**VILLAGE OF MICHIANA**

**BERRIEN COUNTYSTATE OF MICHIGAN**

**ORDINANCE NO. 2019-04**

**AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND REGULATION OF RENTAL PROPERTIES FOR THE BENEFIT OF THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC.**

The Village of Michiana Ordains:

**Section 1.** Purpose.

The Village Council finds that the Short-Term rental of dwellings and Dwelling Units within the Village of Michiana is a matter closely connected with the public health, safety and welfare of the community. The Village Council has enacted this regulatory ordinance to strike an appropriate balance between the interests of community residents, visitors to the community, and real property owners wishing to engage in Short-Term rental of dwellings and Dwelling Units. While visitors to the community who rent dwellings and Dwelling Units on a Short-Term basis bring many benefits to the community, they can simultaneously create concerns surrounding issues 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. This ordinance is intended to strike the appropriate balance between competing interests.

**Section 2**. Definitions.

When used in this section, the following words and phrases shall have the meanings ascribed to them in this section:

Bedroom - A room intended for sleeping or placement of a bed, separated from other spaces in the Dwelling Unit by one or more functional doors. The following spaces, which must be included in every Dwelling Unit, do not qualify as bedrooms: (1) kitchens; (2) dining areas; (3) gathering spaces such as family rooms, dens, or living rooms; and (4) attics or basements without egress meeting standards in applicable building, residential, and fire codes. Bedroom as defined by Berrien County Health Department when determining septic system size for a home shall be the determining ruling for what defines a bedroom. When contested, the Berrien County Health Department at the owner’s expense will inspect the property and determine the number of bedrooms per the septic system of the property.

Building Official - The official defined in MCL 338.2302, who is given authority to administer and enforce adopted building, electrical, mechanical, or plumbing codes for the Village of Michiana.

Code Enforcement Official - An individual appointed by the Village Council or its President to enforce the Village Ordinance regarding the registration and regulation of the rental properties for the benefit of the health, safety, and welfare of the General Public in the Village of Michiana. The individual, appointed at the discretion of the Village Council or its President, shall receive fees for the inspection, reinspection, complaint inspection, and billable court time. The Village reserves the right to increase or decrease the payable duties at any time under this Ordinance. When working in his/her appointed role for the Village, the Code Enforcement Official will be provided insurance coverage pursuant to the General Liability policy of the Village of Michiana.

Compensation - Money or other consideration given in return for occupancy, possession or use of a property.

Dwelling-A building containing one or more Dwelling Units.

Dwelling Unit - A self-contained unit within a building that is designed for human occupancy and provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation.

Local Agent - An individual designated to oversee the Short-Term rental of a Dwelling Unit in accordance with this article and to respond to calls from renters, concerned citizens, and representatives of the Village. The Local Agent must live or maintain a physical place of business within 45 miles of the Dwelling Unit used for Short-Term rentals. A property owner who meets these criteria may be the Local Agent.

Occupant/Renter - An individual, which shall include children over two (2) years of age, who lives in, sleeps in, or otherwise possesses a space, dwelling or Dwelling Unit regardless of whether legal relationship of the owner/agent exists. An individual present in a Dwelling Unit during the term of a short­term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours 8:00 a.m. ET and 11:00 p.m. ET and will not stay overnight.

Off Street Parking – Parking in a garage, driveway, on-site or on the Village easement directly in front of the site so long as it is off the roadway not impeding the flow of traffic. A parking space must be at least nine feet wide and 19 feet long. Two (2) spaces must be provided in every instance of rental and one additional space must be provided for every four (4) occupant/renters. Parking on the front or side grass lawn area is strictly prohibited at any time.

Resident Property - A lot or parcel within any of the Village’s residential zoning districts.

Short-Term Rental - The rental of a Dwelling Unit for compensation for a term of 1 night to 29 nights per occurrence. However, transitional houses operated by a charitable organization, group homes such as nursing homes and adult-foster-care homes, substance-abuse rehabilitation clinics, mental-health facilities, and other similar health-care related facilities shall not be considered Short-Term rentals.

**Section 3** Annual Rental Registration Application Exhibit A

All Dwelling Units on Residential Property used for Short-Term rentals shall be registered with the Village on an annual basis. The short­term rental of an unregistered Dwelling Unit is prohibited under this Ordinance. To register a Dwelling Unit used for Short-Term rentals, the property owner or agent of the owner shall provide and certify as true the following on a form provided by the Village (Exhibit A &B that may be amended from time to time). Each year a new registration must be submitted to the Village Clerk and pay the required registration fees:

1. Name, address, and telephone number of the Local Agent for the Dwelling Unit.
2. The street address of the Dwelling Unit, along with other identification if more than 1 Dwelling Unit has the same street address.
3. The number of Dwelling Units in the structure, if more than one.
4. The number of bedrooms in each Dwelling Unit, and in the dwelling.
5. The number of off-street parking spaces provided for the Dwelling Unit.
6. The maximum number of occupants to which the applicant intends to rent the Dwelling Unit in any given rental period.
7. The length of the typical rental period for which the applicant intends to rent the property.
8. 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.
9. A statement certifying that the property owner consents to inspections by the Village and will make the Dwelling Unit available to inspections upon request.
10. A statement certifying that the property owner or a Local Agent will provide at least one copy of the Village's Rules and Regulations to the renters each time the Dwelling Unit is rented. All Local Agents and the renter must sign Exhibit B acknowledging they have read and understand the Rules and Regulations (Exhibit C) and must provide a file copy to the Village Clerk no later than 24 business hours before the start of the rental agreement. Any failure of the Local Agent to provide that signed document constitutes a violation of this Ordinance.
11. Such other information as the Village deems appropriate.
12. Pay an annual administrative fee, as set by resolution of the Village Council. The fee schedule adopted by the Village Council may include an enhanced fee for properties found to have been operating as unregistered Short-Term rentals in violation of this ordinance.
13. Submit the property to and satisfactorily complete and arrange an inspection for compliance with applicable codes and ordinances and provide the Village with a written copy of such inspection completed at the owner’s sole expense.

**Section 4**. Each Occurrence Rental Registration. (Exhibit B)

All Dwelling Units on Residential Property used for Short-Term rentals shall be registered with the Village on an annual basis (see section 3) and for each occurrence the unit is rented a new registration form must be submitted to the Village Clerk (Exhibit B). Each time the property is rented under this Ordinance, the Village Clerk is to receive a copy of the completed Rental Registration (Exhibit B) for that rental agreement. A signed registration form (Exhibit B) by the owner/agent is to be delivered to the Village Clerk no later than 24 business hours before each rental agreement is to start. Village Office, 4000 Cherokee Drive Michiana, MI 49117 or e-mail at [michianaclerk@michianavillage.org](mailto:michianaclerk@michianavillage.org)

**Section 5***.* Short-Term Rental Regulations.

1. Local Agent required. All Dwelling Units used for Short-Term rentals shall have a designated Local Agent.
2. Contact information posted in window. A Village issued notice shall be posted in a prominent first floor window of any Dwelling Unit used for Short-Term rentals stating (in at least 24-point type) the name of the Local Agent, a 24-hour telephone number with which the agent can be reached, and the maximum occupancy of the Dwelling Unit as permitted by this ordinance. This notice must be posted at all times.
3. Street address posted within Dwelling Unit. The street address of the property shall be posted in at least two prominent locations within the Dwelling Unit in order to assist occupants in directing emergency service personnel in the event of an emergency. The address should be posted near the kitchen and near any telephone or pool. The property must have a working land line phone.
4. Maximum occupancy. The number of occupants in a Dwelling Unit during a Short-Term rental shall not exceed the lesser of: (i) 16 total occupants; or (ii) 2 occupants per bedroom, plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code.
5. All the following must be provided:

Smoke detectors and carbon monoxide devices. The owner or Local Agent of a Dwelling Unit used for Short-Term rentals shall:

* 1. Install and maintain an operational smoke detector in each bedroom and test such smoke detectors per manufacturer's guidelines but no less frequently than every 90 days to ensure that they are properly functioning.
  2. Install and maintain at least 1 operational approved carbon monoxide device of the type described in MCL 125.1504 on each floor and test such devices per manufacturer's guidelines but no less frequently than every 90 days to ensure that they are operational.

1. Fireworks. No fireworks shall be used on the premises of a Dwelling Unit registered under this ordinance at any time. Fireworks are not allowed on public property at any time.
2. Zoning compliance. Short-Term rentals may be regulated in the Village Zoning Ordinance, and nothing in this article shall be construed as excusing compliance with zoning requirements
3. Golf Carts. Use of any Golf Cart will comply with rules and regulations for their use as regulated by the State of Michigan and must be registered for use in the Village of Michiana at the Village Hall.
4. Garbage Cans. Any rental property registered for occupancy by more than seven (7) occupants /renters must have two (2) non-recycling garbage cans on site at all times. The owner/agent shall arrange and pay for the second non-recycling garbage can to be supplied by the garbage contracting company that the Village uses.
5. Attics and basements.No attic or basement can be counted for the purpose of determining the maximum number of occupants in a Dwelling Unit during a Short-Term rental, unless the property owner or Local Agent has given the Village, in writing, consent for the Village to inspect the premises to verify whether that attic or basement meets the applicable egress requirements for occupancy in the Michigan Construction Code, the Michigan Residential Code and the applicable fire codes.
6. Rules and regulations (exhibit C). A copy of the Village of Michiana rules and regulations shall be provided for each rental. The owner/agent shall supply the copy to the renters and must obtain a statement signed by the renters that they have read and agree to the follow all rules and regulations of the Village of Michiana.

**Section 6**. Violations; revocation of registration.

Violations as municipal civil infractions. Any violation of a provision of this article shall be a municipal civil infraction. Each day that a violation continues constitutes a separate violation.

Notwithstanding any other provision of this Code of Ordinances, violations and fees of this article are subject to the following fines and costs:

1. Short-Term rental of unregistered dwellings. The fine for leasing an unregistered Dwelling Unit in violation of section 1,3 and 4 is $750 for a first violation and $2,500 for each subsequent violation.

2.. Maximum occupancy. The fine for exceeding the maximum occupancy in violation of subsection (3)(4) and (5) is $500 for a first offense and $2,000 for each subsequent offense.

3. Other provisions. Fines for other violations of this article are as follows: $300.00 for a first offense, $750.00 for a second offense, and $2,000.00 for each subsequent offense.

4. Annual Application for registration inspection. The fee for annual registration inspection is $300.00

5. Billable court time. The fee for the Code Enforcement Official’s time in court is $150.00 per hour

6. Unpaid fines and fees. All unpaid fines and fees will be placed on the property owner’s real estate tax bill for the Village of Michiana, for collection. All fines and fees are considered past due after 30 days from the violation.

**Section 7.** Revocation of registration.

1. Offenses warranting revocation.The Village may revoke the rental registration for any Dwelling Unit 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 two or more of the Village’s Code of Ordinances.
2. Revocation Procedure.Upon a determination by the Code Enforcement Official that the registration of a Dwelling Unit is subject to revocation pursuant to subsection (6)(1), the Code Enforcement Official shall issue a notice to the property owner and the Local Agent stating that the Village intends to revoke the rental registration. The notice shall inform the owner and Local Agent of a right to a hearing to show cause as to why the registration 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 Village shall schedule the hearing with the Village Clerk and 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 subsection (7)(1) are not satisfied, or that the property owner and Local Agent should not be held responsible for one or more of the three 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. Proof of Rental. The following constitutes presumptive evidence that a dwelling or Dwelling Unit is being used as a rental property.
   1. The property is occupied by someone other than the owner or his/her immediate family or friends of the owner’s family.
   2. Voter registration, motor vehicle registration, a driver’s license, or any other document filed with a public or private entity which states that the owner of the rental property resides at an address other than the rental property.
   3. Utilities, cable, phone or other services in place or requested to be installed or used at the premises in the name of someone than the rental property owner.
   4. Persons residing in the Dwelling Unit represent that they pay rent to occupy the premises.
   5. A dwelling or Dwelling Unit which has been published as being available for rent of lease

1. Revocation Period and Effect.Upon revocation of registration, a Dwelling Unit cannot be re-registered for a period of 1 year and cannot be used for Short-Term rentals until re-registered. The Dwelling Unit may be re-registered after the 1-year period· if all the registration requirements of this ordinance and the zoning ordinance are satisfied, and if Short-Term rentals are still a permitted use under the zoning ordinance in the area where the unit is located.

**Section 8*.*** Adoption.

The Village Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect 30 days after its adoption or upon publication of the notice of adoption, whichever occurs later.

**Section 9.** Grandfather Clause

Any homeowner within the first year of the adoption of this Ordinance that can show that a rental contract was in place prior to the adoption of this ordinance will be exempt from this Ordinance for one year from the date of the contract for rental for that rental only. Annual registration is still required but the fee for that rental will be exempt.

This concludes the Village of Michiana Rental Ordinance.