

12.04.2022

113.000 MILTON TOWNSHIP VACATION RENTAL ORDINANCE

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. Vacation rentals provide a community benefit by expanding the number and type of lodging facilities available and assist Owners of Vacation rentals by providing revenue that may be used to help offset taxes and maintenance costs.
- B. Vacation rentals should not be established as income and/or profit producing enterprises in residential neighborhoods.
- C. Township staff has received complaints involving excessive noise disorderly conduct, overcrowding, traffic, congestion and parking at vacation rental properties.
- D. The transitory nature of occupants of vacation rentals makes continued enforcement against the occupants difficult.
- E. 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 homes.
- F. It is the intent of the Milton Township vacation rental Ordinance to establish standards for vacation rental activities so that these activities will not be detrimental to the character and livability of the surrounding neighborhood.

113.103 Applicability

All requirements, regulations and standards imposed by this ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in this ordinance. Further, this ordinance does not affect additional requirements of deeds, 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.

Incident. A lessee's noncompliance with Ordinance 113.106 Rental Standards.

Local contact person. A local property manager, owner, or agent of the owner, who is available to respond to tenant and neighborhood questions or concern, or any agent of

12.04.2022

the owner authorized by owner to take remedial action and respond to any violation of this ordinance.

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 home rental.

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

Parking. An onsite designated parking area legally available to the Dwelling Unit for overnight parking of a motorized vehicle or trailer.

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

Vacation Rental Standards Violation. Two confirmed incidents occur within seven days with the same lessee.

Vacation Rental. A property with 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. Vacation Rental does not include a bed and breakfast permitted and operated in accordance with the Milton Township Zoning Ordinance.

113.105 Limitations to the Number of Vacation Rental Weeks Allowed

- A. Vacation Rentals shall not be rented for more than six (6) weeks during a calendar year AND not more than two (2) weeks during a four (4) week period unless leased to one renter for a consecutive three (3) or four (4) week period.
- B. Exempted from 113.105 A:
 - 1. Dwelling Units that have been rented on a continuous yearly basis prior to June 12, 1975, the effective date of the Township Zoning Ordinance.
 - 2. Dwelling Units within the Village Zone.

These exempted Vacation Rental properties are subject to the provisions of 113.106 Vacation Rental Standards, 113.107 Owner Responsibilities, 113.108 Enforcement Procedures, 113.109 Vacation Rental Permit, 113.110 Penalties, 113.111 Standards Violations and 113.112 Private Actions.

113.106 Vacation Rental Standards

All Vacation Rentals must meet the following standards whether or not a permit is required:

- A. The minimum length of rental period per renter is seven (7) days.
- B. 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.

12.04.2022

C. Local Contact Person:

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.

D. The overnight occupancy of the Vacation Rental does not exceed the lesser of:

1. Two (2) individuals per bedroom.
2. Ten (10) individuals

E. The total number utilizing the property from 7am until 11pm shall not exceed fourteen (14) individuals.

F. All parking associated with a Vacation Rental shall be entirely on-site.

G. Special events, outdoor events, lawn parties, weddings, reunions or similar activities are not allowed.

H. Pets shall be secured on the property or on a leash at all times.

I. 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 sewer is available, the property shall connect to the system prior to obtaining a permit.

J. Fireworks of any kind are not allowed on rental property 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. Noise during quiet hours must be limited to a conversational level. Quiet hours shall be from 10:00 p.m. to 8:00 a.m.

12.04.2022

- L. All advertising handouts, flyers, or any other information provided for vacation rentals shall conform to the approved occupancy limits and other standards. Availability of the rental unit to the public shall not be advertised on site.
- M. No use of radios, TVs, or other sound reproductive device, or musical instrument in a manner or volume that is beyond a conversational level.
- N. No trespassing on neighboring properties.
- O. The Owner shall post these standards in a prominent place within the vacation rental and include them as part of all Vacation Rental contracts.
- P. The overnight occupancy of tents, R.V.s and/or boats on Vacation Rental properties are prohibited

113.107 Owner Responsibilities

- A. The Owner must ensure the required standards 113.106 or any State law pertaining to noise or disorderly conduct 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 activity log dating back 3 years, with basic information as to renter's name, renter's contact information, and dates of rental. Owner shall promptly provide said information upon reasonable request by the Zoning Administrator.

113.108 Enforcement Procedures

- A. Once an alleged incident is reported to the Vacation Rental Local Contact Person, the Local Contact Person shall report the alleged incident to the Milton Township Zoning Administrator's office.¹
- B. Within 48 hours of the receipt of the alleged incident report, the Zoning Administrator will discuss the alleged incident(s) with the complainant(s), the Vacation Rental Local Contact Person and the Vacation Rental property Owner.
- C. The Zoning Administrator 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 Zoning Administrator may require the Owner to provide those records maintained under Section 107, and may hold and use those records as evidence if the Zoning Administrator determine it appropriate to issue a citation or seek judicial relief under Sections 113.110 or 113.111.

113.109 Vacation Rental Permit

¹ 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.

12.04.2022

- A. Any Dwelling rented for 3 or more weeks during a calendar year as a Vacation Rental requires a permit be issued pursuant to this Ordinance.
- B. A separate permit is required for each Vacation Rental property.
- C. The following application elements are required prior to receipt of a Vacation Rental Permit or permit renewal.
 - 1. A fully completed and signed Vacation Rental Permit Application form provided by the Township.
 - 2. Contact information of a local contact 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. 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 used that shall include a complete listing of the standards in 113.106. Vacation Rental Standards.
 - 7. For the initial permit application, a copy of an **existing 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.
- D. Vacation rental permits shall be valid for one (1) year from November 1 to October 31. All permits expire on October 31 of each year. Applicants can file a renewal permits starting October until October 25. Failure to submit a renewal application by October 25 will result in the application being processed as a new application. New applications will be processed throughout the year expiring on October 31 regardless of when issued.
- E. The Milton Township Board shall review associated costs with administrating this ordinance on a periodic basis and may establish a commensurate permit fee.

12.04.2022

113.110 Permit Violations (per 113.109)

- A. The following conduct is a violation of the Vacation Rental Ordinance:
1. An Owner has rented a dwelling unit for 3 or more weeks without a permit.
 2. An Owner has provided false or misleading information during the permit application process.
 3. An Owner continues to rent beyond the revocation date of their permit.
 4. An Owner fails to provide guest log when requested.
- B. The penalties for violations specified in subsection (A) are as follows:
1. The first violation within any twelve (12) month period shall result in a notice of violation delivered to the property Owner by certified mail.
 2. The second violation within any twelve (12) month period shall result in a municipal civil infraction and a fine of up to \$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 up to \$5,000 and/or up to 90 days in jail.
- C. All Owners, regardless of their interest in the property, may be responsible for the civil infraction. The Township Zoning Administrator 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.

113.111 Standards Violations (per 113.106)

- A. The Township shall revoke a Vacation Rental permit for the following reasons:
1. Two (2) **Vacation Rental Standards violations** occur within a twelve (12) month period.
 2. A dwelling has rented in excess of the number of weeks allowed for rental specified in 113.105 Limitations to the Number of Vacation Rental Weeks Allowed.

The Owner will be notified of the decision to revoke a Vacation Rental permit by the Zoning Administrator by personal contact and certified letter. The effective date of revocation will be the earlier of these notifications

- B. Revocation appeal and procedures:
1. An Owner may appeal a decision to revoke a permit to the Milton Township Board.

2. The Vacation Rental Owner shall, within five (5) 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 permit 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 Zoning Administrator 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 permit revocation, including any supporting evidence.
 5. The Owner 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 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 permit with or without conditions.
 8. An Owner may reapply for a permit no sooner than twelve (12) months after revocation.
- C. 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
- D. Any other failure to abide or comport by the standards and requirements of this Ordinance shall be considered a Standards Violation.

113.112 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.

12.04.2022

- 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.

113.113 Severability

In the event that any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held 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.

113.114 Effective Date

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

Amended: October 26, 2022

Effective Date: December 4, 2022