

**Evangeline Township Short Term
Rental Licensing Ordinance
No. 2021-09-20**

AN ORDINANCE PURSUANT TO ACT 246 OF THE PUBLIC ACTS OF 1945, AS AMENDED, TO PROVIDE FOR THE PUBLIC PEACE AND HEALTH AND FOR THE SAFETY OF PERSONS AND PROPERTY IN EVANGELINE 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

EVANGELINE TOWNSHIP HEREBY ORDAINS:

Section 1 - Purpose

The Evangeline Township Board finds that while the business of short-term rentals of dwelling units in the Township provides value to our local economy, it also negatively affects neighborhoods' year-round quality of life, housing supply, and health and safety. The Township Board has enacted this regulatory Ordinance to ensure that short-term rentals shall occur in a manner that remains consistent with the single-family character of the residences and neighborhoods where they are located. This Ordinance will be reviewed periodically to ensure that the above purposes are achieved.

Section 2 - Applicability

This Ordinance applies to all dwelling units located in Evangeline Township and to all persons owning or exercising control over such buildings or property, which in total or in part are rented during the calendar year as a short-term rental as defined in this Ordinance.

Section 3 – Definitions

As used in this Ordinance:

“Dwelling Unit” means a building or portion of a building, either site built or pre-manufactured, which has sleeping, living, cooking, and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it complies with the first sentence of this definition. For purposes of this Ordinance, travel trailers, motor homes, or other such portable structures shall be considered a dwelling unit.

“License holder” means the person who applies for and receives a short-term rental license from Evangeline Township. A license holder may or may not be the dwelling unit owner 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.

“Maximum occupancy” means the maximum number of allowable occupants and the guests of those occupants in a short-term rental.

“Minor” means a person under the age of eighteen (18).

“Noise” means the sound created by human activity with or without the use of any device, which because of its volume, intensity, location, or time of day, impairs the health, welfare, or peace of another person of normal human sensibilities.

“Occupant” means an individual living in, sleeping in, or otherwise being physically within a short-term rental.

“Owner” means any person holding legal or equitable title to a property or 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.

“Property” means the land and the improvements on which a short-term rental is located.

“Short-term rental” means to permit, provide for, or offer possession or occupancy of a dwelling unit in which the owner does not reside for a period of less than thirty (30) days to a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement, or license. Provided, however, a rental cabin used and regulated under the township zoning ordinance within a campground shall not be deemed a short-term rental.

Section 4 – Maximum Number of Short-term Rentals; License Required

To further the purposes of this Ordinance, there shall be no more than forty-five (45) short-term rentals within Evangeline Township. An owner of any dwelling unit located within Evangeline Township shall not rent or allow it to be rented as a short-term rental unless the owner or the owner’s authorized agent has obtained a short-term rental license for that dwelling unit in accordance with the provisions outlined in this Ordinance. Only one short-term rental shall be allowed per property.

Section 5 – Application Process for a Short-term Rental License

1. **Application and information required.** 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 to the Township Zoning Administrator. This 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.

2. **Application fee.** The application shall be accompanied by an application fee as established and outlined in the Township fee schedule. This fee schedule shall also set 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 and shall consist of the regular application fee plus an amount equal to the legal and administrative costs incurred by the Township due to the applicant’s failure to initially comply with this Ordinance’s requirements.

3. **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) business days.

4. **Annual Renewal.** Except for the first year, all short-term rental licenses shall be valid for approximately one (1) year, beginning on the date the license is issued and ending on December 31 of the calendar year in which the license was issued. The owner of a permitted short-term rental may reapply for the next calendar year at any point between September 1 and October 31. All renewal permits for the subsequent year shall be issued by November 15. Short term rental licenses that are in good standing at the time of annual renewal will have priority for the ensuing year. Licensees who have not applied for renewal by October 31 shall fall to last on any waiting list.

5. **License Renewal Requirement.** Before renewing a license, the Zoning Administrator shall verify with the Township Clerk or another Township Board member 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 to determine whether the complaint constitutes grounds for denying renewal of the license. The procedures for this violation hearing shall comply with the procedures specified in Section 9 of this Ordinance.

Section 6 - 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 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 Zoning Administrator according to the requirements and regulations outlined in this Ordinance before short-term rentals may be resumed in the dwelling unit.

Section 7 - Short-term Rental Standards and Regulations

Except as provided herein, the following standards and regulations shall apply to all short-term rentals in Evangeline Township. However, these standards and regulations shall not supersede deed restrictions on any property (including subdivision developments). They 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, measured from Thursday through the next succeeding Wednesday. Provided, however, for written short-term rental contracts for the calendar year 2021 that are provided to the Zoning Administrator at the time the application for a short-term rental license is filed, the rental frequency shall not apply to those existing contracts.
2. **Occupancy.** The maximum occupancy for a short-term rental on waterfront property with less than 100 feet of frontage, shall be a maximum of 6 adults and 6 minors. For waterfront property with 100 feet of frontage or greater the maximum occupancy shall be 8 adults and 8 minors. On non-waterfront property 20 acres or less in area the maximum occupancy shall be 10 adults and 10 minors. On non-waterfront property greater than 20 acres the maximum occupancy shall be 12 adults and 12 minors. Provided, however, for written short-term rental contracts for the calendar year 2021 that are provided to the Zoning Administrator at the time the application for a short-term rental license is filed, the occupancy limits shall not apply to those existing contracts.
3. **Maximum guests allowed time limit.** In addition to the number of occupants permitted under subsection 2 above, a short-term rental may have guests of the occupants on the property equal to no more than 1.5 times the number of permitted occupants under subsection 2 above. The guests may only be allowed at the short-term rental between sunrise and 10:00 p.m. that same day.
4. **Compliance with local codes.** The dwelling unit must meet all residential building, health department, and safety codes.
5. **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 designated 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 short-term rental 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 on a main first-floor door or window of the rental. Copies of the contact information must be given to the immediate neighbors located within 300 feet of the short-term rental.

6. **Information.** All notification information shall be kept current and up to date.
7. **Parking.** 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.
8. **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 collection or disposal. Individual trash receptacles shall be limited to 96 gallons of volume. 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.
9. **Fireworks.** Fireworks activity shall be limited to the provisions of the Evangeline Township Fireworks Ordinance.
10. **Outside Fire Pits.** Outside fire pits are not allowed except those fueled by natural or propane gas.
11. **Quiet Hours.** Quiet hours shall be observed from 10:00 p.m. to 7:00 a.m. Only noise commensurate with that of the single-family residential land use is allowed during quiet hours. During these hours, these activities are not allowed:
 - A. The playing of any radio, television, or other sound reproduction device, or musical instruments 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 prolonged continued noise, shall unreasonably disturb the comfort or 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 includes the screeching of tires and the discharge into the open air of exhaust from the engine without a good muffler.
 - D. Shouting or other raucous or boisterous behavior for an unreasonable length of time.
12. **Information Requirements.** The license holder or local agent shall provide all occupants of a short-term rental with the following information before 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 for performing 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. A copy of the Evangeline Township Fireworks Ordinance.
- D. A copy of the Evangeline 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, State Fireworks laws, other local laws of Evangeline Township, or other state ordinances in addition to any other remedies available to the Township.
- F. A map of property boundaries.

Section 8 - Duty to remedy violations

1. **Duty to remedy.** 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 this Ordinance, 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, email or return receipt US Postal Service mail. 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.
2. **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 as outlined in Section 9 of this Ordinance.

Section 9 - Suspension, Revocation, or Non-renewal 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; that written complaints have been filed concerning the short-term rental to suggest that the short-term rental has violated this Ordinance; and/or the short-term rental is in violation of the regulations in this Ordinance, the Zoning Administrator 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.

2. **Service of notice.** The written notice, along with the time, date, and place of the hearing before the Township 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, revoked, or renewed. 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 shall be in writing and shall specify the factual evidence upon which it is based. A copy of the Planning Commission's written decision 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 (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.
- 6 **No new license available during any suspension and within six months after any revocation.** During any period of a suspension and within six (6) months of any revocation under this Ordinance, no new license shall be issued for the same property location, regardless of the identity of the license holder.
 - 7 **Existing contracts.** Existing short-term rental contracts up to 60 days 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 days shall be canceled. The time

period approved to honor existing contracts shall be added to the end of any suspension period.

8. **No new license available within three months after any non- renewal.** Within three (3) months of any non-renew of a license under this Ordinance, no new license shall be issued for the same property location, regardless of the identity of the license holder.
9. **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

1. **Municipal civil infraction.** 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.
2. **Enforcement officials.** The Zoning Administrator 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.
3. **Nuisance per se.** 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.

Section 11 - 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 whether any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 12 - Effective date

This Ordinance shall become effective thirty (30) days following its publication in a newspaper of general circulation within the Township.

I certify that this is a true copy of Ordinance No. 2021-09-20 that was adopted at a special meeting of the Evangeline Township Board on September 20, 2021 and published in the

Charlevoix County News on September 30, 2021.

Evelyn Howell, Evangeline Township Clerk
