

113.000 MILTON TOWNSHIP VACATION RENTAL ORDINANCE

Adopted:

Effective:

An ordinance to preserve the peace, welfare, order, health and safety of people and property in Milton Township; to prescribe standards, owner responsibilities, permitting, and enforcement for Vacation Rentals as well as penalties for the violation of the provisions of this ordinance; and to repeal all conflicting ordinances or parts of ordinances.

MILTON TOWNSHIP, located in Antrim County, Michigan ORDAINS:

113.101 Title

This Ordinance shall be known as the Milton Township Vacation Rental Ordinance.

113.102 Purpose

The Milton Township Board finds and declares as follows:

- A. It is the intent of the Milton Township Vacation Rental Ordinance to establish standards for transient lodging activities within dwelling units so that these activities will not be detrimental to the character and livability of surrounding neighborhoods.
- B. Vacation Rentals provide a community benefit by expanding the number and type of transient lodging facilities available to support the local economy but place a burden on neighboring properties and the community.
- C. Vacation Rentals should not be established as income and/or profit producing enterprises in residential neighborhoods.
- D. Township staff have received complaints involving excessive noise, disorderly conduct, overcrowding, traffic, congestion and parking at Vacation Rental properties.
- E. The transitory nature of Vacation Rentals makes ongoing enforcement difficult.
- F. The provisions of this ordinance are necessary to prevent the continued burden on County and Township services and impacts on residential neighborhoods posed by Vacation Rental properties.

113.103 Applicability

This ordinance applies to all vacation rentals within Milton Township. 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 the Milton Township Zoning Ordinance. Further, this ordinance does not negate additional requirements of deeds, homeowners' associations or rental agreements.

113.104 Definitions

Unless otherwise specified herein, the terms used in this ordinance shall be defined as follows:

Dwelling Unit. A group of rooms located within a building and forming a single habitable unit having facilities which are used or intended to be used for sleeping, cooking and sanitation purposes.

Local Contact Person. A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any complaints.

Managing Agent or Agent. A person, firm, or agency representing the owner of the Vacation Rental, or a person, firm or agency owning the Vacation Rental.

Owner. The person or entity that holds legal or equitable title to the private property.

Parking. Located outside of the road right-of-way and on the parcel where the vacation rental is located, a designated parking area that is legally available to the Dwelling Unit for overnight parking of a motorized vehicle and/or trailer.

Person. An individual, a group of individuals, or an association, firm, partnership, corporation, or other private entity, public or private.

Vacation Rental. A property containing a Dwelling Unit that is occupied by any person, other than the primary Owner, for monetary consideration, for a period of less than thirty (30) consecutive calendar days, counting portions of calendar days as full days, regardless of the number of days listed on the lease (i.e. subletting). A Vacation Rental does not include a Bed and Breakfast permitted and operated in accordance with the Milton Township Zoning Ordinance.

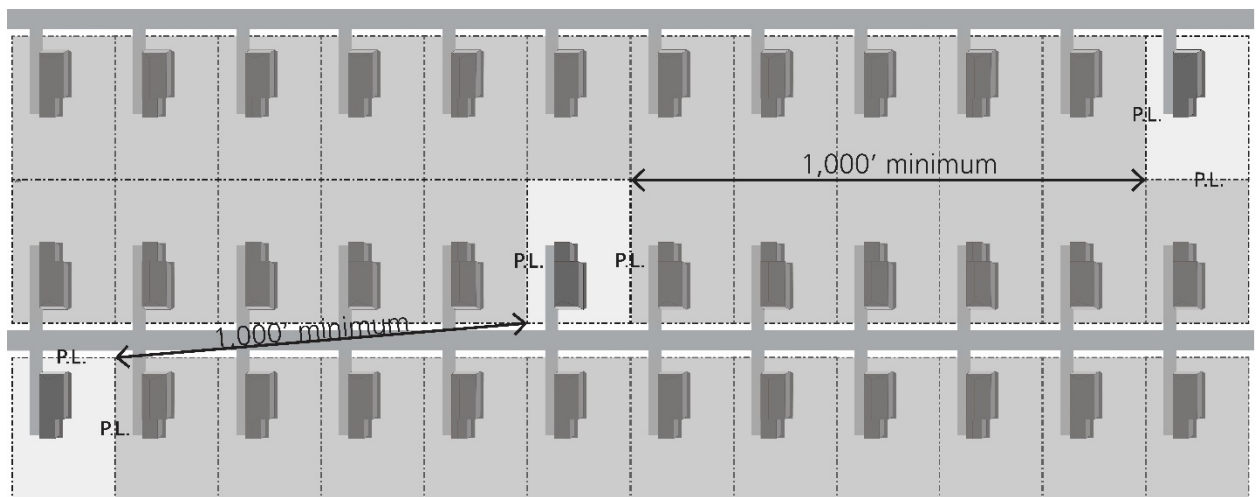
113.105 Limitations on the Number of Vacation Rental Weeks Allowed

- A. Shall not be rented for more than six (6) weeks during a calendar year.
- B. Shall not be rented for more than two (2) weeks during a four (4) week period unless leased to one renter for a minimum of three (3) and up to four (4) consecutive weeks.

- C. Shall have a minimum length of rental period of seven (7) days.
- D. Vacation Rental within the Village zoning district are exempt from this section.

113.106 Limitations on Density and Proximity of Vacation Rentals

- A. Vacation Rentals shall be permitted in a manner that limits the total number of rentals within neighborhoods. The following separation distance and density thresholds shall apply:
 - a. Minimum spacing of 1,000 feet between Vacation Rentals measured nearest property line to nearest property line.
 - b. This limitation shall not apply to applications to renew vacation rental licenses issued prior to the effective date of this ordinance, and continuously renewed annually according to this ordinance, but will apply if any such license expires or is terminated or voided and a new license is thereafter sought.



Minimum Required Separation between Vacation Rental Properties

113.107 Vacation Rental Standards

All Vacation Rentals require a license and must meet the following standards:

- A. Each Owner of a Vacation Rental must designate a Local Person, Property Manager or Agent, as a Local Contact Person who has access and authority to assume management of the unit and take remedial measures.
 - 1. The Local Contact Person must be available twenty-four (24) hours a day during the rental period and be within forty-five (45) minutes travel time.

2. The name, working cell phone number and email address of the Local Contact Person must be provided by the Owner or Local Contact Person to all neighbors within a three hundred (300) foot radius of the subject property boundaries.
 3. An Owner meeting the requirements of 1 through 2 above may designate themselves as the Local Contact Person.
- B. The overnight occupancy of the Vacation Rental does not exceed the lesser of:
1. Two (2) individuals per bedroom.
 2. Ten (10) individuals
- C. At no time shall be more than fourteen (14) individuals on the property.
- D. Vacation rentals shall not be used to grant access to the water for other properties or individuals that are not staying and registered at the vacation rental.
- E. All parking associated with a Vacation Rental shall be entirely on-site. There shall be 1 parking space per bedroom plus 1 additional space.
- F. Special events, outdoor events, lawn parties, weddings, reunions or similar activities are not allowed.
- G. If the Owner allows pets, they shall be secured on the property or on a leash at all times.
- H. The owner shall maintain a properly functioning water, septic system and/or sewer connection, as determined by the Health Department of Northwest Michigan. If public or private sanitary sewer is available, the property shall connect to the system prior to obtaining a permit.
- I. Where public sanitary sewer or public water service are not available, the property shall have a properly functioning septic sewage system and/or well, as validated by an Existing System Evaluation from the Health Department of Northwest Michigan.
- J. Fireworks of any kind are not allowed on Vacation Rental properties except:
- December 31 – 11 a.m. until 1 a.m. on January 1.
 - Saturday and Sunday immediately preceding Memorial Day - 11 a.m. until 11:45 p.m. on both days.
 - June 29 to July 4 - 11 a.m. until 11:45 p.m. each day.

- July 5, if that date is a Friday or Saturday, - 11 a.m. until 11:45 p.m.
 - Saturday and Sunday immediately preceding Labor Day – 11 a.m. until 11:45 p.m. each day.
- K. Quiet hours shall be from 10:00 p.m. to 8:00 a.m. Noise during quiet hours must be limited to no greater than a conversational level at the property line.
- L. All advertising, or any other information provided for Vacation Rentals, shall conform to the approved occupancy limits and other standards. The availability of the rental unit to the public shall not be advertised on the property.
- M. No trespassing on neighboring properties.
- N. The Owner shall post these standards in a prominent place within the Vacation Rental and include them as part of all Vacation Rental contracts.
- O. The overnight occupancy of tents, recreational vehicles and/or boats on Vacation Rental properties are prohibited. Trailers and boats may be parked in a designated on-site parking space during the rental period.

113.108 Owner Responsibilities

- A. The Owner must ensure the requirements of this ordinance, as well as all local, State, and Federal laws and ordinances are met.
- B. It is not intended that the Owner or Local Contact Person act as a peace officer or place himself or herself in harm's way.
- C. The Owner shall maintain a Vacation Rental occupancy log dating back 3 years, with documentation of all renters' names, contact information, and dates of rental. The Owner shall promptly provide said information upon reasonable request by the Zoning Administrator.
- D. The Owner shall include the license number associated with the vacation rental in all advertisements of the rental.
- E. At all times, the vacation rental license shall be posted near the road of the vacation rental and accessible to the public at all times. It shall include the current contact information for the owner and local contact person.
- F. The owner shall report when the unit will be rented prior to the rental occurring. The dates of the rental shall be reported to the Zoning Office by the 1st of the month that

the rental is to occur. If there is a change in the rental dates, the owner shall notify the Zoning Office as soon as possible.

- G. The property shall not be sub-leased or used by others in included in the lease or rental agreement.

113.109 Vacation Rental Application and License

- A. Any Dwelling Unit rented for less than 30 consecutive days requires a license pursuant to this Ordinance.
- B. A separate license is required for each Vacation Rental property.
- C. Vacation Rental licenses shall be valid for one (1) year from November 1 to October 31. All licenses expire on October 31 of each year.
- D. Failure to submit a renewal application by between October 1 and October 25 of each year will result forfeiture of the vacation rental license.
- E. A complete application must be submitted prior to receiving a Vacation Rental renewal. Below is a list of required information.
 - 1. A fully completed and signed Vacation Rental License Application form provided by the Township.
 - 2. Contact information of a Local Contact Person available by cell phone 24 hours a day, seven days a week whenever the unit is utilized as a Vacation Rental.
 - 3. Vacation Rental rules, if any, in addition to those required by this ordinance.
 - 4. Scaled Floor plan of the Vacation Rental unit including use description of each room.
 - 5. Maximum number of occupants to be accommodated while in use as a Vacation Rental.
 - 6. A copy of the Vacation Rental contract that includes a complete listing of the Vacation Rental Standards of this ordinance.
 - 7. A copy of a current system evaluation of the water and wastewater system from the Health Department of Northwest Michigan, dated within twelve (12) months of application. Renewals shall require a new evaluation every five (5) years.

The owner shall provide a Septic and Well Status Report from the Health Department of Northwest Michigan which clearly indicates:

- a. The septic system is in working condition and meets the isolation from surface water and ground water requirements.
 - b. The number of bedrooms the system is designed to accommodate and maximum occupancy of the dwelling.
 - c. A satisfactory review with no contaminants of the water supply.
8. For renewals, previous 3-year rental logs.
- F. A complete application must be submitted prior to receiving Renewal of an approved Vacation Rental License. All materials as required under above, except that the property owner may submit duplicate materials for all items as provided with the initial application if these items have not changed since the time of the initial application.
- G. Any additional information needed to determine compliance with local, State, and Federal ordinances.
- G. The Milton Township Board shall review associated costs with administrating this ordinance on a periodic basis and may establish a commensurate license fee.

113.110 Approval or Denial and Issuance of License

- A. Upon finding compliance with all ordinances, the Zoning Administrator shall issue a new or renewal license for a Vacation Rental.
1. The application demonstrates no conflicts with the Number of Vacation Rental Weeks Allowed;
 2. The application demonstrates no conflicts with Limitations on Density and Proximity of Vacation Rentals,
 3. The application demonstrates compliance with Vacation Rental Standards,
 4. The application is complete, and
 5. For past permittees who have had their licenses revoked, a year has passed since revocation.
- B. If the Zoning Administrator finds that any requirement under this ordinance, has not been met, the application shall be denied. The applicant shall be notified in writing of the denial and shall immediately cease the advertising and renting of the vacation rental. The Zoning Administrator shall issue written notice to the applicant within five (5) business days of the denial the reasons explaining the denial.
- C. For existing permittees, if, at the time of renewal, the application does not meet one or more of the requirements of this ordinance and the application is denied, the Zoning Administrator shall promptly notify the permittee. Upon receiving such notice,

all rental activity shall immediately cease and shall not resume until the Zoning Administrator verifies that the Vacation Rental fully complies with this ordinance. The license holder shall have sixty (60) calendar days from the renewal deadline to cure any deficiencies, unless the Zoning Administrator extends the cure period upon good cause shown. Requests to extend the cure period must be delivered in writing to the Zoning Administrator before the expiration of the cure period. If the license holder cannot demonstrate full compliance this ordinance at the end of the cure period, the Vacation Rental license will not be renewed and will be deemed expired.

113.111 Appeal of a Decision on Approval or Denial of a License Application

1. Any aggrieved party may appeal any decision made by the Zoning Administrator to the Milton Township Board of Trustees who will conduct, review, and dispose of the appeal accordingly on the basis of competent, material, and substantial evidence.
2. The Township Board of Trustees shall adopt by resolution the procedural rules and standards for the review of the decision to approve or deny an application for a Vacation Rental Property by the Zoning Administrator.
3. The applicant shall, within thirty (30) days from the date of the issued or denied application, provide a written statement in support of the appeal to the Milton Township Clerk. The Appeal Statement shall include:
 - a) The specific reasons why appellant believes the decision to approve or deny the Vacation Rental license was in error and a reference to the provision(s) of the Vacation Rental Ordinance upon which appellant relies;
 - b) Evidence in support of appellant's position; and
 - c) The specific relief sought by appellant from the Milton Township Board.
4. The appeal statement shall be distributed by the Clerk to the other members of the Township Board.
5. The appellant may appear before the Board to orally present his/her appeal. After discussion, the Board shall determine by vote whether the appellant has established a prima facie case that the license issuance or denial decision appealed was erroneous.
6. If the Township Board determines that a prima facie case has not been established, it will so notify the appellant and the appeal will be denied.
7. If the Township Board determines that a prima facie case has been established or that extenuating circumstances exist, they may overturn the Zoning Administrator's decision with or without conditions.

113.112 Enforcement Procedures

- A. The Township shall designate an enforcement officer(s) for this ordinance.
- B. Once an alleged incident is reported to the Vacation Rental Local Contact Person, the Local Contact Person shall report the alleged incident to the enforcement officer within 72 hours.²
- C. Within 48 hours of receipt of the alleged incident report, the enforcement officer will discuss the alleged incident(s) with the complainant(s), the Vacation Rental Local Contact Person and the Vacation Rental property Owner.
- D. When the enforcement officer receives a direct complaint, the enforcement officer shall contact the Vacation Rental Local Contact Person within 72 hours and attempt to discuss the incident and resolution.
- E. The enforcement officer shall determine whether an incident did or did not occur and inform all parties involved of that disposition. In the process of determining whether an incident occurred, the enforcement officer may require the Owner to provide the rental log maintained and may hold and use those records as evidence if the enforcement officer determines it is appropriate to issue a citation or seek judicial relief.

113.113 Violations

- A. Any of the following conduct is a violation of this Ordinance:
 - 1. Any advertising or leasing of a vacation rental without first obtaining a vacation rental license.
 - 2. The owner has failed to comply with any provisions, standards, or conditions contained in this ordinance or any other ordinance of the Township, County, and/or State and/or Federal law.
 - 3. Any false or misleading information provided in the application process.
 - 4. Any person who knowingly files a fraudulent, false, or fictitious complaint about a vacation rental shall be deemed to be in violation of this ordinance and may be subject to court enforcement proceedings and the penalties under this Ordinance.
- B. The penalties for violations specified in subsection A. are as follows:

² If multiple alleged incidents occur over a weekend, a separate message shall be left in the voice mail box of the Zoning Administrator after each alleged incident report to the Vacation Rental Local Contact Person.

1. The first violation within any twelve (12) month period shall result in a notice of violation delivered to the property Owner by mail.
 2. The second violation within any twelve (12) month period shall result in a municipal civil infraction and a fine of \$1,500.
 3. The third and/or subsequent violation(s) within any twelve (12) month period shall result in a municipal civil infraction and a fine of \$5,000 and/or up to 90 days in jail.
 4. If there are one or more violations each year during any three (3) year period, or three (3) violations in a single calendar year, the license shall be revoked.
- C. All Owners, regardless of their interest in the property, shall be responsible for the civil infraction.
- D. The Township Zoning Administrator, enforcement officer, and other officials designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court. Each day the violation remains may be a separate offense.

113.114 Revocation

The Owner will be notified of the decision to revoke a Vacation Rental license by the Zoning Office by personal contact and certified letter.

- A. Revocation Appeal and Procedures:
1. An Owner may appeal a decision to revoke a license to the Milton Township Board.
 2. The Vacation Rental Owner shall, within ten (10) business days from the date of revocation, provide a written statement in support of the appeal to the Milton Township Clerk. The Appeal Statement shall include:
 - a) an explanation of the issue(s) and the procedural history;
 - b) the specific reasons why appellant believes the decision to revoke the Vacation Rental license was in error and a reference to the provision(s) of the Vacation Rental Ordinance upon which appellant relies;
 - c) evidence in support of appellant's position; and
 - d) the specific relief sought by appellant from the Milton Township Board.
 3. The appeal statement shall be distributed by the Clerk to the other members of the Township Board.

4. The enforcement officer will, within ten (10) business days from receipt of the appeal statement, provide a written staff report to all Board members that documents the procedural actions that were taken that led to the license revocation, including any supporting evidence.
 5. The Owner may appear before the Township Board to orally present his/her appeal. After discussion, the Township Board shall determine by vote whether the appellant has established a prima facie case that the revocation decision appealed was erroneous.
 6. If the Township Board determines that a prima facie case has not been established, it will so notify the appellant and the appeal will be denied.
 7. If the Township Board determines that a prima facie case has been established or that extenuating circumstances exist, they may reinstate the license with or without conditions.
- B. Civil Action. A violation of this ordinance shall be a nuisance per se. The Township shall have the right to commence a civil action to enforce compliance with this Ordinance.

113.115 Private Actions to Enforce

- A. Any Person who has suffered or alleges to have suffered damage to person or property for a violation of this ordinance may bring an action for money damages and any other appropriate relief in a court of competent jurisdiction against the Owner. The prevailing party in this litigation is entitled to recover reasonable litigation costs, including attorney's fees in an amount deemed reasonable by the court.
- B. Nothing in this ordinance creates any right of action against the Township or any of its officers, employees, or agents. The sole purpose and intent of this section is to create a right of action between private parties, entities, and interests, which are or may be impacted or affected by various aspects of Vacation Rental within the township.

113.116 Transfer of ownership.

- A. **Transfers Prohibited.** Except as expressly provided herein, vacation rental licenses are nontransferable, and a vacation rental license issued under this ordinance shall become void upon the attempted transfer of a license or transfer of ownership of the dwelling unit for which the license is issued.

B. "Transfer" Defined. As used in this Ordinance, a "transfer" of a vacation rental license shall include the following:

1. Any transfer, sale, or other conveyance of a vacation rental license to a person or entity other than the owner or license holder;
2. Any transfer, sale, or other conveyance of the Premises;
3. Any change in ownership or transfer, sale, or other conveyance of an interest or membership in the corporate entity which is the owner of the Premises or the short-term rental license; or
4. Any change in the trustee(s), beneficiary, or beneficiaries of the trust which is the owner of the Premises or the vacation rental license.

C. Permitted Transfers. Notwithstanding the above, the Township recognizes that as a matter of public policy it is equitable and consistent with the intent of this ordinance to enable transfers of vacation rental licenses in certain limited circumstances, which include transfers to immediate family members and reallocations of entity interests holding a vacation rental license among existing entity owners. Consistent with these policy goals, vacation rental licenses may be transferred under the following circumstances, provided that a transfer application conforming to the requirements and regulations set forth in this ordinance and indicating the relationship of the transferor to the transferee is first submitted to and approved by the Township:

1. For vacation rental licenses held by an individual, that individual may transfer their vacation rental license to an immediate family member.
2. For vacation rental licenses held by a corporate or other entity, owners or members of that entity may transfer their interest in the entity to i) an immediate family member; or ii) another member of that same entity.
3. For vacation rental licenses held by a trust, a conveyance to i) a beneficiary of that trust; or ii) a beneficiary's immediate family member. The trustee of the trust may also be modified to remove an existing trustee or designate an immediate family member of the trustee as the new trustee.

D. Waiver. For transfers not expressly authorized herein, a license holder may make a written application to the Zoning Administrator for a waiver from this ordinance's prohibition on transfers. Such application must demonstrate that the proposed transfer is essentially a transfer to an immediate family member or an existing owner of the license and is otherwise consistent with the purpose and objectives of this ordinance on good cause shown to the Zoning

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Administrator. The Zoning Administrator shall approve or deny such applications.

113.117 Severability

In the event that any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is found to be invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

113.118 Effective Date

This ordinance shall become effective thirty (30) days following publication.

Amended:

Effective Date:

Suggested revisions to Zoning Ordinance to connect the two ordinances:

117.204

Dwelling Unit Rentals. In Milton Township, any dwelling unit may be leased or rented provided:

- A. The zoning district permits single-family dwellings.
- C. The minimum length of stay is thirty (30) days unless permitted as a Vacation Rental.
- D. Vacation Rentals are subject to the rules and procedures of Chapter 113.000 of the Milton Township Code of Ordinances (Milton Township Vacation Rental Ordinance).
- E. All other requirements and standards of this Ordinance including signs are met.

117.222

Vacation Rental. A property containing a Dwelling Unit that is occupied by any person other than the primary Owner for monetary consideration, for a period of less than thirty (30) consecutive calendar days, counting portions of calendar days as full days. A Vacation Rental does not include a Bed and Breakfast permitted and operated in accordance with the Milton Township Zoning Ordinance.

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