

## CHAPTER 35 SHORT TERM RENTALS

### 35.01 Intent.

The intent of this chapter is to secure the public health, safety and general welfare of Township residents and property owners, as well as visitors to the Township, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with Township residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

### 35.02 Definitions.

As used in this chapter, the following terms shall have the meanings hereinafter stated:

- A. **Bedroom** means a room in a dwelling which is intended, arranged, or designed to be occupied by one or more persons primarily for sleeping purposes.
- B. **Dwelling** means a building or a portion thereof which is occupied as the home, residence or sleeping place of one or more individuals. In no case shall a travel trailer, recreational vehicle, vehicle chassis or tent be considered a dwelling.
- C. **Driveway** means the route of access for vehicles from a public or private street or alley across a premises to a parking or loading area, garage, dwelling or other structure or area on the same premises, and that is located and constructed in accordance with the requirements of this chapter.
- D. **License** means a short-term rental license issued by the Township to the owner of a premises authorized to be used as a short term rental.
- E. **Licensee** means the owner(s) holding a license.
- F. **Limited short-term rental** means the rental of any premises for not more than two rental periods of up to 14 days, not to exceed 14 days total, in any calendar year.
- G. **Maximum occupancy** means the maximum number of allowable occupants for the premises.
- H. **Nuisance** means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects an individual, or the generation of an excessive or concentrated effects from movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise from a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent premises which lacks sufficient parking and vehicle circulation facilities.

- I. **Occupant** means a non-owner individual living in, sleeping in, or otherwise having possession of a premises.
- J. **Owner** means a person holding legal or equitable title to the premises. An owner may designate an agent to perform duties or receive notice under this chapter.
- K. **Person** means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property.
- L. **Premises** means real property, and all fixtures and improvements, including the dwelling, located on it.
- M. **Rent or rental** means to permit, provide for, or offer possession or occupancy of a premises on which the owner does not reside for a period of time to a person who is not the owner, pursuant to a written or unwritten agreement.
- N. **Short-term rental** means the rental or subletting of any premises for a term of 27 days or less.
- O. **Township** means the Charter Township of Filer.

**35.03 Regulations.**

- A. **General Regulations.** It shall be unlawful for any person to conduct a short-term rental operation without an annual short-term rental license issued by the Township.
- B. **Specific Regulations.** Persons seeking to operate a short-term rental operation must be registered with and licensed by the Township prior to the commencement of any short term rental activity. All short term rental operations shall comply at all times with the requirements specified in Section 35.05.

**35.04 Exemptions.**

This chapter shall not apply to the following:

- A. **Family occupancy.** A member of the owner’s family, as well as that family member’s guests, may occupy a premises as long as a member of that family retains ownership of the premises. The family occupancy exemption also exempts family occupancy of guest houses or similarly separate dwellings lawfully located on the same premises, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without remuneration to the owner.
- B. **House sitting.** During the temporary absence of the owner and the owner’s family, the owner may permit non-owner occupancy without remuneration to the owner.

- C. **Dwelling Sales.** Occupancy of up to 90 days following closing by a prior owner after the sale of a premises.
- D. **Estate Representative.** Occupancy by a personal representative, trustee, or guardian (including family members) of the estate of the owner, with or without remuneration. The estate shall notify the township of the owner's name, date of death or incapacity, and name of the person occupying the premises.
- E. **Inns, Bed and Breakfasts.** Occupancy of a structure originally constructed for residential purposes and used as temporary lodging and meals for travelers or guests where bedrooms are rented on a nightly basis and managed by an on-site owner or resident manager, subject to the limitations outlined in this chapter and pursuant to a valid land use or special use permit issued by the Township Zoning Administrator or Planning Commission under the Chapter 31, the Township Zoning Ordinance. Meals may or may not be included in the price of the room.
- F. **Commercial/Non-Profit Facilities.** Licensed campgrounds, hotels and motels transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.
- G. **Limited Short-Term Rentals.**

### 35.05 Licensing Procedure and Criteria.

- A. **Application.** Applicants for a short term rental license shall file an application to conduct a short-term rental operation with the Township Zoning Administrator on a form provided for that purpose. The application shall include:
  1. The name, mailing address, and phone number of the owners of the premises to be licensed.
  2. The name, mailing address, and phone number of the applicant if different than the owner.
  3. A notarized letter of authorization from owner to applicant if applicant is different than the property owner.
  4. The name, mailing address and phone number of the owner's local agent whose name and contact information will be provided on the exterior notices required by this chapter.
  5. A description of the premises proposed to be used for short term rentals, including but not limited to:
    - a. Site plan meeting the requirements of Chapter 31 (Zoning Ordinance) for site plans subject to administrative review, showing all dwellings and other structures, all driveways and parking areas,

and the square footage of all principal rooms, including all bedrooms, in each dwelling.

- b. Number of bedrooms.
  - c. Number of bathrooms.
  - d. Number of off-street, paved parking spaces.
  - e. Tax parcel ID number and legal description.
  - f. Copy of currently effective well permit and septic permit, describing the size of the septic tank and drain field.
  - g. The period(s) during each calendar year that the premises will be offered for short term rental.
- B. **Inspection.** Upon receipt of a completed application, the Township will schedule an inspection of the premises with the Township Zoning Administrator. The Zoning Administrator will visit the premises and assess its fitness and safety for short term rental operations using the standards contained in this Ordinance. The owner(s) of the premises described in the application shall be the only permitted short term rental licensee, but may designate in writing to the Township a local agent for purposes of receiving notices under this chapter and shall do so if required by Section 35.06.
- C. **Renewals.** Short term rental licenses are valid for one calendar year and may be renewed annually upon payment of a fee to be set by the Township Board. At the time of renewal, the applicant shall confirm that the information contained in the original short term rental application remains accurate or update the application in writing with current information. Licenses currently under suspension may not be renewed during the pendency of the suspension.

### 35.06 Criteria and Requirements.

A premises used for short term rentals shall meet all of the following requirements in order to be licensed.

**Firepits.** All outdoor fire pits shall be located at least ten feet from any structure and 20 feet from all lot lines of the premises.

**Nature of Rental.** The nature of the proposed rental activity must be consistent with single-family homes in the surrounding residential neighborhood and may not include any commercial activities such as yard sales, festivals, retreats, home occupations or similar uses.

**Parking.** The owner must provide off-street parking on a paved or gravel driveway or parking lot, located on the premises, which is large enough to accommodate all of the

occupants' vehicles, including but not limited to motor vehicles, trailers, recreational vehicles, and watercraft, and all such vehicles, trailers and watercraft shall be parked only on such driveway or parking lot. Parking spaces shall be not less than 200 square feet (10' x 20') in size.

**Septic Systems.** The owner must demonstrate that the septic system for the property is appropriately sized and maintained for the number of occupants proposed to be permitted in the license, according to the standards of the District #10 Health Department Sanitary Code.

**Trash Removal.** The owner must provide secure trash receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short term rentals.

**Nuisances.** The owner shall be responsible for all nuisance activity occurring on the premises licensed for short term rentals and when notified by the Township or a police agency, shall take immediate steps to abate all nuisances and nuisance conditions occurring on or about the premises. Failure of the owner to control nuisance activity by occupants shall be grounds for the termination of the short term rental license.

**Maximum Occupancy.** Maximum occupancy of a premises used for short term rentals shall be not more than two persons, not including pre-school children, per bedroom. In no case shall the number of persons occupying a short term rental dwelling, including all guests of the occupants, exceed ten regardless of the number of bedrooms.

**Exterior Notice.** The owner shall post and maintain at all times on the exterior of the premises near the main entrance and in the front yard of the premises (or rear yard in the case of lakefront parcels) so that the information on the notice is legibly visible from the street, weather-proof signs containing all of the following information: (i) the name, address and phone number of the owner or the owner's local agent for purposes of receiving notice of complaints concerning the condition of the premises or the activities of the occupants, (ii) the maximum occupancy permitted on the premises, and (iii) the day of regular trash collection at the premises. Owners who do not reside permanently in Manistee County or otherwise within 30 miles of the premises shall designate a local person or company to act as the owner's agent for purposes of this chapter and for receiving notice and such local agent's name and local phone number shall be displayed on the exterior notice.

### **35.07 Duty to Remedy Violations.**

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this chapter, Chapters 40 through 42 of the Code, or Chapter 54A of the Code, by the occupants of a short-term rental and/or the guests of such occupants. For any violation of the foregoing chapters of the Code, the Township may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and address posted on the exterior notice. The licensee and/or local agent shall be deemed to have received

notice of the violation upon receiving the telephone call or when a return receipt email message is received by the Township, whichever is soonest. Upon receiving notice of the violation, the owner and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this chapter and may subject the license to a civil infraction citation and court enforcement proceedings and the penalties under Section 35.08 of this chapter.

### **35.08 Suspension and Revocation of License.**

- A. **Violation Notice.** If the Township Zoning Administrator has reason to believe the application material on which a license was issued contained false, incorrect, or misleading information and/or statements; that the short-term rental no longer complies with the standards for approval of a new license; and/or the short-term rental is in violation of the regulations in this chapter, the Township Zoning Administrator may, but is not required to, prepare or cause to be prepared a written notice specifying the false, incorrect, or misleading information and/or statements in the application material or specifying the approval standards or regulations that are allegedly being violated and the factual basis for this belief.
- B. **Service of Notice.** The written notice, along with the time, date, and place of the hearing before the Township Board, shall be served on the licensee either personally or by certified mail, restricted delivery and return receipt requested, no less than 21 days before the hearing.
- C. **Violation Hearing.** If such a violation notice is prepared and served, the Township Board shall hold a hearing at which time the licensee shall be given an opportunity to show cause why the license issued under this chapter should not be suspended or revoked. At the hearing before the Township Board, the licensee shall be given an opportunity to confront adverse witnesses and present evidence and legal arguments. The licensee may also be represented by an attorney. The Township Board's decision shall be in writing, shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the Township Board's written decision shall then be provided to the licensee.
- D. **Subsequent Violations.** After a license has been suspended, any additional violation(s) committed by the licensee and/or local agent within two years of the expiration of the last suspension shall be grounds for a second suspension. If it has been more than two years since the expiration of an initial suspension of a license, a subsequent violation shall be deemed to be a first violation. Upon a determination that the licensee has committed a total of three or more violations of this chapter within five years, the Township Board may permanently revoke the license.
- E. **Length and Timing of Suspensions and/or Revocations.** Suspensions and revocations shall generally be effective immediately, provided, however, if any portion of the suspension times falls outside the primary tourist season (May 1 through September 30), then the balance of the suspension time shall carry over to

the next primary tourist season. Suspensions/revocations shall be for the following periods:

1. First suspension – three (3) months.
  2. Second suspension – six (6) months.
  3. Revocation – permanent.
- F. **Existing Contracts.** Existing short-term rental contracts extending up to 60 days beyond the beginning date of any suspension/revocation may be honored by the licensee with approval by the Township Board. Those existing contracts extending beyond 60 days shall not be honored by the licensee. The time period approved to honor existing contracts shall be added to the end of any suspension period.
- G. **Fraudulent Complaints.** Any person who knowingly files a fraudulent, false, or fictitious complaint about a short-term rental shall be deemed to be in violation of this chapter and may be found responsible for a civil infraction and penalties under Section 35.09 of this chapter.

### **35.09 Violations and Penalties.**

- A. Any person who violates any provision of this chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 – 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than \$500 plus the costs and attorney fees of the Township in the enforcement. In addition, this chapter shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this chapter. Each day this chapter is violated shall be considered as a separate violation.
- B. The Township Zoning Administrator, any police officer having jurisdiction in the Township, and other persons as may be appointed by the Township Board are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this chapter.
- C. A violation of this chapter is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- D. In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this chapter.

**35.10 New License Required Upon Transfer of Ownership.**

A license issued under this Ordinance shall become void upon the transfer of ownership of the premises described in the license, or upon the transfer of a controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the premises. A new license must be obtained from the Township pursuant to the requirements and regulations set forth in this chapter before short-term rentals may be resumed on the premises.