

**CITY OF NEW BUFFALO  
BERRIEN COUNTY, MICHIGAN**

**ORDINANCE NO. 237 OF 2019**

**ORDINANCE TO AMEND THE NEW BUFFALO CITY CODE OF ORDINANCES  
TO ADD A NEW CHAPTER 11 REGULATING THE SHORT-TERM RENTAL OF  
RESIDENTIAL DWELLINGS**

The City of New Buffalo ordains:

Section 1. Amendment. A new Chapter 11, entitled “Short-Term Rental Units,” is added to the New Buffalo City Code, to read in its entirety as follows:

**Chapter 11  
Short-Term Rental Units**

**Sec. 11-1. Purpose.**

- A. The city recognizes that one of our largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The city believes that the tourism industry will continue to grow.
- B. The city recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. This marketplace has grown exponentially with the increasing use of online booking websites, and it will most likely continue to grow as surrounding municipalities limit, restrict or eliminate the practice.
- C. The city needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

**Sec. 11-2. Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. *City*. The department, officer or individual designated by the City Manager or City Council to administer all or any part of the permitting and inspection programs under this chapter.
- B. *Bedroom*. A room intended for sleeping or placement of a bed, separated from other spaces in dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedroom: (i) kitchens; (ii) dining areas; (iii) gathering spaces such as family rooms, dens, or living rooms; and (iv) attics or basements without egress meeting standards in applicable building, residential, and fire codes. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in Chapter 3 of the Michigan residential code.
- C. *Local Agent*. An individual or legal entity designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the city; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal paper’s relating to the unit on the owner’s behalf. The local agent must live or maintain a physical place of business within 45 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.

- D. *Occupant*. An individual who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight.
- E. *Off-Street Parking Space*. Shall mean a parking space that is provided on the same lot as the short-term rental unit that satisfies the requirements to count toward the minimum-parking calculation in Article 15 of the zoning ordinance.
- F. *Owner*. The individual or entity who is the legal or equitable titleholder and who controls the premises occupied by one or more rental units.
- G. *Short-Term Rental Appeals Board*. A five (5) member board empowered to consider matters specified in this chapter, consisting of the City Manager, Police Chief and three (3) individuals appointed by the Mayor with the concurrence of the City Council. Two (2) of the three (3) appointed members must be residents of the City and the third (3) member must be an employee or owner of a business that operates short-term rentals within the City. The Mayor, with the concurrence of the City Council, shall also appoint a resident as an alternate member, who may serve when a regular member abstains from deciding a matter due to a conflict of interest. Meetings of the Short-Term Rental Appeals Board shall be conducted in accordance with the Open Meetings Act.
- H. *Short-Term Rental Unit*. A dwelling unit or portion thereof rented for a term of less than one month. The term short-term rental unit does not include the use of transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental health facility, or other health care related clinic. Dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity are not short-term rental units.
- I. *Short-Term Rental Unit Permit*. A written document issued by the city indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. A short-term rental unit permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly or later detected violations of the city's property maintenance code, fire code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

### **Sec. 11-3. Permit Applications.**

- A. *Permits required*. All dwelling units used for short-term rentals must be registered with and have a short-term rental unit permit issued by the City. The short-term rental a dwelling unit without a permit is prohibited.
- B. *Application*. To apply for a short-term rental unit permit, the owner shall:
  - 1. Provide and certify as true the following on a form provided by the City:
    - a. Name, address, email address, and telephone numbers (local and cell phone) of the owner and any agent for the owner.
    - b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
    - c. The number of short-term rental units in the building, if more than one.
    - d. The number of bedrooms in each short-term rental unit.

- e. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit.
  - f. The length of the typical rental period for which the applicant intends to rent the property.
  - g. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check those devices at least every 90 days.
  - h. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
  - i. A statement certifying that the property owner consents to inspections by the city and will make the dwelling unit available to inspections upon request.
  - j. A brochure or other document to be given to each group of occupants containing all the information required in the subsections above.
  - k. Such other information as the city requests.
2. Sign the application form and provide the signature of the local agent.
  3. Pay an annual administrative fee, as set by resolution of the City Council.
  4. Submit the property to an annual inspection for compliance with applicable codes and ordinances. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void. Voiding a permit under this section is not subject to the procedures provided in Section 11-8.
- C. *Changes in information.* The owner shall notify the city in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the city in writing within ten days of any change in the designated local agent.

#### **Sec. 11-4. Short-Term Rental Regulations.**

- A. *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the city has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section.
- B. *Local agent required.* All short-term rental units must have a designated local agent. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner's agent for any acts required of the owner or the owner's agent under this chapter.
- C. *Permit issuance and validity.* A short-term rental unit permit shall be granted only if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met. However, the city may issue a short-term rental unit permit prior to the successful completion of an inspection, if the property owner is not responsible for the delay in the inspection and if the permit is made contingent on successful completion within a reasonable time. Short-term rental unit permits are valid for a period of 1-year from the date of issuance and must be renewed annually.
- D. *Delinquent payments.* No permit shall be issued to any owner unless that owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due to the city. Delinquencies on any such payments to the city, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.

- E. *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated pursuant to Section 11-7 below. The owner, local agent, and occupants shall be in violation of the chapter if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated in the lease or other rental documents.
- F. *Duty to provide permit.* Upon request by any occupant or prospective occupant, the owner or agent shall provide the occupant or prospective occupant with a copy of the short-term rental unit permit, as well as a copy of the lease or other document containing the required disclosures. The owner of each short-term rental unit must prominently display a full-sized copy of the short-term rental unit permit in each short-term rental unit.
- G. *Permit transfers.* A valid short-term rental unit permit may be transferred to a new owner of a short-term rental unit upon the city's prior written consent once the new owner files an application meeting all the requirements of this ordinance.
- H. *Applicable codes.* Compliance with applicable zoning, construction, fire, and property maintenance codes shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this ordinance.
- I. *Basement regulations.* No basement can be used for a bedroom unless it has an egress window approved by the City inspector and found in compliance with local and state code requirements.
- J. *Curbside refuse pickup.* The owner must make provisions to have refuse picked up (curbside) on at least once per week when the short-term rental unit is being rented. Where curbside pickup is not reasonably available, this requirement may be satisfied by provision of a communal dumpster available for use by occupants of the short-term rental unit.
- K. *Renter turnover procedure.* For short-term rental units, the local rental agent shall, at least once per month, inspect the premises (or ensure inspection by a designee of the agent) using a city designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for city inspection and copying for a period of at least two years.
- L. *Compliance with safety equipment requirements.* All short-term rental units shall comply with the safety equipment requirements in Section 11-6 below.

#### **Sec. 11-5. Inspections.**

- A. *Scheduling.* Upon written notice from the city, it shall be the owner's responsibility to schedule and allow the city's inspection of the short-term rental unit. Inspections shall occur during the city's regular business hours, unless the city agrees to other arrangements, and all fees shall be paid prior to the inspection.
- B. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
- C. *Additional inspections.* The city may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:
  - 1. A complaint is filed with the city; or
  - 2. The city otherwise has reasonable cause to believe a short-term rental unit is in violation of any city ordinance.

- D. *Changes in conditions following inspection.* The owner shall notify the city in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the city.

**Sec. 11-6. Safety Equipment.**

- A. *Smoke detectors.* The owner and local agent of each short-term rental unit shall be responsible for the installation of smoke detectors/alarms 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 § 72.
- B. *Smoke detector locations.* Smoke detectors/alarms shall be installed in the following locations:
1. In each sleeping room;
  2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
  3. 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.
- C. *Carbon monoxide detectors.* The owner of each short-term rental unit shall be responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detectors shall be of the type described in MCL 125.1504d.
- D. *Fire extinguisher.* The owner of each short-term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
- E. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

**Sec. 11-7. Maximum Occupancy Calculation.**

- A. *Base calculation.* Except as otherwise provided in subsection B, the number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of: (i) 14 total occupants; (ii) 2 occupants per bedroom plus 2 additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code; or (iii) except for units within a Planned Unit Development, 4 occupants for every off-street parking space provided on the lot and reserved exclusively for occupants of the short-term rental unit. For units within a Planned Unit Development, the occupancy is determined only by the limits described in (i) and (ii).
- B. *Applications for increase.* An owner or local agent may apply for permission to have the maximum occupancy of a dwelling unit increased above the maximum of 14 total occupants established in subsection A to the lesser of: (i) 18 total occupants; or (ii) 2 occupants per bedroom plus 2 additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code, or (iii) except for units within a Planned Unit Development, 4 occupants for every off-street parking space provided on the lot and reserved exclusively for occupants of the short-term rental unit. Applications for increase shall be submitted to the City Clerk and decided by the Short-Term Rental Appeals Board. Applications shall be submitted on a standard form provided by the City and shall be accompanied by any applicable fee established by resolution of the City Council. The Appeals Board shall decide an application for increase in a public meeting with advance notice of that meeting given to owners of real property within 300 feet of the boundaries of the property for which the application for increase has been filed. The Appeals Board shall grant the application only upon determining that the criteria below are satisfied:

1. All of the following are provided:
  - a. A parking site plan allowing sufficient access for emergency vehicles.
  - b. An automatic sprinkler system on all floors with one or more bedrooms.
  - c. A fire alarm system.
  - d. An interconnected smoke alarm system.
  - e. Fire-rated corridors.
  - f. Fire-rated stairwell enclosures on all stairways providing the primary means of egress for one or more bedrooms.
  - g. Automatic door closers and fire-rated doors on all bedrooms.
  - h. A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms, as determined in the discretion of the Appeals Board.
2. Due to one or more of the following features or other similar features of the applicant's property, an increased maximum occupancy would not have an adverse effect on surrounding properties:
  - a. Isolation from properties used as residential dwellings.
  - b. Size of the setbacks on the property.
  - c. Provision of fencing or other screening from adjoining properties.
  - d. Topography and layout of the applicant's property, or of the adjoining properties.
  - e. Other characteristics and uses of properties within the vicinity of the applicant's property.

**Sec. 11-8. Violations; Permit Revocation.**

- A. *Violations as municipal civil infractions.* Any person who violates any of the provisions of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$500, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:
  1. The fine for any offense which is a first repeat offense shall not be less than \$750 plus costs and other sanctions.
  2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$1,000, plus costs and other sanctions.
  3. A repeat offense means a second (or any subsequent) violation of this ordinance:
    - a. Committed by a person within any 12-month period; and
    - b. For which the person admits responsibility or is determined to be responsible.
- B. *Permit revocation.*
  1. The city may revoke the short-term rental permit for any short-term rental which is the site of at least 3 separate incidents (occurring on 3 separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner, local agent, or any renter for a violation of one or more of the following:
    - a. Any provision of this ordinance;
    - b. The city noise and nuisance ordinance; and

- c. Any violation of the zoning ordinance or any permit or approval issued pursuant to the zoning ordinance.
2. Upon a determination by the city that the short-term rental permit is subject to revocation pursuant to division (B)(1), the city shall issue a notice to the property owner and the local agent stating that the city intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within 14 days of the service of the notice. If a hearing is timely requested, the city shall schedule the hearing before the Short-Term Rental Appeals Board. The City shall notify the owner and local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided in division (B)(1) are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the 3 requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.
3. Upon revocation of a permit, a new permit will not be issued for a period of 18 months, and cannot be used for short-term rentals until a new permit is obtained.

Section 2. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: Robertson, Ennis, Spirito, Kroll, Mayor O'Donnell

NAYS: None

ABSTAIN: None

ABSENT: None

#### **CERTIFICATION**

This is a true and complete copy of Ordinance No. 237 adopted at a regular meeting of the New Buffalo City Council held on April 15, 2019.

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Lou O'Donnell IV, Mayor

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Lori K. Vander Clay, Clerk