

**EAST BAY CHARTER TOWNSHIP
Short-term Rental Licensing Ordinance**

Ordinance No. 2 of 2018

AN ORDINANCE PURSUANT TO ACT 359 OF THE PUBLIC ACTS OF 1947, AS AMENDED, TO PROVIDE FOR THE PUBLIC PEACE AND HEALTH AND FOR THE SAFETY OF PERSONS AND PROPERTY IN EAST BAY CHARTER TOWNSHIP BY THE LICENSING AND REGULATION OF SHORT-TERM RENTALS, TO PROVIDE PROCEDURES FOR THE SUSPENSION AND REVOCATION OF SHORT-TERM RENTAL LICENSES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE

EAST BAY CHARTER TOWNSHIP HEREBY ORDAINS:

Section 1. Purpose.

This ordinance is intended to protect and promote the health, safety and welfare of all the citizens of East Bay Charter Township, as well as those visiting the area, by requiring the licensing of short-term rentals within the Township. It is also the intent of this section to allow for the purchase and continued ownership, rental, and maintenance of properties where renting the dwelling unit for short periods of time will allow the owner(s) to keep the property for their future use and enjoyment, while protecting the integrity of those residential neighborhoods which were developed with the intent of single-family occupancy.

Section 2. Applicability.

This ordinance applies to residential dwelling units located in East Bay Charter Township and to all persons owning or exercising control over such buildings or premises which in total or in part, are rented for less than 30 days at a time, during the calendar year.

Section 3. Definitions. As used in this ordinance,

“Bedroom” means a room which is intended, arranged, and designed to be occupied by one or more individuals primarily for sleeping purposes, as determined by the Office of Planning & Zoning.

“License holder” means the person who applies for and receives a short-term rental license from East Bay Charter Township. A license holder may or may not be the owner of the dwelling unit where the short-term rental is located.

“Local agent” means the individual designated by the license holder to perform obligations under this ordinance and to serve as the contact person for issues relating to a short-term rental. The designated agent must reside or maintain a physical place of business within 45 miles of the short-term rental.

“Maximum occupancy” means the maximum number of allowable occupants and the guests of those occupants for a short-term rental, as established in Section 6(b) of this ordinance.

“Occupant” means an individual living in, sleeping in, or otherwise having possession of a short-term rental.

“Owner” means any person holding legal or equitable title to a property or to real improvements upon a property solely, jointly, by the entireties, in common, or as a land contract vendee.

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

“Premises” means the land and the improvements on it.

“Property” means land, firmly attached structures, and integrated equipment (such as light fixtures or a well pump), and anything growing on the land.

“Rental frequency” means how often a short term rental may be rented in a given period of time, regardless of the length of stay. For purposes of this ordinance, the rental frequency shall be no more than once in any seven (7) day period on the Gregorian calendar.

“Sleeping room” means a bedroom or any other room where bunk beds, cots, rollaway beds, or hide-a-beds are made available for overnight sleeping purposes.

“Short-term rental” means a dwelling unit, or portions thereof, 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 30 days at a time.

“Violation notice” means a written notice issued by the Office of Planning & Zoning advising the license holder and/or the local agent of a violation of this ordinance.

Section 4. License required.

An owner of any dwelling unit located within East Bay Charter Township shall not rent, or allow to be rented, a dwelling unit to another person for less than 30 days at a time, unless the owner or the owner’s authorized agent has obtained a short-term rental license for that dwelling unit in accordance with the requirements of this ordinance.

Section 5. Application for short-term rental license.

- (a) Responsibility. It shall be the responsibility of the owner of a short-term rental or the owner’s authorized agent to apply for a license through the submission of a short-term rental license application.
- (b) Application form. A person seeking a license under this ordinance shall submit a complete application, certified as being true, to the Office of Planning & Zoning. The application shall include all of the information specified on the short term rental application form and any other information deemed reasonably necessary by the Office of Planning & Zoning to determine whether the short-term rental standards and regulations have been met.
- (c) Application fee. The application shall be accompanied by an application fee as established and set forth in the Township fee schedule. This fee schedule shall also

establish an "after the fact" fee that must be paid when an otherwise lawful short-term rental is operated but without first complying with the procedural requirements of this ordinance. This "after the fact" fee is not intended to be a penalty, but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the Township as the result of the applicant's failure to initially comply with the requirements of this ordinance.

- (d) Complete application. A short-term rental license application shall not be considered accepted until the Office of Planning & Zoning deems it to be complete. If the Office of Planning & Zoning determines that all required information was not supplied and/or if the applicant fails to pay the required fee, then the Office of Planning & Zoning shall send written notification to the applicant of the deficiencies. If the applicant fails to provide all the information required by this ordinance and/or fails to pay the required fee within a reasonable time after being notified of the deficiencies, then the application shall be deemed incomplete and shall be denied by the Office of Planning & Zoning on that basis.
- (e) License. Once deemed to be complete, if an application complies with all the standards and regulations of this ordinance, the Office of Planning & Zoning shall approve the short-term rental license within seven (7) Township business days. All short-term rental licenses issued under this ordinance shall be sequentially numbered.

Section 6. Short-term rental standards and regulations.

The following standards and regulations shall apply to all short-term rentals in East Bay Charter Township. These standards and regulations, however, shall not supersede deed restrictions on any property (including subdivision developments) and shall not supersede any provisions of the master deed and/or bylaws of a condominium development.

- (a) Deed restrictions/bylaws. A short-term rental license shall not be issued for a dwelling unit located within a platted subdivision or a residential condominium development where deed restrictions or master deed and/or bylaws limit uses to single-family residential uses or to single-family dwellings.
- (b) Rental frequency. The rental frequency shall be no more than once in any seven (7) day period on the Gregorian calendar.
- (b) Occupancy. The maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus four (4) others.
- (c) Designation of a local agent. If the license holder does not qualify as a local agent, then that license holder shall designate a local agent and shall authorize in writing the local agent to act as the license holder's agent for any acts required of the license holder under this ordinance.
- (d) Information. All notification information shall be kept current and up-to-date.
- (e) Parking. Motor vehicles, boats, campers and trailers shall be parked in the driveway of the short-term rental property and shall not be parked along any public or private roadway.

- (f) Waste/recycling disposal. Occupants shall not leave, or allow others to leave, trash, rubbish, refuse, or garbage within public view, except in proper waste or recycling containers for the purpose of collection or disposal. No commercial dumpsters shall be allowed on the property containing the short-term rental.
- (g) Advertising. All advertising for the short-term rental shall display the number of the license issued under this ordinance.
- (h) Dwelling appearance. The exterior appearance of the dwelling unit containing a short-term rental shall not conflict with the residential character of the neighborhood. All structures shall be properly maintained and kept in good repair.
- (i) Safety.
 - (1) Each sleeping room within a short-term rental shall have one (1) properly functioning smoke alarm.
 - (2) A properly functioning smoke alarm shall be installed outside each sleeping room and on each level of the short-term rental.
 - (3) A minimum of one (1) properly functioning carbon monoxide detector shall be provided for each floor of the short-term rental unit. In addition one (1) properly functioning carbon monoxide detector shall be located near the furnace or other fuel burning appliance.
 - (4) The street address of the property and emergency contact phone numbers shall be clearly displayed in the short-term rental for access by the occupant(s).
 - (5) Each sleeping room shall have a legal means of egress to the exterior from the short-term rental.
 - (6) The street number for the short-term rental shall be attached to the home and clearly visible from the street.
- (j) Outdoor lighting. All outdoor lighting at a short-term rental shall be down-shielded and installed in a manner which prevents glare onto neighboring properties or roads.
- (k) Well, septic, and holding tanks. For those short-term rentals not connected to a public sewer system, the septic system shall be properly functioning. For purposes of this subsection, "properly functioning" shall mean that the well and septic systems comply with all applicable regulations of the Grand Traverse County Health Department's Environmental Health Regulations, as determined by an individual certified by the National Sanitation Foundation (NSF) or the National Association of Wastewater Technicians (NAWT). In no case shall holding tanks be used as the sole component of the septic system for a short-term rental, unless such holding tank is permitted by the Grand Traverse County Health Department for the short-term rental use and the maintenance of that holding tank complies with all requirements of the Grand Traverse County Health Department.

- (l) Rules and regulations to be provided to occupants. The license holder or local agent shall provide all occupants of a short-term rental with the following information prior to occupancy and shall post such information in a conspicuous place within each short-term rental:
- (1) The name of the license holder or local agent responsible to perform obligations related to the short-term rental under this ordinance, that individual's telephone number(s), and an email address at which that individual may be reached on a 24-hour basis.
 - (2) Notification of the maximum number of overnight occupants permitted in the short-term rental.
 - (3) Copies of the Township Noise Ordinance and Fireworks Ordinance, as they may be amended from time to time.
 - (4) A copy of this ordinance, as it may be amended from time to time.
 - (5) Notification that an occupant and/or a guest of an occupant may be cited for a violation of this ordinance, the Township Noise Ordinance, and/or the Township Fireworks Ordinance, in addition to any other remedies available to the Township.
- (m) Violation of township ordinances. Occupants of a short-term rental and the guests of those occupants shall not violate the Township Noise Ordinance nor the Township Fireworks Ordinance.
- (n) Pets. Pets shall be secured on the premises or on a leash at all times.
- (o) Taxes. The person who rents a short-term rental shall pay any applicable sales tax and/or required Michigan Use Tax for any stay of 30 days or less.
- (p) Compliance with fire code and building code. Prior to the issuance of a license and at all times during which a license remains in effect, the short-term rental shall comply with all applicable regulations of the fire code and building code administered and enforced in the Township.

Section 7. Duty to remedy violations.

The license holder and/or local agent shall have the duty to remedy any violation of this ordinance, the Township Noise Ordinance, and the Township Fireworks Ordinance by the occupants of a short-term rental and/or the guests of such occupants. For any violation of the above ordinances, the Township may (in addition to other remedies) notify the license holder and/or local agent for the short-term rental of such violation by telephone or return receipt email. The license holder 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 sooner. Upon receiving notice of the violation, the license holder 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 violation of this ordinance and may subject the license issued under this ordinance to suspension or revocation pursuant to Section 8 of this ordinance and may subject the license holder and/or local agent to court enforcement proceedings and the penalties under Section 9 of this ordinance.

Section 8. Suspension and Revocation of License.

- (a) Violation notice. If the Office of Planning & Zoning 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 ordinance, the Office of Planning & Zoning 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 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 license holder 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 license holder shall be given an opportunity to show cause why the short-term rental license issued under this ordinance should not be suspended or revoked. At the hearing before the Township Board the license holder shall be given an opportunity to confront adverse witnesses and present evidence and legal arguments. The license holder may also be represented by an attorney. The Township Board's decision shall be in writing and shall specify the factual evidence upon which it is based. A copy of the Township Board's written decision shall then be provided to the license holder.
- (d) Subsequent violations. After a short-term rental license has been suspended, any additional violation(s) committed by the license holder 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 short-term rental license, a subsequent violation shall be deemed to be a first suspension. Upon a determination that the short-term rental license holder has committed a total of three (3) or more violations of this ordinance within five (5) years, the Township Board may permanently revoke the short-term rental 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 time falls outside the primary tourist season of May through September, 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 up to 60 days beyond the beginning date of any suspension/revocation may be honored by the license holder with approval by the Township Board. Those existing contracts beyond 60 days shall be canceled. 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 ordinance and may be subject to court enforcement proceedings and the penalties under Section 9 of this ordinance.

Section 9. Violations and penalties.

- (a) Any person who violates any provision of this ordinance, including the continued operation of a short-term rental after the license for that short-term rental has been suspended or revoked as provided in 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 not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this ordinance is violated shall be considered as a separate violation.
- (b) The Zoning Administrator and other persons appointed by the Township Board are hereby designated as the authorized Township officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court.
- (c) A violation of this ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.
- (d) 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 10. New license required upon transfer of ownership.

A short-term rental license issued under this ordinance shall become void upon the transfer of ownership of the dwelling unit, or upon the transfer of a controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the dwelling unit. A new short-term rental license shall then be obtained from the Office of Planning & Zoning pursuant to the requirements and regulations set forth in this ordinance before short-term rentals may be resumed in the dwelling unit.

Section 11. Severability.

If any section, clause, or provision of this ordinance be 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 12. Effective date.

This ordinance shall become effective the day following its publication in a newspaper of general circulation within the Township.

Ordinance No. 2 of 2018 was adopted on June 11, 2018, by the East Bay Charter Township Board as follows:

Motion by: Treasurer Bartlett

Seconded by: Clerk Courtade

Yeas: Bartlett, Courtade, Marrow, Friend, and Hentschel

Nays: Walters and Lile

Absent: None

Dated: 6-11-2018


Beth Friend, Supervisor

I certify that this is a true copy of Ordinance No. 2 of 2018 that was adopted at a regular meeting of the East Bay Charter Township Board on June 11, 2018 and published in the *Traverse City Record Eagle* on June 13, 2018.

Dated: 6-11-18


Susanne M. Courtade, Clerk