

**VILLAGE OF ELBERTA**  
**BENZIE COUNTY, MICHIGAN**  
**SHORT-TERM RENTAL ORDINANCE**

**Ordinance # 37**

AN ORDINANCE PURSUANT TO PUBLIC ACT NO. 3 OF 1895, MCL 67.1, AS AMENDED, TO PERMIT AND REGULATE SHORT-TERM RESIDENTIAL RENTALS WITHIN THE VILLAGE OF ELBERTA, TO ENSURE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

**THE VILLAGE OF ELBERTA ORDAINS:**

**Section 1.** The Village of Elberta, Michigan, Code of Ordinances is hereby amended to add Ordinance # 37, which shall be titled as follows:

**SHORT-TERM RENTAL REGULATIONS**

**Section 2. Definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning.**

“Bathroom” means a room containing a water closet (toilet), a sink, and a bathtub or shower.

“Bedroom” means a separate room or space used or intended to be used for sleeping purposes.

“Camp” or “camping” means the use of a camping unit or similar shelter for overnight accommodations (11:00 p.m. to 7:00 a.m., or a significant portion thereof) or for other temporary living.

“Camping unit” means overnight sleeping accommodations, lodgings, or other accommodations, with or without cooking facilities, including a tent, tent trailer, motorhome, travel trailer, pop-up, or truck-mounted trailer, recreational vehicle, camper van, or other shelter used for temporary living.

“Designated representative” means the individual designated by the license holder/property owner to perform obligations under this ordinance and to serve as the contact person for issues relating to a short-term rental. The designated representative can be the license holder/property owner. The designated representative must reside or maintain a physical place of business within sixty (60) minutes of the short-term rental.

“Dwelling unit” means a residence, including a condominium, used for residential purposes as a housekeeping unit or a domicile by one or more persons containing cooking, sanitary, and bedroom facilities.

“Land” means all land areas occupied by real property.

“License Holder” means the person who applies for and receives a short-term rental license from the Village of Elberta. A license holder may or may not be the owner of the dwelling unit where the short-term rental is located.

“Occupancy” means the purpose for which a dwelling unit or portion thereof is utilized or occupied.

“Occupant” means any individual living or sleeping in a dwelling unit or having possession of a space within a dwelling unit. “Occupant” does not include guests visiting a dwelling unit between the hours of 8:00 a.m. and 11:00 p.m.

“Operator” means any person who owns or has charge, care or control of a dwelling unit which is offered as a short-term rental.

“Owner” means the person or entity that holds legal or equitable title to the dwelling unit (or portion thereof).

“Parcel” means a continuous area or acreage of land under common ownership. “Parcel” includes either a single condominium unit or a combination of condominium units making up an area of land under common ownership.

“Person” means an individual, trustee, personal representative, conservator, receiver, agent, firm, corporation, association, partnership, limited liability company, or other legal entity.

“Rental Frequency” means how often a short-term rental may be rented in each period of time, regardless of the length of stay. For purposes of this ordinance, the per rental frequency shall be no less than seven (7) days and no more than twenty-seven (27) days on the Gregorian Calendar. If the license holder rents for less than 7 days, only one rental is permitted per week.

“Short -Term Rental” means any dwelling unit, regardless of whether an owner, manager or long-term renter resides or does not reside in the dwelling unit, that is available for use or is used for accommodations or lodging of occupant(s) paying a fee or other consideration for a period of less than twenty-seven (27) consecutive days per rental. This definition does not include lawfully operating bed and breakfast establishments, hotels/motels, employee housing, or campgrounds.

“Short-Term Rental Agreement” means a written or unwritten lease, agreement, or license between an owner or operator of a short-term rental and an occupant(s) for consideration.

### **Section 3. License Required.**

No person shall permit, allow, or offer a dwelling unit to be used as a short-term rental nor enter into a short-term rental agreement concerning a dwelling unit within the Village of Elberta without first obtaining a license from the Village pursuant to the requirements of this Ordinance. Short-Term Rental Licenses granted per year will not exceed 25 licenses per year.

### **Section 4. Application and Fee Requirements.**

- (a) Responsibility. It shall be the responsibility of the owner of the short-term rental or the owner’s authorized agent to apply for a license through the submission of a Short-Term Rental License Application
- (b) Application Form. A person seeking a license under this ordinance shall submit a complete application, certified as being true, to the Village office. The application shall include all the information specified on the short-term rental application form and any other information deemed reasonably necessary by Village office staff to determine whether the short-term rental standards and regulations have been met.



- (c) Application Fee. The application shall be accompanied by an application fee as established and set forth in the Village Fee Schedule. This fee schedule shall also establish 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 but shall consist of the normal application fee plus the amount equal to the legal and administrative costs incurred by the Village because of the applicant’s failure to initially comply with the requirements of this ordinance.
- (d) Complete Application. A short-term rental license application shall not be considered accepted until the Village office staff, and Village President deems it to be complete. If the Village office staff determines that all required information was not supplied and/or fails to pay the required fee, then the Village office 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, then the application shall be deemed incomplete and shall be denied by Village office staff and the Village President on that basis.
- (e) License. Once deemed to be complete, if an application complies with all the standards and regulations of this ordinance, the Village office staff with final review by the Village President shall approve the short-term rental license within fourteen (14) business days. All short-term rental licenses issued under this ordinance shall be sequentially numbered. All licenses issued must be signed by the owner, designated representative, if different from the owner, the Village Clerk or Treasurer and the Village President.

#### **Section 5. Standards for Approval.**

The Village office staff shall approve, or approve with conditions, an application for a short-term rental license only upon a finding that the dwelling unit complies with all the following applicable standards:

A. Bedrooms. Maximum Overnight Occupancy. Maximum overnight occupancy for short-term rentals shall be up to a maximum of two (2) persons per bedroom, plus two (2) additional persons per property, up to a maximum of twelve (12) persons, excluding children under three (3) years of age.

B. 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 the purpose of collection or disposal. No commercial dumpsters shall be allowed on the property containing the short-term rental.

C. Advertising. All advertising for the short-term rental shall display the number of the license issued under this ordinance.

D. Dwelling Appearance. The exterior appearance of the dwelling unit containing a short-term rental shall not conflict with the residential character of the neighborhood. All structures shall be properly maintained and in good repair.

E. Per Parcel Limit on Number of Dwelling Units. Only one dwelling unit shall be used as a short-term rental per parcel, except that when a parcel lawfully contains more than one dwelling unit, each separate dwelling unit may be used as short-term rental provided that each such dwelling unit is separately licensed under this chapter.

F. Parking. There shall be one (1) on-site parking space for a dwelling unit with up to two (2) bedrooms or sleeping rooms and two (2) on-site parking spaces for a three (3) or four (4) bedroom dwelling unit. Larger dwelling units must demonstrate adequate parking with a minimum of three (3) spaces.

G. Fire Safety and Emergency Access.

1. Smoke Alarms. Smoke detectors/alarms shall be installed in each rental unit. All smoke detectors/alarms shall be UL(Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) standards Section 72.A. Smoke detectors/alarms shall be installed in the following locations:
  - (a) In each bedroom.
  - (b) Outside of each separate bedroom.
  - (c) On each additional story of the rental unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
2. Bedroom Emergency Window Access.
  - a. Every bedroom shall contain a window meeting current fire code and /or building code standards for ingress and egress in an emergency.
  - b. No bedroom shall be in a basement unless the basement contains a doorway open to the outside or contains a window meeting ingress and egress emergency standards.
3. Fire Extinguishers.

An operable fire extinguisher shall be mounted at an exit door located on every floor level including the basement.

H. Designated Representative. The operator shall identify a designated representative as a local contact person. The operator shall provide an address and a current 24-hour working phone number of the designated representative to the Village office. The designated representative must be available during the rental period within a sixty (60) minute drive of the dwelling unit.

I. Compliance to Ordinances. No person shall be granted a short-term rental license unless the dwelling unit follows the Village of Elberta Code of Ordinances. Nothing in this Ordinance shall be construed as excusing compliance with the requirements of the Village of Elberta Code of Ordinances.

J. Insurance. Insurance that covers short-term rentals is required with at least \$500,000 in liability. Proof of insurance to be included with the Short-Term Rental Permit Application.

K. Proof of Rental Emergency Manual(s). The Emergency Manual(s) shall include the address of the rental unit, contact information for the designated representative of the unit and the local emergency services contact information, up-to-date Village Code and Ordinances pertaining to noise, fireworks, dogs, junk accumulation, parking and firepits and a floor plan of each level of the unit labeled by room type and a site plan of the property showing the location and dimensions of any on-site parking.

L. Certification by Applicant. As part of the application, the applicant shall certify that the foregoing standards have been met. The Village may deny or revoke a license if the statements or representations



made on the application are determined by the Village office staff and the President to be false or materially misleading. The applicant may appeal the Village President's decision to the Village Council in the manner provided by Section 8 of this Ordinance.

#### **Section 6. License.**

A. Duration. A short-term rental license shall be valid for the calendar year such license was obtained (January 1 until December 31).

B. Transferability. A short-term rental license may not be transferred from one dwelling unit to another dwelling unit. A new application will be required if the property is sold to a new owner.

C. Display. A short-term rental license shall be displayed on the front door of the dwelling unit or in a conspicuous location on the facade or nearby window not more than five (5) feet from the front door as measured from the edge of the door frame.

D. Maximum Number of Occupants. The license shall display the maximum number of occupants permitted at a dwelling unit. No person shall allow or permit a dwelling unit to exceed the maximum number of occupants stated on the license. No person shall camp or allow any person to camp on the land upon which a short-term rental is located. This prohibition includes the occupation of tents, bivy sacks, campers, trailer coaches, camper trailers, vehicles, recreational vehicles, travel trailers, camping unit, or any other temporary shelter located on the land upon which a short-term rental is located.

E. Daytime Guest limit. No more than 10 daytime guests are permitted on the premises.

F. Designated Representative Information. The license shall display the contact information for the designated representative of the short-term rental.

G. License Renewal. A short-term rental application must be renewed on an annual basis. Renewal applications must be received by the Village office by December 15<sup>th</sup> of each year. This will ensure proper processing time for the application and permit fee to be received by the annual renewal date of January 1<sup>st</sup>.

#### **Section 7. Violations; Revocation of License.**

A. Violations as Municipal Civil Infractions. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction. Each day that a violation occurs constitutes a separate offense.

B. Revocation of License. The Village may revoke the short-term rental license for any dwelling unit which is the site or subject of at least three (3) separate incidents or violations of this Ordinance (occurring on three (3) separate days) within a calendar year resulting in a plea of responsibility (with or without explanation), a plea of guilty, a plea of not guilty, a plea of no contest, or a court's determination of responsibility or guilty by the owner, designated representative, or occupant for a violation of the following:

1. Any provision of the Village of Elberta Code of Ordinances, including this Ordinance and the Village Zoning Ordinances.

C. Revocation Procedure. Upon a determination by the Village office and Village President that the license of a dwelling unit is subject to revocation pursuant to subsection (B), the Village office shall issue a notice to the operator or designated representative that the Village intends to revoke the license by first-class mail to the address listed on the license. The operator or designated representative may within fourteen (14) days from the date the notice was sent request a hearing before the Village Council to show cause as to why the short-term rental license should not be revoked. If a hearing is timely requested, the Village office shall notify the operator or designated representative of the time and place of the hearing. At the hearing, the operator or designated representative may present evidence that the violations of this Ordinance were due to or caused by extraordinary circumstances. The reasons for the revocation of a license will be based upon a competent material and substantial evidence on record. A decision to revoke a license by the Village Code Enforcement Officer may be appealed to the Village Council within twenty (20) days of the written notice of revocation which shall then set a hearing which provides an opportunity for the owner to submit evidence and testify as to why the decision to revoke a license should be reversed. After such hearing, the Village Council may either uphold the revocation of the license or reverse the revocation by a majority vote.

D. Duration of Revocation. No license shall be issued to an operator or designated representative for a period of thirty-six (36) months following the revocation of a license pursuant to Section 8 (C).

#### **Section 8. Enforcement Officials.**

The Village Code Enforcement Officer appointed by a majority vote of the Village Council is hereby designated as the authorized official to administer and enforce this ordinance, including the authority to issue and serve municipal civil infractions directing alleged violators of this ordinance to appear in court.

#### **Section 9. Violations and Penalties.**

- (a) 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 the 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.
- (b) The Village Code Enforcement Officer, appointed by the Village Council, is hereby designated as the authorized Village Official to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court.
- (c) 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.
- (d) In addition to enforcing this ordinance with a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this ordinance.

**Section 10. Severability.**

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance, which shall be given effect without the invalid portion or application.

**Section 11. Effective Date.**

This Ordinance shall become effective twenty (20) days after notice of adoption is published in a newspaper of general circulation within the Village.

Motion to accept The Short-Term Rental Ordinance #37 as presented with items a, b, c by Ken Holmes; Seconded by Bill Soper. **All Ayes – Motion Carried.**

AYES: 4

NAYS: 0

ABSENT: none (one vacant seat)

ORDINANCE DECLARED ADOPTED.

Jennifer S. Wilkins 6-17-2021  
Jennifer S. Wilkins Date  
President, Village of Elberta

Roberta R. Benedict June 17, 2021  
Roberta R. Benedict Date  
CLERK, Village of Elberta

Roberta R. Benedict, Village Clerk, Village of Elberta

(STATE OF MICHIGAN ) ( ss. COUNTY OF BENZIE )

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Elberta at a regular meeting held on June 17, 2021, and I further certify that public notice of such meeting was given as provided by law.

Date: June 17, 2021 Roberta R. Benedict

Roberta R. Benedict  
CLERK, Village of Elberta