VILLAGE OF PENTWATER
OCEANA COUNTY, MICHIGAN
AMENDMENT TO SHORT-TERM RENTAL ORDINANCE
Ordinance No. ____ of 2023
[Amendments are underlined]

AN ORDINANCE PURSUANT TO PUBLIC ACT NO. 3 OF 1895, MCL 67.1, AS AMENDED, TO AMEND CHAPTER 153 OF THE VILLAGE OF PENTWATER, MICHIGAN, CODE OF ORDINANCES, TO PERMIT AND REGULATE SHORT TERM RESIDENTIAL RENTALS WITHIN THE VILLAGE OF PENTWATER, TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Chapter 153, which shall be titled as follows:

CHAPTER 153: SHORT TERM RENTAL REGULATIONS

Section 2. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.01, which shall provide as follows:

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

"Bathroom" means a room containing a water closet, a sink, and a bathtub or shower.

"Bedroom" means a separate room or space used or intended to be used for sleeping purposes.

"Camp" or "camping" means the use of a camping unit or similar shelter for overnight accommodations (11:00 p.m. to 7:00 a.m., or a significant portion thereof) or for other temporary living.

"Camping unit" means overnight sleeping accommodations, lodgings, or other accommodations, with or without cooking facilities, including a tent, tent trailer, motorhome, travel trailer, pop-up or truck- mounted trailer, recreational vehicle, camper van, or other shelter used for temporary living.

"Dwelling unit" means a residence, including a condominium, used for residential purposes as a housekeeping unit or a domicile by one or more persons containing cooking, sanitary, and bedroom facilities.

"Land" means all land areas occupied by real property.

"Occupancy" means the purpose for which a dwelling unit or portion thereof is utilized or occupied.

"Occupant" means any individual living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit. "Occupant" does not include guests visiting a dwelling unit between the hours of 8:00 a.m. and 11:00 p.m.

"Operator" means any person who owns or has charge, care or control of a dwelling unit which is offered as a short term rental.

"Owner" means the person or entity that holds legal or equitable title to the dwelling unit (or portion thereof).

"Parcel" means a continuous area or acreage of land under common ownership. "Parcel" includes a single condominium unit.

"Person" means an individual, trustee, personal representative, conservator, receiver, agent, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Short Term Rental" means any dwelling unit, in which the owner does not reside, that is available for use or is used for accommodations or lodging of occupant(s) paying a fee or other consideration for a period of less than thirty (30) consecutive days. This definition does not include lawfully operating bed and breakfast establishments, hotels/motels, employee housing, or campgrounds.

"Short Term Rental Agreement" means a written or unwritten lease, agreement, or license between an owner or operator of a short term rental and an occupant(s) for consideration.

"Sleeping Room" means space, other than a bedroom, used for overnight sleeping purposes.

Section 2. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.02, which shall provide as follows:

§ 153.02 License Required. No person shall permit, allow, or offer a dwelling unit to be used as a short term rental nor enter into a short term rental agreement concerning a dwelling unit within the Village of Pentwater without first obtaining a license from the Village pursuant to the requirements of this Ordinance. <u>The number of licenses available within the Village shall be set and determined by resolution of the Village Council.</u>

Section 3. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add

Section 153.03, which shall provide as follows:

> **§ 153.03 Application and Fee Requirements.** An operator seeking a license under this Ordinance shall submit a complete application to the Village Manager, or his or her designee and pay the required fee, which shall be determined from time to time by resolution of the Village Council. The fee schedule adopted by the Village Council may include an enhanced fee for dwelling units found to have been operating as unlicensed short term rentals in violation of this Ordinance. The application shall include proof of ownership of, or the legal right to rent, a dwelling unit, and all information reasonably necessary for the Village Manager, or their designee, to determine whether the applicable standards for approval have been met. The Village Council may approve the form and content of the application by resolution.

Section 4. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.04, which shall provide as follows:

> **§ 153.04 Standards for Approval.** The Village Manager or their designee shall approve, or approve with conditions, an application for a short term rental license only upon a finding that the dwelling unit complies with all of the following applicable standards:
>
> **A. Bedrooms and Sleeping Rooms. Maximum Overnight Occupancy.** Maximum overnight occupancy for short term rentals shall be up to a maximum of two (2) persons per sleeping room or bedroom, plus two (2) additional persons per property, up to a maximum of twelve (12) persons, excluding children under three (3) years of age.
>
> **B. Maximum Bedrooms or Sleeping Rooms.** There shall be a maximum of five (5) bedrooms or sleeping rooms.
>
> **C. Per Parcel Limit on Number of Dwelling Units.** Only one dwelling unit shall be used as a short term rental per parcel, except that when a parcel lawfully contains more than one dwelling unit, each separate dwelling unit may be used as short term rental provided that each such dwelling unit is separately licensed under this chapter.
>
> **D. Parking.** There shall be one (1) on-site parking space for a dwelling unit with up to two (2) bedrooms or sleeping rooms and two (2) on-site parking spaces for a three (3) or four (4) bedroom dwelling unit. Larger dwelling units must demonstrate adequate parking with a minimum of three (3) spaces.
>
> **E. No Room Rentals.** In no event shall an individual room in a dwelling unit be rented to a person, family, or other group of persons as short term rental. Nor shall an occupant of a short term rental sublet a portion of a dwelling unit.

F. Fire Safety and Emergency Access.

1. Smoke Alarms. Smoke detectors/alarms shall be installed 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 Section 72.A. Smoke detectors/alarms shall be installed in the following locations:

(a) In each bedroom or sleeping room.

(b) Outside of each separate sleeping area in the immediate vicinity of the bedrooms.

(c) 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.

2. Bedroom and Sleeping Room Emergency Window Access.

(a) Every bedroom and sleeping room have contain a window meeting current fire code and /or building code standards for ingress and egress in an emergency.

(b) No bedroom or sleeping room shall be located in a basement unless the basement contains a doorway open to the outside or contains a window meeting ingress and egress emergency standards.

3. Fire Extinguishers. An operable fire extinguisher shall be mounted at an exit door located on every floor level including the basement.

G. Designated Representative. The operator shall identify a designated representative as a contact person. The operator shall provide an address and a current 24-hour working phone number of the designated representative to the Village Manager. Said designated representative must be available during the rental period within a one-hour drive of the dwelling unit.

H. Zoning Compliance. No person shall be granted a short term rental license unless the dwelling unit is in compliance with the Village of Pentwater Zoning Ordinance. Nothing in this Ordinance shall be construed as excusing compliance with the requirements of the Village

of Pentwater Zoning Ordinance.

I. State Law Compliance. No person shall be granted a short term rental license unless the dwelling unit is in compliance with the State Building Code, State Mechanical Code, State Plumbing Code, National Electrical Code, Michigan Fire Prevention Code, and/or any other applicable State statutes and/or regulations.

J. Certification by Applicant. As part of the application, the applicant shall certify that the foregoing standards have been met. The Village may deny or revoke a license if the statements or representations made on the application are determined by the Village Manager to be false or materially misleading. The applicant may appeal the Village Manager's decision to the Village Council in the manner provided by § 153.07(C) of this Ordinance.

K. Availability of License. The Village shall not issue a license to an applicant unless there is a license available for issuance as determined by the number of licenses authorized by resolution of the Village Council.

L. Renewal of License. The holder of a license shall be entitled to renewal of such license for the following calendar year if the applicant for renewal of a license is in compliance with the terms of this Chapter and applies for renewal of the license prior to its expiration. If the holder of a license fails to apply for renewal of such license before the expiration of the license, such license shall become available to applicants on a first-come/first-serve basis.

Section 5. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.05, which shall provide as follows:

§ 153.05 License.

A. Duration. A short term rental license shall be valid for the calendar year such license was obtained (January 1 until December 31).

B. Transferability. A short term rental licenses may not be transferred from one dwelling unit to another dwelling unit.

C. Display. A short term rental license shall be displayed on the front door of the dwelling unit or in a conspicuous location on the facade or nearby window not more than five (5) feet from the front door as measured from the edge of the door frame.

D. Maximum Number of Occupants. The license shall display the maximum number of occupants permitted at a dwelling unit. No person shall allow or permit a dwelling unit to exceed the maximum number of occupants stated on the license. No person shall camp or allow any person to camp on the land upon which a short term rental is located. This prohibition includes the occupation of tents, bivy sacks, campers, trailer coaches, camper

trailers, vehicles, recreational vehicles, travel trailers, camping unit, or any other temporary shelter located on the land upon which a short term rental is located pursuant to a permit issued under § 150.21. A person that holds a short term rental license shall not simultaneously hold a permit issued under § 150.21 for the same land.

E. Designated Representative Information. The license shall display the contact information for the designated representative of the short-term rental.

Section 6. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.06, which shall provide as follows:

§ 153.06 Nuisance. A violation of this Ordinance is hereby declared to be a public nuisance per se and is hereby further declared to be offensive to the public health, safety, and welfare. All violations of this Ordinance shall be abated by a court of competent jurisdiction.

Section 7. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.07, which shall provide as follows:

§ 153.07 Violations; Revocation of License.

A. Violations as Municipal Civil Infractions. Any person who violates any provision of this Ordinance shall be responsible for a Class C municipal civil infraction. Each day that a violation occurs constitutes a separate offense. Penalty, see Section 10.99 of the Village of Pentwater Code of Ordinances.

B. Revocation of License. The Village may revoke the short term rental license for any dwelling unit which is the site or subject of at least three (3) separate incidents or violations of this Ordinance (occurring on three (3) separate days) within a calendar year resulting in a plea of responsibility (with or without explanation), a plea of guilty, a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilty by the owner, designated representative, or occupant for a violation of one or more of the following:

1. Any provision of the Village of Pentwater Code of Ordinances, including this Ordinance;

2. Any provision of the Village of Pentwater Zoning Ordinance or any permit or approval issued pursuant to the Village of Pentwater Zoning Ordinance; or

3. Any provision of the Michigan Construction Code, the Michigan Residential Code, and/or the Michigan Fire Prevention Code.

A license issued under this Chapter may also be revoked or declined to be renewed based upon the failure of an owner or operator to enter into a short term rental agreement with

respect to the dwelling for which the license was issued during the previous calendar year.

C. Revocation Procedure. Upon a determination by the Village Manager that the license of a dwelling unit is subject to revocation pursuant to subsection (B), the Village Manager shall issue a notice to the operator or designated representative that the Village intends to revoke the license by first-class mail to the address listed on the license. The operator or designated representative may within fourteen (14) days from the date the notice was sent request a hearing before the Village Council to show cause as to why the short term rental license should not revoked. If a hearing is timely requested, the Village Manager or his or her designee shall notify the operator or designated representative of the time and place of the hearing. At the hearing, the operator or designated representative may present evidence that the violations of this Ordinance were due to or caused by extraordinary circumstances. The Village Council may, in its discretion, reverse the determination of the Village Manager to revoke the permit by a majority vote.

D. Duration of Revocation. No license shall be issued to an operator or designated representative for a period of thirty-six (36) months following the revocation of a license pursuant to § 153.07(C).

Section 8. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.08, which shall provide as follows:

§ 153.08 Enforcement Officials. The Village Manager or their designee, Ordinance Enforcement Officer, and any Village police officer are hereby designated as the authorized officials to issue and serve municipal civil infractions directing alleged violators of this Ordinance to appear in court.

Section 9. The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 153.09, which shall provide as follows:

§ 153.09 Civil Action. In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the 27th Circuit Court for the County of Oceana to abate or eliminate the nuisance per se or any other violation of this Ordinance. Any person determined by the Circuit Court to have violated this Ordinance shall be responsible for all costs, including actual reasonable attorney fees, incurred by the Village in the enforcement of this Ordinance. Such costs of enforcement shall constitute a lien against the parcel upon which the dwelling unit is located, and the Village Treasurer shall certify the costs of enforcement to the Tax Assessor or other responsible official, who shall place the same on the next tax roll. The costs of enforcement so assessed shall be collected in the same manner as general Village taxes.

Section 10. Severability. If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not

affect the remainder of the Ordinance, which shall be given effect without the invalid portion or application.

Section 11. Effective Date. This Ordinance shall become effective twenty (20) days after notice of adoption is published in a newspaper of general circulation within the Village.

AYES: Members:_____.

NAYS: Members:_____.

ABSENT: Members:_____.

ORDINANCE DECLARED ADOPTED.

_____
Jeffrey Hodges, Village President
Village of Pentwater

_____
Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on _____, 2023, and I further certify that public notice of such meeting was given as provided by law.

_____
Rande S. Listerman, Village Clerk
Village of Pentwater