

ELMWOOD CHARTER TOWNSHIP
Ordinance No. 2022-3

AN ORDINANCE TO AMEND THE ELMWOOD
CHARTER TOWNSHIP SHORT TERM RENTAL
LICENSING ORDINANCE

THE CHARTER TOWNSHIP OF ELMWOOD ORDAINS:

Section 1. Amendment of Section 6.A.

Section 6.A of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to read in its entirety as follows:

- A. **Parking-** Parking for all vehicles, including trailers, shall only be in parking spaces identified on the site plan included with the application for a short term rental license. No on-street parking shall be permitted in association with a short term rental. Parking shall comply with the requirements set forth in the Elmwood Township Zoning Ordinance.

Section 2. Amendment of Section 6.

Section 6 of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to add a new subsection N, which new subsection shall read in its entirety as follows:

- N. **No prior suspensions or revocations-** The owner of property seeking a license for a short term rental under this Ordinance shall not have been the owner of any property within the Township for which a short term rental license has been suspended or revoked by the Township within five (5) years from the date of such suspension or revocation.

Section 3. Amendment of Section 7.B.

Section 7.B of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to read in its entirety as follows:

- B. Licenses are not transferrable. When a short term rental property is transferred, as provided under MCL 211.27a(6)(a)-(j), the license will expire upon the transfer of the property. A short term rental property, however, shall not be deemed transferred if it is not a transfer of ownership as provided in MCL 211.27a(7)(a)-(x). Licenses will revert to the Township after they expire and upon the transfer of the short term rental property if there is no short term rental use of the property for 12 consecutive months from the expiration or property transfer. In addition, licenses will revert to the Township after being revoked by the Township pursuant to the requirements of this Ordinance. Any

license that reverts to the Township shall be made available to new applicants based upon those waiting to apply for a license subject to Section 8, Limitations of Number of Licenses, and Section 9, Issuance of License, under this Ordinance.

Section 4. Amendment of Section 8.

Section 8 of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to read in its entirety as follows:

Section 8: Limitations on Number of Licenses

The Township hereby authorizes the number of short term rental licenses to be issued at any one time within the Township as established from time to time by resolution of the Township Board.

Section 5. Amendment of Section 9 (Second Paragraph).

The second paragraph of Section 9 of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to read in its entirety as follows:

All short term rental licenses shall expire on December 31 of the following calendar year or upon the transfer of a licensed property. A short term rental license shall also expire upon revocation as provided under Section 9A, Suspension and Revocation of License. The owner of the short term rental shall re-apply for the next calendar year at any point between October 1 and October 31. All licenses, if eligible, will be issued by December 31 when re-applied for by October 31. Any owner that does not submit a renewal application by October 31 will be required to file a new application and will be placed on the wait list should licenses not be available.

Section 6. Amendment of Ordinance.

The Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to add a new Section 9A, which shall read in its entirety as follows:

Section 9A. Suspension and Revocation of License

- A. Public Hearing notice. If the Township 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, and enforcement under Section 10 of this Ordinance is determined by the Township Office of Planning & Zoning to be ineffective, the Township Office of Planning & Zoning will prepare a written public hearing notice requesting the suspension or revocation of the short term rental license.

- 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 registered mail confirming delivery to the license holder's address as well as via email if an email address is available, no less than twenty-one (21) calendar days before the hearing.
- C. Hearing to suspend or revoke a license. If such a notice to suspend or revoke a license is prepared and served by the Township Office of Planning & Zoning, 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, if any, 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. The Michigan Rules of Evidence do not apply to this hearing or decision made by the Township Board. This hearing is independent of any enforcement action which the Township may take under Section 10 of this Ordinance.
- D. Subsequent violations. After a short term rental license has been suspended, any additional violation(s) committed by the license holder 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. 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 30 nights beyond the beginning date of any suspension/revocation may be honored by the license holder with written approval by the Township Board. Any such approval shall be included in the Board's suspension/revocation decision. Those existing contracts

beyond 30 nights 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 10 of this Ordinance.

Section 7. Amendment Section 10.B.

Section 10.B of the Elmwood Charter Township Short Term Rental Licensing Ordinance is hereby amended to read in its entirety as follows:

- B. The penalties for violations specified in subsection (A) above are as follows:
1. This ordinance shall be enforced by any individual or individuals designated by the Township Board. In addition to written violation notices, the Township will attempt to notify the violator or the violator's authorized agent via telephone of the violation as soon as possible.
 2. Any person who violates any provision of this Ordinance, including operating an STR without a license, or continues to operate 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, plus costs of prosecution up to Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 8. 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 9. Effective Date.

This Ordinance shall become effective the day following its publication by the Township as required by Section 8 of the Charter Township Act, MCL 42.8.

Ordinance No. 2022-3 was adopted on the 9th day of May, 2022, by the Elmwood Charter Township Board as follows:

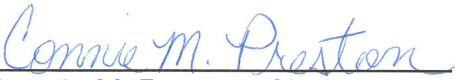
Motion by: Clerk Preston

Seconded by: Trustee Darga

Yeas: Allen, Lautner, O'Rourke, Darga, Preston, and Shaw

Nays: None

Absent: Mikowski




Connie M. Preston, Clerk

Jeff Shaw, Supervisor

I certify that this is a true copy of Ordinance No. 2022-3 that was adopted at a regular meeting of the Elmwood Charter Township Board on May 9, 2022 and published in the Leelanau Enterprise on May 19, 2022.

Dated: 5-26-2022



Connie M. Preston, Clerk