

ORDINANCE NO. 2020-01

CHARTER TOWNSHIP OF FILER
MANISTEE COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY ADDING NEW CHAPTER 35, TO SECURE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE CHARTER TOWNSHIP OF FILER AND VISITORS TO THE TOWNSHIP, BY REGULATING SHORT TERM RENTAL PROPERTIES TO PREVENT PUBLIC NUISANCES AND SAFETY HAZARDS AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

THE CHARTER TOWNSHIP OF FILER ORDAINS:

Section 1. Amendment to Code of Ordinances. The Charter Township of Filer Code of Ordinances ("Code") is hereby amended by the addition of a new Chapter 35, which reads, in its entirety, as follows:

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:

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.

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.

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.

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.

Licensee means the owner(s) holding a license.

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.

Maximum occupancy means the maximum number of allowable occupants for the premises.

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.

Occupant means a non-owner individual living in, sleeping in, or otherwise having possession of a premises.

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.

Person means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property

Premises means real property, and all fixtures and improvements, including the dwelling, located on it.

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.

Short-term rental means the rental or subletting of any premises for a term of 27 days or less.

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 a 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. 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.

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.

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 (10) feet from any structure and twenty (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 (10) regardless of the number of bedrooms.

Exterior Notice. The owner shall post and maintain on the exterior of the premises near the main entrance, a weather-proof sign 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 twenty-one (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 (2) years of the expiration of the last suspension shall be grounds for a second suspension. If it has been more than two (2) 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 (3) or more violations of this Chapter within five (5) 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 Five Hundred and 00/100 (\$500.00) Dollars 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.

Section 3. Severability

If any section, clause, or provision of this Chapter is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such declaration shall not affect the remainder of the Chapter. The Township Board hereby declares that it would have passed this Chapter 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 is declared invalid.

Section 4. Effective Date

This Ordinance shall become effective 21 days following its introduction, adoption and publication in a newspaper of general circulation within the Township.

Those voting in favor: Chycinski, Krus, Stege, Ball, Walker and Kruse.

Those voting against: None

Those absent or abstaining: Kolanowski (absent)

ORDINANCE DECLARED PASSED.

/s/ Shirley Ball, cmc

Shirley Ball
Township Clerk

CERTIFICATION

I, Shirley Ball, Clerk of the Charter Township of Filer, Manistee County, Michigan, do hereby **CERTIFY** that the foregoing is a true and correct copy of the Ordinance adopted by the Township Board at a regular meeting held on the 7th day of January, 2020.

/s/ Shirley Ball

Township Clerk