

**TOWNSHIP OF CLEARWATER KALKASKA COUNTY, MICHIGAN
ORDINANCE NO. 31**

SHORT TERM RENTALS

An ordinance to protect the health, safety, and general welfare of all citizens of Clearwater Township by requiring the licensing of short-term rentals within the Township.

Short-term rentals can provide vast economic benefits to Clearwater Township's property owners, businesses, and employees in the tourism industry through the expanded number of visitors and travelers to our community. However, negative externalities can occur to neighborhoods, housing availability, and health and safety practices if transparent and fair standards are not established. As such, Clearwater Township has established regulations that serve to mitigate the negative externalities without harming the economic potential Short-Term Rentals bring.

It is also the intent of this ordinance to protect the integrity and character of residential neighborhoods while still allowing owners to receive remuneration from short-term rentals. The Michigan Constitution grants such authority under Article 7, and places authority with township boards under MCL 41.181. This ordinance is established in accordance with the provisions of Act 110 of the Public Acts of 2006, and Act 33 of the Public Acts of 2008, as amended; and to define certain terms used herein; to provide for the administration and enforcement; to provide for amendments; and to provide penalties for the violation of this Ordinance.

This ordinance shall not apply to use of property by the property owners and their guests.

ARTICLE I SHORT TITLE

1.01 Title

This Ordinance shall be known as the Clearwater Township Short Term Rental Ordinance and shall be referred to herein as “this ordinance”.

1.02 Applicability

This ordinance applies to any dwelling unit, as defined in this ordinance, in Clearwater Township that is rented for a period of less than 30 days at a time; and requires all persons who intend to operate any short-term rental located in Clearwater Township to obtain a license from the Zoning Administration officer and operate under the terms and conditions of this ordinance.

ARTICLE II INTERPRETATION

2.01 Purpose

The fundamental purposes of this Ordinance are:

- 1) To promote the public health, safety, peace, and general welfare of the inhabitants of Clearwater Township; and
- 2) To provide for the protection and preservation of the high quality of our lakes, rivers, streams, and wells, to the end that the waters thereof shall continue to afford a safe and adequate water supply and optimum recreational enjoyment; and
- 3) To encourage the use of lands in accordance with their character and adaptability; thereby conserving natural resources and property values and limiting the improper use of land; and
- 4) To avoid the overcrowding of population; to lessen congestion on public streets and highways; to reduce hazards to life and property due to fire, flooding, erosion, pollution, excessive dust, fumes, noise, vibration, noxious odors or other hazards; and
- 5) To prevent the overburdening of existing or available public services and utilities, to facilitate improvements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous use of land, resources and properties; and

6) To provide for the orderly growth of the residential and economic attributes of the Township; and

7) To provide only those restrictions of individual freedom and activity which are consistent with the fundamental purposes outlined in this Article.

2.02 Scope

1) It is not intended by this Ordinance to repeal, annul, or in any way impair or interfere with existing provisions of law or ordinance, except as hereinafter specifically repealed, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this Ordinance shall control.

2) The purpose and intent of the Sections of this Ordinance pertaining to the regulation of short-term rental businesses is to regulate the location and operation of, but not to exclude, conduct of owners and renters.

3) A copy of this Ordinance and any amendments thereto shall be kept on file, as a matter of public record, in the Office of the Township Clerk.

4) The rental of any living space for more than 30 days continuously is not applicable under this ordinance.

ARTICLE III ZONING DISTRICTS

3.01 Application

1) This ordinance applies to all land use districts.

ARTICLE IV GENERAL PROVISIONS

4.01 Conflicting laws regulations and restrictions

1) The provisions of this Ordinance shall be held to be the minimum requirements for promoting the public health, safety and general welfare. Whenever the

requirements of this Ordinance conflict with other lawfully adopted rules, regulations or restrictions, or with existing easements, covenants, or other agreements between parties, the requirements imposing the higher standards shall govern. Compliance with the terms of this Ordinance in no way removes responsibility for obtaining any and all other permits and approvals required by local, state or federal law.

4.02 Lake, River and Stream Protection

- 1) Activities which are detrimental to the natural quality of watercourses in Clearwater Township are expressly prohibited. Such activities include, but are not limited to, pollution of water by the introduction of chemical or organic pollutants, and/or erosion of lake, river, or stream banks.

4.03 Short Term Rental Occupancy

- 1) No unit shall be rented until a Short-Term Rental License has been issued by the Clearwater Township Zoning Department.

4.04 License Requirements

- 1) The Zoning Administrator shall issue a Short-Term Rental license to property owners whose application meets the requirements of this Ordinance and all other applicable local, County and State Requirements.

ARTICLE V DEFINITIONS

ACCESSORY BUILDING

A supplemental building or structure on the same lot or part of the main building occupied by or devoted exclusively to accessory use.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

AGENT

A person or entity legally authorized by the owner to act on the owner's behalf.

AUXILIARY LIVING SPACE

A structure containing facilities for sleeping, eating, cooking, and disposal of waste that is used primarily for housing family members or guests during vacation periods and is not intended or used for extended occupation throughout much of the year. A building containing facilities for sleeping, eating, cooking, and disposal of wastes that is used primarily for housing family members or guests during vacation periods, or while a primary dwelling is under construction, and is not intended or used for extended occupation throughout much of the year.

BED AND BREAKFAST

An owner-occupied single-family residence in which sleeping accommodations are offered to the public on a daily or weekly basis for compensation.

BEDROOM-RESIDENTIAL

A separate room with a door and window that is used or intended to be used specifically for sleeping purposes. A bedroom must be a habitable space not less than seventy (70) square feet, not less than seven (7) feet in one dimension, not located in an attic or basement without egress meeting standards in applicable building, residential, and fire codes, and not a room by design intended to serve another purpose.

CARETAKER

An individual or company, other than the licensee, who is responsible for the oversight and care of the short-term rental.

DOMESTIC PETS

Dogs, cats and other animals customarily housed within a dwelling.

DWELLING

A single unit providing complete independent living facilities for occupancy including permanent provisions for living, sleeping, eating and cooking.

DWELLING UNIT

A structure erected on site, or a mobile home or mobile structure,

including recreational vehicles and trailer campers, designed primarily for the shelter, support or occupation of persons. A building or portion thereof used for human habitation which provides facilities for living, sleeping, sanitation, cooking and eating purposes. For the purpose of Short-Term Rentals, a dwelling unit shall include recreational vehicles and campers with such facilities.

HOME OCCUPATION

An occupation carried on in a family dwelling or accessory building conducted only by members of a family residing on the premises.

LICENSE

A periodical short-term rental license duly issued by Clearwater Township.

LICENSE HOLDER

The owner or authorized agent of the property, who applies and receives a shortterm license.

OWNER

A person or entity that holds the legal title to the property.

PARKING SPACE

One (1) unit of area provided for the safe parking of one (1) motor vehicle within the property lines of a property and not over a septic field.

PERSON

An individual, sole proprietorship, partnership, corporation, limited liability company, or association.

RENTER

As used in this Ordinance, a renter is the occupant or renter of a short-term rental pursuant to a rental agreement, whose name and signature appear on the rental agreement. The term "renter" as used herein does not include guests of the occupant or renter who are visiting between the hours of 7:00 am and 11:00 pm.

SHORT-TERM RENTAL

A short-term rental is a dwelling unit in which guests (transient) are provided lodging for a period less than 30 days, in return for payment and which the dwelling is not occupied by the owner or caretaker permanently.

ZONING ADMINISTRATOR

The appointed officer of Clearwater Township established under Ordinance 22 to effect proper administration and enforcement of this Ordinance.

ZONING BOARD OF APPEALS

The Clearwater Township Zoning Board of Appeals established under Ordinance 22 shall hear all appeals concerning the enforcement of this Ordinance.

ARTICLE VI LICENSING

6.01 License Required

- 1) An owner of any dwelling unit located within Clearwater Township, or authorized agent, shall not rent or allow to be rented, a dwelling unit or a portion thereof to another person for less than 30 nights 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.
- 2) A License issued by the Township Zoning Administrator is required prior to the rental of any dwelling unit for a period of less than 30 days. A license shall be valid for a period of 3 to 5 years or until a change in ownership.
- 3) All license registrations must be renewed annually. The license registration fee shall be paid for each calendar year prior to January 1st of the successive rental year.

6.02 License

- 1) Initial licenses shall be issued at intervals of 3, 4 and 5 year terms.
- 2) All subsequent license renewals shall be for a period of 4 years.
- 3) A license will be issued within 60 days of receipt of a completed and approved application, and license fees paid.

- 4) The license shall indicate the maximum number of occupants that can be accommodated at the rental in accordance with the standards listed in this Ordinance.
- 5) The license and license holder shall be subject to all standards and penalties of this Ordinance for short-term rentals.
- 6) All licenses expire on December 31st of the final calendar year of the license or upon failure to pay annual registration fee, or upon transfer of ownership of property. Applicants may apply for a license anytime for a license effective in the same calendar year. Applicants may apply for a license or license renewal beginning no sooner than October 1st of the upcoming calendar year. The Township may provide for the ability to submit applications electronically.
- 7) The number of licenses issued shall be capped on January 1st, 2025.
- 8) The caretaker, owner, or agent shall be available to respond to renter and/or neighbor concerns to take remedial action or respond to any violation of this, or other ordinances. (Noise, Nuisance)
- 9) The license fee shall be \$500 per calendar year per unit licensed.

6.03 License Application

- 1) An application for a short-term rental license shall include the following at a minimum:
 - a) Property owner name
 - b) Address of short-term rental property, and tax parcel number
 - c) Zoning district of property location
 - d) Owner, agent, and caretaker phone numbers and emails
 - a. A notarized “designated agent” authorization document shall be required for absentee owners or corporate entities.
 - e) Signature(s) of property owner(s) and/or caretaker(s)
 - f) Number of legally conforming bedrooms in the dwelling.

- g) Location of smoke/CO2 detectors.
 - h) Floor plan showing location and egress routes of all regulation bedrooms, and locations of fire extinguishers.
 - i) Contact information including: name, address, emails, and 24-hour contact phone number(s) for the owner(s) of the property and/or the owner's agent or caretaker(s).
 - j) A site plan indicating location and number of parking spaces within the property lines.
 - k) Septic and Well Status Report. In the absence of having or being able to obtain a septic and well status report from the Health Department, a third-party inspection report from a qualified expert documenting the number of bedrooms that can be accommodated pursuant to County Health department regulations concerning tank sizes and bedrooms by the current septic system shall be provided with an initial application. Renewal applications must provide a new septic inspection report certifying the septic system is currently in good operational status.
 - l) The licensee acknowledges responsibility to inform the Township of any change in license, application, contact information for the license holder, agent or caretaker and keep up to date in the Township's records. Fees are established and set forth in the Township fee schedule, and this Ordinance. This fee schedule shall also establish an "after the fact" fee that must be paid when an otherwise lawful short-term rental is operated 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 a reasonable 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.
 - m) A complete list of all websites and other media where the unit is advertised.
- 2) A \$300 application fee shall be paid upon submission of a completed application for all Short-Term Rental units.

6.04 Limitations (R-1 zoned districts)

1) For the period beginning the Friday prior to Memorial Day to the Tuesday following Labor Day, in zone Residential-1 only, the minimum rental length shall be seven (7) days.

6.05 Standards

1) Parking.

a) No less than one (1) parking space per two legally conforming bedrooms or studio apartments shall be provided for overnight parking by short-term renters.

2) Trash.

a) Refuse and recyclables shall be stored in appropriate containers with secure lids and shall be regularly picked up by a licensed waste hauler weekly or taken to an appropriate disposal location.

3) Capacity Limit.

1) The maximum number of short-term rental occupants shall be the lesser of:

a) Two (2) persons over the age of 18 per legally conforming bedroom or studio apartment, plus a total of two (2) additional guests over the age of 18. Persons under the age of 18 accompanied by a parent or guardian do not count against the maximum capacity limit.

b) The capacity limit may be reduced as required by limits of the current well and septic report from the Kalkaska Health Department, or third-party contractor; limiting the number of bedrooms the system is designed to support.

c) Twelve (12) occupants total. Exceptions to this limitation may be requested from the Code Enforcement Officer and granted on a case-by-case basis, not to exceed three (3) granted per calendar year.

- d) **Insurance:** The property owner must provide adequate landlord type insurance to protect all parties involved (renters, neighbors, Clearwater Township) from hazards and accidents. A certificate of insurance must be submitted with each application.

Reviewed and amended to this point...

6.06 Conduct

The property owner is responsible for the conduct of renters. A Good Neighbor policy brochure, provided by Clearwater Township, shall be visibly displayed during periods of short-term rental. All applicable local, state and federal laws, rules, regulations and ordinances shall not be violated.

- 1) Noise during quiet hours must be limited to conversational level. Quiet hours shall be from 10:00 pm until 8:00 am.
- 2) The overnight occupancy of renters' tents, RVs, campers or boats during periods of short-term rental is prohibited.
- 3) A secondary dwelling unit on a single parcel may be used as a short-term rental provided it has a separate license and meets the requirements of Ordinance 22, Article XIII, 13.03.c
- 4) Pets shall be secured on the premises or on a leash at all times.
- 5) All campfires at a short-term rental property shall:
 - a. Be contained within a fire ring or other noncombustible containment.
 - b. A fire extinguisher, or a charged hose shall be located within 10 feet of any fire pit.

- c. Be located no less than 10 feet from any structure or other combustible material.
 - d. Be under the supervision of an adult at all times.
 - e. Be fully extinguished prior to leaving the fire.
- 6) Respect for neighbors and the community is essential. Trespassing, excessive noise, trash, and parking complaints will be investigated, and citations and/or violations will be issued to the owner, renter or both.
- 7) A visitor guide to the expected conduct of renters and guests shall be provided to each renter and posted in each rental unit. The Zoning Administrator or Code Enforcement Officer shall provide copies sufficient upon issuing a license.

6.07 Septic and well status

- 1) A Septic and Well Status Report shall include the following:
- a) The Septic and Well Status Report from the Kalkaska County Health Department shall clearly indicate the number of legally conforming bedrooms the system was designed and permitted for under standards of the Kalkaska County Health Department's Environmental Health Regulations when permitted and built. It is the license holder's responsibility to ensure that the septic and well systems are in good operational status. For septic systems that were permitted or last inspected more than five years prior to the application, the Township may require a further report from the Kalkaska County Health Department or a qualified third-party contractor indicating that the septic and well system is in good operational status.
 - b) The license holder has the responsibility to keep the septic system in good operational status and to address all malfunctions in a timely manner. If a septic system malfunction occurs and it is not corrected within a reasonable time (not to exceed three (3) days), short-term rental of the property shall be immediately discontinued, and the Township notified of the malfunction. The use of the property as a short-term rental shall not resume until the malfunction is corrected in accordance with Kalkaska County Health Department requirements and written verification provided to the Township.

- c) If there is no septic disposal permit on file with the Kalkaska County Health Department or the owner of a proposed short-term rental intends to replace the on-site septic disposal system to conduct a short-term rental, the Township may issue a short-term rental license for the current calendar year only, subject to all of the following:
- d) Units requiring a new inspection of the system by a licensed contractor shall provide a new Septic and Well Status Report as defined in this ordinance. The new report will be used to determine the number of legally conforming bedrooms the on-site septic system can accommodate, provided the inspector has found the system in good operational status. The applicant shall then provide a copy of a current permit issued by the Kalkaska County Health Department for any replacement or upgrade of the on-site septic disposal system to meet all current standards.

6.08 Owner/agent Emergency Response

- 1) The license holder, owner's agent, or a caretaker representing the property owner must be available by telephone and the license holder, caretaker or their authorized agent must be physically located within 60-minute travel distance of the property in the event of an emergency or an issue that requires immediate attention.
- 2) When notified of an issue of immediate concern by the Clearwater Township Code Enforcement Officer or a law enforcement officer (such issues may include, but are not limited to law or ordinance violations, fire or medical emergencies), the license holder or a caretaker shall take reasonable steps to resolve the issue within one (1) hour of a notification and will provide details of such steps taken to resolve the issue upon request of the Clearwater Township Code Enforcement Officer. Issues of a non-immediate concern (such issues may include, but are not limited to, failure to include the license number in advertisements or incorrect guest capacity included in advertisements) shall be satisfactorily addressed within two (2) business days.

6.09 License Number Required

- 1) The unique short-term rental license number issued by the Township shall be included in any advertisement for the rental. The street address for the short-term rental shall be assigned in accordance with the Kalkaska County Street and Road Numbering Ordinance and clearly visible from the street.

6.10 Applicable Rules

- 1) The license holder or caretaker shall provide written notification to an occupant and/or a guest, of all rules of this ordinance and the renter and property owner may be cited for a violation of this ordinance, the Township Noise Ordinance the Township Fireworks Ordinance, as amended, in addition to any other remedies available to the Township.

6.11 Violations, Fines, Suspension

- 1) **Violation notice.** If the Clearwater Township Code Enforcement Officer has reason to believe the application material on which a license was issued contained false, incorrect, or misleading information and/or statements or that the short-term rental no longer complies with the standards contained in this ordinance, the Clearwater Township Code Enforcement Officer may, but is not required to, prepare or cause to be prepared a written notice of a fine or suspension. Any such notice must contain detailed reasons for the fine or suspension, including but not limited to the date, time and statement of the incident(s) in violation of the ordinance.
- 2) **Service of notice.** The written notice, along with the time, date, and place shall be served on the license holder, agent or caretaker by email, personally or by certified or registered mail. A hearing before the Clearwater Township Board, to occur no later than twenty-one (21) calendar days from the date of the fine or suspension, may be requested by the owner.
- 3) **Violation hearing.** Any violation notice once prepared and served, the Township Board may hold a hearing at which time the license holder, agent or caretaker shall have opportunity to show cause why a fine should not be levied or why the short-term rental license issued under this ordinance should be reinstated. At the hearing before the Township Board the license holder and caretaker shall be given an opportunity to address adverse witnesses and present evidence and any legal arguments. The license holder, agent or caretaker 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, agent or caretaker.
- 4) **Fraudulent complaints.** Any person who knowingly files a fraudulent or misleading 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 penalties under this ordinance and misdemeanor infractions.

6.12 Violations

- 1) Any of the following will be considered a violation of this Ordinance if not remedied in a timely manner in accordance with the terms of this, or other ordinances:
 - a. Failure to update information with the Township such as the caretaker's or owner's contact information in a timely manner.
 - b. Advertising a short-term rental for a capacity in excess of that allowed under the license issued by the Township.
 - c. Failure of the license holder or his/her designated caretaker or agent to be available in a timely manner after reasonable attempts to contact them for issues of immediate concern in connection with short-term rentals.
 - d. Providing false or misleading information on the application for a short-term rental license.
 - e. Failure to obtain a short-term rental license while operating a short-term rental as defined in this Ordinance
 - f. Failure to comply with any of the standards under this Ordinance

6.13 Fines

- 1) Any person, license holder, or caretaker who knowingly violates any provision of this Ordinance, including above, shall be subject to the following fines after notice and hearing described in section above:
 - a. First violation for each short-term rental = \$500 fine
 - b. Second violation = \$750 fine
 - c. Third violation = \$1000 fine (and suspension of license.)

6.14 Suspensions

- 1) When a short-term rental license has been issued citations/violations three times, the Township Board with good cause may, but is not required to, revoke the license after notice and hearing as provided herein. Any additional

violation(s) committed by the license holder within two (2) years of the expiration of a suspension shall be grounds for a second suspension. If more than two (2) years since the expiration of an initial suspension, any subsequent violation shall be deemed a first violation.

6.15 Length and timing of suspensions

- 1) Suspension shall generally be effective the following calendar year, beginning January 1.
 - a. First suspension – one (1) year.
 - b. Second suspension – one (1) year.
 - c. Third suspension – revocation of STR license(s).
- 2) The foregoing sanctions are in addition to the Township's right to seek other appropriate and proper remedies, including actions in law or equity.

This ordinance shall not apply to use of property by the property owners and their guests.

ARTICLE VII ENFORCEMENT

7.01 Enforcement officials

The Township Ordinance Enforcement Officer (Zoning Administrator), or other official designated by the Township Board, is hereby designated as the authorized official to issue, or cause to be issued, municipal civil infractions directing alleged violators of this Ordinance to appear in court. The Kankaskas County Sheriff's department may also enforce this Ordinance.

- 1) The Township Board may appoint an Enforcement Officer to assist the Zoning Administrator in the organization, administration and enforcement of this Ordinance. The Board may also hire a private contracting firm to organize, track and update all applications, licenses, violations and legal proceedings concerning the execution of this Ordinance.

7.02 Enforcement action

- 1) In addition to enforcing this Ordinance by a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate any recurring violations of this Ordinance.

ARTICLE VIII 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 application of this Ordinance which can be given effect without the invalid portion or application.

ARTICLE IX EFFECTIVE DATE

This Ordinance shall become effective October 1, 2024, after its publication in the manner provided by law.

THE ORDINANCE WAS DECLARED ADOPTED.

CLEARWATER TOWNSHIP

BY:

Thomas Backers, Supervisor

CLERK'S CERTIFICATE

I, the undersigned, the Clerk of the Township of Clearwater, Kalkaska County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Clearwater Township Board of said municipality at its regular meeting held on the day off, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Dated:

Christine Johnson, Clearwater Township Clerk

Effective Date: A notice of adoption shall be published in a newspaper of general local circulation. In full or summary.