

Benzonia Village

Ordinance. No. 2022-01

SHORT TERM RENTAL PROPERTIES

An ordinance to amend in part the Ordinance. Entitled "Village of Benzonia Zoning Ordinance, Adopted October 2, 1997 Amended", to add a new chapter to the Village of Benzonia Zoning Code to establish a short-term rental licensing program to provide penalties for violation and repeal all ordinances in conflict herewith,

Benzonia Village HEREBY ORDAINS

SECTION 1. PURPOSE

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Benzonia, as well as visitors to the Village, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with Village residents' or property owner's rights to conduct normal daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short term basis.

SECTION 2. APPLICABILITY

All requirements, regulations and standards imposed by this Ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other ordinances of the Village, including the Village of Benzonia Zoning Ordinance. Further, this Ordinance does not affect additional requirements placed on use of property (or a portion thereof) imposed by deeds, associations or rental agreements.

SECTION 3. DEFINITIONS

Section 3.1. This section contains many commonly used terms found within this Article of the Ordinance. In addition to the definitions listed herein, all definitions from the Village Zoning Ordinance shall also apply. Additional definitions will include the following:

- A. **Bedroom:** A separate room with a door, closet, and window that is used or intended to be used specifically for sleeping purposes. A bedroom must be a habitable space not be less than seventy (70) square feet, not less than seven (7) feet in one dimension, not located in an attic or basement without egress meeting standards in applicable building, residential and fire codes, and not a room by design intended to serve another purpose such as a kitchen, dining area, den, family rooms or living rooms.
- B. **Dwelling:** A building containing one or more dwelling units.
- C. **Dwelling Unit:** A self-contained unit within a building that is designed for human occupancy and provides complete living facilities, including permanent provision for eating, sleeping and sanitation.
 - 1. **Dwelling, Duplex:** A single building with two dwelling units designed for or occupied exclusively by two families living independent of each other.
 - 2. **Dwelling, Single-Family:** A detached dwelling unit designed for the exclusive occupancy by a single family.
- D. **Guest:** means persons renting lodging from a short-term rental host, or through a Hosting Platform on behalf of the short-term rental host, for less than 30 consecutive days.

- E. **Good Visitor Guidelines:** Materials prepared by the Village that are to be displayed in a visible location in all rental units. Materials may contain summary of critical ordinances, trash and other useful utility data and safety information, etc.
 - 1. A summary of the following Village Ordinances and all applicable penalties:
 - 2. A reminder that the short-term rental may be operating in a residential neighborhood and that the neighbors may not be vacationing.
 - 3. A statement informing the occupant(s) that neighboring property owners may contact the local agent, sheriff's department, Village, or Village designee to report any issues relating to the property.
- F. **Host:** means a person engaged in providing a Short-Term Rental Unit.
- G. **Hosting Platform:** means a marketplace in any form or format which facilitates Short-Term Rental Units, through advertising, matchmaking or any other means.
- H. **Local Agent:** An individual designated to oversee the short-term rental of a dwelling unit in accordance with this Ordinance. Each dwelling unit registered as a short-term rental shall have a designated local agent. The agent must have a 24-hour telephone number that may be reached by the occupants.
- I. **Mixed-Use Zoning District:** Any lot or parcel located within an area of the Village where both residential (single or multi-family) and commercial development is permitted, as in C-1 or the US-31 Corridor Overlay District.
- J. **Occupancy:** Is a measure of the number of allowable occupants for the premises based on the most current local/ state (Michigan Construction Code, the Michigan Residential Code, and all applicable State of Michigan and local fire codes.) and/or federal codes.
- K. **Occupant:** Any individual living in, sleeping in, or having possession of a dwelling unit, or portion thereof pursuant to a rental agreement. This does not include guests who are visiting between the hours of 8:00 am and 11:00 pm.
- L. **Owner:** The person or entity that holds legal or equitable title to the property (or portion thereof) used as a short-term rental.
- M. **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 bays and driveways. This does not include yards and street right-of-ways.
- N. **Permanent Residence:** means the person(s) occupying a property as their Principal Residence.
- O. **Principle Residence:** means the one residence where an owner of the property, or tenant of a period greater than 30 days, has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.
- P. **Residential Zoning District:** Any lot or parcel located in the R-1 or R-2 Zoning Districts or designated as a residential use in a mixed-use zoning district.
- Q. **Short Term Rental:** means the commercial use of renting a dwelling unit, or portion thereof, for a period of time less than thirty (30) consecutive calendar days, by persons other than the Permanent Resident or owner including:

1. *Non-Principal Residence Short-Term Rental (or Commercial Rental)*: means an activity where the owner of a non-principal residence hosts visitors, for compensation, for periods of 30 consecutive days or less.
 2. *Principal Residence Home-stay*: means an activity whereby the Permanent Resident(s) host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the Permanent Residents lives on-site in the dwelling unit, throughout the visitors' stay.
 3. *Principal Residence Whole House*: means an activity whereby the Permanent Resident(s) host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while a residential dwelling unit is not occupied by the owner of record while the guest is present.
- R. *Special Event: Outdoor parties such as weddings, lawn parties, family reunions, bachelor/bachelorette, or other similar gatherings that would exceed the maximum occupants allowed.*

SECTION 4. PERMIT REQUIRED.

Section 4.1. General Regulations. It shall be unlawful for any person to offer any premises as a short-term rental, or conduct or operate a short-term rental on any premises within the Village without a short-term rental permit issued by the Village.

Section 4.2 Permit. Prior to establishing a short-term rental operation, the property owner shall obtain a written short-term rental permit from the Village Zoning Administrator. In order to obtain the permit, the property owner shall submit the following information on an application provided by the Village. Conducting a short-term rental operation without this permit is prohibited. All short-term rental operations must comply at all times with this Ordinance and the Village Zoning Ordinance.

- A. All short-term rentals shall be required to register with, and be permitted by the Village. Permits shall:
 1. Be valid for two calendar years,
 2. Be required for each short-term rental unit,
 3. Be issued prior to advertising a short-term rental,
 4. Not transfer with the sale of the property, or be transferred from one property to another,
 5. Be displayed on the front door, or in a prominent location on the façade or nearby window not more than five (5) feet from the front door, measured from the edge of the door frame, except in the case of tourist homes,
 6. Display the maximum number of occupants allowed,
 7. Display the contact information for the local agent.
- B. Furthermore, the short-term rental permit number shall be posted and clearly evident on any and all advertisements related to the short-term rental of a property.

Section 4.3 Application. Applicants shall file a permit application to conduct a short term rental operation in the Village on a form provided by the Village for that purpose.

- A. Responsibility: It shall be the responsibility of the owner of a tourist home to register the operation and obtain a permit from the Village.
- B. Application: The owner shall truthfully provide and certify as true the following on a form prepared and supplied by the Village:
 1. Name, address, telephone number, and email of the owner of the short term rental.
 2. Name, address, telephone number, and email of the designated local agent.
 3. The number of bedrooms in the short term rental intended to be used by occupants.
 4. A sketch of the designated parking space(s).

5. An affidavit signed by the owner acknowledging the provisions of this ordinance, the Village Zoning Ordinance and all other applicable local and state laws.
- C. Fee: An application for a short term rental permit under this ordinance shall be accompanied by a fee in the amount established by resolution by the Village Council. There shall be no proration of fees, fees are non-refundable once a permit has been issued by the Zoning Administrator.
 1. All Applicants approved for a permit shall also submit to the Village prior to issuance of the permit the following:
 - a. A licensing fee (bi-annual) in an amount established by resolution of the Village Council.
 - b. A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the licensee against risks arising from commercial rental activities on the premises.
- D. Number of Permits: The number of permits available for short term rentals in the Village shall not exceed 20. Permittees that have a valid permit and are in good standing with the Village shall have first priority in receiving a permit for the next renewal year. The remaining balance of permits may be issued to applicants who have submitted a complete application. If the number of applications, including renewal applications, exceeds twenty 20, then the Village will conduct a lottery to determine which of the new applicants shall receive a permit.
- E. Renewal: All short term rental permits shall expire on December 31st of the even calendar year, regardless of when they are issued. (for example, 2022, 2024, 2026) The owner of a permitted short term rental may reapply for the next bi-annual permit by October 31st of the year the permit is to expire. The number of permittees that have not submitted an application for renewal by October 31st shall have their permit added to the balance of permits available to new applicants and may apply as a new applicant.

SECTION 5. EXCEPTIONS AND EXEMPTIONS.

Section 5.1 Exceptions. A dwelling unit does not need a short-term rental permit as required in this Ordinance when the occupancy of the dwelling unit occurs under the following circumstances:

- A. *Family occupancy.* Any member of a family (and that family member's guests) may occupy a dwelling as long as any other member of that family is the owner of the dwelling or dwelling unit. Family occupancy also exempts guest houses or similarly separate dwelling units located on the same premises as the owner's domicile, when occupied by family guests, exchange students, visiting clergy, medical caregivers, and child care givers, without compensation to the owner.
- B. *House-sitting.* During the temporary absence of the owner and owner's family the owner may permit non-owner occupancy of the premises, without compensation to the owner, without a short-term rental permit.
- C. *Dwelling sales.* Occupancy by a prior owner after the sale of a dwelling under a rental agreement.
- D. *Estate representative.* Occupancy by a personal representative, trustee, or guardian of the estate and his family, with or without compensation.
- E. *Limited Duration* – Any dwelling unit that is rented on a short-term basis for fourteen (14) or less days per calendar year.

SECTION 6. SHORT TERM RENTAL REGULATIONS.

Section 6.1. Premises permitted for short-term rental under this article shall comply at all times with all of the following requirements:

- A. Allowable Locations: Short term rentals shall be allowed in any zone that allows residential uses.
- B. Local Agent Required: Each owner of a short term rental unit must designate a local agent meeting the requirements of this ordinance.
- C. Contact Information: Must be posted in a prominent first-floor window of any dwelling unit used for short term rentals stating (in at least 16 pt type) the name of the local agent, 24-hour telephone number where the agent can be reached, and the maximum occupancy of the dwelling unit as permitted by this ordinance. A form may be available from the Village.
- D. Address Requirements: The street address of the property must be posted in at least two prominent locations in the short term rental unit in order to assist occupants in directing emergency personal in the event of an emergency. The address should be posted near the kitchen or any telephone.
- E. Parking: Off-street parking for each short-term rental shall be required as follows:
 - 1. Two spaces per each dwelling or dwelling unit which are approved for up to six occupants.
 - 2. One additional space for every three occupants, or every fraction of three occupants, approved over six occupants per dwelling or dwelling unit.
 - 3. Off-street parking for a short-term rental shall be provided as required by this Section, regardless if the existing off-street parking provided for the dwelling or dwelling unit is lawfully non-conforming.
 - 4. Each short-term rental use shall have direct access to an adjacent public or private street.
- F. Maximum Occupancy: The maximum occupancy of a short term rental shall not exceed :
 - 1. Two occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code, and all applicable State of Michigan and local fire codes.
- G. Smoke detectors and carbon monoxide detectors required. Each dwelling unit registered as a short-term rental shall have installed and shall maintain the following:
 - 1. Operational approved smoke detectors in each bedroom, which shall be tested a minimum of every 90 days to ensure proper function.
 - 2. Operational approved carbon monoxide detectors meeting the requirements of MCL 125.1504 installed on each floor, which shall be tested a minimum of every 90 days to ensure proper function.
- H. Refuse and Recyclables: All refuse and recyclables must be stored in containers with tight fitting lids. Refuse container shall be as provided by the Village waste hauler. Refuse containers must be placed in the appropriate location for pick up on the days designated by the waste hauler. Recycling containers and proper removal are the responsibility of the owner.
- I. Pets: All pets shall be confined to the property or on a leash at all times. Pets that cause frequent or long continued noise that disturb the comfort or repose of any person in the vicinity of the short term rental shall be found in violation of this ordinance.
- J. Fireworks/Noise: No person within the Village 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:
 - 1. No fireworks shall be used on the premises of any short term rental when it is occupied by anyone other than the owner.
 - 2. 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.
 - 3. 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.

4. 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.
 5. Shouting or other raucous or boisterous behavior for an unreasonable length of time.
- K. Signs/Advertising:
1. Signage advertising the existence of a short-term rental is prohibited.
 2. Hosts shall not advertise a short term rental unit on any hosting platform without disclosing the maximum occupancy.
- L. Special Events are not permitted.
- M. Recreations Vehicles: Recreational Vehicles shall not be used on the property by occupants or the property owner while a short term rental is being occupied.
- N. Attics and Basements – An attic or basement shall not be included for the purposes of determining maximum occupancy for a short-term rental dwelling or dwelling unit, unless the owner or local agent provides written consent to necessary building officials to inspect the premises, in order to verify whether the attic or basement meets the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code, and all applicable State of Michigan and local fire codes.
- O. Zoning Compliance: Short term rentals are regulated by the Village of Benzonia zoning ordinance, and nothing in this article shall be construed as excluding compliance with the zoning requirements.
- P. Owner Occupancy: The owner of a short term rental home shall be the legal owner and the same name provided on the short term rental application to the Village, however the owner does not have to reside at the property during rental of the unit(s), provide a local agent is provided per the requirements of this ordinance.
- Q. Illicit/Illegal Activities: Any activities that are in violation of ANY local, state, or federal laws shall not be allowed on the premises by any persons.

SECTION 7. VIOLATIONS AND PENALTIES

- A. Penalties – the following penalties shall apply for violating this Ordinance:
1. Any person who violates a provision of this chapter shall be responsible for a civil infraction punishable by a civil fine of not more than \$500.00, plus costs and all other remedies available by statute. Each day of violation shall be a separate violation.
- B. License Revocation:
1. The Village finds that the suspension or revocation of a license may be necessary when an owner fails to operate the Short-Term Rental Unit in accordance with the provisions of this chapter. A license issued under this chapter may be suspended or revoked for any of the following violations:
 - a. A license holder is convicted of or found responsible for violating any provision of this chapter;
 - b. A license application contains any misrepresentation or omission of any material fact, or false or misleading information, or the license applicant has provided the Village with any other false or misleading information related to the Short-Term Rental Unit;
 - c. The Short-Term Rental Unit is operated or is operating in violation of the specifications of the license application, any conditions of approval by the Village or any other applicable state or local law, rule or regulation;
 - d. The Short-Term Rental Unit is determined by the Village to have become a public nuisance;

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- C. Duration – Upon revocation of a short-term rental permit, a property owner may not reapply for a new short-term rental permit for the dwelling at that address, or any additional dwellings in the Village of Benzonia, for a period of thirty six (36) months.
- D. Subsequent Revocations – Any property owner who has had a short-term rental permit revoked twice for the same short-term rental shall be permanently prohibited from operating a short-term rental at that location. Furthermore, the property owner shall be prohibited from applying for any additional, new short-term rentals in the Village. If the property owner has other short-term rentals permitted in good standing in the Village at the time of the prohibition, then the property owner shall be allowed to reapply for a permit for those existing short-term rentals..

SECTION 8. ENFORCEMENT AND PENALTIES

Section 8.1. The Code enforcement Officer and/or designated municipal officials by the Village Council, or any police officer having jurisdiction in the Village, or other persons that may be appointed from time to time by the Village Council are authorized to issue municipal civil infraction citations for violation of this article.

SECTION 9. SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 10. REPEAL

All ordinances or parts of ordinances in conflict with this ordinance herewith are hereby repealed.

SECTION 11. EFFECTIVE DATE

This Ordinance shall become effective upon the publication in accordance with law.

At a regular meeting of the Village Council for Benzonia Village held on the 2nd day of May 2022, Trustee _____, moved for the adoption of the foregoing ordinance and Trustee _____ supported the motion.

Voting For: French, Flynn, Cook, Hafer, Heyn
Voting Against:
Abstain: Bair

The Village President declared the ordinance adopted.

Timothy Flynn,

Village President.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2022-01, which was enacted by the Village Council for the Benzonia Village at a regular meeting held on May 2, 2022.

Maridee Cutler,

Village Clerk