

**Bingham Township
Leelanau County, Michigan**

Ordinance No. _____

**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.¹
- D. It is with these findings and rulings in mind, that 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, that such rental occur in a manner that remains consistent with the single family character of the residences and neighborhoods where they are located.

1 . 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.

- 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 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

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

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.

Occupant: Any person over the age of five (5) who is an overnight guest in the 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.

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. 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. The short-term rental may be rented for not more than a total of one-hundred-eighty (180) nights in a calendar year. 3

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.

- D. The short-term rental is for any period from one (1) night to thirty (30) nights and no more than one (1) short-term rental occurs in any six (6) night period.
- E. Bingham Township will limit the number of short-term rental permits to eighty-six (86) per calendar year.
- F. 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.
- G. The occupancy of the short-term rental property does not exceed the lesser of:
 - 1. Two (2) occupants per bedroom permitted on the Health Department permit.
 - 2. Ten (10) occupants .
- H. All parking associated with a short-term rental shall be out of the public or private roadway 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 of six (6) persons; and
 - 3. Five (5) spaces are required for a short-term rental that holds a maximum occupancy of ten (10) persons.
- I. For any short-term rentals on shared driveways or private drives, there shall be a maintenance agreement filed with the application, per the standards of the Bingham Township Zoning Ordinance.
- J. 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.
- K. 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.

- L. Fireworks of any kind are not allowed on rental property except in accordance with the Bingham Township Consumer Fireworks Ordinance (as amended).
- M. 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.
- N. 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.
- O. The septic system shall meet the following standards:
 - 1. The owner shall maintain a current, permitted or approved and properly functioning septic 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.
- P. 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.
- Q. Any occupant and/or a guest of an occupant that is cited for a violation of this Ordinance, and/or the Township Fireworks Ordinance, and/or any other ordinance or law that protects the peace and quiet of the district shall count as a violation against this Ordinance.
- R. 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.D 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.O.
 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. _____ was adopted on the _____th day of _____ 2019 by the Bingham Township Board of Trustees, as follows:

- Motion by:
- Support by:
- Roll Call Vote:
- Yeas:
- Nays:
- Absent:
- Motion Carried.

I certify that this true copy of Ordinance _____ was adopted at a regular meeting of the Bingham Township Board of Trustees on _____, 2019 and published in the *Leelanau Enterprise* on _____, 2019.

- Date of Township Approval:
- Date of Publication:
- Effective Date:

Date: _____

By: _____
Kathy Morio,
Bingham Township Clerk