

**Fabius Township,
St. Joseph County, Michigan
Ordinance No. **DRAFT****

Adopted: _____, 2024

Effective: _____, 2024

Short-Term Rental Ordinance

SECTION 1

PURPOSE

Purpose: Short-Term Rental of Single-Family Dwellings within Fabius Township is a matter closely connected with the public health, safety, and welfare of the community. This Ordinance in an attempt to balance the interests of community residents, community business owners, visitors to the community, and real property owners wishing to engage in Short-Term Rental of Single-Family Dwellings.

While visitors to the community who rent Single-Family Dwellings on a short-term basis bring many benefits to the community, they can simultaneously create concerns surrounding the matters of traffic, parking, congestion, litter, noise, and other similar issues. Meanwhile, issues related to fire safety and life safety codes must be considered in order to maximize the safety and well-being of all in the community, including those renting the properties. This Ordinance is intended to strike a balance between competing interests.

Areas of the Township with predominately Single-Family Dwellings are especially susceptible to the negative effects of Short-Term Rentals, since these areas are the least-intensively developed residential areas in the Township. Thus, this Ordinance will regulate Short-Term Rentals of Only Single-Family Dwellings.

SECTION 2

FINDINGS

The Township Board finds that there is increased sensitivity to the effects of Short-Term Rentals in various areas within the Township, and that the regulation of Short-Term Rentals is required in order to protect the health, safety and welfare of the community. Outside of the two highways the Township is very much a rural and residential enclave where lakes, wetlands and single-family residences and family farms constitute the vast majority of uses. The Township Board finds that respecting the citizenry's desire to maintain the Township's rural character is paramount.

SECTION 3

SCOPE AND LIMITATIONS

1. This Ordinance shall apply only to Short-Term Rentals in Fabius Township, St. Joseph County, Michigan.
2. No more than forty (40) Short-Term Rentals shall be allowed in the township.
3. All Short-Term Rentals shall have a minimum distance of one-thousand (1000) feet between property lines (measurements from closest point to closest point of property lines).
 - a. At the time of registration, existing Short-Term Rentals closer than one-thousand (1000) feet must prove they have been operating as Short-Term Rentals before the effective date of this Ordinance.
 - b. Existing Short-Term Rentals closer than one-thousand (1000) feet will be allowed to operate until the property is sold or changes ownership.
4. Short term rentals are allowed in zoning districts that permit single family dwellings.

SECTION 4

DEFINITIONS

The following Definitions shall apply to this Ordinance:

Bed and Breakfast An accommodation offered by an inn, hotel or especially a private home consisting of a room for the night and breakfast the next morning, for one inclusive price.

Caretaker A person in charge of the care and maintenance of a building, residence, estate, etc.

Dwelling Unit means a building or structure that is used exclusively or primarily for human habitation and which provides complete living facilities, including permanent provisions for sleeping, eating, cooking, and sanitation and is a recognized legal dwelling unit under the Fabius Township Zoning Ordinance, Chapter 46, Article 1 “In General”, Section 46-3 “Definitions” as amended.

Family. One or more persons living together and related by the bonds of consanguinity, marriage, or adoption together with live-in help for the principal occupants and not more than one additional unrelated person, with all such individuals being domiciled together as a single, domestic housekeeping unit in the dwelling.

Habitable Areas. A space in a building constructed for and used as living, sleeping, eating or

cooking space for human habitation. For purposes of this ordinance (only), bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered to be habitable spaces.

A. In order to qualify for short-term rental, a single-family dwelling shall meet the following minimum habitable area:

- Each habitable room shall have a minimum floor area of at least seventy (70) square feet.
- Each wall in a habitable room must be at least seven (7) feet in any horizontal dimension.
- Portions of a room with a sloping ceiling measuring less than five (5) feet or a furred ceiling measuring less than seven (7) feet from the finished floor to the finished ceiling shall not be considered as contributing to the calculation for minimum required habitable area for that room.
- All habitable space and all hallways and portions of basements in Short-Term rental dwellings used to access the habitable space shall have a ceiling height of not less than seven (7) feet.

Local Agent An individual designated to oversee the Short-Term Rental of a dwelling unit and to respond to calls and complaints at any time of the day or night from renters, citizens, and township representatives within thirty (30) minutes of such calls.

Owner. A person or legal entity authorized to do business in the State of Michigan holding legal or equitable title to a Single-Family Dwelling. The local agent may be designated by the Owner to receive notice under this ordinance.

Rent or Rental. The permission, provision, or offering of possession or occupancy of a Single-Family Dwelling with some type of remuneration paid to the Owner for a period of time to a person who is not the Owner, pursuant to a written or verbal agreement.

Short-Term Rental. The Rental or subletting of a Single-Family Dwelling for compensation for a term of at least three (3) but not more than ninety (90) nights to the same individual or family includes the:

- a. rentals for less than three (3) nights are not allowed as Short-Term Rentals.
- b. A short-term rental shall include any single-family residence rented or subletted for more than thirty (30) total calendar days in a year by more than one (1) family or group.
- c. Short Term rental is considered a commercial business. However, the following shall not be considered Short-Term Rentals for purposes of this Ordinance:
 - bed and breakfast establishments
 - motels

- resorts
- campgrounds
- transitional houses operated by a charitable or government organization.
- group homes such as nursing homes and adult-foster-care homes
- substance-abuse rehabilitation clinics
- mental-health facilities
- other similar healthcare related facilities.
- rental of a single-family dwelling for more than ninety (90) days per calendar year to the same tenant or family.

Single-Family Dwelling. A "Single-Family Dwelling" is a dwelling occupied by one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations for 1 family only. (See definition of family in this Ordinance).

SECTION 5

REGISTRATION REQUIREMENTS

A. Registration Required.

1. *Annual Registration required.* All Short-Term Rentals must be registered with the Township in accordance with this Ordinance.

(a) An Owner who wishes to rent or advertise a Single-Family Dwelling as a Short-Term Rental must register the Single-Family Dwelling for each calendar year during which the rental or advertisement shall occur. The Owner shall pay an annual administrative fee which shall be set by resolution of the Township Board.

(b) Short Term Rental approval is not transferable with change of ownership.

(c) New Owners must re-apply.

B. Requirements.

All Short-Term rentals initially register by no later than March 1, 2024; provide the following information by January 1 for each subsequent year in which an Owner wishes to conduct Short-Term rental of a single-family dwelling. The Owner shall apply to the Township for a license to conduct such rentals on a form provided by the Township certifying the accuracy of and providing at least the following information:

(1) Name, address, and telephone number of the Owner of the Single-Family Dwelling to be used as a Short-Term Rental (if the Owner does not reside within twenty (20) miles of the Single-Family Dwelling, the Owner shall name a local agent);

(2) The address of the Single-Family Dwelling to be used as a Short-Term Rental (plus additional identification as necessary if there is more than one Single-Family Dwelling at the

same address).

(3) The number of bedrooms in the Single-Family Dwelling to be used as a Short-Term Rental.

(4) The number of off-street parking spaces provided for the Single-Family Dwelling to be used as a Short-Term Rental (this information must also be included in the rental agreement and any online or other advertising for the Single-Family Dwelling) off-street parking areas must be improved areas for the purposes of parking.

(5) The proposed maximum number of occupants for the Single-Family Dwelling to be used as Short-Term Rental, subject to any applicable local, state, or federal laws, regulations, or ordinances and to be determined by the Building Inspector, Zoning Administrator, or other authorized representative (this information must also be included in the rental agreement and any online or other advertising for the Single-Family Dwelling).

1. Based on this information, the Building Official, Zoning Administrator, or other designated official shall determine the total occupancy load for the Short-Term rental.
2. Garages, accessory buildings or structures, attics, porches shall not be construed as areas of habitation, and (such restriction also applies to the property owner).
3. Basements are not considered as places of habitation unless such area meets the criteria of the Michigan Property Maintenance Code.

(6) The number of consecutive days the Owner intends to rent the Single-Family Dwelling as a Short-Term Rental, and the months of the year during which Owner intends to do so.

(7) The rental agreement for the Single-Family Dwelling to be used as a Short-Term Rental.

(8) Proof of Ownership.

(9) Proof of Insurance showing the property is insured as a short-term rental with coverage establishing the use of the single-family dwelling as Short-Term Rental with policy limits of at least \$1,000,000 (one million dollars) per occurrence.

(10) St Joseph County Health Department well and septic inspection documentation establishing that the existing systems can handle the proposed occupancy load.

(11) Certification that the Single-Family Dwelling to be used as a Short-Term Rental is in compliance with all requirements of this Ordinance; and

(12) Such other information as the Township Board deems appropriate.

C. Failure to register. Any Owner who rents or advertises a Single-Family Dwelling as a

Short-Term Rental after the adoption of this Ordinance shall be deemed to be in violation of this Ordinance. In addition to the penalties provided herein, the Owner shall pay a late application fee of \$100.00 (One hundred dollars) per month for every month in which the application is deemed late.

SECTION 6
SHORT-TERM RENTAL REGULATIONS

Single-Family Dwellings used as a Short-Term Rentals are subject to the following requirements and performance standards.

(a) Identification

1. The Street Address of every Single-Family Dwelling used for a short-term rental must be placed on the house with numbers at least three (3) inches high and visible from the road.
2. The single-family dwelling shall have located at or near the main entrance a sign (which may include the address if it meets the above standards) containing a current contact number for the person in charge. This sign shall be posted and legible, with the phone number of the person in charge also visible from the street. The sign may not be any larger than 24” by 30” (twenty four inches by thirty inches).
3. No exterior sign shall be used to advertise the single-family dwelling as “for rent as a short-term rental” to advertise the availability of the short term residential rental unit to the public.

(b) Occupancy determination and Limits.

1. Maximum occupancy. The maximum occupancy of any Single-Family Dwelling used as a Short-Term Rental shall be as follows:
 - (A) Maximum occupancy in a Single-Family Dwelling used as a Short-Term Rental shall not exceed two (2) occupants per bedroom (exception, children under twenty-four (24) months or have documented medical supervision needs) plus two (2) additional occupants per finished story, which meets the applicable egress requirements for occupancy in the Property Maintenance Code, subject to any other local, state, or federal requirements. Occupancy load shall be determined by the Building Official, Zoning Administrator, or other designated official. A basement is not considered a story.
 - (B) In addition to the maximum occupancy specified in subsection (1) above, a

Single-Family Dwelling used as a Short-Term Rental may have a total number of people on site, including occupants and day-time guests (allowed to be present at most from sunrise to sunset), up to 1.5 (one and one-half) times the maximum number of occupants allowed by subsection (1) (a fractional number of people allowed shall be rounded up). All guests must follow same rules as renters.

- (c) **Smoke detectors and carbon monoxide devices.** Single-Family Dwellings used as Short-Term Rentals must possess:
1. Operational smoke detectors in each bedroom and one on each floor in the vicinity of the bedroom, which must be tested at least every ninety (90) days to ensure that they are properly functioning (a written log of such testing must be made available upon request by the township or its officials); and
 2. At least one (1) operational and approved carbon monoxide detection device of the type described in MCL 125.1504 on each floor, which must be tested at least every ninety (90) days to ensure proper functioning (a written log of such testing must be made available upon request by the township or its officials).
- (d) **Zoning compliance.** Short-Term Rentals must also comply with the Fabius Township Zoning Ordinance, and nothing in this Ordinance shall be construed as excusing compliance with zoning requirements.
- (e) **Accessory buildings or structures, attics, and basements.**
1. No accessory building or structure, attic or basement can be counted for the purpose of determining the maximum number of occupants in a Single-Family Dwelling used as a Short-Term Rental, unless the Building Inspector, Zoning Administrator or other designated official has verified and approved that such space meets the applicable egress requirements for occupancy in the Property Maintenance Code and the applicable fire codes.
 2. At no time shall an accessory building or structure be used for habitation. A basement is not considered a story. Occupancy shall be limited to the approved habitation space of the principal dwelling only.
- (f) **Inspections.** The Owner must consent to yearly inspections of the Single-Family Dwelling used as a Short-Term Rental by the Building Official, Zoning

Administrator, law enforcement agency having jurisdiction or another designated official. Upon a complaint registered with the Township, the property owner or occupants must consent to an inspection by the Township. Such inspection will be consistent with the International Property Maintenance Code that is also associated with the State Construction Code.

- (g) **Water and wastewater.** In any area in which public water and public sanitary sewer are not available, the Owner of any single-family residential unit registered as a short-term dwelling must consent to and pay for a septic inspection by the by the St. Joseph County Health Department and must obtain a certificate indicating the Single-Family Dwelling used as a Short-Term Rental has an adequate septic system. Such a review shall be conducted every year (1) year. The use of temporary bathrooms (porta potties) is strictly prohibited.
- (h) **Outward Appearance.** The appearance of the dwelling shall not conflict with the residential character of the neighborhood. Structures shall be properly maintained and kept in good repair, in order that the use in no way detracts from the general appearance of the neighborhood.
- (i) **Activities.** All land based recreational activities must be limited to rented premises and shall not encroach on neighboring properties.
- (j) Any pets must be limited to rented premises and shall not trespass on neighboring properties. All pets must also be always under the owner's control as it relates to running loose, constant barking or other similar noise or activity commonly made by such animal.
- (k) **Campfires.** Campfires shall be permitted only in designated fire pit areas. Fires must be attended at all times and properly extinguished after use. Tenants must adhere to any burning bans that are issued by the State of Michigan or the Fabius -Park Fire Department.
- (l) **Adequate trash receptacles.** All Single-Family Dwellings used as Short- Term Rentals must have adequate trash receptacles. Trash must be kept in a closed container, that prevents such trash from being blown out of such container, prevents

accessibility by varmints or other animals and to prevent foul odors to permeate to neighboring properties. Trash must be disposed of on a regular weekly schedule. Trash receptacles must not be visible from the street, except on trash service day.

(m) Owner's responsibility for action of tenants

1. The Rental Contract shall contain the rules of this ordinance along with any lake rules. The rules of this ordinance, lake rules and contact information for the person in charge of the rental property must also be posted in the rental property.
2. Quiet hours are from 10:30 pm to 7am. Owner shall include quiet hours in the rental agreement.
3. Fireworks: Must comply with the Michigan Fireworks Safety Act 256 of 2011 as amended, or any other applicable laws.

(n) Response to Complaints. The Owner, a local agent, or the designee of either shall be on site within thirty (30) minutes of being contacted by the Township or law enforcement concerning an issue regarding the Short-Term Rental and possess keys to access all buildings located on the property. Said agent shall have the authority to make decisions regarding concerns at hand.

(o) Tenant Parking. Parking in grassy areas, roads (public or private) roadway right of ways, or areas not owned by the same property owner is prohibited. Parking must be approved by the Building Inspector or Zoning Administrator.

SECTION 7

NOISE MONITORING

All Single-Family Dwellings used for Short-Term Rentals must be equipped with Noise Monitoring Devices. All Single-Family Dwellings being used for Short Term rentals must have a minimum of two (2) Noise Monitoring Device located on the exterior of the Single-Family Dwelling. Such devices shall be located on opposite corners of the dwelling to provide optimal coverage of the property. Such devices must be capable of notifying the owner or agent any time the noise exceeds 70db. The owner or agent of the property is responsible for contacting the occupants and bringing the property into compliance.

SECTION 8

VIOLATIONS; REVOCATION OF REGISTRATION

(a) *Violations as municipal civil infractions.*

Any violation of a provision of this Ordinance shall be a municipal civil infraction. Each day that a violation continues constitutes a separate violation.

Notwithstanding any other Township ordinance, violations of this Ordinance are subject to the Fabius Township Municipal Civil Infractions Ordinance. Any person, firm, association, partnership, corporation, or governmental entity that violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine of \$500.00 (five hundred). Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Fabius Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 (ten) nor more than \$500.00 (five hundred) be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, compliance order or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance.

(b) *Revocation of registration.*

(1) Offenses warranting revocation. The Township may revoke the rental registration for any Single-Family Dwelling used as a Short-Term Rental which is the site of at least three (3) separate incidents (occurring on three separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of responsible, a plea of no contest, or a court's determination of responsibility or guilt by the Owner or any renter for a violation of one or more of the following:

- i. Any provision of this Ordinance.
- ii. Any provision of any other Township ordinance, including its other regulatory Ordinances, the Township Zoning Ordinance, or any other applicable regulation.
- iii. Citations. Citations for violations of this ordinance shall be issued to the property owner. Failure to timely answer any citation(s) will cause for immediate suspension of the Short-Term Rental Permit

issued by the Township.

- (2) **Emergency Revocation for Imminent Danger.** If the Building Official, Zoning Administrator or other designated official determines that a single offense constitutes a serious or life-threatening condition, or if a serious injury or death has occurred, the Building Official, Zoning Administrator or other designated official has the authority to temporarily suspend the Short-Term Rental Authorization pending resolution of the situation to the satisfaction of the Township.
- (3) **Revocation Procedure.** Upon a determination by the building official, Zoning Administrator, or other designated official that the Short-Term Rental registration is subject to revocation, the Building Official, Zoning Administrator, or other designated official shall issue a notice to the Owner that the Township intends to revoke the rental registration. The notice shall inform the Owner of a right to a hearing to show cause as to why the registration should not be revoked, if a hearing is requested within fourteen (14) days of the service of the notice. If a hearing is timely requested, the Township shall schedule the hearing before the Township Board and notify the Owner in writing of a time and place for that hearing. At the hearing, the Owner may present evidence that the requirements for revocation provided in this section are not satisfied, or that the Owner should not be held responsible for one or more of the three requisite violations due to extenuating circumstances which may include:
 - i. the violation was committed by an uninvited guest.
 - ii. the violation resulted from an act of God; or
 - iii. other circumstances that the Owner could not reasonably anticipate and prevent and could not reasonably control.

Upon revocation of registration, a single-family dwelling cannot be re-registered as a Short-Term Rental for a period of one year and cannot be used for Short-Term Rentals until registered. Written documentation must be submitted indicating how the cause of such revocation was corrected. If a property has had their Short-Term Rental Permit suspended three (3) or more times within five (5) years, the Township Board shall issue a permanent revocation to the owner of said property.

4. **Effect of Revocation on Existing Contracts or Revoked Permits.** Existing short-term rental contracts up to sixty (60) nights beyond the beginning date of any

suspension/revocation may be honored by the license holder with approval by the Township Board. Those existing contracts beyond sixty (60) nights shall be canceled. The time period approved to honor existing contracts shall be added to the end of any suspension period.

SECTION 9
SEVERABILITY

Should any section, clause or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

SECTION 10
REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. Any proceedings pending, including prosecutions for violations, under any previous ordinance provision being repealed hereby shall not be affected by this Ordinance and may be continued pursuant to said previous Ordinance provisions.

SECTION 11
EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication following adoption.

FABIUS TOWNSHIP
Carol Wilkins, Clerk
13108 Broadway Rd.
Three Rivers, MI 49093
www.fabiustownship.org