

TOWNSHIP OF CLEARWATER
KALKASKA COUNTY, MICHIGAN

ORDINANCE NO. 07122021.2

This Ordinance is intended to protect and promote the health, safety, and general welfare of all the citizens of Clearwater Township by requiring the registration and licensure of short-term rentals within the Township. It is also the intent of the ordinance to protect the integrity of residential neighborhoods while allowing property owners to receive remuneration from rental of a dwelling unit.

CLEARWATER TOWNSHIP HEREBY ORDAINS:

1) DEFINITIONS

- a) **Caretaker** – A caretaker is an individual or company, other than the license holder, who is responsible for the oversight and care of the short-term rental.
- b) **License** – A license is an annual short-term rental license duly issued by Clearwater Township.
- c) **License Holder** – The owner or authorized agent of the property, who applies for and receives a short-term license.
- d) **Renter** – As used in this Ordinance, a renter is an occupant or renter of a short-term rental pursuant to a 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.
- e) **Short-Term Rental** – A short-term rental means 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 / caretaker in any way.
- f) **Parking Space** – One (1) unit of area provided for the safe parking of one (1) vehicle within the property lines of a property.
- g) **Bedroom** – A legally conforming bedroom for purposes of this ordinance means a space with at least 70 square feet of floor space (including beds), two forms of egress as allowed at the time the property was permitted and built, and a smoke alarm, or as otherwise permitted by the Kalkaska County Health Department.

2) LICENSE REQUIRED

An owner of any dwelling unit located anywhere within Clearwater Township 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. A License issued by the Township Zoning Administrator or other authorized personnel is required prior to the rental of any dwelling for a period of less than 30 days.

- a) A license shall be valid for a period of 3 years or until a change in ownership.
- b) A license is required for each dwelling to be rented on a short-term basis.
- c) A license will be issued within 30 days of receipt of a complete application.
- d) The license shall indicate the maximum number of guests that can be accommodated at the rental in accordance with the standards listed in this Ordinance.
- e) A license and license holder shall be subject to all of the standards and penalties of this Ordinance for short-term rentals.
- f) Licenses will expire on December 31st of the third calendar year or upon failure to pay annual registration fee. 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 for the upcoming calendar year. The Township shall provide for the ability to submit applications electronically.

3) APPLICATION

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
- c) Owner and caretaker phone numbers and emails
- d) Signature(s) of property owner(s) and/or caretaker(s)
- e) Number of bedrooms in the dwelling.

- f) Contact information including: name, address, emails, and 24-hour contact phone number(s) for the owner(s) of the property and/or the caretaker(s).
- g) A site plan indicating location of and number of parking spaces within the property lines.
- h) 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 aerobic treatment units, tank sizes and bedrooms, as applicable, by the current septic system shall be provided with an initial application. Renewal applications may rely on a prior report provided the septic system is currently in good operational status.
- i) It is the license holder's responsibility to inform the Township of any change in license or contact information for the license holder or caretaker and must be kept up to date in the Township's records.
- j) 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 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.

4) STANDARDS

- a) Parking. 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. No overnight on-street parking of any motor vehicles or any trailered vehicles (including by way of example but not limited to boats, jet skis, trailers and snowmobiles) on any public roadways shall be permitted by short-term renters. However, nothing in this ordinance shall prohibit short-term renters and their guests from utilizing on-street parking on public roadways where members of the public are allowed to park between the hours of 7:00 am and 11:00 pm. All overnight parking by short-term renters shall be in the driveway or garage servicing the short-term rental or within the property lines of a property as provided in the parking site plan. For purposes of this Ordinance, "roadway" includes the pavement, gravel road, shoulder, and full road easement or right-of-way.

- b) Trash. Refuse and recyclables shall be stored in appropriate containers with tight-fitting lids and shall be regularly picked up by a licensed waste hauler weekly or taken to an appropriate disposal location.
- c) Capacity Limit. The maximum number of short-term renters shall be equal to two (2) persons over the age of 18 per legally conforming bedroom or studio apartment, plus persons under the age 18 accompanied by a parent or legal guardian and two (2) guests over the age of 18 per dwelling, or as permitted by the Kalkaska County Health Department or third party well and septic report, regarding tank sizes and bedrooms, whichever is less.
- d) All applicable local, state and federal laws, rules, regulations and ordinances shall not be violated.

5) SEPTIC AND WELL STATUS REPORT

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 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 a septic system that were permitted more than five years prior to the application, the Township may require a further report from the Kalkaska County Health Department or by a qualified third party expert indicating that the septic and well system is in good operational status.
- b) In the event that there is no septic disposal permit on file with the Kalkaska County Health Department, the Septic and Well Status Report shall include a determination by the Kalkaska County Health Department or by a qualified third party expert documenting the number of bedrooms the on-site septic system can accommodate and that the system meets all current standards of the Kalkaska County Health Department's Environmental Health Regulations and the system is in good operational status.
- c) The license holder has a responsibility to always 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 seven (7) business 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 verification provided to the Township of same.

- d) In the event that there is no septic disposal permit on file with the Kalkaska County Health Department and the owner of a proposed short-term rental intends to replace the on-site septic disposal system in order to conduct a short-term rental, the Township may issue a short-term rental license for the calendar year only, subject to all of the following:
- i. A current Septic and Well Status Report as defined in this ordinance will be used to determine the number of bedrooms the on-site septic system can accommodate provided that the inspector has made a conclusion finding that the system is in good operational status.
 - ii. The applicant provides a copy of a current permit issued by the Kalkaska County Health Department for replacement or upgrade of the on-site septic disposal system to meet all current standards.

6) EMERGENCY RESPONSE

The license holder or a caretaker representing the property owner must be available by telephone at all times and at least one of the license holder, caretaker or their authorized agents 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.

7) REMEDY

When notified of an issue of immediate concern by the Clearwater Township Ordinance Enforcement Officer or a law enforcement officer (such issues may include, but are not limited to, noise or quiet hour violations), 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 Ordinance 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.

8) LICENSE

- a) The unique short-term rental license number issued by the Township shall be included in any advertisement for the rental.
- b) The street address for the short-term rental shall be signed in accordance with the Kaskaska County Street and Road Numbering Ordinance and clearly visible from the street.
- c) Quiet Hours. Short-term rentals shall observe quiet hours between 11:00 pm and 7:00 am.
- d) Pets. Pets shall be secured on the premises or on a leash at all times.
- e) Campfires. Any campfires at a short-term rental property shall:
 - i) Be contained within a fire ring or other comparable container
 - ii) Be located no less than 10 feet from any structure or other unsafe combustible material.
 - iii) Be under the supervision of an adult at all times.
 - iv) Be fully extinguished prior to leaving the fire.

9) APPLICABLE RULES

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

10) FINES AND SUSPENSIONS OF LICENSE

- a) Violation notice. If the Clearwater Township Ordinance 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, then the Clearwater Township Ordinance Enforcement Officer may, but is not required to, prepare or cause to be prepared a written notice of a fine or suspension, as the case may be based on subsection (c) below. Any such notice must contain detailed

reasons for the fine or suspension, including but not limited to the date, time and reasons for any violation of the ordinance.

- b) Service of notice. The written notice, along with the time, date, and place of the hearing before the Clearwater Township Board to occur no later than twenty-one (21) calendar days from the date of the fine or suspension, shall be served on the license holder and caretaker by email and either personally or by certified mail, restricted delivery and return receipt requested.
- 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 and caretaker shall be given an 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 confront adverse witnesses and present evidence and legal arguments. The license holder and 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 and caretaker.
- d) Fraudulent complaints. Any person who knowingly files a fraudulent, false, frivolous 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 this ordinance and misdemeanor infractions.

11) VIOLATIONS

- a) Violations. 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 the Ordinance:
 - i) Failure to update information with the Township such as the caretaker's or owner's contact information in a timely manner.
 - ii) Advertising a short-term rental for a capacity in excess of that allowed under the license issued by the Township.
 - iii) Failure of the license holder or his/her designated caretaker or their agents to be available in a timely manner after reasonable attempts to contact them for issues of immediate concern in connection with short-term rentals.

- iv) Providing false or misleading information on the application for a short-term rental license.
 - v) Failure to obtain a short-term rental license when operating a short-term rental.
 - vi) Failure to comply with any of the standards under this Ordinance.
- b) 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 10(a) above:
- i) First violation for each short-term rental = \$500 fine
 - ii) Second violation = \$750 fine
 - iii) Each subsequent violation = \$1000 fine
- c) Suspensions. After a short-term rental license has been fined five times, the Township Board with good cause may, but is not required to, suspend 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 the last suspension may 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.
- d) Length and timing of suspensions. Suspensions shall generally be effective the following calendar year beginning on Labor Day absent good cause.
- i) First suspension – one (1) month.
 - ii) Subsequent suspensions – two (2) months.

The foregoing sanctions are in addition to the Township's right to seek other appropriate and proper remedies, including actions in law or equity.

- e) Non-Violations. This ordinance shall not apply to use of a property by its owners and their guests residing at a property for less than 30 days.

12) ENFORCEMENT OFFICIAL.

The township ordinance enforcement officer is hereby designated as the authorized official to issue municipal civil infractions directing alleged violators of this Ordinance to appear in court.

13) ACTION

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 any nuisance or violation of this Ordinance.

14) 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.

15) EFFECTIVE DATE

This Ordinance shall become effective February 1, 2023, after its publication in the manner provided by law. However, for calendar year 2023:

- (i) For all septic systems over five (5) years of age, a Septic and Well Status Report shall not be due before September 4, 2023, and
- (ii) For all septic systems less than five (5) years of age, a Septic and Well Status Report shall not be due before April 1, 2024.

THE ORDINANCE WAS DECLARED ADOPTED.

CLEARWATER TOWNSHIP

BY: _____
MR, 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:

Judith L. Kramer
Clearwater Township Clerk

A notice of adoption has to be published in the paper as well. Full or summary.

Publish date: Effective date: January 1, 2024

Revised

Publish date:

Effective date: