

TOWNSHIP OF ARCADIA

MANISTEE COUNTY, MICHIGAN

ORDINANCE NO. 184 (5-4-23 proposed)

ADOPTED:

EFFECTIVE:

SHORT TERM RENTAL LICENSING ORDINANCE

An Ordinance enacted pursuant to MCL 41.181 to secure the public health, safety and general welfare of the residents and property owners of the Township of Arcadia, Manistee County, Michigan, by licensing premises used for short term residential occupancies and imposing certain terms and conditions on such licenses for the protection of the occupants of such premises and to avoid adversely impacting non-transient residential occupancies; and to provide administrative and civil sanctions and remedies for the violation thereof.

THE TOWNSHIP OF ARCADIA

MANISTEE COUNTY, MICHIGAN

ORDAINS:

SECTION 1

TITLE AND RELATIONSHIP TO OTHER ORDINANCES

- A. Title. This Ordinance shall be known and cited as the Township of Arcadia Short Term Rental Licensing Ordinance.
- B. Relationship to other ordinances. This is a business licensing ordinance intended to supplement but not supersede in whole or in part any provision of any other ordinance or law relating to the same subject matter, including the Zoning Ordinance of the Township of Arcadia, the State Construction Code, the District Health Department #10 Sanitary Code, or any applicable general ordinances of the Township of Arcadia. In the event of a conflict between any provision of this Ordinance and any other applicable ordinance or law, the more stringent provision is intended to apply.

SECTION 2

DEFINITIONS

- A. Defined terms. The following words and terms as used in this Ordinance are intended to have the specified meaning:
1. “Administrator” means the person who has been appointed by the Township Board as the Zoning Administrator, who shall also serve as the Administrator of this Short Term Rental Licensing Ordinance; or such other person as the Township Board may appoint to serve as the Administrator of this Ordinance.
 2. “Local Contact Person” means an individual person designated by the owner of a short term rental to be available by telephone, text messaging, and email as the point of contact between the Township and the owner to respond to complaints involving the short term rental and/or the occupants thereof, at all times during any occupancy of the short term rental, and for other communications as provided in this Ordinance. The designated Local Contact Person shall be physically located within 50 miles of the short term rental at all times during any occupancy of the short term rental.
 3. “on-site parking area” means a designated area within the property boundaries of the premises of a short term rental that is legally available for use by the occupants of the short term rental for overnight parking of motor vehicles.
 4. “owner” means the person/persons or entity which owns a short term rental; which shall presumptively be the holder of title to the premises or portion thereof on which a short term rental is operated, unless the short term rental and premises are in different ownerships. The term owner is intended to be the same as the term applicant for a license, and the licensee of an issued license.
 5. “parking space” means an area at least 9’ wide by 20’ long for the parking of one motor vehicle within an on-site parking area.
 6. “premises” means the real property on which a short term rental is operated.
 7. “short term rental” means any building or structure or portion thereof with sleeping, bathroom and/or cooking facilities forming a single habitation unit for occupancy by one or more persons for a period of 1-29 days and/or nights for any monetary compensation or other form of non-monetary consideration; except this term does not include either of the following:
 - A. any residential premises occupied for such compensation for a cumulative total of 14 or fewer days and/or nights within a calendar year.

- B. any motel/hotel or bed & breakfast lawfully operating in accordance with all applicable requirements of the Zoning Ordinance of the Township of Arcadia.

- B. Other words. Any word or term not specifically defined in preceding Section 2.A. of this Ordinance shall be considered to be defined in accordance with its most applicable customary or common meaning in the context of the usage of the word or term in this Ordinance.

SECTION 3

ANNUAL OPERATING LICENSE

- A. License required. The owner of a short term rental shall annually obtain from the Township a license for each separate short term rental the owner intends to advertise or operate in the Township, prior to any advertising or operating/occupancy of that short term rental. The Township shall not approve a license for more than one short term rental unit per building/structure.

- B. Application for license. The owner of a short term rental shall submit the following information to the Township Clerk on a form made available by the Township for this purpose, or as may otherwise be necessary to provide the specified information:
 - 1. The owners name, postal mailing address, email address, and telephone number. If the owner is two or more individuals, this information shall be provided for each of those individuals. If the owner is a business entity, this information shall be provided for that entity and for the primary individual officer/managing member of that entity.
 - 2. The name, cell phone number, email address, and postal mailing address of the Local Contact Person for the short term rental.
 - 3. The physical address of the premises upon which the short term rental is to be operated.
 - 4. The permanent real property assessment parcel number of the premises upon which the short term rental is proposed to be operated.
 - 5. The number of bedrooms in the short term rental.
 - 6. The maximum number of persons permitted by the owner to occupy the short term rental, which shall not exceed the maximum occupancy permitted by Section 4.A.1. of this Ordinance.

7. The number of on-site parking spaces available for the short term rental, and the location of the on-site parking area within which the designated number of parking spaces is provided (shown on an attached site diagram).
 8. The dated signature of the owner. If the owner of the short term rental is not the same as the owner of the premises, the application shall also be date-signed by the owner of the premises.
- C. License application fee. The applicant (owner) shall remit to the Township of Arcadia with each short term rental license application a nonrefundable application fee of \$200 (subject to periodic change by Township Board motion or resolution).
- D. Review of application.
1. The Clerk shall mark the date of receipt of an application and the required application fee on the original application form, and send a copy of the complete application submission (except the application fee) to the Administrator. The original of the application is a public record and shall be retained in the Township's records.
 2. The Administrator shall review the license application for completeness of the required content, and shall inform the applicant in writing of any deficiency in the required content of the application.
- E. Inspection of premises.
1. The Administrator shall make suitable arrangements with the applicant for access to the short term rental and premises pertinent to the application to facilitate the inspection of same at reasonable times by the Fire Chief and Administrator for the purpose of evaluating compliance with the standards specified in Section 3.F. of this Ordinance for approval of a license application. The Administrator shall prepare and file with the Clerk a written report following the inspection, indicating issues of noncompliance with any requirement of this Ordinance. All such reports shall be available to the applicant upon request, and shall also be public records of the Township.
 2. All of the inspections required pursuant to preceding Section E.1. of this Ordinance shall occur within 21 days of the Administrator's receipt of an administratively complete application, unless access to the subject short term rental/premises is delayed for a reason beyond the control of the Township, or the applicant consents in writing to an extension of that time limitation.
- F. Standards for approval or denial of license application. The Administrator shall approve a license application and issue the resulting short term rental operating license upon determining all of the following standards are met:

1. The information provided in the application was verified to be accurate.
2. The application demonstrates compliance with each term and condition specified in Section 4.A. of this Ordinance.
3. The application demonstrates the owner's apparent ability and intent to require all occupants of the short term rental and any guests of same to comply with each term and condition specified in Section 4.B. of this Ordinance.
4. The inspections undertaken pursuant to Section 3.E. of this Ordinance did not disclose any unresolved and/or continuing violation of any statute/code or ordinance.
5. Approval of the license will not violate any provision of any other ordinance of the Township of Arcadia.

The Administrator shall deny an application the Administrator reasonably determines fails to meet any of the standards for approval specified in Section 3.F. of this Ordinance, and shall not thereafter approve the application and issue the resulting short term rental operating license unless and until the applicant remedies the basis for denial of the application.

- G. Notice of approval or denial of license application. The Administrator shall notify the applicant in writing within 3 days of approving or denying the application. In the event of a denial, the notification shall state the specific basis for denial. In the event of approval, the notification shall include the issued license. The Administrator shall send the Clerk a copy of each notification, which shall be public records of the Township.
- H. Appeal of license application denial. A license application denied by the Administrator shall be subject to a right of administrative appeal to the Township Board, which shall be initiated by the denied applicant (owner) in writing filed with the Clerk within 21 days from the date of the denial. The denied applicant's appeal shall specify the grounds for the appeal. The Township Board shall hold a hearing on the appeal at the earliest practical opportunity, but not later than 21 days after the filing of the appeal (unless the owner consents in writing to an extension of this time limitation). The Clerk shall give written notice by email of the date, time, and place of the hearing to the owner and local contact person, and to the Administrator. The Clerk shall also post a public notice of the appeal hearing at the Township Hall and on the Township website. At the hearing the owner and/or designated representative of the owner, and the Administrator, shall each have a fair opportunity to present their position to the Township Board with respect to the basis for the denial of the application. The Township Board shall thereafter, at the hearing, either affirm or reverse the Administrator's denial of the application pursuant to the standards specified in Section 3.F. of this Ordinance.

If the administrative denial is reversed, the Administrator shall immediately issue the license. If the administrative denial is affirmed, the denial shall remain in effect until such time as the Administrator determines the basis for the denial has been remedied and the applicant is entitled to approval of a license application and issuance of the license.

I. License term/renewal.

1. Term of initial license. An initial operating license issued for a short term rental shall expire December 31 of the year of issuance, regardless of the date of issuance, unless otherwise suspended or revoked as provided in Section 7 of this Ordinance, or the license expires pursuant to Section 3.K. of this Ordinance.
2. Application for renewal of an issued license. The holder of an issued operating license for a short term rental may apply for renewal of that issued license at any time after October 1 of the year for which the license was issued, by filing with the Clerk a license renewal application form made available by the Township for this purpose, with the license renewal application fee (which shall be the same as the then-current initial application fee unless the Township Board has prescribed a different renewal application fee). The license renewal application shall include the sworn certification of the licensee/renewal applicant (owner) that all of the information submitted on the application for the initial license is still completely accurate and true; or, in the alternative, providing a full and complete statement as to any changed/new information.
3. Processing of license renewal application. The Clerk and Administrator shall process a short term rental license renewal application in the same manner as provided by Section 3.D. and 3.E. of this Ordinance for an initial license application; except the Administrator shall have the reasonable discretion to determine the necessity for any/all of the initially required inspections, based on the sufficiency of the renewal applicant certification as specified above, and upon considering the complaint history for the subject short term rental and also whether any violations of this Ordinance involving that short term rental were documented during the current or immediately preceding license year. The Administrator shall approve or deny a license renewal application pursuant to Section 3.F. and 3.G. of this Ordinance. Section 3.H. of this Ordinance shall apply to the denial of a license renewal application.
4. Term of operating license renewal. A short term rental operating license renewal shall be valid for the ensuing January 1-December 31 calendar year, or if issued after January 1 then for the remainder of that calendar year; unless otherwise suspended or revoked as provided in Section 7 of this Ordinance, or the license expires pursuant to Section 3.K. of this Ordinance.

- J. Township license records. The Clerk shall maintain a record of all issued and denied short term rental license applications. The Clerk shall also maintain a list of the premises for which a short term rental operating license has been issued and is in effect. All of the foregoing records, including all approved and denied license application forms, are public records.
- K. License not transferable. A short term rental operating license issued pursuant to this Ordinance (initial or renewal) is not transferable or assignable by the licensee (owner) to whom the license was issued, and shall automatically expire upon the effective date of the transfer or assignment of any ownership interest in the subject premises. A new owner may apply for and be issued a short term rental operating license for the subject premises as a new applicant/licensee pursuant to Section 3 of this Ordinance.

SECTION 4

LICENSE TERMS AND CONDITIONS

- A. Each operating license for a short term rental issued pursuant to this Ordinance shall be subject to the following terms and conditions, which are enforceable as to the licensee (owner) and to all occupants of the short term rental and premises, including any guests of same, just as if the terms and conditions were expressly attached to the license:
 - 1. Overnight occupancy of the short term rental shall not exceed a total of 2.0 persons per bedroom (with each child under six years of age counted as 0.5 person for purposes of this calculation) or such other maximum occupancy permitted by any applicable provision of the State Construction Code/Fire Code or by the United States Department of Housing and Urban Development. Note: the HUD occupancy standards generally allow two persons per bedroom, but may allow fewer depending on the size of the bedroom, and in some circumstances may allow an additional occupancy for non-bedroom areas permissibly used for sleeping purposes. Guests or other persons staying in the short term rental between the hours of 11:00 p.m. and 7:00 a.m. shall be included in this overnight occupancy limit.
 - 2. Parking for the occupants of a short term rental and their guests is limited to the on-site parking area and such otherwise lawful on-street parking as may be available.
 - 3. Each short term rental shall have an adequate supply of potable water from a permitted private water well, and a private sanitary septic system in good working order. The Administrator may require the applicant to provide documentation of compliance with these requirements by District Health Department #10. Portable toilets are not permitted on the premises of a short term rental.

4. Each bedroom and any other area used for the sleeping of one or more persons shall have a means of egress that complies with all applicable requirements of the State Construction Code.
 5. No signage is allowed on the premises of a short term rental that is not otherwise permissible pursuant to any other applicable ordinance of the Township of Arcadia.
 6. No exterior lighting is permissible on the premises of a short term rental that does not comply with the requirements of any other applicable ordinance of the Township of Arcadia.
 7. Each short term rental shall be equipped with the appropriate number of working smoke detectors and carbon monoxide detectors, and one or more fully-charged fire extinguishers, at the locations prescribed by the Fire Chief with reference to any applicable requirements of law.
 8. Each short term rental shall have provisions for waste/trash disposal in tightly covered receptacles of adequate size to accommodate the actual disposal needs of each occupancy of the short term rental between removal at intervals sufficient to avoid spillover or foul odors.
 9. The terms and conditions specified in this Section 4.A., and Section 4.B. below, shall be conspicuously posted inside the short term rental or otherwise verifiably available to each occupant of the short term rental. The owner/licensee is fully responsible for each occupant's compliance with the substantive terms and conditions specified in Section 4.B., as well as the terms and conditions specified in Section 4.A. of this Ordinance.
- B. Each occupant of a short term rental, and any guest of same, is subject to the following terms and conditions at all times during the duration of their occupancy:
1. Smoke detectors, carbon monoxide detectors, and fire extinguishers shall not be disabled in any manner during any occupancy of the short term rental.
 2. Any campfire on the premises of a short term rental shall be completely contained within a fire ring or outdoor wood burning appliance placed on the property by the owner prior to the inspection by the Fire Chief as part of the license application process; or shall otherwise be approved by the Fire Chief as safe for use and compliant with any applicable statutory or code requirements. Trash shall not be burned in the fire ring or outdoor appliance.
 3. The occupants of a short term rental and any guests are responsible for securing any pets on the premises during their occupancy in accordance with all applicable laws and regulations.

4. The occupants of a short term rental, including any guests, shall not cause or allow any noise or other behavior that is unreasonably loud or otherwise likely to disturb the quiet, comfort, or repose of a reasonable person on any adjacent property, or the general public, upon considering the circumstances of such noise or behavior. Such circumstances shall include but not be limited to whether the noise/behavior is occurring between the hours of 11:00 p.m. and 7:00 a.m. when other persons have a reasonable expectation of sleeping without unreasonable disturbance.
5. All occupants of a short term rental and any guests shall at all times comply with all applicable requirements of this Ordinance, and all other applicable laws, codes, administrative rules and regulations, and ordinances.

SECTION 5

VIOLATIONS

- A. The following actions/inactions constitute a violation of this Ordinance, subject to enforcement and sanctions as specified in Section 6 of this Ordinance:
 1. Any false or materially misleading statement in a short term rental license application upon which the Administrator may have reasonably relied to erroneously approve the application and issue the resulting license.
 2. Making any premises available for a short term rental occupancy without a valid operating license in effect for those premises.
 3. Advertising or otherwise offering any premises as available for a short term rental without a valid operating license in effect for those premises.
 4. Causing or allowing any activity on the premises of a short term rental licensed pursuant to this Ordinance that fails to comply with any of the license terms and conditions specified in Section 4.A. or 4.B. of this Ordinance.

SECTION 6

ENFORCEMENT AND SANCTIONS

- A. **Enforcement.** This Ordinance shall be enforced by the Ordinance Enforcement Officer(s) of Arcadia Township, and by such other person or persons as the Township Board may designate.
- B. **Persons responsible.** Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, or who causes, allows, consents to, or aids or abets any of same, shall be deemed to be responsible for a violation of this Ordinance. Each day that a violation exists shall constitute a separate offense for enforcement purposes. Any person or entity responsible for a violation of this Ordinance, whether as an occupant, guest, owner (by deed or land

contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal.

- C. Municipal civil infraction. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
▪ 1st offense	\$ 150.00	\$250
▪ 2nd offense	\$ 325.00	\$500
▪ 3rd or subsequent offense	\$ 500.00	\$500

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

- D. Public nuisance. Any violation of this Ordinance is hereby declared to constitute a public nuisance, and shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.
- E. Administrative action. The Township may take administrative actions pursuant to Section 7 of this Ordinance, where applicable, regardless of whether or not the Township is pursuing judicial sanctions and enforcement action pursuant to Section 6.B.-D. of this Ordinance.

SECTION 7

ADMINISTRATIVE SUSPENSION/REVOCATION OF LICENSE

- A. Suspension of license. The Administrator may suspend an issued short term rental license upon determining any violation of this Ordinance as specified in Section 5 has occurred. The following procedures shall apply to such an administrative suspension determination:
1. The Administrator shall forthwith send written notice of the suspension by email to the owner and local contact person. This notice shall include all of the following:
 - a. A statement of the specific violation(s) upon which the suspension determination is based.

- b. The specific actions required to remedy the violation(s).
 - c. A statement that no new occupancy of the short term rental shall commence unless and until the stated violation(s) is/are determined by the Administrator to have been remedied.
 - d. The right of the owner to appeal the administrative suspension to the Township Board by filing written notice of such appeal with the Administrator and the Clerk within 21 days after the date the notice of suspension was sent by the Administrator to the owner and local contact person.
- B. Lifting of suspension. The Administrator's suspension of the licensee shall be immediately lifted upon a determination by the Administrator (or by the Township Board on appeal) that the ground(s) for the suspension have been remedied, or that the suspension was erroneous. The Administrator shall immediately give written notice of the lifting of a suspension to the owner and local contact person by email.
- C. Process for appeal of license suspension to Township Board. The process specified in Section 3.H. of this Ordinance for an appeal of a license application denial by the Administrator shall also apply to an appeal from a license suspension determination by the Administrator. If the administrative suspension is reversed, the suspension is immediately lifted and the short term rental license is reinstated. If the administrative suspension is affirmed, the license suspension shall remain in effect until such time as the Administrator determines the basis for the suspension has been remedied and communicates same in writing to the owner and to the Township Board in care of the Clerk.
- D. Revocation of license. The Administrator shall administratively revoke an issued short term rental license for the remaining term of that license upon issuing two or more separate administrative suspensions of that license during the current term of the issued license. The Administrator's revocation of a license shall be subject to an automatic appeal to the Township Board in accordance with the procedures specified in Section 3.H. of this Ordinance for an appeal of a license application denial, unless the licensee (owner) consents in writing to the revocation. If the administrative revocation is reversed, the revocation is immediately lifted and the short term rental license is reinstated. An administrative revocation of a license affirmed by the Township Board pursuant to those procedures shall remain in effect for the entire remaining term of the license, or 365 days, whichever is greater. The owner may thereafter apply for a new license pursuant to Section 3 of this Ordinance.

SECTION 8

EFFECTIVE DATE

This Ordinance shall become effective 30 days after publication as required by law, or upon the effective date of related amendments of the Zoning Ordinance of the Township of Arcadia to provide for “short term rental” as a permitted use in various zoning districts, whichever is later. Upon becoming effective all of the provisions of this Ordinance shall apply to any proposed new or previously existing short term rental.

SECTION 9

SEVERABILITY

If any part of this Ordinance is declared by a court of competent jurisdiction to be invalid or unenforceable, the parts not affected by that declaration are intended to remain in full force and effect.

SECTION 10

NON-REPEAL

This Ordinance shall not be construed to repeal expressly or by implication any provision of the Township Building Code, the Township Zoning Ordinance, or any other ordinance referenced herein or not referenced herein that may pertain to the subject matter of a provision of this Ordinance that does not conflict therewith. In the event of a conflict between a provision of this Ordinance and a provision of another applicable ordinance or code, the more stringent provision is intended to apply.

Tracy Catlin, Clerk
Township of Arcadia