

ORDINANCE 210

AN ORDINANCE TO REGULATE SHORT-TERM RENTALS, PROVIDE FOR THE INSPECTION AND REGISTRATION THEREOF WITHIN THE VILLAGE OF THREE OAKS; TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE VILLAGE OF THREE OAKS ORDAINS:

I. PURPOSE

The Village of Three Oaks recognizes that one of our largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The Village of Three Oaks believes that the tourism industry will continue to grow.

The Village of Three Oaks recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. The short-term or vacation rental marketplace within the Village of Three Oaks has grown exponentially in the past 5, 10, 15 and even 20 years and it will most likely continue to grow as surrounding municipalities limit, restrict and eliminate the practice.

The Village of Three Oaks needs to take action to ensure that the operation of short-term rentals is done so in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and our emergency responders.

II. DEFINITIONS

Local agent - An individual designated to oversee the short-term rental of a rental unit in accordance with this article and to respond to calls from renters, concerned citizens, and representatives of the Village. The local agent must live or maintain a physical place of business within 45 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.

Owner - shall mean the individual or entity who is the legal or equitable titleholder and/or who controls the premises occupied by one or more rental units.

Rental unit - Any residential dwelling which is in whole or in part occupied by one or more person(s) pursuant to an oral or written agreement for monetary or any other consideration, but which persons are not acquiring an ownership interest in the dwelling. This shall include single-family, two-family and multiple-family dwellings, short-term rentals and rooming or boarding houses. A Rental unit shall not include transient dwelling structures such as bed and breakfasts, and shall not include dwellings that are occupied only by members of the owner's immediate family.

Short-term rental unit permit - A written document issued by the Village indicating that the rental unit identified thereon is then in compliance with the housing and property maintenance code. A short-term rental unit permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly- or later-detected violations of the housing and property maintenance code, this ordinance or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this ordinance within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

Short-term rental - shall mean the rental of any rental unit for a term of less than one month, but does not include the use of transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster-care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health care related clinic. Housing units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity are not short-term rental units.

Tenant - shall mean any person, other than a legal or equitable titleholder, occupying or possessing all or any part of a rental unit.

Village - shall mean the department, officer or individual designated by the Village manager or Village council to administer all or any part of the registration and inspection programs under this ordinance.

III. REGISTRATION

A. The owner of a short-term rental unit shall register it with the Village within ten days after the date of acquiring ownership or control of a previously registered short-term rental unit, or in the case of a newly constructed or converted short-term rental unit, before that short-term rental unit is occupied.

B. To register a short-term rental unit, the owner shall:

1. Truthfully provide and certify as true the following information on a form provided by the Village:
 - a. Name, address, and telephone numbers of the owner and any agent for the owner.
 - b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
 - c. The number of short-term rental units in the building, if more than one.
 - d. The number of bedrooms in each short-term rental unit, and the intended number of occupants in each short-term rental unit.
 - e. A scaled floor plan.
 - f. A copy of the lease form containing the required disclosures including, but not limited to, the maximum occupancy load, off-street parking requirements, the local landline telephone number of the unit, noise regulations and other ordinance requirements.
 - g. A statement in the application form detailing:
 - (1) The term of the rental (daily, weekend, weekly, etc.).
 - (2) The name, address, telephone number(s) (local and cell phone), electronic mail address and other contact information of the designated local rental agent, and written authorization for that agent to act on the owner's behalf, including, without limitation, acceptance of service of legal papers on the owner's behalf, and the agent's written acceptance of that agency.
 3. The maximum occupancy load.
 4. Proof that the homestead exemption is legally appropriate or is not being claimed.
 - h. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check those devices at least every 90 days.
 - i. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
 - j. A statement certifying that the property owner consents to inspections by the Village and will make the dwelling unit available to inspections upon request.
 - k. Such other information as the Village requests.
2. Pay an administrative fee, as set by resolution of the Village council.

C. An owner shall notify the Village in writing within 30 days of any change in the information provided on the registration form. An owner of a short-term rental unit shall notify the Village in writing within ten days of any change in the designated local agent.

D. An owner shall notify the Village in writing within 30 days if any of the items inspected pursuant to this article are altered after inspection by the Village.

E. No registration under this section will be accepted or processed for a property if an owner has been issued a civil infraction citation for a violation of this ordinance regarding that property, pending final adjudication of that citation.

IV. RENTAL REQUIREMENTS

A. No short-term rental unit may be occupied or advertised for rent unless the Village has issued a valid short-term rental unit permit pursuant to this ordinance.

B. A short-term rental unit permit shall be granted only when all of the requirements in this article for short-term rental units and applications for a short-term rental unit permit are met.

C. Permit contents and requirements.

1. Each short-term rental unit permit shall indicate the maximum occupancy load. No owner, local agent, or tenant shall allow a rental unit to be occupied by more tenants than the number stated on the permit. The maximum occupancy load shall be stated in the lease and other rental documents.

2. No rental unit permit shall be valid until the appropriate fee is paid, in the amounts as established from time to time by resolution of the Village council.

3. No permit shall be issued to any owner unless that owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due the Village. Delinquencies on any such payments to the Village, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.

D. Upon request by any tenant or prospective tenant, the owner or agent shall provide the tenant or prospective tenant with a copy of the short-term rental unit permit, as well as a copy of the lease containing the required disclosures.

E. A valid short-term rental unit permit may be transferred to a new owner of a short-term rental unit upon the Village's prior written consent once the new owner files an application meeting all the requirements of this ordinance.

F. Compliance with applicable zoning, construction, building and property maintenance codes shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this ordinance.

G. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner's agent for any acts required of the owner or the owner's agent under this ordinance.

H. Each short-term rental unit shall have a landline telephone with free local calls, which will appear at the 911 dispatch center. The owner of each short-term rental unit, must prominently display in the unit a notice indicating the unit's street address, municipality, and other such descriptive information which, if relayed to the 911 dispatch center, would allow emergency responders to quickly locate and enter the rental unit, and further recommending that tenants who use communication devices that may be used to summon aid in an emergency, register those devices to the rental unit's location if appropriate.

I. Each short-term rental unit must have a minimum of one off-street parking space for each occupant's vehicle in addition to any other spaces required under applicable laws, rules and regulations for any other uses in the building or on the premises.

J. The owner of each short-term rental unit must prominently display a full-sized copy of the short-term rental unit permit in each short-term rental unit.

- K. No more than four occupants per bedroom shall be included in the calculation of the maximum occupancy load of a short-term rental unit regardless of the size of the bedroom.
- L. The owner of each short-term rental unit shall not advertise an occupancy load that is greater than the maximum occupancy load limit.

V. INSPECTIONS

- A. Before issuing a short-term rental unit permit, the Village shall inspect the short-term rental unit in order to determine whether it is in compliance with the housing and property maintenance code, the fire code, this ordinance, and other applicable laws and regulations. The owner shall pay administrative fees as set by resolution of the Village council.
- B. Upon written notice from the Village, it shall be the owner's responsibility to schedule and allow the Village's inspection of the short-term rental unit. When an inspection is required for the renewal of an existing permit, the owner shall schedule and permit that inspection no later than 30 days before the expiration of that permit. Inspections shall occur during the Village's regular business hours, unless the Village agrees to other arrangements, and all fees shall be paid prior to the inspection.
- C. If an inspection reveals that the short-term rental unit is not in compliance with the housing and property maintenance code, the owner shall be provided a written list of deficiencies or violations that must be corrected before a permit is issued.
- D. The Village may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:
- (1) When a complaint is filed with the Village; or
 - (2) The Village otherwise has reasonable cause to believe a rental unit is in violation of any Village ordinance.
- E. For short-term rental units, between each short-term rental to a different tenant, the local rental agent shall inspect the premises using a Village-designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for Village inspection and copying for a period of at least two years.
- F. If the Village becomes aware of code or other deficiencies or violations subsequent to the issuance of a permit, the Village may revoke the current permit and may also take any other action allowed by law.
- G. Before renewing a short-term rental unit permit, the Village shall inspect the short-term rental unit in order to determine whether it remains in compliance with the housing and property maintenance code, the fire code, this ordinance, and other applicable laws and regulations. The owner shall pay administrative fees as set by resolution of the Village council.

VI. SAFETY EQUIPMENT

- A. The owner of each short term rental unit shall be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) standards Section 72.
- B. Smoke detectors/alarms shall be installed in the following locations:
- (1) In each sleeping room.
 - (2) Outside of each separate sleeping area in the immediate vicinity of the bedrooms.
 - (3) On each additional story of the rental unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level

shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

C. The owner of each short term rental unit shall be responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detector shall be of the type described in MCL 125.1504d.

D. The owner of each short term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.

E. No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

VII. VIOLATION; REVOCATION OF PERMIT

A. Violations as municipal civil infractions. Any person who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty (\$50.00) Dollars or more than Five Hundred (\$500.00) Dollars, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

(1) The fine for any offense which is a first repeat offense shall be not less than Two Hundred Fifty (\$250.00) Dollars, plus costs and other sanctions.

(2) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than Five Hundred (\$500.00) Dollars, plus costs and other sanctions.

A repeat offense means a second (or any subsequent) violation of this Ordinance (i) committed by a person within any three (3) month period and (ii) for which the person admits responsibility or is determined to be responsible.

B. Revocation of registration.

1. Offenses warranting revocation. The Village may revoke the short-term rental permit for any short-term rental which is the site of at least 3 separate incidents (occurring on 3 separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner, local agent, or any renter for a violation of one or more of the following:

(A) Any provision of this ordinance.

(B) The Village Noise and Nuisance Ordinance.

(C) Any violation of the Zoning Ordinance or any permit or approval issued pursuant to the Zoning Ordinance.

2. Revocation Procedure. Upon a determination by the Village that the short-term rental permit is subject to revocation pursuant to subsection (b)(1), the Village shall issue a notice to the property owner and the local agent stating that the Village intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within 14 days of the service of the notice. If a hearing is timely requested, the Village shall schedule the hearing before the Village Manager and notify the owner and local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided in subsection (b)(1) are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.

3. Revocation Period and Effect. Upon revocation of registration, a dwelling unit cannot be re-registered for a period of 1 year, and cannot be used for short-term rentals until re-registered.

VIII. PUBLICATION

This ordinance shall be published once, in full, in the The Herald-Palladium, or another newspaper of general circulation within the boundaries of the Village of Three Oaks, within fifteen (15) days after its adoption and the same shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signature of the President and the Village Clerk.

IX. ADOPTION

This ordinance was adopted by the Village Council of the Village of Three Oaks at a regular meeting held in the Village Hall on the 14th day of June, 2017, and ordered effective on the 5th day of July, 2017, the same being more than twenty (20) days after its passage.

Cynthia E. Moynihan, Clerk
Village of Three Oaks

Attest:

David Grosse, President
Village of Three Oaks

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 210, duly adopted by the Village Council of the Village of Three Oaks, Berrien County, Michigan, at a regular meeting held on the 14th day of June, 2017.

I further certify that Council member Kramer moved the adoption of said Ordinance and Council member Zebell supported said motion.

I further certify that the following Council members voted for the adoption of said Ordinance: Capiak, Kra

The following Council members voted against the adoption of said Ordinance: Graziano, Pappa.

The following Council members were absent: Heemstra.

The following Council members abstained: _____.

I further certify that the foregoing Ordinance was published in full in The Harbor Country News, or another newspaper circulating in the Village of Three Oaks on the 22day day of June, 2017.

I further certify that the Ordinance has been recorded in the official Ordinance Book for the Village of Three Oaks and that such recording has been authenticated by signatures of the President and the Village Clerk.

Date: _____, 2017

Cynthia E. Moynihan, Clerk
Village of Three Oaks