

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

Ordinance No. 5 of 2019

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 ordinance 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 requires all persons who desire to operate a short-term rental located anywhere within East Bay Charter Township to obtain a license from the Office of Planning & Zoning under the terms and conditions of this ordinance.

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.

"Dwelling unit" means a group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes. A dwelling unit, however, shall not include an adult motel, bed and breakfast, cabin court, hotel or motel, and lodging house as those terms are defined and regulated under the East Bay Charter Township Zoning Ordinance.

"Immediate neighbors" means the owners and occupants of property that are contiguous to the premises on which the short-term rental is located and the property that is separated from the premises on which the short-term rental is located by a public or private road. For the purpose of this definition, a property is separated from the premises on which the short-term rental is located by a public or private road if any portion of the property, as measured between the property's side lot lines as extended to the center of the road, is contiguous with the premises

on which the short-term rental is located, as measured between the premises' side lot lines as extended to the center of the road.

"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(c) 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 property on which a short-term rental will be located.

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

"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 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 nights 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 anywhere within East Bay Charter Township shall not rent, or allow to be rented, a dwelling unit 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.

Section 5. Application for short-term rental license.

- (a) Responsibility. The owner, either directly or through an authorized agent, shall apply for a short-term rental license through the submission of a short-term rental license application.
- (b) Application Information Required. 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 documentation and information reasonably required to demonstrate current and continuing compliance with the standards and regulations contained in Section 6 of this ordinance and all of the following information:
- (1) The name, address, telephone numbers (home, work, or cell phone), and email address of the owner of the proposed short-term rental.
 - (2) An affidavit signed by the owner of the proposed short-term rental granting authority to the applicant to act on behalf of the owner to request a license under the ordinance.
 - (3) The name, address, telephone numbers (home, work, or cell phone), and email address of the applicant, if different than the owner.
 - (4) If the owner of the proposed short-term rental does not qualify as, or does not desire to be, the local agent as defined in this ordinance, then the written designation by the owner of a local agent, including the name, address, telephone numbers (home, work, or cell phone), and email address of the local agent.
 - (5) The address of the proposed short-term rental.
 - (6) Parcel Identification No. for the proposed short-term rental.
 - (7) Proof of premises ownership.
 - (8) Any deed restrictions or use limitations in the subdivision covenants and restrictions or the condominium master deed and/or bylaws applicable to the short-term rental premises.
 - (9) A floorplan drawing of the proposed short-term rental that includes the number of bedrooms intended to be occupied as part of the short-term rental.
 - (10) The proposed frequency for and maximum occupancy of the short-term rental.
 - (11) A drawing of the premises on which the short-term rental will be located that includes all buildings on the premises and the location where all motor vehicles, boats, campers and trailers will be parked.

- (12) Documentation that the posting and notification requirements concerning the local agent has been and will continue to be completed.
- (13) Documentation that the waste/recycling, advertising, safety, and wastewater disposal requirements of the ordinance have been and will continue to be met.
- (14) Documentation that copies, summaries, or website addresses of the Township Noise Ordinance and Fireworks Ordinance, as they may be amended from time to time, will be provided to the occupants of the short-term rental prior to occupancy.
- (15) A notarized affidavit that the immediate neighbors, as defined in this ordinance, have been notified of the address of the short-term rental premises and contact information for the local agent. The affidavit shall include the names and addresses of the immediate neighbors to whom the notice was sent.
- (16) Photographs of the short-term rental premises documenting compliance with the Township Junk Ordinance.
- (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. The Office of Planning & Zoning shall determine whether a short-term rental license application is complete within ten (10) business days after the application is submitted. If the Office of Planning & Zoning determines that all required information was not supplied and/or if the applicant fails to pay the required, 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 ten (10) business days. All short-term rental licenses issued under this ordinance shall be sequentially numbered.

Section 6. Short-term rental standards and regulations.

A license for a short-term rental shall be issued by the Office of Planning & Zoning when all of the following standards and regulations are met.

- (a) Deed restrictions/bylaws. The short-term rental is not in violation of any deed restriction or use limitations contained in a condominium master deed and/or bylaw applicable to the premises.
- (b) Short-term rentals. The short-term rental is for any period from one (1) night to thirty (30) nights and no more than one (1) short-term rental occurs in any four (4) night period. For purpose of this subsection, the first night of a subsequent short-term rental shall be no less than four (4) nights from the first night of the previous short-term rental. Provided, however, any contracts that were entered into before the effective date of this ordinance for short-term rental occupancy dates in 2019 shall not be subject to the requirements of this subsection.
- (c) Occupancy. The maximum occupancy for the short-term rental is no more than two (2) persons per bedroom, plus four (4) other individuals.
- (d) Designation of a local agent. If the license holder does not qualify as, or does not desire to be, a local agent, then the license holder designates a local agent and authorizes in writing the local agent to act as the license holder's agent for any acts required of the license holder under this ordinance.
- (e) Information. Documentation is submitted that all notification information for the owner, license holder, and local agent shall be kept current and up-to-date.
- (f) Parking. Motor vehicles, boats, campers and trailers shall be parked on the short-term rental premises and not parked along any public or private roadway.
- (g) Waste/recycling disposal. Documentation is submitted that occupants of the short-term rental will be notified prior to occupancy that they are not allowed to leave, or others are not allowed 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 premises containing the short-term rental.
- (h) Advertising. Documentation is submitted that all advertising for the short-term rental shall display the number of the license issued under this ordinance.
- (i) Safety. Documentation is submitted that all of the following safety requirements have and will continue to be met:
 - (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 premises and emergency contract phone numbers shall be clearly displayed in the short-term rental for access by the occupant(s).

(5) Each sleeping room shall have two (2) legal means of egress to the exterior from the short-term rental. (A legal door and another means to escape to the exterior, such as a legal egress window, second door, etc.)

(6) The street address for the short-term rental shall be a minimum of four (4) inch numbers and posted on both sides of the mailbox and on the building, and be clearly visible from the street.

(j) Wastewater Disposal. For those short-term rentals not connected to a public sewer system, the wastewater disposal system shall be properly functioning, be maintained in a properly functioning condition, and examined a minimum of once every three (3) years. As used in this subsection, "properly functioning" may include, but shall not be limited to, written documentation from a commercial septic hauler that the holding tank is being pumped on a regular basis given the size of the holding tank and that at least once every three (3) years the septic tank and/or dry-well has been pumped or that pumping is not required at the time of the examination.

(k) Rules and regulations to be provided to occupants. Documentation is submitted that the license holder or local agent will provide all occupants of a short-term rental with the following information prior to occupancy and will post such information in a conspicuous place within each short-term rental:

(1) The name of the license holder and/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, summaries, or website addresses of the Township Noise Ordinance and Fireworks Ordinance, as they may be amended from time to time.

(4) A copy or website address 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.

- (l) Violation of township ordinances. Documentation is submitted that the occupants of a short-term rental and the guests of those occupants will be informed prior to occupancy that they can be held responsible for violations of the Township Noise Ordinance and the Township Fireworks Ordinance.
- (m) Pets. Documentation is submitted that the occupants of a short-term rental and the guests of those occupants will be informed prior to occupancy that all pets must be secured on the premises or on a leash at all times.
- (n) 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 nights or less.
- (o) Compliance with township junk ordinance. Prior to the issuance of a license and at all times during which a license remains in effect, the short-term rental premises is kept in compliance with the Township Junk Ordinance.

Section 7. Duration of License; Renewal.

- (a) A license issued under this ordinance shall remain in effect for a period of one (1) year from the date it was issued.
- (b) The license holder or local agent may request the renewal of a license upon submitting an application for such renewal to the Office of Planning & Zoning and the payment of the renewal fee, as determined from time to time by the Township Board in the Township fee schedule.
- (c) All information submitted with the prior application(s) shall be deemed submitted with the application for renewal. Except for new photographs of the short-term rental premises documenting continued compliance with the Township Junk Ordinance, which shall be submitted with any application for renewal, the license holder or local agent shall only be required to submit new information with the application for renewal when that application information has changed since the last application was filed.
- (d) A renewal license for a short-term rental shall be issued when all of the standards and regulations then in effect in Section 6 of this ordinance are met.

Section 8. 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 9 of this ordinance and may subject the license holder and/or local agent to court enforcement proceedings and the penalties under Section 10 of this ordinance.

Section 9. 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 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 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 nights 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 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 10. 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, deputies of the Grand Traverse County Sheriff, 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 11. 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 12. Repeal.

The East Bay Charter Township Short-term Rental Licensing Ordinance, being Ordinance No. 2 of 2018, is hereby repealed in its entirety.

Section 13. 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 14. 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. 5 of 2019 was adopted on July 8, 2019, by the East Bay Charter Township Board as follows:

Motion by: Bartlett

Seconded by: Hentschel

Yeas: Bartlett, Hentschel, Courtade, Marrow

Nays: Walters, Lile, Friend

Absent: None



Beth Friend, Supervisor



Susanne M. Courtade CMMC/MMC, Clerk

CERTIFICATION

I Susanne M. Courtade, being the duly elected and acting Clerk of the Charter Township of East Bay, Grand Traverse County, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of an Ordinance duly adopted by the Township Board at a regular meeting held on July 8, 2019, at which meeting a quorum was present and remained throughout, (2) that an original thereof is on file in the records of the Township, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.



Susanne M. Courtade CMMC/MMC, Township Clerk

ORDINANCE DATES

Introduced: June 10, 2019

Introduction Posted: June 11, 2019

Introduction Published: June 16, 2019

Adopted: July 8, 2019

Adoption Posted: July 9, 2019

Adoption Published: July 14, 2019

Effective: July 15, 2019