the region that have done the same thing we are discussing and not previously had a Zoning Ordinance regarding STRs on the books and they are in the process of defining or have defined their ordinances and have come up with some very good ordinances that actually have been in those cases on the books for a year or more and are working very smoothly. They do include noise ordinances which are able to be enforced in regards to time, the time of day that it is as well as things such as fireworks and other noise issues that can occur. Prior to this discussion, there was no ordinance on the books as we all know and homeowners regulated their own homes. They have done that in the past and they will continue to do so going forward hopefully, as the zoning ordinance is defined. But very often it would be more restrictive than what is currently on the books. We are not having this discussion because there have been so many issues and so many problems with STRs; we are having this discussion because it's a hot topic and because townships are one by one beginning to define their ordinances. The owners of STRs in our region are local families. Everyone you are hearing on the calls is local families. They love the communities they live in, they live here, they have neighbors, they love the homes they are renting, and they enforce their own rules, and they do that not only to protect their own homes but because they also want to protect their neighbors. They are neighbors and they live in this community. With the platform in which they rent their homes, they do have reviews. They are able to review the tenants and they are able to review them. As a result, they are able to choose renters that receive various strong reviews that are good tenants and people that are respectful of their homes and of their community. Knowing this, they are able to be very selective about who is in their home and that is very important to them as homeowners and as residents of this community we live in and they find that very, very important. She reiterated, this is a private property right and when you start taking away private property rights, where is the limit, where does this stop? We have to protect our private property rights.

Mark Hoffman owns a STR in Elmwood Township. He resides at 10624 E. Pico Dr. He also owns a long term rental. He's in favor of STRs because he has one but one of the benefits is the fact is a neighbor of theirs where the STR is, is employed by them to clean the home, it is supplemental income for their neighbor. They stay in Airbnb's that are owned by homeowners and that money stays in their community, just like what happens when folks stay at their STR, the money stays there with them to spend and the time spent here by their guests, they're out spending money, so it's a financial benefit on more than one level. As far as the value of homes, the difference between a STR and a long term rental, he's rarely benefited with the value of a home going up with a long term rental. They've had multiple situations where they've had bad tenants and had property destruction, they have none of that with STR and personally they are a 5 star reviewed home and they keep their home up to snuff significantly and you can't demand that in a long term rental. So, he's in favor of STRs and thinks there are many more benefits than cons and he hopes they consider a modest approach when they look at the zoning.

**Public Comment and the Public Hearing closed at 8:59 p.m.**

The Chair noted this would be the time the Commissioners would start the deliberation. Because it was almost 9:00 p.m., he asked Commissioners if they wanted to proceed or recess.

**MOTION BY COMMISSIONER TREVAS SECOND BY COMMISSIONER MCDONALD TO  
TABLE THEIR DELIBERATIONS UNTIL THE SPECIAL MEETING ON SEPTEMBER 22,  
2020 AT 7:00 PM.**

**DISCUSSION**

**ROLL CALL: AYE-KYLE TREVAS, NATE MCDONALD, JEFF APRILL, KENDRA LUTA,  
DOUG ROBERTS, JONAH KUZMA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**

**K. COMMENTS FROM THE CHAIR:** Chairman Bechtold thanked everyone for their patience with the \*6 feature for making public comment. He thanked the Commissioners for their attentiveness and their diligence in reviewing the volume of documents they have and for thoughtful consideration of this matter.

**L. COMMENTS FROM COMMISSIONERS:** Commissioner McDonald asked if the public hearing continues with deliberation at the next meeting.

The attorney explained the public hearing is a statutory requirement as part of the process of the legislative act of either deciding to amend the ordinance or eventually deciding not to

amend the ordinance; that's now been closed. The next meeting is basically discussion, deliberation, and then making a recommendation on the ordinance based upon the information they have including the public comment they received.

Commissioner Aprill thanked all those that participated in the meeting, they did a very nice job of explaining themselves and it's definitely not an easy decision for the Commission to make. He knows there was a lot of time and effort that went into both sides of this process. He thinks there are some very eloquent speakers within the township and he was glad to have them as part of the deliberation.

Commissioner Roberts concurred with Commissioner Aprill.

**M. COMMENTS FROM STAFF:** Staff mentioned that she won't be sending anything additional on the STR items since nothing has changed, they've received all the public comment and the amendment and the ordinance, it'll just be the additional agenda item they had for the Rural Resort Area they talked about back in May and June, and they asked for it to be taken off the agenda, they've asked for it to come back.

**N. PUBLIC COMMENT:** Jack Kelly, Joe Testa, Levi Meeuwenberg, Colleen Mulligan, Karyl Moore, Marissa Wege, Ann Marie Wigton, Todd Space, Kelly Ignace, George Bowers

**O. ADJOURN: MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER MCDONALD TO ADJOURN THE MEETING. ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KENDRA LUTA, JONAH KUZMA, KYLE TREVAS, RICK BECHTOLD. MEETING ADJOURNED.**

Respectfully submitted,

Carrie M. Schaub

**Charter Township of Elmwood  
Planning Commission  
Special Meeting  
September 22, 2020  
7:00 PM**

**\*Meeting held remotely per the governor's executive order due to Covid-19**

**A. CALL TO ORDER:** Chairman Bechtold called the meeting to order at 7:02 PM.

**B. PLEDGE OF ALLEGIANCE:** Chairman Bechtold led the Pledge of Allegiance.

**C. ROLL CALL:** Jeff Aprill, Kyle Trevas, Doug Roberts, Jonah Kuzma, Kendra Luta, Nate McDonald, Rick Bechtold

**D. PUBLIC COMMENT:** Jack Kelly 10100 E. Avondale Ln., Todd Space, Ann Marie Wigton, Anna Heiges, Kelsey Zaryczny, Kelly Ignace, Comment on behalf of Del Moore, Joe Sanok,

**E. AGENDA MODIFICATIONS/APPROVAL: (18:10) MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER TREVAS TO APPROVE THE AGENDA AS WRITTEN. ROLL CALL VOTE: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, KYLE TREVAS, JONAH KUZMA, KENDRA LUTA, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.**

**F. DECLARATION OF CONFLICT OF INTEREST:** None

**G. PURPOSE OF SPECIAL MEETING:**

**1. ZO 2017-04-11-Brock, Uses allowed in the Rural Resort Zoning District: (21:16)**

Staff noted they talked about this in May and June and then the applicant asked that it be removed from the agenda for the regular June meeting. They are now getting back into it so she included the application in the Commissioner's packets and the applicant had a couple of slides they provided.

Nate Elkins, Planner for his company, iDF, representing Steve Brock, owner of the property at the top of the former Timberlee Ski Resort, gave a brief synopsis of the property. They understand the property is currently zoned Rural Resort and any commercial uses, other than recreational uses, generating more than 50 trips per day would require an amendment to the zoning. They also understand that prior to completing a Site Master Plan and submitting a Planned Development Application the property would require a

rezoning to include those commercial uses. Proposed uses include special events and tasting rooms that would not currently be allowed.

The Commissioners discussed the project and asked questions of the applicant.

**MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER TREVAS, TO TABLE THE APPLICATION FOR FURTHER INFORMATION INCLUDING ITEM #5 UNDER RURAL RESORT WHICH THE SITE CONTAINS NO MORE THAN 5% OF SUPPORTING USES. ROLL CALL: AYE-DOUG ROBERTS, KYLE TREVAS, JEFF APRILL, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION APPROVED UNANIMOUSLY.**

**2. DELIBERATION ZO 2017-04-08 SHORT TERM RENTAL ZONING ORDINANCE AMENDMENT: (1:13:17) (Public Hearing closed 9/15/2020 @ 8:59 p.m.)**

Commissioners discussed the Short Term Rental Zoning Ordinance Amendment, public hearing comments, and went through Standards for Approval finding that they either did not apply or were met.

**MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER KUZMA TO RECOMMEND TO ADOPT ZO 2017-04-08 TO THE TOWNSHIP BOARD FOLLOWING THE REVIEW OF THE GUIDELINES IN THE ORDINANCE.**

**ROLL CALL: AYE-KYLE TREVAS, JONAH KUZMA, DOUG ROBERTS, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. NAY-KENDRA LUTA. MOTION PASSED 6-1.**

**H. COMMENTS FROM THE CHAIR:** Chairman Bechtold thanked the Planning Commission for the hard work and massive thought they put into this. He thanked the members of the community that provided excellent written and verbal testimony. They know their beliefs in their comments are deeply seeded and they understand and recognize that while ideally if they had some type of magic wand to grant everybody's wish, they would pull it out and use it.

**I. COMMENTS FROM COMMISSIONERS:** Commissioner Aprill also thought it's been a very tough decision and a case well made by both sides. Commissioner Trevas thanked everybody who has been involved.

**J. COMMENTS FROM STAFF:** Staff said something they didn't do and she wanted to clarify, there were no additional changes to the licensing ordinance or anything proposed at the Planning Commission had interest in before forwarding it on to the Township Board.



**MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER ROBERTS TO  
FORWARD THE LICENSING ORDINANCE TO THE TOWNSHIP BOARD.**

**DISCUSSION**

**ROLL CALL: AYE-KYLE TREVAS, DOUG ROBERTS, JONAH KUZMA, KENDRA LUTA,  
NATHAN MCDONALD, JEFF APRILL, RICK BECHTOLD. MOTION PASSED.**

**K. PUBLIC COMMENT: (2:10:19)** Ann Marie Wigton, Joe Testa, Kelly Ignace, Comment on  
behalf of Del Moore

**L. ADJOURN: ROLL CALL FOR ADJOURNMENT: AYE-JEFF APRILL, KYLE TREVAS,  
DOUG ROBERTS, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD.  
Meeting adjourned at 9:19 p.m.**

**Respectfully submitted,**

**Carrie M. Schaub**

## DISTRICT WIDE INITIATIVES

### 1 ESTABLISH COMMUNITY PUBLIC SPACES

- CREATE SPACES THAT BRING YEAR ROUND ACTIVITY, SUPPORT THE WATERFRONT ASSETS AND USES OF THE CORRIDOR, AND CREATE A WATERFRONT DESTINATION.
- REDEVELOP LAND SIDE OF MARINA TO ENHANCE BOATER EXPERIENCE AND IMPROVE FACILITIES, PARKING AND PUBLIC ACCESS.
- CREATE LINKS TO ADJACENT PROPERTIES THAT PROMOTES PUBLIC ACCESS AND PEDESTRIAN SAFETY.
- INSTALL FISHING PIER ALONG EXISTING ARMOR STONE REVENMENT

### 2 ESTABLISH A MIX AND DENSITY OF LAND USES

- DEVELOP LAND USES THAT SUPPORT EACH OTHER AND FIT THE REAL ESTATE MARKET.
- ENCOURAGE RE-DEVELOPMENT OF BROWNFIELD AND UNDER UTILIZED SITES.
- ALLOW FOR A MIX OF HOUSING PRODUCTS THAT MAY SERVE PEOPLE WITHIN A BROAD RANGE OF ECONOMIC LEVELS.
- CONCENTRATE REDEVELOPMENT EFFORTS AROUND ONE CENTRAL CORE OR SMALLER NODES (LIKE THE DISCOVERY CENTER FOR EXAMPLE).
- CONSOLIDATE ZONING DISTRICTS TO ESTABLISH A SINGLE, UNIFYING APPROACH TO USE OPTIONS.
- CONSIDER ZONING APPROACHES THAT OFFER INCREASED FLEXIBILITY AND ADDED VALUE FOR PROPERTY OWNERS IN EXCHANGE FOR MEETING COMMUNITY GOALS.

### 3 DISTRICT PARKING STRATEGIES

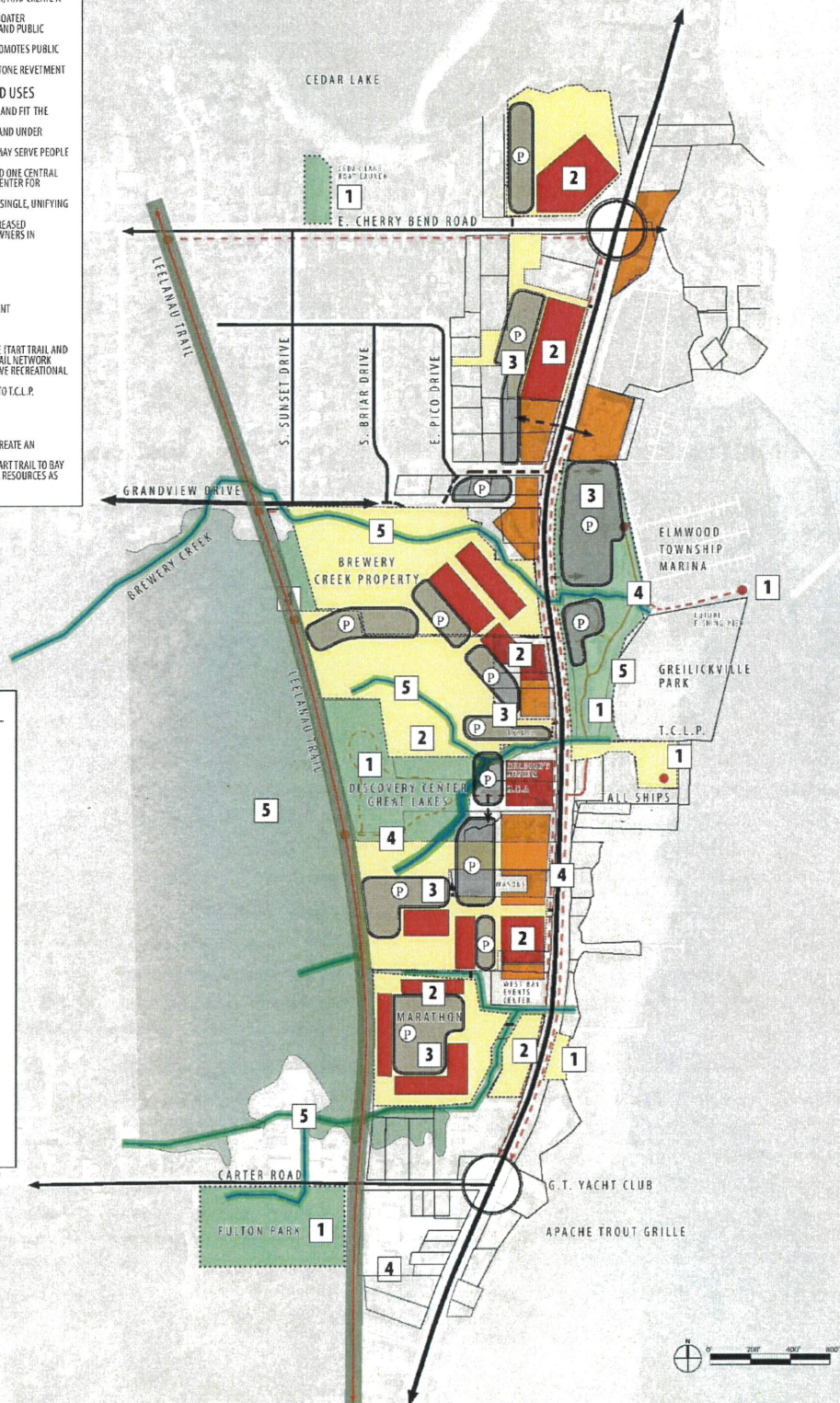
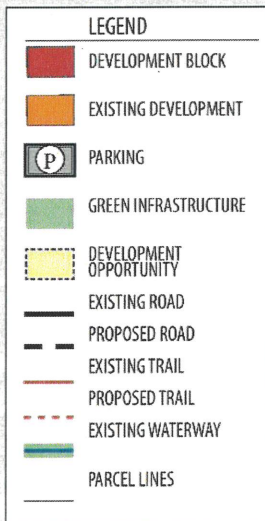
- DEVELOP SHARED PARKING RESOURCES
- UTILIZE PEAK SEASON SHUTTLE/JOINEY SERVICE
- LOCATE PARKING IN REAR OF FUTURE DEVELOPMENT

### 4 DISTRICT CONNECTIVITY

- ENHANCE UPON RECREATIONAL INFRASTRUCTURE (HART TRAIL AND EXISTING OPEN SPACES) TO CREATE A BRAIDED TRAIL NETWORK
- INCREASE PUBLIC ACCESS TO THE BAY WITH PASSIVE RECREATIONAL TRAIL ALONG M-22 ROW (EAST SIDE)
- PROVIDE LINKS TO FUTURE FISHING PIER AND ONTO T.C.L.P. PROPERTY

### 5 ENVIRONMENTAL

- EMBRACE NATURAL RESOURCES OF DISTRICT TO CREATE AN AUTHENTIC UP-NORTH DESTINATION
- RESTORE AND ENHANCE BREWERY CREEK FROM TART TRAIL TO BAY
- UTILIZE AND INTERPRET THE DISTRICT'S NATURAL RESOURCES AS EDUCATIONAL OPPORTUNITIES



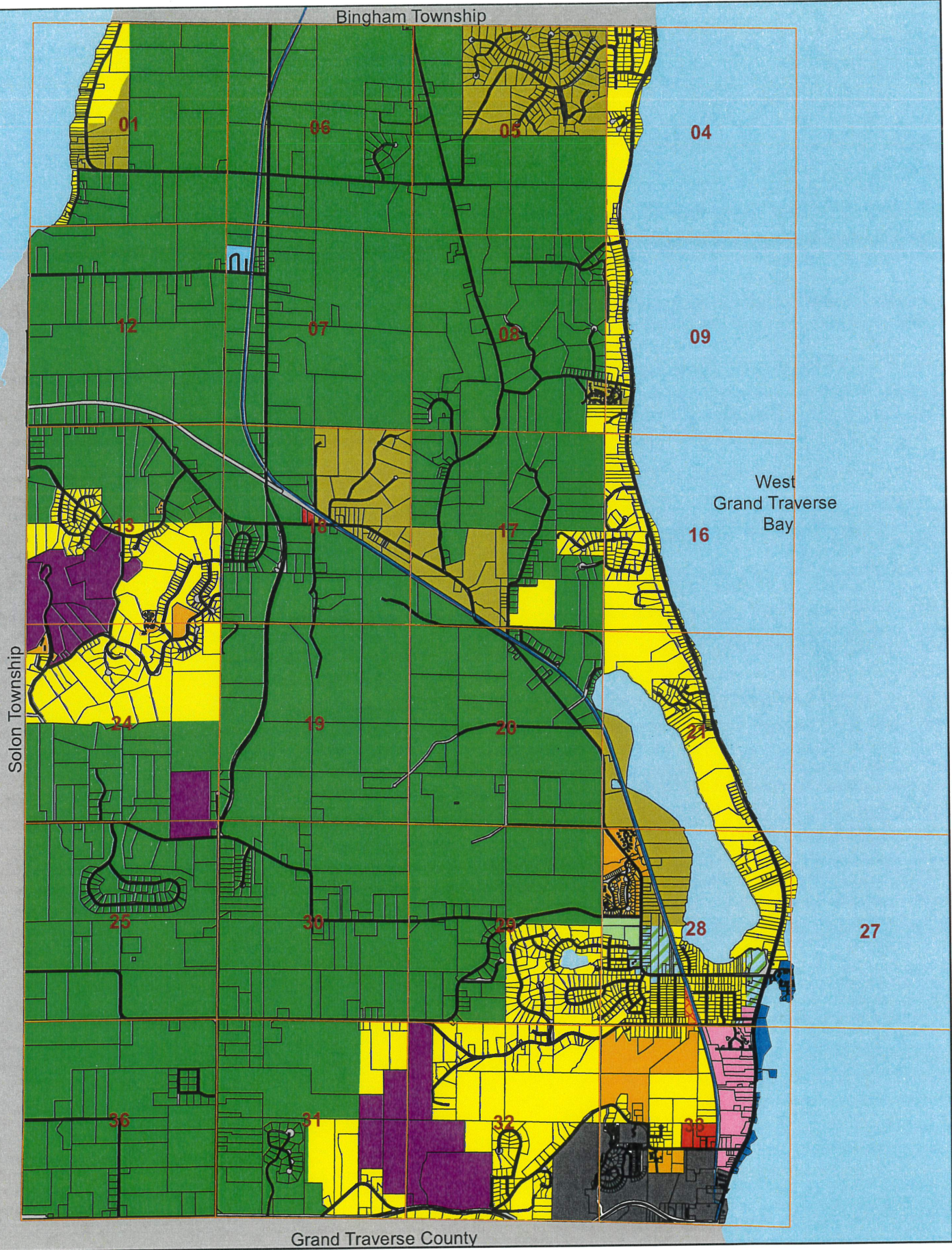
## Housing

<b>Housing Characteristics</b>			
Elmwood Township	1990	2000	2010
<b>Total Housing Units</b>	<b>1518</b>	<b>1914</b>	<b>2205</b>
<b>Total Occupied Housing Units</b>	<b>1288</b>	<b>1697</b>	<b>1902</b>
Owner Occupied	1046	1484	1591
Renter Occupied	242	213	311
<b>Vacant Housing</b>	<b>230</b>	<b>217</b>	<b>303</b>
For rent	10	14	32
For Sale	12	9	66
For seasonal, recreational, or occasional use	182	163	161
Other vacant	26	31	44

Source: 1990, 2000, & 2010 Census

Between 1990 and 2010, the number of housing units in Elmwood Township has increased by 45% or 687 housing units, with the 1990s seeing a larger increase than 2000s. Of the total housing units, over 85% are occupied. Vacant housing makes up about 15% of the housing units. These numbers are consistent with the State of Michigan housing characteristics. In 2010, there were 4,532,233 housing units in Michigan. Of those, 3,872,508, or 85% were occupied and 659,725, or 15% were vacant. A differing characteristic between Elmwood Township and the State is the owner-occupied units. In 2010, 84% of the housing units in Elmwood Township were owner occupied while only 72% of the housing units in the State were owner-occupied.





# CHARTER TOWNSHIP OF ELMWOOD

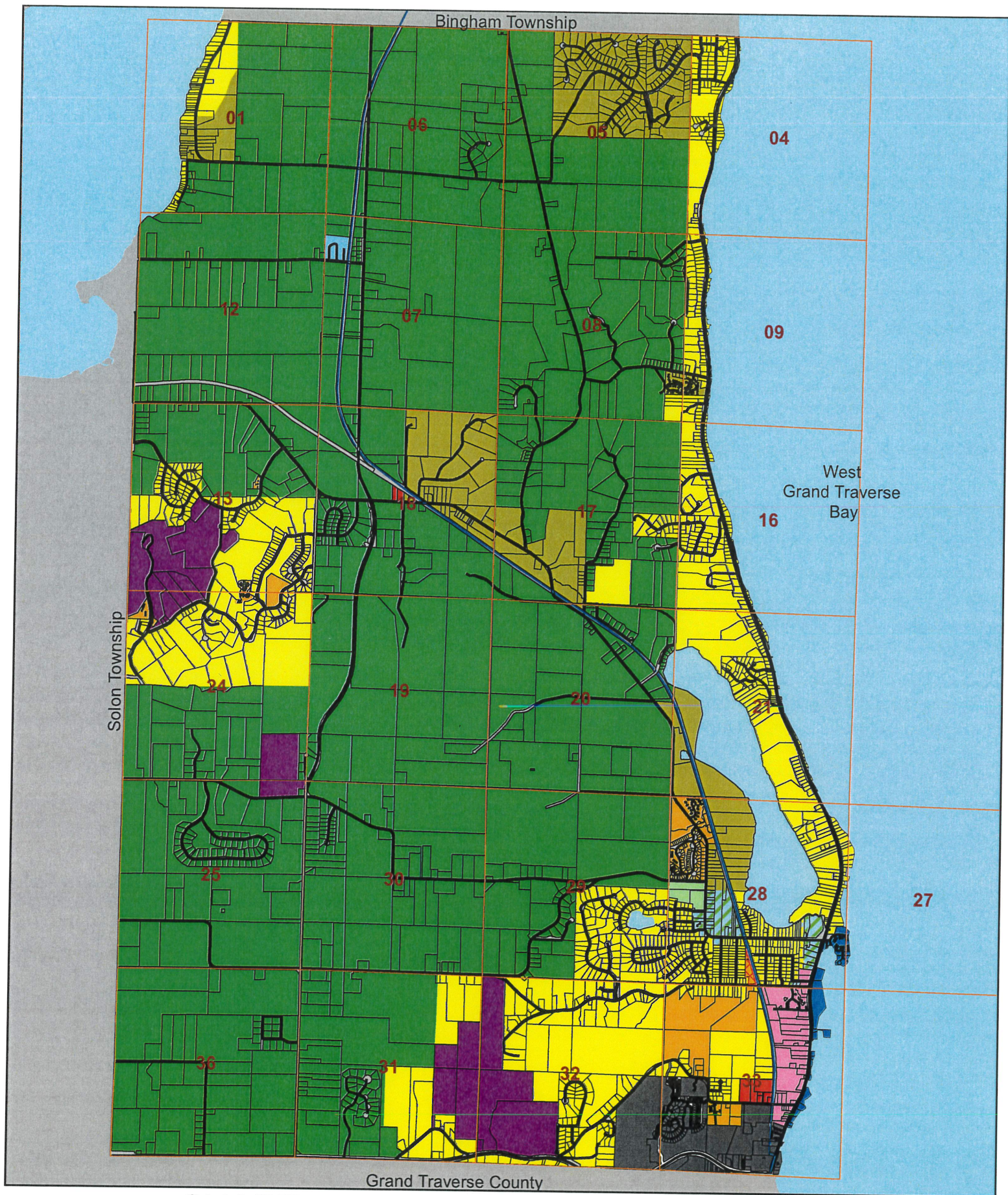
## Zoning Districts

Agricultural - Rural (A-R)	Manufactured Home Park (MHP)	General Commercial (GC)
Residential 1 (R-1)	Rural Resort (RR)	Light Industrial (LI)
Residential 2 (R-2)	Municipal Center (MC)	Shoreline Commercial (SC)
Residential 3 (R-3)	Neighborhood Commercial (NC)	Traverse City

Conditional Rezoning

Official Zoning Map  
September 1, 2017





# CHARTER TOWNSHIP OF ELMWOOD

## Zoning Districts

<span style="display:inline-block; width:15px; height:15px; background-color:green; border:1px solid black;"></span> Agricultural - Rural (A-R)	<span style="display:inline-block; width:15px; height:15px; background-color:lightblue; border:1px solid black;"></span> Manufactured Home Park (MHP)	<span style="display:inline-block; width:15px; height:15px; background-color:lightcoral; border:1px solid black;"></span> General Commercial (GC)
<span style="display:inline-block; width:15px; height:15px; background-color:yellow; border:1px solid black;"></span> Residential 1 (R-1)	<span style="display:inline-block; width:15px; height:15px; background-color:purple; border:1px solid black;"></span> Rural Resort (RR)	<span style="display:inline-block; width:15px; height:15px; background-color:red; border:1px solid black;"></span> Light Industrial (LI)
<span style="display:inline-block; width:15px; height:15px; background-color:olive; border:1px solid black;"></span> Residential 2 (R-2)	<span style="display:inline-block; width:15px; height:15px; background-color:lightgreen; border:1px solid black;"></span> Municipal Center (MC)	<span style="display:inline-block; width:15px; height:15px; background-color:darkblue; border:1px solid black;"></span> Shoreline Commercial (SC)
<span style="display:inline-block; width:15px; height:15px; background-color:orange; border:1px solid black;"></span> Residential 3 (R-3)	<span style="display:inline-block; width:15px; height:15px; background-color:lightblue; border:1px solid black; border-image: linear-gradient(to top right, transparent 48%, black 48% 52%, black 52% 95%, transparent 95%) 1;"></span> Neighborhood Commercial (NC)	<span style="display:inline-block; width:15px; height:15px; background-color:black; border:1px solid black;"></span> Traverse City

Conditional Rezoning

Official Zoning Map

September 1, 2017



**Suttons Bay Township  
Leelanau County, Michigan**

**Ordinance No. 4 of 2017  
(Amended June 28, 2017)**

**AN ORDINANCE TO AMEND ORDINANCE NO. 4 OF 2017**

**THIS ORDINANCE SHALL BE KNOWN AS THE  
SHORT TERM RENTAL ORDINANCE.**

**Suttons Bay Township Ordains:**

**Section 1: Purpose**

The Suttons Bay Township Board finds and declares as follows:

- A. The Township wishes to preserve and retain the residential community character of the Township.
- B. It is the intent of the Suttons Bay Township Short Term Rental Ordinance to make the Short Term Rental activity permitted by this ordinance resemble the existing and traditional residential uses made by resident owners and lessees.
- C. Short Term Rentals provide a community benefit by expanding the number and type of lodging facilities available and assisting owners of Short Term Rentals by providing revenue which may be used for maintenance upgrades and deferred costs.
- D. Township staff has received complaints involving excessive noise, disorderly conduct, overcrowding, traffic, congestion and parking at Short Term Rental properties.
- E. The transitory nature of occupants of Short Term Rentals makes continued enforcement against the occupants difficult.
- F. The provisions of this ordinance are necessary to prevent the continued burden placed upon county and township services and impacts on residential neighborhoods posed by Short Term Rental homes.

**Section 2: Applicability**

All requirements, regulations and standards imposed by this Ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other ordinances of the Township, including the Suttons Bay Township Zoning Ordinance. Further, this Ordinance does not affect additional requirements placed on use of property (or a portion thereof) imposed by deeds, restrictive covenants, associations rules, regulations or bylaws, or rental agreements.

### **Section 3: Definitions**

Unless otherwise specified herein, the terms used in this ordinance shall be defined as follows:

**Dwelling Unit.** A group of rooms located within a building and forming a single habitable unit having facilities which are used or intended to be used for sleeping, cooking, eating, and bathing purposes.

**Local contact person.** A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concern, or any agent of the owner authorized by the owner to take remedial action and respond to any violation of this ordinance.

**Managing agency or agent.** A person, firm, or agency representing the owner of the property (or portion thereof) used for a Short Term Rental, or a person, firm or agency owning the property (or portion thereof) used for a Short Term Rental.

**Operator.** The person who is proprietor of a property (or portion thereof) used for a Short Term Rental whether in the capacity of owner, lessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, or where the operator performs his functions through a rental agent, the managing agent or the rental agent has the same duties as his principal. Compliance with the provisions of this ordinance by either the principal or the managing agent or the rental agent is considered to be compliance by both.

**Owner.** The person or entity that holds legal or equitable title to the property (or portion thereof) used as a Short Term Rental.

**Parking space.** An onsite designated parking area legally available to the dwelling unit for overnight parking of a motorized vehicle or trailer.

**Person.** An individual, a group of individuals, or an association, firm, partnership, corporation, or other private entity, public or private.

**Short Term Rental.** The commercial use of renting a dwelling unit for a period of time less than thirty (30) consecutive calendar days. Short Term Rental does not include a bed and breakfast permitted and operated in accordance with the Suttons Bay Township Zoning Ordinance.

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

All Short Term Rentals must meet the following standards whether or not a permit is required:

- A. Only one (1) dwelling unit per parcel shall be leased, subleased, rented or sub-rented at any given time. All lodging is to be exclusively within the dwelling unit and not in a recreational vehicle, camper, or tent.
- B. A separate permit is required for each Short Term Rental property.
- C. Suttons Bay Township will limit the number of Short Term Rental Permits to one hundred-fifty (150) per calendar year. There are no restrictions on the number of units operated by a single individual.
- D. Local Contact Person:
  - 1. Each owner of a Short Term Rental must designate a local contact person who has access and authority to assume management of the unit and take remedial measures.
  - 2. The local contact person must be available twenty-four (24) hours a day during the rental period and be within forty-five (45) minutes travel time of the property (or portion thereof) used for a Short Term Rental.
  - 3. The Township will provide the phone number of the local contact to all neighbors within a three hundred (300) foot radius of the subject property boundaries.
  - 4. An owner meeting the requirements of subsections (1) through (3) above may designate themselves as the local contact person.
- E. This ordinance only applies to Residential Zoning Districts.
- F. All parking associated with a Short Term Rental shall be out of the roadway and entirely on-site, in the garage, driveway or other improved area.
- G. Special events, outdoor events, lawn parties, weddings or similar activities are not allowed on the site for more than the number of permitted occupants.
- H. The Animal Control Enforcement Ordinance of Leelanau County shall have authority over pets. Pets shall be secured on the property 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.
- I. Fireworks of any kind are not allowed on rental property except in accordance with the Suttons Bay Township Ordinance No. 3-2013: Consumer Fireworks Ordinance.



- J. No person shall start or maintain a fire except within provided devices or locations. Fires shall not be left unattended and must be fully extinguished. Only clean, dry wood may be burned.
- K. Provisions for trash disposal must be provided. Trash must be contained in properly sealed receptacles. There must be no overflow that will be attractive to vermin.
- L. The owner shall maintain a septic system or sewer connection that is in substantial compliance with the Benzie/Leelanau District Health Department standards.
- M. 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. Quiet hours shall be from 10:00 PM to 8:00 AM. The Suttons Bay Township Noise Ordinance (Ordinance No. 2 of 2010) shall also apply.
- N. The owner shall require these standards be met by renters as part of all rental agreements.

#### **Section 5: Owner Responsibilities**

- A. The owner must insure all required standards are met.
- B. The owner must use best efforts to assure that the occupants or guests of the Short Term Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ordinance or any other local or state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding Short Term Rentals and taking appropriate action to abate the violative conduct when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.

#### **Section 6: Short Term Rental Permit**

- A. Any dwelling rented for a total of two (2) or fewer weeks during a calendar year does not require a permit be issued pursuant to this Ordinance.
- B. A separate permit is required for each Short Term rental property.
- C. The following application elements are required prior to receipt of a Short Term Rental Permit or permit renewal.
  - 1. A fully completed and signed Short Term Rental Permit Application form provided by the Township including all the required supplemental documents.
  - 2. A local contact available by phone twenty-four (24) hours a day, seven (7) days a week whenever the unit is utilized as a Short Term Rental.
  - 3. A copy of the recorded deed or land contract and a copy of any deed restrictions on the property.

- D. A Short Term Rental Permit shall be issued by calendar year. All Permits shall expire at the end of the calendar year and must be renewed each year. If current owner has not violated the Ordinance, renewal for next year is guaranteed if reapplication is applied for as provided for in the Short Term Rental Application Policy.

#### **Section 7: Violation and Administrative Penalties**

- A. Any of the following conduct is a violation of the Short Term Rental ordinance:
1. Any advertising or leasing of a short term rental without first having obtained a short term rental permit.
  2. The permit holder has failed to comply with the standard conditions specified in the Short Term Rental Standards section of this ordinance.
  3. The permit holder has failed to comply with any of the provisions within this Ordinance, specifically Section 5: Owner Responsibilities.
  4. The permit holder has violated any of the provisions of this ordinance.
  5. Any false or misleading information supplied in the application process.
- B. The penalties for violations specified in subsection (A) above are as follows:
1. For a first violation within any calendar year, the penalty is a warning notice of violation which may be verbal and/or written.
  2. 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. The Township Zoning Administrator and other officials designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court. Each day the violation remains may be a separate offense.
  3. 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 permit shall be revoked. An owner may reapply for a permit no sooner than twelve (12) months after revocation of a permit.
  4. If there are one or more violations each year during any three (3) consecutive year period, the permit may be revoked. An owner may appeal a decision to revoke a permit to the Suttons Bay 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. The Suttons Bay Township Zoning Administrator is authorized to issue all permits under this Ordinance and is also authorized to issue civil infraction violation notices and/or civil infraction citations for violations of this Ordinance.

**Section 8. 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 9. Effective Date: August 4, 2017**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

Ordinance No. 4 of 2017 was adopted on the 28th of June 2017 by the Suttons Bay Township Board of Trustees, as follows:

Motion by:	Hartesvelt
Support by:	Bahle
Roll Call Vote:	
Yeas:	Nixon, VanHuystee, Bahle, Slocombe, Hartesvelt
Nays:	None
Absent:	None
Motion Carried.	

I certify that this true copy of Ordinance No. 4 of 2017 was adopted at a regular meeting of the Suttons Bay Township Board of Trustees on June 28, 2017 and published in the *Leelanau Enterprise* on July 6, 2017.

Date of Township Approval:	June 28, 2017
Date of Publication:	July 6, 2017
Effective Date:	August 4, 2017

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Sandra VanHuystee,  
Suttons Bay Township Clerk

**Leelanau Township  
Leelanau County, Michigan**

**Ordinance No. 3 of 2020**

THIS ORDINANCE SHALL BE KNOWN AS THE  
LEELANAU TOWNSHIP SHORT TERM RENTAL ORDINANCE.

Leelanau Township Ordains:

**Section 1: Purpose**

The Leelanau Township Board finds and declares as follows:

- A. The Township considers the current rural residential and agricultural character of the community paramount to the welfare of the community.
- B. The transitory nature of occupants of Short-Term Rentals can be inconsistent with the traditional residential and agricultural character of the community.
- C. It is the intent of the Leelanau Township Short-Term Rental Ordinance to make the Short-Term Rental activity permitted by this ordinance consistent with the existing traditional residential uses in the community.
- D. Short Term Rentals provide a community benefit by expanding the number and type of lodging facilities available and assisting owners of Short-Term Rentals by providing revenue to help offset costs.
- E. The Township has received complaints and concerns involving excessive noise, disorderly conduct, overcrowding, traffic, keyholing, congestion and parking at Short Term Rental properties.
- F. The provisions of this ordinance are necessary to prevent the continued burden placed upon county and township services and impacts on residential neighborhoods posed by Short-Term Rental homes.
- G. The township also has environmental concerns associated with the protection of water quality from over-occupancy and over-use of a dwelling's septic system.

**Section 2: Applicability**

- A. This Ordinance applies to Leelanau Township outside the limits of the Village of Northport and applies to all properties unless otherwise stated herein.
- B. This Ordinance applies only to the rental of an entire dwelling unit on a short-term basis as defined herein. This Ordinance does not apply to the short-term rental of

individual rooms within a dwelling unit or portion of a dwelling unit, as these types of uses are regulated by the Zoning Ordinance.

- C. This Ordinance does not apply to the following; these uses are regulated by the Leelanau Township Zoning Ordinance:
  1. Rental of only a portion of a dwelling unit (Owner Occupied Rental).
  2. Legally permitted Bed & Breakfasts.
  3. Legally permitted and/or legally non-conforming motels, hotels, or resorts.
  4. Legally permitted and/or legally non-conforming waterfront resorts.
  5. Legally permitted and/or legally non-conforming Lodges.
  6. Legally permitted and/or legally non-conforming Recreational Vehicle Parks.
  7. Legally permitted and/or legally non-conforming Marinas.
  8. Adult Foster Care Facilities, Nursing Homes, or Senior Living Facilities.
- D. All requirements, regulations and standards imposed by this Ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other ordinances of the Township, including the Leelanau Township Zoning Ordinance.
- E. This Ordinance does not affect additional or more-restrictive requirements placed on the use of property (or a portion thereof) imposed by deeds, restrictive covenants, association rules, regulations, by-laws, rental agreements, *etc.*

### **Section 3: Definitions**

Unless otherwise specified herein, the terms used in this ordinance shall be defined as follows:

**Dwelling Unit.** A group of rooms located within a building and forming a single habitable unit having facilities which are used or intended to be used for sleeping, cooking, eating, and bathing purposes.

**Good Neighbor Posting.** A notice prepared by the township and posted in the Short Term Rental unit to inform the occupants of their responsibilities under this ordinance.

**Immediate Neighbors:** The owners and occupants of any property/lot/parcel of which any portion lies within two hundred (200) feet of any portion of the short-term rental property/lot/parcel.

**Local 24-Hour Contact Person.** A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concern, *and* authorized by the owner to take remedial action and respond to any violation of this ordinance.

**Occupant:** An individual living in, staying in, or otherwise having possession of a short-term rental, regardless of age.

**Owner.** The person or entity that holds legal or equitable title to the property (or portion thereof) used as a Short-Term Rental.

**Short-Term Rental.** The renting or leasing of a dwelling unit for a period of time less than thirty (30) consecutive calendar days.

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

It shall be a violation of this Ordinance to operate or advertise a Short-Term Rental in Leelanau Township without a Short-Term Rental Permit, unless exempted herein.

- A. Short-Term Rental Permits will be issued by calendar year and are valid for that calendar year only. All Permits shall expire at the end of the calendar year and must be renewed each year.
- B. The renewal of an active Short-Term Rental Permit for an additional year will be guaranteed if the completed renewal application is received on or before December 31 of the previous year, and the Permit meets the requirements of Section 7 of this Ordinance. Applicants may apply for Renewal Permits no earlier than October 1<sup>st</sup> of the current year.
- B. The Leelanau Township Board shall, by Resolution, adopt a fee for the Short-Term Rental Permit in the Leelanau Township Fee Ordinance, and may amend the fee by Resolution.
- C. The Leelanau Township Board shall adopt a policy covering the procedures for issuance and renewals of Short-Term Rental Permits, including the Application requirements.
- D. A separate Short-Term Rental Permit is required for each Short-Term Rental.
- E. The Short-Term Rental Permit shall be issued to the Owner of the property and cannot be transferred to another Owner or Property. The Short-Term Rental Permit is not transferrable and does not run with the Property Ownership.
- F. The Leelanau Township Zoning Administrator, and/or other persons designated by the Leelanau Township Board, shall be authorized to issue Short-Term Rental Permits under this Ordinance.

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

All Short-Term Rentals shall meet the following standards:

- A. Only one (1) dwelling unit per parcel may be permitted for use as a Short-Term Rental.
- B. All rental lodging is to be exclusively within the dwelling unit and not in a recreational vehicle, camper, boat, or tent, etc.
- C. Maximum Allowable Occupancy of a Short-Term Rental:  
The Maximum Allowable Number of Occupants of a Short-Term Rental shall be based upon the number of bedrooms in the dwelling unit, up to a maximum total of fifteen (15) Occupants, in accordance with the following:
  - 1. The Maximum Allowable Number of Occupants in a Short-Term Rental shall not exceed a total number calculated as three (3) Occupants per bedroom.
  - 2. In no case shall the Total Maximum Allowable Occupancy exceed fifteen (15) Occupants.
  - 3. This standard does not impose or imply any limit on the number of occupants allowed in any single bedroom.
  - 4. The number of bedrooms shall be determined by one of the following methods, at the choice of the Applicant:
    - i. The number of bedrooms listed on a current and valid septic system permit issued by the local Health Department having jurisdiction, or
    - ii. The number of bedrooms or Occupants listed on a current and valid Building Permit issued by Leelanau County under the Michigan Building Code.
    - iii. The number of bedrooms meeting the definition of a bedroom in the current Michigan Building Code, and shown on a floor plan submitted to the township with the Short-Term Rental Permit Application.
- D. Local 24 Hour Contact Person:  
Each Short-Term Rental shall have a designated Local 24-Hour Contact Person meeting the following criteria:
  - 1. The Local 24-Hour Contact Person shall have access and authority to assume management of the unit and take remedial measures.
  - 2. The Local 24-Hour Contact Person must be available by telephone twenty-four (24) hours a day during the rental period and be within forty-five (45) minutes travel time of the Short-Term Rental during the rental period.
- E. All parking associated with a Short-Term Rental shall be out of the road right-of-way and entirely on-site, in the garage, driveway or other improved stable area.

- F. Special events, outdoor events, lawn parties, weddings or similar activities are not allowed on the site for more than the number of permitted occupants.
- G. Dogs and other pets shall be governed by the Leelanau County Animal Control Enforcement Ordinance. This Ordinance requires that Pets shall be secured on the property or on a leash at all times, and that Dogs shall not be allowed to whine, yelp, bark, or howl for a period of ten minutes or longer.
- H. Any discharge of Fireworks on the rental property shall be in accordance with the Leelanau Township Consumer Fireworks Ordinance.
- I. The release of Sky Lanterns (Chinese Lanterns) is prohibited by the Leelanau Township Sky Lantern Ordinance.
- J. Campfires shall be located in a suitable designated area. Fires shall not be left unattended and must be fully extinguished.
- K. Provisions for trash disposal must be provided. Trash must be contained in properly sealed receptacles. There must be no overflow that will be attractive to vermin. Recycling locations must be posted in a prominent location in the Short-Term Rental.
- L. Septic Systems:
  - 1. Any Short-Term Rental that is determined to have a failing septic system, as determined by the Benzie/Leelanau District Health Department, shall immediately cease Short-Term Rental operations until approved by the Health Department.
  - 2. Short-Term Rentals using a septic system for sewage disposal shall have the septic tank(s) pumped at least once every three (3) years. Proof of septic tank pumping within the past three (3) years must be provided prior to issuance of a Short-Term Rental Permit or Renewal, unless the dwelling is connected to a municipal sewer system.
- M. Quiet hours for Short-Term Rentals shall be observed every night from 10:00 PM to 8:00 AM. 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. The Leelanau Township Nuisance Ordinance also covers noise within the township.
- N. Keyholing:

It shall be a violation of this Ordinance to advertise or allow occupants of a short-term rental the use of any separate, distinctive, non-continuous, private waterfront parcel for recreational purposes. This provision does not apply to designated open spaces or parks that the subject parcel has the recorded right to use and is in conformance with the Leelanau Township Zoning Ordinance.



- O. The address of the Short-Term Rental shall be clearly marked in accordance with the Leelanau County Address Ordinance.
- P. Violations of any County or Township Nuisance, Fireworks, Sky Lantern, Animal Control, or Disturbance of Peace Ordinance shall constitute a violation of this Ordinance.

## **Section 6: Owner Responsibilities**

- A. The Owner shall be responsible to notify immediate neighbors of the application for a Short-Term Rental Permit, the 24 Hour Local Contact name and number, and the township Short-Term Rental Hotline number on a form acceptable to Leelanau Township and submit a signed affidavit to the township that immediate neighbors were notified.
- B. The owner shall be responsible to notify the Short-Term Rental occupants of the Standards contained in this Ordinance.
- C. The Owner shall post the Short-Term Rental Permit, Local Contact Numbers, and the Good Neighbor Posting in a conspicuous place in the Rental and shall provide these documents to renters prior to occupancy.
- D. The Owner shall notify the township of any changes to the Local 24-Hour Contact.
- E. The Owner shall submit an annual log of rental activity to the township for each calendar year prior to March 1 of the following year. The log must show the dates of overnight stays and number of occupants per visit.
- F. The Owner shall physically mark the address of the Short-Term Rental in accordance with the Leelanau County Address Ordinance.
- G. The Owner is responsible for the occupants of the Short-Term Rental compliance with the standards in this Ordinance. The owner shall use reasonable efforts to assure that the occupants of the Short Term Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ordinance or any other local or state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding Short Term Rentals and taking appropriate action to abate the violative conduct when notified that occupants are violating laws regarding their occupancy.

## **Section 7: Administration, Violation and Administrative Penalties**

- A. Leelanau Township may retain a firm to assist with compliance monitoring and maintenance of a 24-Hour Short Term Rental Hotline for complaints.
- B. The following conduct is a violation of the Short-Term Rental ordinance:
  - 1. Any advertising, rental, or leasing of a short-term rental without first having obtained a short-term rental permit.
  - 2. Failure by the Owner and/or Occupants to comply with the Short-Term Rental Standards section of this ordinance.
  - 4. Failure to comply with any of the provisions of this ordinance.
  - 5. Any false or misleading information supplied in the application process.
- C. The penalties for violations specified in subsection (C) above are as follows:
  - 1. For a first violation within any calendar year, the penalty is a warning notice of violation which may be verbal and/or written.
  - 2. 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. The Township Zoning Administrator and other officials designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court. Each day the violation remains may be a separate offense.
  - 3. 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 permit shall be revoked. An owner may reapply for a permit no sooner than twelve (12) months after revocation of a permit.
  - 4. If there are one or more violations each year during any three (3) consecutive year period, the permit may be revoked.
- D. 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.
- E. Nothing in this Ordinance shall prevent any person who has suffered, or alleges to have suffered, damage to person or property for a violation of this ordinance from

seeking relief in a court of competent jurisdiction against the Owner of the Short-Term Rental.

- F. The Leelanau Township Zoning Administrator and/or other persons designated by the Leelanau Township Board are authorized to issue all permits under this Ordinance and is also authorized to issue civil infraction violation notices and/or civil infraction citations for violations of this Ordinance.

### **Section 8. 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 9. Effective Date:**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township. The Leelanau Township Board will, by policy, establish a later date that they will begin enforcement of this Ordinance.

Ordinance No. 3 of 2020 was adopted on the 8th of September, 2020 by the Leelanau Township Board of Trustees, as follows:

Motion by: **Dunn**  
Support by: **Leighton**

Roll Call Vote:

Yeas: **Fredrickson, Leighton, Dunn, Diaz, Scripps**  
Nays: **None**  
Absent: **None**

**Motion Carried – Ordinance Adopted**

I certify that this true copy of Ordinance No. 3 of 2020 was adopted at a regular meeting of the Leelanau Township Board of Trustees on September 8, 2020 and published in the *Leelanau Enterprise* on \_\_\_\_\_, 2020.

Date of Township Board Approval: **September 8, 2020**

Date of Publication:

Effective Date:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Monica Diaz,  
Leelanau Township Clerk

**Bingham Township  
Leelanau County, Michigan**

**Ordinance No. 2020-1019-01**

**AN ORDINANCE TO REGULATE  
SHORT-TERM RENTALS WITHIN BINGHAM TOWNSHIP**

**THIS ORDINANCE SHALL BE KNOWN AS  
THE SHORT-TERM RENTAL ORDINANCE.**

**Bingham Township Ordains:**

**Section 1: Preamble and Purpose**

The Bingham Township Board finds and declares as follows:

- A. Like many other communities in Northwest Michigan, Bingham Township ("Township") wishes to reconcile the many different land use interests and concerns that are involved in the short-term rental of single family residential properties.
- B. Short-term rentals can provide a community, and even a state-wide benefit, by expanding the number and type of lodging facilities available near the lakeshores and other recreational features, and they can assist owners of homes by providing revenue which may be used for maintenance upgrades and deferred costs.
- C. However, short-term rental of single family dwellings can also cause difficulty where the character of the use takes on a more transitory and commercial character akin to a motel or similar use. Michigan courts have recently held that the transitory and for-profit nature of the short-term rental of single family detached homes can often be inconsistent with the traditional intended use of a detached single family dwellings and neighborhoods.<sup>1</sup>
- D. It is with these findings and rulings in mind, it is the intention of the Township that, to the extent that the short-term rental of single family homes is permitted in the Township, such rental occur in a manner that remains consistent with the single family character of the residences and neighborhoods where they are located.
- E. For the foregoing reasons, the purpose of the following regulations is to make the short-term rental activity permitted by this ordinance by resident owners and

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<sup>1</sup> . Please see *Susan Reaume v. Township of Spring Lake*, Docket No. 341654, dated May 21, 2019, and *Concerned Property Owners of Garfield Township v. Charter Township of Garfield*, Docket No. 342831, dated October 25, 2018. These cases also take a restrictive approach to the issue of whether these prior historic short term rentals qualify as prior nonconforming uses under zoning law given the consistency of terms like "dwelling", "family" and "single family dwelling" in the past and present Township zoning ordinances.

lessees resemble the existing and traditional single family residential uses. The regulations are intended to be strictly construed and vigorously enforced with this goal in mind.

- F. In addition to the single family residential character concerns, the Township also has environmental concerns associated with the protection of water quality in both West Grand Traverse and South Lake Leelanau where over-occupancy of a single family dwelling's septic system may be harmful. 2

## **Section 2: Applicability**

- A. This Ordinance applies to all properties in Bingham Township unless otherwise stated herein.
- B. The Ordinance applies only to the rental of an entire dwelling unit on a short-term basis as defined herein. This ordinance does not apply to the short-term rental of individual rooms within a dwelling unit or portion of a dwelling unit.
- C. The Ordinance does not apply to the following:
1. Legally permitted bed and breakfasts
  2. Legally permitted bed and breakfast inns
  3. All legally permitted and legally non-conforming motel and hotels
  4. All legally permitted and legally non-conforming waterfront resorts
- D. All requirements, regulations and standards imposed by this Ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other ordinances of the Township, including the Bingham Township Zoning Ordinance. Further, this Ordinance does not affect additional requirements placed on use of property (or a portion thereof) imposed by deeds, subdivision or condominium or other private use restrictions, or by the terms of rental agreements.

## **Section 3: Definitions**

Unless otherwise specified herein, the terms used in this ordinance shall be defined as follows:

**Dwelling Unit.** A group of rooms located within a permanent structure or building and forming a single habitable unit having facilities which are used or intended to be used for sleeping, cooking, eating, and bathing purposes.

**Local contact person.** A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concern, or any agent of the owner authorized by the owner to take remedial action and respond to any violation of this ordinance.

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2. To date, residential waterfront properties in the Township are dependent upon septic systems and not sanitary sewers.

**Managing agency or agent.** A person, firm, or agency representing the owner of the property (or portion thereof) used for a short-term rental, or a person, firm or agency owning the property (or portion thereof) used for a short-term rental.

**Occupant:** Any person over the age of five (5) who is an overnight guest in the short-term rental.

**Parking space.** An onsite designated parking area legally available to the dwelling unit for overnight parking of a motorized vehicle or trailer.

**Property owner.** An individual, a group of individuals, or an association, firm, partnership, limited liability company, corporation, or other private entity, public or private.

**Short-term rental.** The commercial use of renting a dwelling unit for a period of time less than thirty (30) consecutive calendar days. Short-term rental does not include a bed and breakfast permitted and operated in accordance with the Bingham Township Zoning Ordinance.

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

All short-term rentals must meet the following standards whether or not a permit is required:

**A. Parcel Requirements**

1. Only one (1) dwelling unit per parcel shall be leased, subleased, rented or sub-rented at any given time. All lodging is to be exclusively within the dwelling unit.

**B. Only one permit for one short-term rental operation may be granted per property owner. 3**

**C. Rental Frequency:**

1. The short-term rental may be rented for not more than a total of one-hundred-eighty (180) nights in a calendar year 3; and
2. The short-term rental may be rented no more than two (2) occurrences in any seven (7) night period.

**D. Bingham Township will limit the number of short-term rental permits to eighty-six (86) per calendar year. 4**

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3. This regulation is consistent with the recent court rulings and the Township's goal that the commercial aspect of the short-term rental of single family homes be limited and restricted.

4 The number of allowed permits was determined as 5% of the taxable residential units in Bingham Township at the time the Ordinance was created.

- E. Local Contact Person:
1. Each owner of a short-term rental must designate a local contact person who has access and authority to assume management of the unit and take remedial measures.
  2. The local contact person must be available twenty-four (24) hours a day during the rental period and be within thirty (30) minutes travel time of the property (or portion thereof) used for a short-term rental.
  3. The Township will provide the phone number of the local contact to all neighbors within a three hundred (300) foot radius of the subject property boundaries.
  4. An owner meeting the requirements of subsections (1) through (3) above may designate themselves as the local contact person.
- F. The occupancy of the short-term rental property does not exceed the lesser of:
1. Two (2) occupants per bedroom as permitted on the Health Department permit.
  2. Ten (10) occupants.
- G. All parking associated with a short-term rental shall be out of the public or private roadway, shared driveway, and entirely on-site, in the garage, driveway or other improved parking area.
1. A minimum of two (2) parking spaces is required;
  2. Four (4) spaces are required for a short-term rental that holds a maximum occupancy between six (6) and eight (8) persons; and
  3. Five (5) spaces are required for a short-term rental that holds a maximum occupancy between nine (9) and ten (10) persons.
- H. Special events, outdoor events, lawn parties, gatherings, weddings, bachelor or bachelorette parties or similar activities are not allowed on the property for more than the number of occupants permitted in the residence or dwelling unit under this ordinance.
- I. The Animal Control Enforcement Ordinance of Leelanau County shall have authority over pets. Pets shall be secured on the property 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.
- J. Fireworks of any kind are not allowed on rental property except in accordance with the Bingham Township Consumer Fireworks Ordinance No. 02-07-15-13 (as amended).



- K. Fires are allowed only within provided devices or locations. Fires shall not be left unattended and must be fully extinguished. Only clean, dry wood may be burned.
- L. Provisions for recycling and trash disposal must be provided. Trash must be contained in properly sealed receptacles. There must be no overflow that will be attractive to vermin. If necessary, arrangements for additional trash pickups shall be made.
- M. The septic system shall meet the following standards:
  - 1. The owner shall maintain a current, permitted or approved wastewater disposal system per the Benzie/Leelanau District Health Department standards.
  - 2. The wastewater disposal system shall be properly functioning, be maintained in a properly functioning condition, and examined a minimum of once every three (3) years. As used in this subsection, "properly functioning" may include, but shall not be limited to, written documentation from a commercial septic hauler that the holding tank is being pumped on a regular basis given the size of the holding tank and that at least once every three (3) years the septic tank and/or dry-well has been pumped or that pumping is not required at the time of examination.
  - 3. If the wastewater disposal system stops functioning for any reason, all actions of renting the short-term rental must cease and desist immediately until such time as the system is properly functioning.
- N. Noise must be limited to that which does not disturb the quiet, comfort or repose of a reasonable person of normal sensitivities. Quiet hours shall be from 11:00 PM to 8:00 AM. Quiet hours relates to any noise that would prevent sleep within neighboring properties.
- O. The owner shall provide these standards, the street address of the rental, and emergency contact phone numbers as part of all rental agreements and a copy is to be located prominently in the rental unit in bold-faced language with a font no smaller than 14 point.

#### **Section 5: Owner Responsibilities**

- A. The owner must insure the required standards are met.
- B. The owner must use best efforts to assure that the occupants or guests of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ordinance or any other local or state law pertaining to noise or disorderly conduct by notifying the occupants of the rules regarding short-term rentals and taking appropriate action to abate the violative conduct when notified that occupants are violating laws regarding their

occupancy. It is not intended that the owner, local agent, or contact person act as a peace officer or place himself or herself in harm's way.

- C. The owner or local contact person must, upon notification that occupants or guests of his or her short-term rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this ordinance, or state law pertaining to noise or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

## **Section 6: Short-Term Rental Permit**

- A. The following application elements are required prior to receipt of a short-term rental permit or permit renewal.
  - 1. A fully completed and signed short-term rental permit application form provided by the Township including all the required supplemental documents.
  - 2. An affidavit signed by the property owner of the proposed short-term rental granting authority to the applicant to act on behalf of the property owner to request a permit under this Ordinance.
  - 2. A local contact per the requirements of Section 4.E of this Ordinance.
  - 3. A sketched site plan of the property including the location where all motor vehicles, boats, and other items will be parked.
  - 4. Maximum number of occupants to be accommodated while in use as a short-term rental, which shall in no circumstances, be greater than ten (10) persons.
  - 5. Any deed restrictions or use limitations in the subdivision covenants and restrictions or the condominium master deed and/or bylaws applicable to the short-term rental premises.
  - 6. Proof of a properly functioning wastewater disposal system per the standards of Section 4.N.
  - 7. Annual fee as established by the Bingham Township Board.
- B. A short-term rental permit shall be issued by calendar year. All Permits shall expire at the end of the calendar year and must be renewed each year.

## **Section 7: Violation and Administrative Penalties**

- A. Any of the following conduct is a violation of the short-term rental ordinance:
  - 1. Any advertising or leasing of a short-term rental without first having obtained a short-term rental permit.

2. The permit holder has failed to comply with any of the standards, conditions and requirements of this Ordinance.
  3. Any false or misleading information supplied in the application process.
- B. The penalties for violations specified in subsection (A) above are as follows:
1. For a first violation within any calendar year, the penalty is a warning notice of violation which may be verbal and/or written.
  2. A second violation within the same calendar year shall be subject to a municipal civil infraction punishable by a fine of not less than five hundred (500) dollars nor more than one thousand (1,000) dollars. All owners, regardless of their interest in the property, may be responsible for the civil infraction. The Township Zoning Administrator and other officials designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court. Each day the violation remains may be a separate offense.
  3. 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 two thousand (2,000) dollars, and the permit shall be revoked. An owner may reapply for a permit no sooner than twelve (12) months after revocation of a permit.
  4. If there are a total of three violations within any three (3) consecutive year period, the permit shall be immediately revoked. An owner may appeal a decision to revoke a permit to the Bingham Township Board.
- C. A violation of this ordinance shall be a nuisance per se. In addition to recovery of fines and costs, the Township shall have the right to seek an appropriate injunctive order, in a municipal civil infraction proceeding in district court, or in circuit court to enforce compliance with this ordinance.
- D. The Bingham Township Zoning Administrator or other persons designated by Bingham Township Board are authorized to issue all permits under this Ordinance and is also authorized to issue municipal civil infraction violation notices and/or citations for violations of this Ordinance.

#### **Section 8: Private Actions to Enforce**

- A. Any person who has suffered, or alleges to have suffered, damage to person or property for a violation of this ordinance may seek relief in a court of competent jurisdiction against the owner.
- B. Nothing in this ordinance creates any right of action against the township or any of its officers, employees, or agents. The sole purpose and intent of this section is to create a right of action between private parties, entities, and interests, which

are or may be impacted or affected by various aspects of short-term rentals within the township.

**Section 9: 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 10: Effective Date:**

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the township.

Ordinance No. 2020-1019-01 was adopted on the 19th day of October 2020 by the Bingham Township Board of Trustees, as follows:

Motion by: Werner  
Support by: Morio  
Roll Call Vote:  
Yeas: Morio, Werner, Grant  
Nays: None  
Absent: Saxton  
Vacancy: One  
Motion Carried.

I certify that this true copy of Ordinance 2020-101-01 was adopted at a regular meeting of the Bingham Township Board of Trustees on October 19, 2020 and published in the *Leelanau Enterprise* on October 29, 2020.

Date of Township Approval: 10-19-20  
Date of Publication: 10-29-20  
Effective Date: 11-28-20

Date: 10-19-2020

By: Kathy Morio  
Kathy Morio,  
Bingham Township Clerk

- B. Buffer yard: There shall be a two hundred (200) foot wide buffer yard meeting the requirements listed in Article 4 between any recreational use and the surrounding properties. This buffer yard may be reduced by the Planning Commission if the adjacent property has been approved and is used for recreational uses. Recreational uses are not permitted in the buffer yard.
- C. Setback: All land areas and structures designated for recreational facilities and uses shall be setback a minimum of one hundred (100) feet from a public road or thoroughfare.
- D. Specified Standards: Hours of Operation shall be determined by the Planning Commission as part of the site plan review process.

#### **SECTION 5.10 SHORT TERM RENTAL**

- A. Short- term rentals include single-family dwelling units that are rented to individuals for a fee. The length of a short-term rental is between one (1) day and twenty-one (21) days.
- B. The exterior of the dwelling shall appear as a standard single-family dwelling unit, with one (1) primary entrance.
- C. Sufficient parking for the rental use shall be provided on the property. Parking for no more than four (4) vehicles is permitted in the front yard. If more than four (4) parking spaces are needed, the additional parking spaces shall be in the side or rear yard and shall be surrounded by a twenty five (25) foot vegetated buffer.
- D. The short-term rental shall have a designated location for boats, bikes, jet ski, and personal water craft. This area shall be screened from adjacent properties and the road right-of-way with a landscape buffer meeting the requirements listed in Section 4.9(B) of this Ordinance. This storage area shall not be in required setback areas.

#### **SECTION 5.11 SITE CONDOMINIUM AND SUBDIVISIONS**

The purpose of this Section is to regulate the creation and use of subdivisions and site condominium developments within the Township and to promote and protect the health, safety and general welfare of the public.

- A. General Requirements. The following general requirements shall apply.

## Re: Short Term Rental

Gregory Julian <gregoryjulian@gmail.com>

Tue 1/12/2021 11:11 PM

To: Jeff Shaw <supervisor@elmwoodtownship.net>;

No change in Kasson since we spoke last.

Sent from my iPhone

On Jan 12, 2021, at 10:09 PM, Jeff Shaw <supervisor@elmwoodtownship.net> wrote:

Hi Greg:

Seems like a long time since we've all gotten together!

The Elmwood Township Board has been debating the issue of STR's for the past 2 years. Hopefully we will be resolving the issue in the near future. I am reaching out to the Supervisors of all the Townships in Leelanau County, just to be sure I understand how all of our neighbors are handling the issue.

I know the last time we spoke, you told me Kasson Township was not regulating Short Term Rentals. I'm just checking in to see if anything has changed.

Thank you for your time Greg.

Sincerely,

Jeffrey K Shaw, DC

Elmwood Township Supervisor

# Re: Short Term Rentals

Rich Bahle <rich@bahles.net>

Wed 1/13/2021 12:36 PM

To: Jeff Shaw <supervisor@elmwoodtownship.net>;

Cc: Steve Patmore <zoningadmin@suttonsbaytwp.com>;

Jeff,

Rather than me answering some of your questions I'm referring you to our Zoning Administrator, Steve Patmore. He works with this on a regular basis and will have answers at hand.

I think there is an unreasonable amount of anxiety about, either the lack of or the existence of, a STR Ordinance. There have always been "cottages by the week" in any resort area. There was a great deal of discussion of changes in community character. Somehow a balance must be struck.

In my mind the issue is one of nuisance and owner/agent responsibility. Unfortunately some owners and rental agencies were turning a deaf ear to bad tenants and neighbor complaints. Hopefully we in Suttons Bay have that addressed. So far we seem to be mostly satisfying both owners and neighbors.

Good Luck, Rich

Steve;

Please reach out to Jeff with answers to whatever questions he has relative to STRs and our ordinance.

Thanks

On Tue, Jan 12, 2021 at 9:29 PM Jeff Shaw <[supervisor@elmwoodtownship.net](mailto:supervisor@elmwoodtownship.net)> wrote:

Hi Rich:

It seems like we all haven't actually seen each other in forever.

The Elmwood Township Board has been debating the issue of STR's for the past 2 years. Hopefully we will be resolving the issue in the near future. I am reaching out to the Supervisors of all the Townships in Leelanau County, just to be sure I understand how all of our neighbors are handling the issue.

I know that Suttons Bay Township adopted Ordinance No. 4 of 2017, with an amendment June 28, 2017, regulating STR's. I have a couple questions:

1. Are there any zoning districts where Short Term Rentals are not allowed. Specifically, R-1, R-2, Agriculture, Commercial, etc.?

2. It looks like the number of STR's is limited to 150. Was this number based on the existing housing stock (a percentage), the number of STR's operating at the time of the Ordinance, or some other way?
3. Are you using an outside agency to police/enforce the ordinance. If not, how are you accomplishing this task?
4. Is there anything else you think we should consider?

Thank you for your time Rich.

Sincerely,

Jeffrey K Shaw, DC

Elmwood Township Supervisor



# Re: Short Term Rentals

James Schwantes <sweetersongfarm@gmail.com>

Wed 1/13/2021 10:57 AM

To: Jeff Shaw <supervisor@elmwoodtownship.net>;

Cc: James Schwantes <centervillesupervisor@gmail.com>;

Good morning Jeff,

As we continue to have no complaints or concerns from the community regarding the issue we are not pursuing any regulation at this time. Tim Johnson, our PC chair, and I met online with a representative from Granicus, at their request, and learned about their services to manage a regulation if we were to implement one. He provided a survey of STRS in our township. We have maybe 50 STRs at this time. So we continue to monitor the issue, but, as I said, don't yet have a problem to fix.

I have been in touch with Midge and as far as I know our scheduled Jan 19 Supervisor meeting is still on.

Good to hear from you.

Jim

On Tue, Jan 12, 2021 at 10:21 PM Jeff Shaw <[supervisor@elmwoodtownship.net](mailto:supervisor@elmwoodtownship.net)> wrote:

Hi Jim:

Seems like forever since we've all gotten together. I miss you guys!

The Elmwood Township Board has been debating the issue of STR's for the past 2 years. Hopefully we will be resolving the issue in the near future. I am reaching out to the Supervisors of all the Townships in Leelanau County, just to be sure I understand how all of our neighbors are handling the issue.

The last time we spoke you informed me that Centerville Township was not regulating Short Term Rentals. I'm just checking in to see if anything has changed.

Thank you for your time Jim.

Sincerely,

Jeffrey K Shaw, DC

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**From:** Jeff Shaw <supervisor@elmwoodtownship.net>  
**Date:** Tuesday, January 12, 2021 at 9:21 PM  
**To:** " [REDACTED]" [REDACTED]>  
**Subject:** Short Term Rentals

Hi [REDACTED]:

It's Jeff Shaw, now Supervisor in Elmwood Township. I haven't seen you for years! I hope your boys and the rest of the family are doing well. I wanted to send an email to the Empire Supervisor, but didn't see an email listed on the site. You are probably the best person to contact regarding STR's in Empire Township anyway!

The Elmwood Township Board has been debating the issue of STR's for the past 2 years. Hopefully we will be resolving the issue in the near future. I am reaching out to the Supervisors of all the Townships in Leelanau County, just to be sure I understand how all of our neighbors are handling the issue.

I know that Empire Township has a very basic section (5.10) in it's zoning ordinance regulating STR's. I have a couple questions:

1. Are there any zoning districts where Short Term Rentals are not allowed. Specifically, R-1, R-2, Agriculture, Commercial, etc.? No
2. Is there a limit on the number of STR's in Empire Township. A maximum number, either by percentage or actual number? No
3. Are you using an outside agency to police/enforce the ordinance. No. If not, how are you accomplishing this task? Driven by compliant
4. Is there anything else you think we should consider? Haven't read your ordinance however, the text of your existing ordinance clearly talks about single family dwelling, family, etc. All of the townships I work for have considered but so far they are letting complaints and enforcement take care of this. Obviously it is a very hot topic but because we live in a tourist area, over restrictive rules and regulation haven't been attractive. Additionally, we are not Elmwood Township either.

## Re: Short Term Rentals

timstein08@aol.com

Thu 1/14/2021 4:24 PM

To: Jeff Shaw <supervisor@elmwoodtownship.net>;

Jeff

Cleveland Township's position on STR's remains the same, nothing has changed

Thanks Tim

-----Original Message-----

From: Jeff Shaw <supervisor@elmwoodtownship.net>

To: timstein08@aol.com <timstein08@aol.com>

Sent: Tue, Jan 12, 2021 9:57 pm

Subject: Short Term Rentals

Hi Tim:

Seems like a long time since we've all gotten together!

The Elmwood Township Board has been debating the issue of STR's for the past 2 years. Hopefully we will be resolving the issue in the near future. I am reaching out to the Supervisors of all the Townships in Leelanau County, just to be sure I understand how all of our neighbors are handling the issue.

I know the last time we spoke, you told me Cleveland Township was not regulating Short Term Rentals. I'm just checking in to see if anything has changed.

Thank you for your time Tim.

Sincerely,

Jeffrey K Shaw, DC  
Elmwood Township Supervisor