

**CITY OF SOUTH HAVEN
ALLEGAN AND VAN BUREN COUNTY, MICHIGAN**

ORDINANCE NO. 1026

**AN ORDINANCE TO ADD A NEW ARTICLE X TO CHAPTER 10 OF THE CODE OF
ORDINANCES, CITY OF SOUTH HAVEN, MICHIGAN, TO REQUIRE REGISTRATION AND
OTHERWISE REGULATE SHORT-TERM RENTALS**

The City of South Haven Ordains:

Section 1. Addition. Chapter 10, Article X, entitled "Short-Term Rentals," is added to the Code of Ordinances, City of South Haven, Michigan, and shall read in its entirety as follows:

Chapter 10, Article X. Short-Term Rentals.

Sec. 10-241. Purpose.

The City Council finds that the short-term rental of dwellings and dwelling units within the City of South Haven is a matter closely connected with the public health, safety and welfare of the community. The City Council has enacted this regulatory ordinance in an attempt to strike an appropriate balance between the interests of community residents, community business owners, 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 article is intended to strike the appropriate balance between competing interests.

In striking that balance, the City Council finds that residential properties are primarily situated in single-family residential neighborhoods which are significantly different in character from the mixed-use areas of the City. Residential neighborhoods and mixed-use areas have different tolerances and expectations regarding sounds, parking, congestion, privacy, entertainment, and other activities.

The City Council finds that there is decreased sensitivity to larger occupant loads within the mixed-use areas of the City, given the comparatively larger lot sizes, increased spacing between structures, louder average noise levels, and greater amounts of available parking, compared to conditions existing in single-family residential neighborhoods.

For these reasons, the City Council has determined that mixed-use areas of the City are more appropriate for higher numbers of occupants to be allowed in dwelling units during a short-term rental compared to the single-family residential neighborhoods of the City.

Sec. 10-242. Definitions.

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

- (a) *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.
- (b) *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 City of South Haven.
- (c) *City Manager* – The City Manager of the City or the City Manager's designee.
- (d) *Compensation* – Money or other consideration given in return for occupancy, possession or use of a property.

- (e) *Dwelling* – A building containing one or more dwelling units.
- (f) *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.
- (g) *Fire Chief* – The chief designated by the South Haven Areas Emergency Services Authority.
- (h) *Good visitor guideline materials* – Materials prepared by the City's Zoning Administrator that include: (1) a summary of the City's noise ordinance (chapter 30, article II), fireworks ordinance (section 54-167), trash disposal ordinances (chapter 30, article IV and Chapter 70), and applicable offenses against the public peace (chapter 54, article V), (2) a reminder that the rental property is located in a residential neighborhood and that neighbors may not be vacationing, and (3) a statement informing the renters that neighboring property owners may contact the local agent and local police to report any issues relating to the property.
- (i) *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 City. 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.
- (j) *Mixed use property* – A lot or parcel located within an area of the City where both multi-family residential and commercial development is permitted, as in the RM-1, R-2 and B-3 zoning districts.
- (k) *Newly constructed dwelling unit* – Any dwelling unit the initial construction of which was completed after April 18, 2016.
- (l) *Newly enlarged dwelling unit* – Any dwelling unit to which improvements made to increase the size of the dwelling unit were completed after April 18, 2016.
- (m) *Newly rented dwelling unit* – Any dwelling unit that was not used for short-term rentals for at least 15 days during the 2015 calendar year or a previous calendar year.
- (n) *Occupant* – An individual at least 24 months of age 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 8:00 a.m. and 11:00 p.m. and will not stay overnight.
- (o) *Residential property* – A lot or parcel within any of the R-1 zoning districts.
- (p) *Short-term rental* – The rental of a dwelling unit for compensation for a term of 2 nights to 29 nights. However, the rental of the following facilities shall not be considered short-term rentals: (i) attached dwelling units in a multi-family dwelling condominium project, and (ii) 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.

Sec. 10-243. Registration required.

- (a) *Registration required.* All dwelling units on mixed-use property or residential property used for short-term rentals shall be registered with the City. The short-term rental of an unregistered dwelling unit is prohibited.
- (b) *Application.* To register a dwelling unit used for short-term rentals, the property owner or agent of the owner shall:
 - (1) Provide and certify as true the following on a form provided by the City:
 - (A) Name, address, and telephone number of the local agent for the dwelling unit.
 - (B) The street address of the dwelling unit, along with other identification if more than 1 dwelling unit has the same street address.

- (C) The number of dwelling units in the building, if more than one.
 - (D) The number of bedrooms in each dwelling unit, and in the dwelling as a whole.
 - (E) The number of off-street parking spaces provided for the dwelling unit.
 - (F) The maximum number of occupants to which the applicant intends to rent the dwelling unit in any given rental period.
 - (G) The length of the typical rental period for which the applicant intends to rent the property.
 - (H) 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.
 - (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 statement certifying that the property owner or a local agent will provide at least one copy of the City's good visitor guideline materials to the renters each time the dwelling unit is rented.
 - (K) A statement certifying whether or not the dwelling unit was used as a short-term rental for at least 15 days during the 2015 calendar year or a previous calendar year.
 - (L) Such other information as the City deems appropriate.
- (2) Pay an administrative fee, as set by resolution of the City Council. Any owner of a dwelling unit or a local or other agent for that owner who rents a dwelling unit on a short term rental after July 15, 2016, without having registered it pursuant to this ordinance shall pay an increased fee in the amount also set by resolution of the City Council.

Sec. 10-244. Short-term rental regulations.

- (a) *Local agent required.* All dwelling units used for short-term rentals shall have a designated local agent.
- (b) *Contact information posted in window.* A notice shall be posted in a prominent first-floor window of any dwelling unit used for short-term rentals stating (in at least 16-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.
- (c) *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.
- (d) *Maximum occupancy.* Beginning January 1, 2017, the maximum occupancy of any dwelling unit used for short-term rentals shall be calculated as follows:
 - (1) *Maximum occupancy established.* Except as otherwise provided in subsection (d)(2) or (d)(3), 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.
 - (2) *Newly constructed, newly enlarged, and newly rented dwelling units.* For newly constructed, newly enlarged, or newly rented dwelling units on residential property, the number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of: (i) 12 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.

(3) *Applications for increase.* An owner or local agent may apply for permission to have the maximum occupancy of a dwelling unit on mixed use property increased above the maximum of 16 total occupants established in Section 10-244(d), to the lesser of: (i) 24 total occupants; or (ii) 2 occupants per bedroom plus 2 per finished floor. Applications for increase shall be submitted to and decided by a committee comprised of the City Manager or his or her designee, the City's Director of Public Works or his or her designee, and the Police Chief or his or her designee. 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 committee 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 an application for increase has been filed. The committee shall grant the application only upon determining that subsections (d)(3)(A) and (d)(3)(B) below are both satisfied:

(A) All of the following are provided:

- (i) A parking site plan allowing sufficient access for emergency vehicles.
- (ii) An automatic sprinkler system on all floors with one or more bedrooms.
- (iii) A fire alarm system.
- (iv) An interconnected smoke alarm system.
- (v) Fire-rated corridors.
- (vi) Fire-rated stairwell enclosures on all stairways providing the primary means of egress for one or more bedrooms.
- (vii) Automatic door closers and fire-rated doors on all bedrooms.
- (viii) A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms, as determined in the discretion of the committee.

(B) 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:

- (i) Isolation from properties used as residential dwellings.
- (ii) Size of the setbacks on the property.
- (iii) Provision of fencing or other screening from adjoining properties.
- (iv) Topography and layout of the applicant's property, or of the adjoining properties.
- (v) Other characteristics and uses of properties within the vicinity of the applicant's property.

(e) *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 at least 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 at least every 90 days to ensure that they are operational.

(f) *Fireworks.* No fireworks shall be used on the premises of a dwelling unit registered under this ordinance when it is occupied by anyone other than the owner.

(g) *Zoning compliance.* Short-term rentals are regulated in the South Haven Zoning Ordinance, and nothing in this article shall be construed as excusing compliance with zoning requirements.

- (h) *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 City, in writing, consent for the City 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.

Sec. 10-245. Violations; revocation of registration.

- (a) *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 of this article are subject to the following fines:

- (1) *Short-term rental of unregistered dwellings.* The fine for leasing an unregistered dwelling unit in violation of subsection 10-243(1) is \$750 for a first violation and \$1,000 for each subsequent violation.
- (2) *Maximum occupancy.* The fine for exceeding the maximum occupancy in violation of subsection 10-244(d) is \$500 for a first offense and \$1,500 for each subsequent offense.
- (3) *Other provisions.* Fines for other violations of this article are as follows: \$100 for a first offense, \$500 for a second offense, and \$1,500 for each subsequent offense.

- (b) *Revocation of registration.*

- (1) *Offenses warranting revocation.* The City 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 one or more of the following:

(A) Any provision of this article.

(B) Chapter 30, Article II of the City Code – Noise.

(C) Chapter 30, Article III of the City Code – Controlled Substances.

(D) Chapter 30, Article IV of the City Code – Unwholesome Substances (Junk, Rubbish, and Noxious Weeds).

(E) Chapter 54, Article V of the City Code – Offenses Against Public Peace.

(F) Chapter 70, Article II of the City Code – Solid Waste (Provision and Use of Trash Containers).

(G) Any violation of the Zoning Ordinance or any permit or approval issued pursuant to the Zoning Ordinance.

- (2) *Revocation Procedure.* Upon a determination by the zoning administrator that the registration of a dwelling unit is subject to revocation pursuant to subsection (b)(1), the zoning administrator shall issue a notice to the property owner and the local agent stating that the City 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 City shall schedule the hearing before the City Manager 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 (b)(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) *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.

Sec. 10-246. Review after implementation; public hearing required before amendment or repeal.

- (a) *Review after implementation.* Not later than November 1, 2016, the Planning Commission shall begin a review of this article to determine whether its implementation has achieved its intent and what, if any, amendments to should be made to this article.
- (b) *Public hearing required.* The City Council shall hold a public hearing before amending or repealing any provision of this article, publishing notice in a newspaper of general circulation in the City and posting notice in City Hall and on the City's website at least 15 days prior to such meeting.

Section 2. Publication and Effective Date. The City Clerk shall cause a notice of adoption of this ordinance to be published. This ordinance shall take effect 10 days after its adoption or upon publication of the notice of adoption, whichever occurs later.

YEAS: Arnold, Gruber, Klavins, Kozlik Wall, Smith, Burr

NAYS: Schlack

ABSTAIN: None

ABSENT: None

CERTIFICATION

This true and complete copy of Ordinance No. 1026 was declared adopted at a Regular Meeting of the South Haven City Council held on May 16, 2016.

Robert Burr
Robert Burr, Mayor

Amanda Morgan
Amanda Morgan, City Clerk

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