

## EVELINE TOWNSHIP

### Short-term Rental Licensing Ordinance Amendment

Ordinance No. XX of 2021

Text deletions from the existing Eveline Township Short Term Rental are in a ~~red-strikethrough~~. Text additions to the short-term rental ordinance proposed in October 2020 are in red. Text additions to the short-term rental ordinance proposed in February 2021 as a result of attorney feedback are in green. Text additions made in March 2021 are in blue.

**AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945 ~~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 EVELINE TOWNSHIP BY THE LICENSING AND REGULATION OF SHORT-TERM RENTALS, TO PROVIDE PROCEDURES FOR THE SUSPENSION AND REVOCATION OF SHORT-TERM RENTAL LICENCES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE**

#### EVELINE TOWNSHIP HEREBY ORDAINS:

##### Section 1. Purpose

This ordinance is intended to protect and promote the health, safety and welfare of all the citizens of Eveline 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 ~~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 Eveline 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. *This ordinance shall not apply to bed and breakfast establishments regulated under the Eveline Township Zoning Ordinance.*

##### Section 3. Definitions

As used in this ordinance:

**Bedroom:** A room which is intended, arranged, and designed to be occupied by one or more individuals primarily for sleeping purposes, as determined by the Zoning Administrator.

*Driveway:* A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

*Dwelling Unit:* A building or portion of a building providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, cooking, sanitation, and a separate bedroom(s) for sleeping.

**License holder:** The person who applies for and receives a short-term rental license from Eveline Township. A license holder may or may not be the owner of the dwelling unit where the short-term rental is located.

**Local agent:** 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.

**Maximum occupancy:** The maximum number of allowable occupants and the guests of those occupants for a short-term rental, as established in Section 7 (item 2) of this ordinance.

**Minor:** A person under the age of eighteen (18).

**Occupant:** An individual living in, sleeping in, or otherwise being physically present within a short-term rental.

**Owner:** 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.

**Parking Space:** An improved designated area on the property where a short-term rental operates that is legally available for the occupants to park motorized vehicles and trailers. This may include garages, carports, parking lots, and driveways. This does not include yards and street right-of-ways.

**Person:** An individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

**Premises:** The land and the improvements on it.

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

**Rental frequency:** How often a short-term rental may be rented in a given period of time, regardless of the length of stay.

**Short-term rental:** A dwelling unit that is rented in total or part for less than thirty (30) days at a time during the calendar year provided, however, a short-term rental does not include a bed and breakfast establishment regulated under the Eveline Township Zoning Ordinance.

#### **Section 4. License required.**

An owner of any dwelling unit located within Eveline Township shall not rent, or allow to be rented, a short-term rental unless the owner or the owner's authorized agent has obtained a short-term rental license in accordance with the requirements of this ordinance.

#### **Section 5. Application for short-term rental license.**

1. 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.
2. Application form. A person seeking a license under this ordinance shall submit a complete application, certified as being true, to the Zoning Administrator. The application shall include all the information specified on the short-term rental application form and any other information deemed reasonably necessary by the Zoning Administrator to determine whether the short-term rental standards and regulations have been met.
3. 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.
- ~~4. Complete application. A short-term rental license application shall not be considered accepted until the Zoning Administrator deems it to be complete. If the Zoning Administrator determines that all required information was not supplied and/or if the applicant fails to pay the required fee, then the Zoning Administrator 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 Zoning Administrator on that basis.~~
4. Eligibility for Short-term Rental; Complete application. Due to the limited number of short-term rentals authorized under this Ordinance, an applicant shall be eligible for a short-term rental license based on the chronological order of when the application is considered accepted. A short-term rental license application shall be considered accepted when the Zoning Administrator deems it complete. If the Zoning Administrator determines that all required information was not supplied and/or the applicant fails to pay the required fee, the Zoning Administrator 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, the application shall be deemed incomplete and shall be denied by the Zoning Administrator. Once deemed complete and eligible for a short-term rental license, if an application complies with all the Ordinance standards and regulations, the Zoning Administrator shall approve the short-term rental license within seven (7) Township business days.
5. License. Once deemed to be complete, if an application complies with all the standards and regulations of this ordinance, the Zoning Administrator 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. All licenses are for ~~three (3) years~~ one (1) year beginning on the first day of the month the license was issued and ending on December 31<sup>st</sup> of the calendar year the license was issued. Licenses are to be renewed annually ~~every three (3) years~~ subject to the Zoning Administrator's confirmation of compliance by the license holder with this ordinance.

6. License Renewal Requirement. Prior to renewing a license, the Zoning Administrator shall verify that the applicant's short-term rental is in good standing and that no written complaints or communications have been submitted by the applicant's neighbors or nearby residents to suggest that the applicant's short-term rental has violated a provision of this ordinance. If communications have been received that suggest that the applicant's short-term rental has violated any provision of this ordinance, the Planning Commission shall hold a violation hearing as specified in Section 9 (3) of this ordinance to determine whether the complaint constitutes grounds for ~~denial~~ nonrenewal of the license.
7. Number of Licenses. The number of short-term rental licenses issued annually by the Township through application shall not exceed eighty (80). Applicants that have a valid short-term rental license and are in good standing with the provisions of this ordinance shall have priority to receive a license for the following calendar year. The remaining licenses may be issued to applicants who have submitted a complete application. If the number of applications, including renewal applications, exceeds eighty (80), then the Township will conduct a lottery to determine which of the new applicants shall receive a license.
8. License Renewal Process. All short-term rental licenses shall expire on December 31<sup>st</sup> of the calendar year for which they are issued. The owner of a permitted short-term rental may reapply for the next calendar year at any point between September 1<sup>st</sup> and October 31<sup>st</sup>. All renewal permits for the subsequent year shall be issued by November 15<sup>th</sup>. The number of permittees that have not submitted an application for renewal by October 31<sup>st</sup> shall be able to apply as a new applicant and shall have their permit added to the balance of permits available for new applicants.

## **Section 6. New license required upon transfer of ownership and construction or elimination of bedrooms.**

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 short-term rental license shall also become void upon the construction or elimination of bedrooms on the property. A new short-term rental license shall then be obtained from the Zoning Administrator pursuant to the requirements and regulations set forth in this ordinance before short-term rentals may be resumed in the dwelling unit.

## **Section 7. Short-term rental standards and regulations.**

The following standards and regulations shall apply to all short-term rentals in Eveline 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.

1. Rental frequency. The rental frequency shall be no more than once in any seven (7) day period.
2. Occupancy. The maximum occupancy for a short-term rental shall be two (2) persons per bedroom, plus three (3) minors. A maximum of four (4) bedrooms shall be rented to occupants of a short-term rental.
3. Compliance with local codes. The dwelling unit must meet all residential building, health department, and safety codes.
4. 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. The local agent must be available to accept telephone calls on a 24-hour basis at all times that the short-term rental is occupied by short-term renters and will have a key to the rental unit and be able to respond to the rental within 30 minutes. The address of the property and contact information for the local agent must be posted in a prominent first floor door or window of the rental and copies of the contact information must be given to the immediate neighbors located within 300 feet of the short-term rental.
5. Information. All notification information shall be kept current and up to date.
6. ~~Parking. The Owner shall provide ample off-street parking to accommodate occupant's vehicles. No short-term rental occupant or guest shall park any motor vehicle or trailer within a public or private road right of way or within the front yard of a property except for in a parking space or driveway as defined in this ordinance while occupying a short-term rental.~~

Number of Vehicles; Parking. No more than \_\_\_\_ motor vehicles, trailers, or any combination of motor vehicle and trailers may be parked on the property on which a short-term rental is located, and no short-term rental occupant or guest shall park any motor vehicle or trailer within a public or private road while occupying a short-term rental.

7. 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; however all dwelling units used as short-term rentals must have adequate trash receptacles. A minimum of one (1) large container designed to hold at least ninety (90) gallons shall be provided for every four (4) occupants permitted in the short-term rental.
8. Noise. No person within the Township shall cause a noise or disturbance, which is defined as sound created by human activity with or without the use of any device, which by reason of its volume, intensity, location, or time of day impairs the health, welfare, or peace of another person of normal human sensibilities. This includes, but is not limited to, the following

prohibited acts:

- A. The playing of any radio, television, phonograph, or other sound reproduction device, or musical instrument in such a manner or at such a volume as to be sufficiently audible to unreasonably annoy or disturb the quiet, comfort, or repose of persons in the vicinity.
  - B. The keeping of any animal or bird which, by causing frequent or long continued noise, shall unreasonably disturb the comfort and repose of any person in the vicinity.
  - C. The use of any motor vehicle, including motorcycles, in such a manner as to create an unreasonably disturbing noise, including but not limited to, the screeching of tires and the discharge into the open air of exhaust from the engine without a sufficient muffler.
  - D. Shouting or other raucous or boisterous behavior for an unreasonable length of time.
  - E. Short-term rentals shall observe quiet hours between 10:00 p.m. and 8:00 a.m.
9. 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:
- A. 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.
  - B. Notification of the maximum number of overnight occupants permitted in the short-term rental.
  - C. Copies of the State Fireworks laws, being PA 256 of 2011, or other local ordinances of Eveline Township.
  - D. A copy of the Eveline Township Short Term Rental Ordinance.
  - E. Notification that an occupant and/or a guest of an occupant may be cited for a violation of this ordinance, the State Fireworks laws, other local ordinances of Eveline Township, or other state ordinances in addition to any other remedies available to the Township.
  - F. Provide notification of property boundaries.
  - G. Quiet hours are from ~~11:00 p.m.~~ 10:00 p.m. to 8:00 a.m. Only noise commensurate with that of the single-family residential land use is allowed during quiet hours.



## Section 8. Duty to remedy violations.

The license holder and/or local agent shall have the duty to remedy any violation of this ordinance or other relevant ordinances by the occupants of a short-term rental and/or the guests of such occupants. For any violation of the **standards and regulation within Section 7 above**, 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. If the license holder and/or local agent is notified of the violation before the Township, the license holder and/or local agent shall contact the Township Zoning Administrator and provide the violation information. 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.

1. **Violation notice.** If the Zoning Administrator 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 Zoning Administrator ~~may, but is not required to,~~ shall 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.
2. **Service of notice.** The written notice, along with the time, date, and place of the hearing before the Planning Commission, 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.
3. **Violation hearing.** If such a violation notice is prepared and served, the Planning Commission 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, or denied renewal. At the hearing before the Planning Commission 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 Planning Commission's decision to suspend, revoke, or deny renewal of the license shall be made using factual evidence presented at the violation hearing. If the license holder can adequately demonstrate using measureable evidence that the violation concerns will be abated in the future, then the Planning Commission may decide not to suspend or revoke the license **or may decide to renew the license**. The Planning Commission's decision shall be in writing and shall specify the factual evidence upon which it is based. A copy of the Planning Commission's written decision **concerning whether to suspend, revoke, or not renew the license shall** ~~or not suspend the license shall~~ then be provided to the license holder.

4. 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 Planning Commission may permanently revoke the short-term rental license.
5. 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:
  - A. First suspension - three (3) months.
  - B. Second suspension - six (6) months.
  - C. Revocation - permanent. The owner of a short-term rental, however, may apply for a new short-term rental license no less than thirty-six (36) months from the effective date of the revocation.
6. 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 Planning commission. 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.
7. 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. Penalties.**

1. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 126 of 1994, amending Public Act 236 of 1961, being Sections 600.101 - 600.9939 of the Michigan Compiled Laws and shall be punished as follows:
  - A. For a first offense, the person shall be fined not less than \$50.00, nor more than \$100.00, plus the costs of prosecution and other sanctions provided by law.
  - B. For a second offence occurring within two (2) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$100.00 nor more than \$200.00, plus the costs of prosecution and other



sanctions provided by law.

- C. For a third or subsequent offence occurring within two (2) years of the date the person was found responsible for the first or immediately preceding offense, the person shall be fined not less than \$250.00 nor more than \$500.00, plus the costs of prosecution and other sanctions provided by law.
2. The Zoning Administrator and any other person appointed by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
3. A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.
4. 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. Repeal.**

Eveline Township Ordinance No. 1008 of 2019 , is hereby repealed in its entirety.

**Section ~~11~~ 12. 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~~ 13. Effective date.**

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

Ordinance No. XX of 2020 was adopted on XX/XX/2021, by the Eveline Township Board as follows:

Motion by:

Seconded by:

Yeas:

Nays:

Absent:

---

Sandi Whiteford, Clerk

---

John Vron dran, Supervisor