

## ORDINANCE NO. 793

### SHORT-TERM RENTAL ORDINANCE

#### AN ORDINANCE TO CREATE A LICENSING AND REGULATORY FRAMEWORK FOR SHORT-TERM RENTALS IN THE CITY OF PETOSKEY

##### THE CITY OF PETOSKEY ORDAINS

Chapter 15, Article I, Sections 15-1 through 15-10 of the Petoskey Code of Ordinances is hereby enacted as follows:

##### Chapter 15 Short-term Rentals

##### **Section 15-1. Intent and Purpose.**

The City Council finds the short-term rental of dwelling units in the City of Petoskey provides value to our local economy but also can bring with it negative effects to the year-round quality of neighborhoods, housing supply, and public health and safety. The City Council has enacted this regulatory ordinance to strike a balance between the interests of community residents, business owners, visitors, and property owners.

##### **Section 15-2. Applicability.**

All requirements, regulations and standards imposed by this Chapter are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other chapters/ordinances of the City of Petoskey, including without limitation the City of Petoskey Zoning Ordinance. Further, this Chapter does not affect additional requirements placed on use of property (or any portion thereof) imposed by deeds, associations, or rental agreements.

##### **Section 15-3. Definitions.**

As used in this Chapter, the following words and phrases shall have the meaning hereafter ascribed to them:

*Accessory Dwelling Unit:* A second residential dwelling unit that may be contained within an existing single-family home or a freestanding structure that meets all of the requirements of the City of Petoskey Zoning Ordinance. An accessory dwelling unit shall not be used as a short-term rental.

*Basement:* The portion of a dwelling which is more than 50% below finished grade. A finished basement with egress shall be counted as a floor, an unfinished basement or a basement without egress shall not be counted as a floor.

*Bedroom:* A room intended for sleeping or placement of a bed separated from other spaces in the dwelling unit and which includes a second egress opening. The following spaces do not qualify as bedrooms: kitchens; dining areas; gathering spaces such as living rooms, dens, family rooms; and attics or basements without egress meeting standards in applicable building, residential, and fire codes.

*Cap:* Maximum number of short-term rental units that may be licensed as determined by the City Council.

*Compensation:* Money or other consideration given in return for occupancy, possession, or use of a property.

*Dwelling Unit:* A self-contained unit within a building that is designed for human occupancy and provides complete living facilities, including permanent provisions for sleeping, eating, cooking, and sanitation. "Dwelling Unit" does not include bed and breakfasts, hotels, motels, and boarding houses.

*Enforcement Officer:* The person(s) appointed by the City who shall carry out various functions of this Chapter or cause other officials, inspectors, or relevant professionals to carry out various functions in order to implement and enforce the terms of this Chapter.

*Good Visitor Guide:* Information prepared by the City's Planning and Zoning Department for distribution at all short-term rental units.

*Landlord:* Individual with possession of STR pursuant to lease or agreement.

*License:* An annual short-term rental license duly issued by the City of Petoskey in accordance with the provisions of this Chapter.

*Licensee:* The owner who applies for and receives a short-term rental license from the City of Petoskey.

*License Year:* A 12-month term as defined in this Chapter.

*Local Agent:* An individual designated by the Licensee of a dwelling unit to oversee the short-term rental of a dwelling unit in accordance with this Chapter and to respond to calls from renters, concerned citizens, law enforcement, and representatives of the City. The Local Agent must be available to accept telephone calls on a 24-hour basis at all times that the dwelling unit is rented and occupied. The Local Agent must have a key to the dwelling unit and be able to respond to the short-term rental within sixty (60) minutes to address issues. -The Local Agent shall be authorized by all owners to accept service of process upon all owners, jointly and severally, for civil infractions.

*Maximum Capacity:* The maximum number of allowable Occupants, Tenants and guests as determined by the Department of Public Safety.

*Maximum Occupancy:* The maximum number of allowable Occupants as determined by the Department of Public Safety.

*Natural Person:* A human being.

*Occupant:* Any individual staying overnight in a short-term rental.

*Residential District:* Zoning districts established by the City of Petoskey in which single- or multi-family residences are principal uses permitted as of right and limited to R-1, R-2, R-3, RM-1, and RM-2.

*Short-term Rental (STR):* The making of occupancy available for any dwelling unit or portion thereof for a fee or other compensation for a term of less than 30 consecutive days, but not including bed and breakfast establishments, hotel rooms, motels, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, and hospitals or other health care related facilities.

*Tenant:* The individual taking possession and use of the short-term rental property from the landlord under a lease. For purposes of this Ordinance, a Tenant is also counted as an Occupant when determining maximum occupancy.

*Transfer:* A transfer of property of any type from a person to another person as defined under MCL 211.27a(6)(a)-(j), being part of Public Act 206 of 1893, as amended.

#### **Section 15-4. Licensing.**

An owner of any property located within the City of Petoskey shall not rent, or allow to be rented, a short-term rental unless the owner has obtained a license for that dwelling unit in accordance with the requirements of this Chapter.

- (1) All short-term rental dwelling units shall be licensed annually between April 1 and March 31. A listing of applicants will be published annually in January by the City Clerk at City Hall and on the City of Petoskey website.
- (2) The initial term shall be for the remainder of the license year the license is issued.
- (3) An initial license, if available, may be issued at any time.
- (4) The renewal period for existing licenses shall commence on November 1. In order to renew a short-term rental license for the forthcoming year, the Licensee must deliver all required documents to the City, no later than December 30.
- (5) License renewals that are not submitted on or before December 30 shall expire.
- (6) A person seeking a short-term rental license under this Chapter shall submit to the City a complete short-term rental application, signed and certified as being true by the applicant and the designated Local Agent. The application shall include all of the information specified on the short-term rental application form and any other information deemed reasonably necessary by the City Clerk to determine whether the short-term rental standards and regulations under this Chapter have been met. The License application form and review and inspection process shall collect not less than the following information and other items that the City Clerk may deem necessary for implementation of this Chapter:
  - (a) Name, permanent address, email, and telephone number of the property owner and Local Agent for the short-term rental unit;
  - (b) The street address of the short-term rental unit, along with other identification if more than one dwelling unit shares the same street address;
  - (c) The number of bedrooms in each dwelling unit, and proposed maximum number of allowable Occupants as determined by the Department of Public Safety;
  - (d) The identification of the number of available parking spaces and a diagram of parking available for guests;
  - (e) The certification of the application shall include the following:

1. Each bedroom has a working smoke alarm, each floor has a working carbon monoxide detector, and the licensee or Local Agent will check those devices no less than every six (6) months;
  2. That the property is insured and the firm insuring the unit, policy number and expiration date. Certificate of insurance must be replaced if expired or cancelled;
  3. The property owner or Local Agent will provide at least one copy of the City's Good Visitor Guide to the renters each time the dwelling unit is rented;
  4. A schematic drawing, approved by the City, will be supplied to renters as to where they can legally park and how many spaces are available for their use;
  5. An acknowledgment that the Licensee, Tenants and Occupants are subject to the City of Petoskey Code of Ordinances including but not limited to noise, fireworks, trash and parking;
  6. An acknowledgment that the Licensee is responsible for any and all associated Tenant and Occupant fines if the Tenant and/or the Occupants fails to pay such fines;
  7. An acknowledgment that Licensees are responsible for violations relating to any and all false or misleading statements in the licensing process;
  8. An acknowledgment that any STR license awarded expires annually or upon any transfer of the property; and
  9. An acknowledgment that awareness of/compliance with the STR renewal process, timelines and any required submissions is fully the responsibility of the applicant.
- (f) A copy of the current deed for the property, showing ownership and control of the short-term rental property, and for an entity, a certificate, made under oath, as to the ownership of the proposed short-term rental property, and shall provide such additional information as the City may request. An entity must designate a natural person as the Licensee who must own at least a fifty percent (50%) interest in the short-term rental property, or have effective control thereof, as determined by the City. The name of the natural person must match the name of the person signing the application and issuing the personal check; and
- (g) A copy of the prospective Licensee's standard rental agreement, shall fully comply with local, state, and federal law including City required conditions of occupancy.
- (7) If all of the foregoing is not received by the City on or before December 30 prior to the expiration of the license of the applicable year, the Licensee shall be deemed to have irrevocably elected not to renew his or her STR license. Electronic submissions are not permitted. No further notice need be provided to the Licensee by the City.
- (8) The cap on the total number of available short-term rental licenses shall be established by resolution of the City Council. The City Council reserves the right to raise, lower or amend the number of short-term rental licenses at any time.

- (9) Properties situated in any Residential District as defined by this Chapter are not eligible to receive STR licenses. However, those properties that were properly licensed and operating as a short-term rental prior to the effective date of this ordinance are permitted to continue operating as a short-term rental despite being in a residential district, provided those properties comply with the requirements of this ordinance. The properties “grandfathered” prior to the effective date of this ordinance are listed in Appendix A. Upon transfer, licensure lapse or revocation of any licensed “grandfathered” property, the property is no longer a “grandfathered” property and no longer available for short term rental licensing.
- (10) An application will not be considered by the City if the applicant is in default to the City for any unpaid fines, fees and/or taxes, or any outstanding violations.
- (11) An application shall be accompanied by an application fee as established and set forth in the City fee schedule.
- (12) A short-term rental application shall not be considered accepted or complete until the City Clerk deems it to be complete. The City Clerk shall inform an Applicant of any deficiencies in their application submittal. Furthermore, if the applicant fails to provide all the information required by this Chapter and/or fails to pay the required fee as set by the City Council via resolution, then the application shall be deemed incomplete and may be amended until December 30, at which time it shall be deemed incomplete and denied by the City.
- (13) Once deemed to be complete, if an application complies with all the standards and regulations of this Chapter and a license is available, the City shall approve the license subject to the approval of the City Zoning Administrator and Director of Public Safety or their designee.
- (14) Licenses become void upon property transfer and upon expiration or revocation by the City under this Chapter.

#### **Section 15-5. Waiting List**

A public waiting list (the “Waiting List”) is hereby established, to be made available at City Hall, to keep and maintain a record of persons applying for short-term rental licenses in the permitted zoning districts in excess of available licenses. The applicants shall be placed on the waiting list in the order in which their completed applications are received by the City. A licensee who loses its license or fails to timely renew will be placed at the bottom of the waiting list upon the filing of an application except for “grandfathered” licenses, which will be extinguished. This waiting list will be maintained for an indefinite period. Persons desiring a short-term rental license must pay an annual fee, set by City Council via resolution, by November 30 of each year to be continued on the waiting list for a short-term rental license in the permitted zoning districts. Failure to pay the invoice by November 30 will result in removal from the waiting list. The City will send an invoice for the waiting list fee to existing waiting list applicants by email on or about November 1. All persons on the waiting list shall notify the City of any changes to their contact information. Available licenses for those on the waiting list shall be determined as of April 1 each year.

#### **Section 15-6. Regulations.**

- (1) All licensed short-term rentals shall have a designated Local Agent, as defined by this Chapter.

- (2) Advertising of a licensed short-term rental must include the license number and the maximum occupancy and maximum capacity as determined by the Department of Public Safety. This information shall also be posted in a conspicuous location in the short-term rental.
- (3) A short-term rental unit shall be inspected annually and meet current State of Michigan Building Code, District Health Department regulations, the International Property Maintenance Code and the International Fire Code as necessary to protect the safety of Occupants.
- (4) All short-term rental Licensees, Tenants and Occupants are subject to the City of Petoskey Code of Ordinances.

#### **Section 15-7: Violations and Penalties.**

- (1) A person who violates any provision of this Chapter, or any other applicable local, state, or federal regulation in connection with the ownership or the use of a short-term rental, may be responsible for a municipal civil infraction. Each day on which any violation of this Chapter continues may constitute a separate offense and be subject to penalties as a separate offense. Nothing in this Ordinance shall be construed as limiting the ability to apply greater penalties if a greater penalty is set forth in the regulation being violated.
- (2) Tenants and Occupants of short-term rentals are subject to the City's Code of Ordinances while using a short-term rental, including but not limited to noise, fireworks, trash, and parking.
- (3) The Licensee shall be responsible for any and all fines associated with activities at the short-term rental property in the event the Tenant and/or Occupants fail to pay said fines; a failure of the Licensee to pay an unpaid Tenant and/or Occupant fine is a violation of this Ordinance. A license will not be renewed unless all fines relating to the property are paid.
- (4) Licensees are responsible for violations of this Ordinance including without limitation such items as false or misleading statements in the registration process, short-term rental Local Agent not responding to complaint/call within specified time period and advertising and/or hosting greater occupancy than permissible.
- (5) If a Licensee is in default to the City of Petoskey, the license may be revoked. If revoked, the Licensee may apply to be placed on the waiting list.
- (6) Short-term rental licenses may be revoked in the following manner:
  - (a) The first violation shall result in a written warning to the Licensee;
  - (b) A second violation shall result in a fine to the Licensee as set forth by City Council via resolution; and
  - (c) A third violation shall result in revocation of the license. A minimum 14-day notice will be given to the Licensee for any revocation. As of one day following the notice of the third violation, no additional bookings may be made of the rental through the year-end.
- (7) A Licensee may appeal any decision to revoke a license.

**Section 15-8. Appeals.**

- (1) Upon a determination by the Enforcement Officer that the license of a dwelling unit is subject to revocation as set forth in Section 15-7, the Enforcement Officer shall issue a notice to the Licensee and Local Agent of the licensed short-term rental stating that the City intends to revoke the license.
- (2) The notice shall inform the Licensee and Local Agent of a right to a hearing to show cause as to why the license should not be revoked. If a hearing is requested and the hearing fee is paid within 14 days of the service of the notice, the City shall schedule the hearing before the Zoning Board of Appeals and notify the Licensee and agent in writing of a time and place for that hearing.
- (3) At the hearing, the Licensee and Local Agent may present evidence that the requirements for revocation are not satisfied or that the Licensee and Local Agent should not be held responsible for one or more of the three (3) requisite violations due to extenuating circumstances. The burden of proof is on the Licensee. Extenuating circumstances must include circumstances that the Licensee or the Local Agent could not reasonably anticipate and prevent, and could not reasonably control.
- (4) The Zoning Board of Appeals shall independently determine whether there is competent, material and substantial evidence establishing a violation and/or whether there is competent, material and substantial evidence establishing that extenuating circumstances exist.

**Section 15-9. Conflict and Severability Clause.**

Each section of this Chapter and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Chapter. To the extent that the requirements of this Ordinance conflict with another City ordinance, the more stringent standard shall control.

**Section 15-10. Enactment and Effective Date.**

This Chapter is hereby determined by the City Council to be immediately necessary for the interest of the City. Consistent with City Charter Sec. 6.3, the effective date of this Chapter shall not be less than fourteen (14) days after enactment and shall be published once within seven days after its enactment as provided by Charter.

Adopted, enacted and ordained by the City of Petoskey City Council this 4<sup>th</sup> day of December, 2023.

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John Murphy  
Its Mayor

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Sarah Bek  
Its Clerk