

Charlevoix Township Short Term Rental Ordinance (Final Draft, 03-18-2020)

AN ORDINANCE ISSUED TO PERMIT AND REGULATE SHORT TERM RESIDENTIAL RENTALS WITHIN THE TOWNSHIP;
TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE;
AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

CHARLEVOIX TOWNSHIP ORDAINS:

Section 1. Definitions (as used in this Ordinance)

“Bedroom” means a separate room or space with a door, a closet, and a window, to be used or intended to be used specifically for sleeping purposes.

“Dwelling Unit” means a building or a portion of a building providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation, and a separate bedroom(s) for sleeping.

“Habitable Space” means space in a structure for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

“Occupancy” means the purpose for which a dwelling unit or portion thereof is utilized or occupied.

“Occupant” means any individual living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

“Operator” or “Owner” means any person who owns or has charge, care or control of a dwelling unit which is offered for rent.

“Person” means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

“Rent” or “Rental” means to permit, provide for, or offer possession or occupancy of a dwelling unit in which the owner does not reside for a period of less than thirty (30) days, to a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license.

“Short Term Rental” means any dwelling unit or condominium or portions thereof, in which the owner does not reside, that is available for use or is used for accommodations or lodging of guests, paying a fee or other compensation for a period of less than thirty (30) consecutive days.

“Tenant” means a person who is not the legal owner of record and who is occupying a dwelling unit pursuant to a written or unwritten rental lease, agreement or license.

Section 2. License Required

No person shall rent or cause to be rented a dwelling unit or efficiency dwelling unit within Charlevoix Township for a period of less than thirty (30) days without first obtaining a license from the Township Zoning Administrator pursuant to the requirements of this Ordinance.

Section 3. Application and Fee Requirements

An operator or owner seeking a license under this Ordinance shall submit a complete application to the Zoning Administrator and pay the required fee, which shall be established by resolution of the Township Board. The application shall include proof of ownership of, or the legal right to rent, a dwelling unit and all information reasonably necessary for the Zoning Administrator to determine whether the applicable standards for approval provided in Section 4 have been met.

Section 4. Standards for Approval

The Zoning Administrator shall approve, or approve with conditions, an application for a short term rental license only upon finding that the application complies with all of the following applicable standards:

- A.) Maximum occupancy will be determined on two (2) adult people per bedroom. An adult is defined as a person aged 13 years and older.
- B.) The dwelling unit must meet all residential building, health department, and safety codes, as documented by certified third party property inspection, conducted on an annual basis.
- C.) The operator or owner shall provide off street parking per requirements of Article 6.1 of the Charlevoix Township Zoning Ordinance to accommodate tenant or lessee vehicles at the rate of one parking space per rented bedroom on site, with at least one additional space for visitor or trailer parking.
- D.) The appearance of the dwelling shall not conflict with the residential character of the surrounding neighborhood. The structure(s) shall be properly maintained and kept in good repair, in order that the use in no way detracts from the general appearance of the neighborhood. Garbage must be kept in a closed container and disposed of on a regular weekly schedule.
- E.) No sign shall be posted to advertise the availability of the short term rental unit to the public.
- F.) The operator or owner shall keep on file with the Township the name and telephone number of a contact person who shall be responsible for responding to questions or concerns regarding the operation of the short term rental. This information must be kept current. This information also shall be posted in a conspicuous location within the dwelling unit. The contact person must be available to accept telephone calls on a 24 hour basis at all times that the short term rental is rented and occupied. The contact person must have possession of a key to access the rental unit and be able to respond to the short term rental within thirty (30) minutes to address issues, or must have arrangements for another person to address issues within the same time frame. The operator or owner shall notify neighboring dwelling units within 300 feet from the rental unit in writing that the property is a permitted short term

rental and shall provide a telephone number of the rental agency, if any, or other local contact person as required by Section 4.F.

- G.) The operator or owner shall provide the tenants or lessees of a short term rental with the following information prior to occupancy of the premises, and post such information in a conspicuous place within the dwelling unit:
- 1.) The name of the designated contact person, and a telephone number at which they may be reached on a 24 hour basis; and
 - 2.) Notification of the maximum number of overnight occupants permitted on the premises pursuant to this Ordinance; and
 - 3.) Notification of the parking standards of this Ordinance; and
 - 4.) Notification that an occupant may be cited or fined by the Township, in addition to any other remedies available at law, for violating any provisions of this Ordinance; and
 - 5.) A copy of this Ordinance, as may be amended from time to time.
- H.) All land based recreational activities shall be limited to rented premises and shall not encroach on neighboring properties.
- I.) Campfires shall be located in designated 'fire pit' areas away from water's edge, trees, and property lines. Fires must be attended at all times and properly extinguished after use. No burning of paper, cardboard or any items which may cause excessive smoke, odor or airborne embers shall be permitted.
- J.) Use of fireworks at rented premises shall coincide with all existing ordinances.
- K.) Tenants or lessees of a short term rental property shall not create a nuisance. For purposes of this subsection, a nuisance includes but is not limited to any of the following, which shall be strictly enforced between the hours of 11:00 pm and 8:00 am:
- 1.) Playing or using a radio, phonograph, compact disc player, tape player, television, musical instrument, sound amplifier, or other electronic or mechanical sound-producing device in such a manner or with such volume so as to disturb the quiet, comfort or repose of a reasonable person of normal sensitivities.
 - 2.) Yelling, shouting, singing or making other noise that because of its volume, frequency or shrillness unreasonably disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities.
 - 3.) Sounding or using any horn, siren, whistle, bell or other warning device so as to unreasonably disturb the quiet, comfort or repose of another person.

Section 5. Duration of License, Re-application

A license issued under this Ordinance shall remain in effect for a twelve (12) month period unless and until the happening of one or more of the following events:

- A.) This Ordinance is amended to alter the standards for approval contained in Section 4.

B.) The dwelling unit is physically altered in such a way that the habitable space within the unit is increased, decreased, or re-distributed among living, sleeping, eating or cooking areas.

1.) If a license is no longer in effect as a result of subsection above, the operator shall re-apply for a new license following the same procedures for a new license.

C.) A Short Term Rental Use license may not be transferred or assigned to any third party except as a “transfer by operation of law”, and shall be void upon transfer of ownership of the property where the short term rental use is located. Upon change of ownership, the new owner must apply for a new Short Term Rental Use license in order for short term rental activity to be authorized.

Section 6. Inspections and Conditions

Upon receipt of written complaint by any concerned party including operators, tenants and/or neighbors, the Zoning Administrator or authorized designee may make periodic inspections of a short term rental property to ensure continuing compliance with the approval standards specified in Section 4 of this Ordinance. In addition, the Zoning Administrator may impose reasonable conditions on a license issued under this Ordinance which are reasonably necessary to ensure compliance with the approval standards specified in Section 4 of this Ordinance.

Section 7. Suspension or Revocation of Short Term Rental License

In addition to any other penalty authorized by law, if upon finding by the Zoning Administrator by competent, material, and substantial evidence, and if after written notice of the charges are conveyed to the operator or owner and an opportunity to respond is provided, that the operator or owner, its agents, employees, tenants or lessees has or have violated, or failed to fulfill, the requirements of this Ordinance, including the approval standards specified in Section 4 of this Ordinance, a short term rental license may be suspended or revoked. The written notice of the charges and any subsequent suspension or revocation, and scheduling of any hearing shall be personally served on the licensee by certified mail, restricted delivery, no less than 21 days prior to the date of the hearing before the Zoning Administrator.

A.) Upon finding by the Zoning Administrator of a first violation within any twelve (12) month period, the short term rental license may be suspended for up to thirty (30) days, and during said time, the premises shall not be utilized for a short term rental.

B.) Upon finding by the Zoning Administrator of a second violation within any twelve (12) month period, the short term rental license shall be revoked, and the owner or managing agent who has been issued the short term rental license shall not again be issued a short term rental license for a period of twenty-four (24) months, and during said time, the premises shall not be utilized for a short term rental. Appeal from denial, suspension or revocation of a short term rental license is allowed.

Section 8. Appeal

Any applicant for short term rental license whose application was denied by the Zoning Administrator, and any licensee whose short term rental license is suspended or revoked by the

Zoning Administrator, may within ten (10) days following such decision, appeal such decision to the Zoning Board of Appeals. The Zoning Board of Appeals shall determine whether to affirm, reverse, or modify the decision of the Zoning Administrator in accordance with the requirements for short term rentals set forth in this section. At least fourteen (14) days prior to the Zoning Board of Appeals meeting to consider the appeal of the applicant or licensee, the Zoning Administrator or authorized designee, shall send, by United States mail, certified, written notice to the applicant or licensee of the time and place at which the Zoning Board of Appeals will consider the application, suspension or revocation, and the applicant or licensee shall be provided an opportunity to be heard by the Zoning Board of Appeals prior to its decision being made. All neighbors within 300 feet of the short term rental property must also be notified by United States mail of the date, time and location of the Zoning Board of Appeals meeting. The decision of the Zoning Board of Appeals shall be final. The Zoning Board of Appeals Secretary shall notify the applicant or licensee, as applicable, in writing of the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals affirms the decision of the Zoning Administrator denying an application or suspending or revoking a license, the applicant or licensee shall have the right to appeal the decision to the Circuit Court. The decision of the Zoning Board of Appeals shall not be vacated during the pendency of any appeal to Circuit Court. The applicant or licensee has the right to seek a stay in Circuit Court.

Section 9. Prohibited Activities

A tenant or lessee shall not violate any of the approval standards specified in Section 4 of this Ordinance. In addition, the operator or owner of the rental property identified at the time of application shall ultimately be held responsible for any violations of the above listed requirements conducted by tenants and lessees while occupying the rental property.

Section 10. Nuisance

A violation of this Ordinance is hereby declared to be a public nuisance, a nuisance per se and is hereby further declared to be offensive to the public health, safety and welfare.

Section 11. Violations

A person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of \$500.00. Each day this Ordinance is violated shall be considered a separate violation.

Section 12. Enforcement Officials

The Zoning Administrator and other persons designated by the Township Board of Trustees are hereby designated as the authorized officials to issue municipal infractions directing alleged violators of this Ordinance to appear in court.

Section 13. Civil Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 14. Validity

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application.

Section 15. Effective Date

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