

May 4, 2016 – 7:00 PM

Members Present: Chairman Daniel Fleming, Dian Liepe, David Campbell, Lewis Adamson, Greg Knisley, Paul Macyauski and Judy Graff

Absent: None

Staff Present: Al Ellingsen, Zoning Administrator and Building Inspector, Allan Overhiser, Supervisor and Janet Chambers, Recording Secretary

Also Present: 5 interested citizens, including Mike Workema, Matt Super and Sally Newton

1. **Call to order and review of agenda:** Chairman Fleming called the meeting to order at 6:59 PM. There were no changes to the agenda.
2. **Constitutional “Moment”:** Chairman Fleming continued reading from the Declaration of Independence where he left off at the last meeting (*Attachment #1*). There had been over 150 years of freedom and self-government in the colonies by the time of the Declaration of Independence. He reflected on how it applies to the Planning Commissioners. The word *arbitrary* is a negative word in the Declaration of Independence and in the world of planning and zoning. He stated that we would do well to follow the example of the Declaration of Independence when establishing new regulations or defending and enforcing existing ones by submitting the facts behind our decisions to a candid township.
3. **Public comment:** None
4. **Approval of minutes of 3/2/16:** A motion was made by Campbell, supported by Knisley to approve the minutes of 3/2/16, Campbell would like the following sentence added to page 2, second paragraph, after the first sentence. *“Campbell stated he feels the Township needs to take a “strategic” long term view in zoning amendments in the future.*
5. **Report from Township Board representative Judy Graff:** Graff reported on the April 18, 2016 Township Board meeting, highlighting the following: *The Township Board of Trustees approved Casco Township joining the Water & Sewer Authority. Now it is up to the City of South Haven to approve. *A renewal millage for Casco Parks and Casco road maintenance has been approved for the August 2, 2016 election. *There will be extended hours for the Casco Nature Preserve during the night of the July 4th fireworks.
6. **Report from ZBA representative Paul Macyauski:** Nothing to report.

7. **Report from Water/Sewer representative Lou Adamson:** Adamson stated that the City of South Haven will address Casco Township joining the Water and Sewer Authority. To meet financial obligations for water & sewer, Casco needs approximately 17 ½ new hookups. There are already 16 new connections so far this year. All mandatory hookups have been done in Casco Township. South Haven Township still has 2 or 3 more mandatory hookups that need to be done.

Campbell asked if the number of new hookups exceed the required amount (17 ½) to reach this year's financial obligation, what would happen to the excess money. Would the debt be paid off quicker? Adamson stated the debt would not be paid off quicker, the excess money would be saved to be sure they are not short of hookups in a future year.

8. **Old Business:** None

9. **New Business-**

- a. **Report from Al Ellingsen regarding uses not allowed within the ordinance:** Alfred Ellingsen, Zoning Administrator and Building Inspector, had a number of potential amendments and items to discuss with the PC regarding uses not currently allowed within the Ordinance.

Ellingsen stated changes have been made in Michigan State Code:

Section R105.2 Work exempt from permit (ii). *A fence that is not more than 7 feet (2134mm) high (Attachment #2 a).* Ellingsen suggested the Planning Commission consider changing Casco's Ordinance, Section 3.32 Fences, B. (*Attachment #2b*). The maximum height exempt from permit is currently up to 6 feet. Ellingsen suggested the Planning Commission consider changing that maximum height to 7 feet.

Michigan State Code, Section 305, Barrier Requirements (*Attachment #3a*) allows the use of a lockable safety cover that complies with ASTM F 1346, as an option instead of a fence. The Casco ordinance (*Attachment #3b*) requires a 4 ft. fence around pool. Ellingsen suggests the Planning Commission consider allowing the safety cover be installed as a substitute for the 4 ft. fence. Additional wording could be added to Section 3.16 Swimming Pools D as follows: *"A natural barrier, hedge, or such other protective device approved by the Zoning Administrator may be used if the degree of protection afforded by the substituted device is at least equal to the protection afforded by the fence, wall and gate described in this subsection."*

A third suggested change to the Casco Zoning Ordinance submitted by Ellingsen was in regard to a request by Matt Super on behalf of Jensen's RV Park & Motel. Letter from Martin Super, Kendra Super, Matt Super and Anna Super (*Attachment #4a*). Jensen's RV Park is currently non-conforming. Ellingsen suggested that expansion for nonconforming business be allowed up to 50% of the existing non-conforming use. The expansion would go through site plan review, special use permit and all requirements of that special use. The current Ordinance provides for non-conforming **buildings or**

structures to be brought to the Zoning Board of Appeals, but there is currently no avenue for a non-conforming **use** to be requested. Ellingsen provided an example of wording for Non-Conforming Expansion the Planning Commission could consider. (*Attachment #4b*)

Matt Super stated that he would hold a meeting at the Jensen's recreation hall for neighbors prior to a site plan review. He added that he is on good terms with the neighbors and neighbors are aware the existing business has strict rules and is not a problem for neighbors. The plan for expansion will be about a year from now. Super would prefer not to go the route of Zoning Change, but would like to know the best avenue to take.

The 4th item Ellingsen addressed was in response to a letter from Peter Klein, dated March 13, 2016 (*Attachment #5*). Klein is the owner of property located at 6717 111th Avenue, zoned Agricultural. Klein would like to have a commercial restaurant on said property. Ellingsen's concern is a commercial restaurant is usually done where there is water and sewer available. Much more information will be needed for the Planning Commission to consider this request.

The 5th item Ellingsen brought to the Planning Commission is the subject of short term rentals. He provided commissioners an internet article by Warner Norcross & Judd (*Attachment #6*). The article states Michigan courts have ruled vacation rental as commercial. Other states including Maryland and Alabama have ruled that vacation rentals is not a commercial use and allowed rentals without issues. Many platted subdivisions have their own bylaws or charters. If a subdivision's charter prohibits vacation rentals, vacation rentals would be denied regardless of whether Casco Ordinance allowed it or not. Commissioners questioned whether it is all rentals or just short term rentals. The Casco Ordinance as written states rentals are not allowed because rentals are not listed as allowed or as special use.

Discussion on Sunset Shores rental case: Ellingsen provided commissioners with a copy of decision by Judge Cronin, Allegan County Court, on the Sunset Shores vacation rental case (*Attachment #7*). Judge Cronin ruled vacation rentals are considered commercial, thus would not be allowed.

Ellingsen stated Saugatuck Ordinance permits short term rentals.

Commissioners commented that there should be a registration of vacation rentals and property owners of vacation rentals should pay taxes. It was also mentioned money has to change hands for something to be considered commercial, thus not affecting large families and guests gathering in a home.

Sally Newton, who works with vacation rentals, stated that she has attended the City of South Haven's planning meetings where vacation rentals were discussed. Newton

recommended Casco simply make vacation rentals a non-commercial use instead of writing a vacation rental ordinance, which would be very difficult.

Matt Super said 60% to 80% of summer rentals are rented by the same customers year after year, resulting in no need for advertising, and taxes are not being paid on them.

Campbell stated that he personally has not had issues with renters in his subdivision, but neighbors have had many complaints. He stated there should be some form of control and taxes should be paid on vacation rentals.

Discussion continued about vacation rentals. Concerns to be addressed included overtaxed sewer systems, nuisance to residents, number of cars, number of occupants, who would handle complaints, overuse of facilities changing quality of life and grandfathered in rentals. If South Haven does rules not to allow vacation rentals, it could magnify the issues in Casco as existing South Haven vacationers come north to Casco.

Mike Workema stated that bed & breakfast often do not allow children and renting multiple hotel rooms gets expensive. Short term house rentals may be their only option.

Ellingsen said there could be a stand-alone ordinance for vacation rentals or it could be written into the Casco Zoning Ordinance. A stand-alone ordinance would not require a referendum, and could be done by the Board, or the Board could ask the Planning Commission to do it.

Ellingsen provided 4 other documents for Commissioner's review. A letter from Attorney Ronald Bultje, dated April 28, 2016, regarding the Sunset Shores Litigation (*Attachment #8*). An internet article by Michigan State University, Posted December 22, 2015, regarding short-term rentals (*Attachment #9*). Saugatuck Township's Fire District Rental Inspection Checklist and Rental Ordinance. (*Attachment #10*). A model of a permit to operate a short term rental unit (*Attachment #11*).

Supervisor Overhiser stated there are 20 some subdivisions with covenants and issues with short term rentals which would all be handled through civil litigation. He stated that when someone buys a home, they have an expectation that they would be able to rent it. If there is a chance to keep people happier, in a small way we could do something that might make sense, but it would be a waste of townships time to make a big issue of this.

Sally Newton stated on May 16th it may come out that South Haven's ordinance is unenforceable.

10. **Public comment:** Mike Workema, Miami Park, stated that he has a quasi of public & private sewer. He would like to develop some property and has been quoted \$180,000 for water and sewer hookups. He was advised to talk to the Water & Sewer Authority.

Campbell would like the Lakeshore Overlay guidelines added to the list for discussions. He submitted a copy of Charter Township of South Haven, Ordinance #126, Shoreline Protection Overlay District (*Attachment #12*).

Campbell submitted a letter to the editor by Dr. Robert Hiddema, South Haven, dated March 20, regarding vacation rentals and safety for citizens. (*Attachment #13*)

11. **Closing comments and adjournment:** Commissioners would like to add a June 8, 2016 meeting to the Planning Commission Calendar for the purpose of going over the discussed possible changes to the Zoning Ordinance. Ellingsen will bring suggesting wording for changes. The attorney will not be needed for the June 8 meeting.

A motion by Liepe, supported by Campbell to adjourn. MSC. Meeting adjourned at 8:35 PM.

The Annual meeting will be held June 20, 2016 at 6:00 PM

The next regular Planning Commission meeting will be held June 8, 2016 at 7:00 PM

Minutes prepared by Janet Chambers, Recording Secretary.

Attachment #1: Declaration of Independence

Attachment #2a: Michigan Code Re: fence height

Attachment #2b: Casco Ordinance Re: fence height

Attachment #3a: Michigan Code Re: Swimming Pool barrier

Attachment #3b: Casco Ordinance Re: Swimming Pool barrier

Attachment #4a: Letter from Jensen's RV Park Re: Expansion of Non-Conforming Use

Attachment #4b: Example of wording to allow for Expansion of Non-Conforming Use

Attachment #5: Letter from Peter Klein, Re: Restaurant in AG district, dated March 13, 2016

Attachment #6: Internet article by Warner Norcross & Judd Re: Michigan's Vacation Rentals

Attachment #7: Judgement by Judge Cronin, Allegan County, on Sunset Shores Vacation Rental Case

Attachment #8: Letter by Attorney Bultje, Re: Sunset Shores Case, Dated April 28, 2016

Attachment #9: Internet article on Vacation Rentals, Posted December 22, 2015

Attachment #10: Saugatuck Township Fire District's Rental Inspection checklist and Rental Ordinance

Attachment #11: Model of Permit to Operate a Short Term Rental Unit

Attachment #12: South Haven Township's Shoreline Protection Overlay District

Attachment #13: Letter to editor by Dr. Robert Hiddema, South Haven, Re: vacation rentals, Dated March 20, 2016

IN CONGRESS, July 4, 1776.

The unanimous Declaration of the thirteen united States of America,

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, —That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us;
For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the inhabitants of these States;
For cutting off our Trade with all parts of the world;
For imposing Taxes on us without our Consent;
For depriving us in many cases, of the benefits of Trial by Jury;
For transporting us beyond Seas to be tried for pretended offences
For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:
For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments;
For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.
He has abdicated Government here, by declaring us out of his Protection and waging War against us.
He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.
He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.
He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.
He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

- Attachment #2 a
Michigan Code ①

to R 408.30998, and plumbing, R 408.30701 to R 408.30796, codes instead of specific requirements of the code shall also be permitted as an alternate.
R 408.30504

R104.11.1 Tests. Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

**SECTION R105
PERMITS**

R105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.

R105.2 Work exempt from permit. Exemption from the permit requirements of the code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction. Permits are not required for any of the following:

- (a) Building permits shall not be required for any of the following:
 - (i) One-story detached accessory structures, if the floor area does not exceed 200 square feet (18.58 m²).
 - (ii) A fence that is not more than 7 feet (2134 mm) high.
 - (iii) A retaining wall that is not more than 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
 - (iv) A water tank supported directly upon grade if the capacity is not more than 5,000 gallons (18 927 L) and the ratio of height to diameter or width is not greater than 2 to 1.
 - (v) A sidewalk and driveway not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below and are not part of an accessible route.

- (vi) Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.
- (vii) A prefabricated swimming pool that is less than 24 inches (610 mm) deep, and not greater than 5,000 gallons (18 927 L), and is installed entirely above ground.
- (viii) Swings and other playground equipment accessory to detached 1- or 2-family dwellings.
- (ix) Window awnings in group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support, as applicable in Section 101.2 and group U occupancies.
- (x) Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point as prescribed by Section R312.1.1, are not attached to a dwelling or its accessory structures, are not within 36 inches (914 mm) of a dwelling or its accessory structures, and do not serve any ingress or egress door of the dwelling or its accessory structures.

(b) Electrical permits shall not be required, as in accordance with the Michigan electrical code, R 408.30801 to R 408.30880, for any of the following:

- (i) Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
- (ii) Radio and television transmitting stations: The provisions of the code do not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for power supply and to the installation of towers and antennas.
- (iii) Temporary testing systems: A permit is not required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) Mechanical permits shall not be required for any of the following:

- (i) A portable heating or gas appliance that has inputs of less than 30,000 BTU's per hour.
- (ii) Portable ventilation appliances and equipment.
- (iii) A portable cooling unit.
- (iv) Steam, hot water, or chilled water piping within any heating or cooling equipment or appliances regulated by this code.
- (v) Replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe.
- (vi) A portable evaporative cooler.

Amendment 2-b
Casco Ordinance

SECTION 3.32 FENCES

- A. Fences shall not be constructed in any public right-of-way.
- B. Unless provided for elsewhere in this Ordinance, a fence may not exceed a height of three (3) feet within any required front yard setback area, or a height of six (6) feet in any other area. For waterfront lots, a fence may not exceed a height of three (3) feet within any front or rear yard setback area, or a height of six (6) feet in any other area.
- C. No fence shall contain any barbed wire or electrification unless necessary for agricultural or industrial purposes. Barbed wire may be used for security in a nonresidential district, or for the protection of public utility buildings or improvements. The barbed portion of the fence shall be at least six (6) feet from the ground, in which case the height of a fence may extend to a maximum of seven (7) feet.
- D. Razor wire is prohibited in the Township.
- E. In the case of a double frontage (through) lot in any Residential District, a fence up to six (6) feet in height may be erected in the rear yard, as determined by the Zoning Administrator, but shall not block clear vision for area driveways or roadways.
- F. Fences used to enclose vacant land or land used for agricultural purposes may be erected within any yard, provided that any fence over four (4) feet in height shall be not greater than fifty (50) percent opaque.

SECTION 3.33 GREENBELTS, BUFFERS AND LANDSCAPING

It is the intent of this provision to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscaping as greenbelt buffer zones between potentially incompatible uses and residential dwellings. Landscaping is also viewed as a critical element contributing to the aesthetics, development quality, stability of property values, mitigation of nuisance affects, and overall rural character of the Township. As such, the following standards shall be met, as applicable. Further, protected landscapes and well-designed landscapes help the Township meet Master Plan goals and objectives.

- A. It is the intent of this Ordinance to protect existing site vegetation as a means of retaining rural character. Significant site vegetation, including landmark trees, shall be protected as much as practical and noted for protection on the site plan. If existing plant material is labeled "to remain" on a site plan by the applicant or is required by the Township, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to grading and construction activities. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.
- B. The purpose of greenbelts is to provide physical and visual separation between potentially incompatible uses.

Attachments # 3
2

GENERAL COMPLIANCE

permanent residential spas shall be controlled in accordance with the requirements of APSP 15.

**SECTION 304
FLOOD HAZARD AREAS**

304.1 General. The provisions of Section 304 shall control the design and construction of pools and spas installed in flood hazard areas.

[BS] 304.2 Determination of impacts based on location. Pools and spas located in flood hazard areas indicated within the *International Building Code* or the *International Residential Code* shall comply with Section 304.2.1 or 304.2.2.

Exception: Pools and spas located in riverine flood hazard areas that are outside of designated floodways and pools and spas located in flood hazard areas where the source of flooding is tides, storm surges or coastal storms.

[BS] 304.2.1 Pools and spas located in designated floodways. Where pools and spas are located in designated floodways, documentation shall be submitted to the code official that demonstrates that the construction of the pools and spas will not increase the design flood elevation at any point within the jurisdiction.

[BS] 304.2.2 Pools and spas located where floodways have not been designated. Where pools and spas are located where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool or spa and any associated grading and filling, will not increase the design flood elevation more than 1 foot (305 mm) at any point within the jurisdiction.

[BS] 304.3 Pools and spas in coastal high-hazard areas. Pools and spas installed in coastal high-hazard areas shall be designed and constructed in accordance with ASCE 24.

[BS] 304.4 Protection of equipment. Equipment shall be elevated to or above the design flood elevation or be anchored to prevent flotation and protected to prevent water from entering or accumulating within the components during conditions of flooding.

304.5 GFCI protection. Electrical equipment installed below the design flood elevation shall be supplied by branch circuits that have ground-fault circuit interrupter protection for personnel.

**SECTION 305
BARRIER REQUIREMENTS**

305.1 General. The provisions of this section shall apply to the design of barriers for pools and spas. These design controls are intended to provide protection against the potential drowning and near drowning by restricting access to such pools or spas. These requirements provide an integrated level of protection against potential drowning through the use of physical barriers and warning devices.

Exceptions:

1. Spas and hot tubs with a lockable safety cover that complies with ASTM F 1346.

2. Swimming pools with a powered safety cover that complies with ASTM F 1346.

305.2 Outdoor swimming pools and spas. Outdoor pools and spas and indoor swimming pools shall be surrounded by a barrier that complies with Sections 305.2.1 through 305.7.

305.2.1 Barrier height and clearances. Barrier heights and clearances shall be in accordance with all of the following:

1. The top of the barrier shall be not less than 48 inches (1219 mm) above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.
2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.
3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the pool or spa.
4. Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).

305.2.2 Openings. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

305.2.3 Solid barrier surfaces. Solid barriers that do not have openings shall not contain indentations or protrusions that form handholds and footholds, except for normal construction tolerances and tooled masonry joints.

305.2.4 Mesh fence as a barrier. Mesh fences, other than chain link fences in accordance with Section 305.2.7, shall be installed in accordance with the manufacturer's instructions and shall comply with the following:

1. The bottom of the mesh fence shall be not more than 1 inch (25 mm) above the deck or installed surface or grade.
2. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not permit the fence to be lifted more than 4 inches (102 mm) from grade or decking.
3. The fence shall be designed and constructed so that it does not allow passage of a 4-inch (102 mm) sphere under any mesh panel. The maximum vertical clearance from the bottom of the mesh fence and the solid surface shall not be more than 4 inches (102 mm) from grade or decking.

Attachment 5
3-20-11

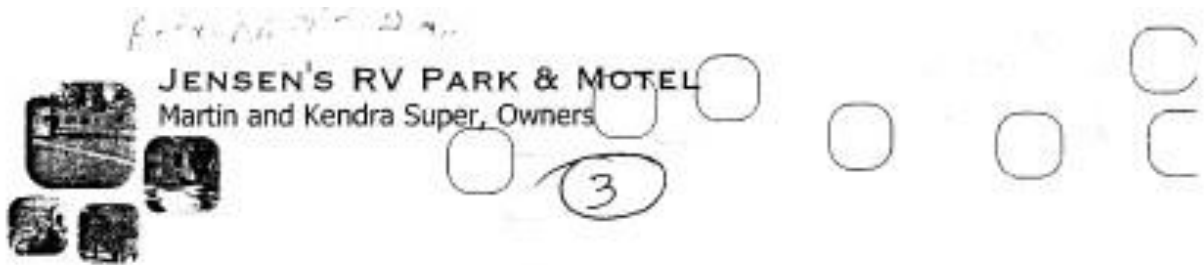
- B. Kennels shall only be permitted as required by the zoning district in which the property is located. Any pen or building or structure housing these animals shall be a minimum of fifty (50) feet from any property line.
- C. Animals, other than house pets, shall only be permitted in the AG and RR Districts with a minimum lot size of five (5) acres. When kept as allowed outside, livestock shall be contained by a fence suitable to prevent them from leaving the premises. Livestock shall be maintained in compliance with Generally Accepted Agricultural Management Practices or GAAMPs, as established by the Michigan Department of Agriculture or a successor agency.

SECTION 3.16 SWIMMING POOLS

- A. Pools used for swimming or bathing shall be in conformity with the requirements of this Section. However, these regulations shall not be applicable to any pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet, except where pools are permanently equipped with a water recirculation system.
- B. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a building permit has been obtained.
- C. The outside edge of the pool wall shall meet the side and rear yard setbacks of the zoning district in which it is located. On waterfront lots, no pool or fence surrounding the pool which is four (4) feet or higher shall be located closer than the minimum required setback designated by the Michigan Department of Environmental Quality for high risk erosion areas. Swimming pools shall not be located in the front yard.
- D. Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make the body of water inaccessible to small children. The enclosure, including gates therein, must be not less than four (4) feet above the underlying ground. All gates must be self-latching, and latches shall be placed four (4) feet above the ground or otherwise made inaccessible from the outside to small children. See Section 3.32 for other fence requirements.
- E. All swimming pool installations shall comply with any applicable construction codes and all other applicable codes.

SECTION 3.17 OUTDOOR STORAGE IN RESIDENTIAL DISTRICTS

- A. The outdoor storage or parking of recreational vehicles in all residential districts shall be subject to the following minimum conditions:
 - 1. Any recreational vehicle parked outside shall not be located in any required front or required side yard setback area. Not more than one (1) recreational vehicle shall be stored on a lot or parcel, except as allowed under subsection 4 below.
 - 2. Recreational vehicles stored outside shall be maintained in a clean, well-kept state so as not to detract from the appearance of the surrounding area.



April 20, 2016

Dear Casco Township Planning Commission,

We write this letter on behalf of Jensen's RV Park & Motel. We would like to expand our business operation, but due to zoning limitations are currently unable to do so. We are requesting an ordinance to allow for the continuation or expansion of a non-conforming use.

Jensen's has been a prominent part of the neighborhood for a very long time and has gone through many adaptations and ownerships. Due to the rising cost of business, including assessments, we are considering expansion as a way to keep the business sustainable. Recently, we have undertaken many improvements and renovations to make the park more appealing to both our customers and our neighbors. Additional lots will allow us to continue to make further upgrades and improvements.

The Super Family has owned and operated Jensen's for the past 33 years. During this time, we have been very mindful of our neighbors. We look forward to a good discourse with our neighbor stakeholders and the planning commission to develop an expansion that enhances our neighborhood and is desirable to everyone.

Please feel free to contact us with any further questions or comments.

Regards,

Martin Super
269-214-2797

Kendra Super

Matt Super

Anna Super

7366 N Shore Dr
South Haven, MI 49090
(269)637-3544
www.JensensRVPark.com

Sec. 40-1012. Expansion.

(a) Structures, Buildings or Uses Nonconforming because of height, area and/or parking and loading space only may be extended, enlarged, altered, remodeled or modernized provided there is compliance with all height, area and/or parking and loading sections with respect to such extension, enlargement, alteration, remodeling or modernization and the Zoning Administrator shall determine that such alteration, remodeling or modernization will not substantially extend the life of any Nonconforming Building or Structure. Any Use of a Building or Structure which is Nonconforming because of parking and loading sections and which is thereafter made conforming or less Nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement or change of Use which requires greater areas for parking and/or loading space.

(b) No Nonconforming Use of any Building or Structure or of any Lot or Parcel which is Nonconforming for reasons other than height, area and/or parking and loading space shall be extended or enlarged unless all extensions or enlargements do not exceed 50 percent of the area of the original Nonconforming Use and unless such extension or enlargement is authorized by the Zoning Board of Appeals as a matter for decision pursuant to section 20 of the Zoning Act (MCL 125.290). In considering such authorization, the Zoning Board of Appeals shall consider the following standards:

- (1) Whether the extension or enlargement will substantially extend the probable duration of such Nonconforming Use; and
- (2) Whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the Uses for which they have been zoned or with the use of such other properties in compliance with this chapter.

(Ord. No. 51, § 26(9.01), 6-15-1994)

Sec. 40-1013. Restoration and repair.

All repairs and maintenance work required to keep a Nonconforming Building or Structure in sound condition may be made, but it shall not be structurally altered to permit the use of such Building or Structure beyond its natural life. If any Nonconforming Building or Structure is damaged by fire, wind, act of God or public enemy, it may be rebuilt and restored to its former condition.

(Ord. No. 51, § 26(9.02), 6-15-1994)

Sec. 40-1014. Change or discontinuance.

The Nonconforming Use of a Building or Structure or of any land or premises shall not be reestablished after the following:

- (1) Discontinuance, vacancy, lack of operation or otherwise for a period of one year; or
- (2) It has been changed to a conforming Use.

(Ord. No. 51, § 26(9.03), 6-15-1994)

Attachment 5

4

March 13, 2016

Peter Klein
Seedling
6717 111th Ave
South Haven, MI 49090

Casco Township
Attn: Planning Commission/Township Board
7104 107th Ave
South Haven, MI 49090

RE: Amendment to Casco Township Zoning Ordinance ("Ordinance")

Dear Sir/Madam:

Please be advised that I am the owner of the real property located at 6717 111th Avenue, Casco Township, Allegan County ("Property"). The Property is currently zoned as AG, Agricultural under the Ordinance.

Through this letter, I hereby request that the Casco Township Planning Commission ("Commission") and/or the Casco Township Board ("Board") take necessary and appropriate steps to amend the Ordinance to expand the permitted special uses in areas zoned as AG to include the operation of a commercial restaurant. Section 15.01 of the Ordinance defines special uses as "those uses of land which are not essentially incompatible with uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land." Though a restaurant operation is not currently listed as a permitted or special use for AG properties under Section 5.02 of the Ordinance, I believe that this proposed special use of property zoned as AG may be complementary to a farming operation and consistent with the intent and spirit of the Master Plan and the special use provisions of the Ordinance. Additionally, I have confidence that my proposed special use is similar to many other permitted/special uses currently allowed in areas zoned as AG, including: bed and breakfast establishments, commercial kennels, country clubs, cottage industries, farm markets, greenhouse, home-based businesses, riding stables, veterinary clinics day care and foster care.

If the Commission/Board so desires, I would be happy to attend a regular meeting to discuss this request and answer any questions you may have about my requested amendment to the Ordinance. Furthermore, I acknowledge and anticipate that anyone seeking to construct and operate a restaurant facility in an area zoned AG under the proposed amendment to the Ordinance would remain subject to other provisions of the Ordinance, including the special use requirements of Section 15 and the site plan requirements as set forth in Section 17.

I fully realize that a special land use applicant should demonstrate adequate planning and propose an operation of a reasonable size and scope. With regard to potential specific operations on my Property, I have conducted preliminary work on a number of areas required for the operation of a

restaurant including contact and coordination with: the county health department regarding on-site wastewater disposal, a contractor concerning construction costs, the Michigan Department of Agriculture regarding a food service plan, and the Michigan Department of Agriculture and Rural Development concerning food service operation requirements.

Pursuant to Section 21.07 of the Ordinance, the Township Board may amend the Ordinance as necessary and appropriate. Based on the information provided above, I respectfully request that you take necessary and appropriate steps to amend the Ordinance to expand the permitted special uses in AG zoned property to include the operation of a commercial restaurant.

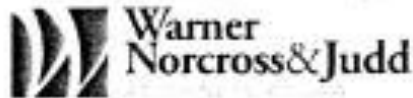
Thank you for your attention to this matter. Do not hesitate to contact me regarding dedicated time at an upcoming meeting to address my request. Furthermore, please contact me should you have any questions or concerns.

Sincerely,



Peter Klein
Cell: 773-412-5831

Cc: Brian Pearson, SHRR



5

Legal Cloud Looms Over Michigan's Vacation Rental Industry

4/9/2015

Anissa C. Hudy, Brian T. Leng, Matthew T. Nelson, Patrick B. Tully

A growing number of states are protecting the rights of homeowners to rent out their homes as vacation rentals, but Michigan's legal stance on the issue threatens the summer vacation rental market.

State courts in Maryland and Alabama have been the latest to rule that renting a residence as a vacation rental is not a commercial use of property. Those rulings are in stark contrast to a 2010 Michigan Court of Appeals ruling, which deemed vacation rentals a commercial use that could be banned via common deed restrictions.

The Michigan Court of Appeals ruling cast a legal cloud over the summer vacation rental market in Michigan, which is significant, especially in western and northern Michigan. Under that ruling, the vacation rental market is at risk of being shut down under a broad characterization of the term "commercial use."

The Michigan Court of Appeals ruling stemmed from a dispute between cottage owners Thomas and Jeannie Schilling and a neighborhood association. Like many cottage owners, the Schillings entered into an agreement with a rental agency and occasionally rented their summer cottage to vacationers for periods of a week or less.

A neighborhood association called the Enchanted Forest Property Owners sought to end the Schillings' use of their cottage as a vacation rental. The association argued that renting to vacationers was a commercial use, which the group claimed was in direct violation of a deed restriction that prohibited commercial uses in the cottage neighborhood. On these grounds, the association filed suit to enjoin the Schillings from renting their cottage.

In 2010, the Michigan Court of Appeals decided against the Schillings because it believed that renting a summer cottage as a vacation home violated a deed restriction that prohibits "commercial" use. The court reasoned that including vacation rentals within the ambit of a commercial purpose restriction was bolstered by the "clear intent" of the drafters of the deed to restrict the use of the property to private residential use. Private residential use, the court concluded, did not include private residential use by renters.

The Michigan Supreme Court had previously considered restrictions similar to those in the Schilling case in the context of commercial use, and had prohibited activities that most would consider to be more typically "commercial," such as daycare operations and

Industries

Real Estate Development

Practices

Litigation and Dispute

Resolution

Real Property Litigation

Real Estate Services

operating a convalescent home. Those cases involved the operation of actual businesses in a residential area, not the mere renting of residential properties by individuals to vacationers.

Further highlighting the peculiar nature of the Schilling ruling was a recent case in Alabama, in which the court refused to follow the Schilling decision. The Alabama court faced a similar question involving cabin owners whose property was subject to a deed restriction prohibiting commercial uses. Unlike the Michigan Court of Appeals, the Alabama court found that renting to vacationers was not a commercial use. The Alabama court focused its reasoning on the character of the use by the vacationers and found that the vacationers used the cabins in the same manner as other residents.

The Alabama court noted that "[t]he income the [owners] derive from the rental of the property derives solely from the use of the property in the same manner as the other landowners in this subdivision use their properties. The fact that the [owners] receive rental income does not transform the character of the subdivision."

Consistent with the Alabama court's reasoning and focus on the use of the property, the Maryland Court of Appeals likened renting property to similar arrangements that certainly do not violate commercial use restrictions. The Maryland court ruling articulated that argument, saying:

The owner's receipt of rental income in no way detracts from the use of the properties as residences by the tenants. There are many residential uses of property which also provide a commercial benefit to certain persons. Both in Maryland and in a great majority of states, over 30 percent of homes are rented rather than owned by families residing therein, thus providing much rental income to landlords. In addition to conventional rentals, a commercial benefit may be realized from residential property by persons or entities holding ground rents, mortgages, or deeds of trust. When property is used for a residence, there is simply no tension between such use and a commercial benefit accruing to someone else.

If you, like many Michiganders, rent your vacation home from time to time, you should investigate the potential effect that deed restrictions may have on your right to continue using your property as a vacation rental.

Please contact Brian Lang (816.752.2612 or blang@wnj.com), Matt Nelson (816.752.2539 or mnelson@wnj.com), Anissa Hudy (248.784.5133 or ahudy@wnj.com) or Patrick Tully (248.784.5064 or ptully@wnj.com) for more information on this issue.

STATE OF MICHIGAN 48TH JUDICIAL CIRCUIT	PARTY NOTIFICATION	CASE NO. 15-054455-CH
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Court Address ALLEGAN COUNTY
113 CHESTNUT STREET
ALLEGAN MI 49010

Court Telephone No.
269-673-0231

Mailing Date: 4/08/16

Mail To:
JAMES R. SPURR
MILLER CANFIELD PADDOCK & STONE PLC
277 S ROSE ST
STE 5000
KALAMAZOO MI 49007

Judge: KEVIN W. CRONIN

Plaintiff
JOHN H BAUCKHAM TRUST

Defendant
MATTHEW PETER

PLEASE TAKE NOTICE THAT ON APRIL 5, 2016 THE FOLLOWING WAS FILED IN THIS CAUSE:
OPINION AND FINAL ORDER AFTER BENCH TRIAL

JOYCE A WATTS
CLERK OF THE COURT

THIS NOTICE HAS ALSO BEEN SENT TO:
CHARLES WALTER KIERPIEC

RECEIVED
APR 11 2016
BY MILLER CANFIELD, P.C.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ALLEGAN
48TH JUDICIAL CIRCUIT

RECEIVED
APR 11 2016
BY MILLER CAMPBELL, PLC

JOHN BAUCKHAM et. al., Plaintiff,	ALLEGAN, MICHIGAN	Court Address and Phone; Allegan County Building 113 Chestnut Street Allegan, MI 49010 (269) 673-0300
vs.		
JAMES AND LINDA SKARIN et. al., Defendant.		Assigned to Circuit Judge Hon. Kevin W. Cronin P38915 Case No. 15-054455-CH

Ruth Skidmore (P58913) Attorney for Plaintiffs 99 Monroe Ave. NW, STE 1100 Grand Rapids MI 49503		James Spurr (P33049) Attorney for Defendants 277 South Rose St., Ste. 5000 Kalamazoo, MI 49007
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OPINION AND FINAL ORDER AFTER BENCH TRIAL

County Building in the City and County

of Allegan, State of Michigan, on the
5th day of APRIL, 2016

Present: The Honorable Kevin Cronin, Circuit Judge.

This dispute is between neighbors and owners of real property parcels in the Sunset Shores development in Casco Township, Allegan County, Michigan. The Plaintiffs seek declaratory and injunctive relief to enjoin the Defendant's from leasing their property to the public because this activity allegedly violates deed restrictions/ restrictive covenants barring commercial activity. Plaintiffs also seek an injunction on the theory that the Defendants are violating Casco Township zoning restrictions involving Low Density Residential (LDR) zones, thus creating a nuisance per se. On December 30, 2015, the Court granted partial summary disposition to Plaintiffs as to their commercial activity claim and the remaining issues were set for a bench trial.

The Defendants have countered these allegations by raising the equitable defense of unclean hands, stating that some of the Plaintiffs themselves have either rented their property or knew that rental activity was occurring and acquiesced in that activity. Plaintiffs should be estopped from enforcing the deed restrictions against the Defendants, they argue. The Defendants have also countered on the theory that the Plaintiffs themselves are violating the deed restrictions with regard to the

number and type of outbuildings placed on their individual properties and the violation of property line setbacks for those outbuildings. The Defendants also make a claim of trespass based on the placement of structures (eg stairs, decks, a motorized tram and a shed) build by the Plaintiffs which encroach onto land that is owned by the all of the subdivision residents as tenants in common. This commonly-owned parcel, referred to the "Beach Parcel", touches the shore of Lake Michigan and includes a portion of the steep, grassy bluff adjoining the sandy beach. The trespass claim is also grounded on a theory that one of the Plaintiffs has increased the volume and concentration of surface water runoff down the bluff and onto the sandy beach. In line with the trespass claim, the Defendants make a claim for ejectment, and quiet title. And lastly, the Defendants make a claim for common law waste, based upon vegetation that was allegedly removed by the Plaintiffs while building their structures on the Beach Parcel.

The Court will first address the Plaintiff's claims and defenses thereto.

A. Commercial Activity (Deed Restrictions/ Restrictive Covenants)

1. In the Court's prior Decision and Order of December 30, 2015 granting partial summary disposition on the Plaintiff's motion for summary disposition, the Court found that the Defendants engaged in impermissible commercial activity when they rented their private homes on their individually-owned parcels to the public for a fee and that such commercial activity violated of the deed restrictions or restrictive covenants prohibiting commercial activity throughout the subdivision.

B. Equitable defenses to enforcement of deed restrictions/ restrictive covenants raised by the Defendants

2. The Defendants have raised the equitable defenses of waiver and unclean hands to prevent the enforcement of the Sunset Shores deed restrictions with regard to commercial activity. This claim is based on the allegation that: (1) the Plaintiffs either knew of commercial rentals and did nothing to prevent the activity, (2) Plaintiffs actively facilitated commercial rentals activity by referring renters to other parcel owners, or (3) the Plaintiffs themselves commercially rented their homes within Sunset Shores.

-
3. With regard to whether a restriction has been waived, the Supreme Court has said that “whether or not there has been a waiver of a restrictive covenant or whether those seeking to enforce the same are guilty of laches are questions to be determined on the facts of each case as presented.” *Grandmont Improvement Ass’n v. Liquor Control Comm.*, 294 Mich. 541, 544, 293 N.W. 744 (1940) as quoted in *Bloomfield Estates Improvement Ass’n, Inc v City of Birmingham*, 479 Mich 206; 737 NW2d 670 (2007).

 4. When determining whether prior acquiescence to a violation of a deed restriction prevents a plaintiff from contesting the current violation, courts compare the character of the prior violation and the present violation. Only if the present violation constitutes a “more serious” violation of the deed restriction may a plaintiff contest the violation despite the plaintiff’s acquiescence to prior violations of a less serious character. *Bloomfield Estates Improvement Ass’n, Inc v City of Birmingham*, 479 Mich 206; 737 NW2d 670 (2007).

 5. Determining whether a “more serious” violation occurred will hinge on the facts of a particular case, some relevant factors that may be considered include: (1) whether the later violation involved the erection of a structure where no such structure had previously been permitted; (2) whether the later violation constituted a more extensive violation of restrictions on the size or extent of a building; (3) whether the later violation increased the use of land from a sporadic violation of the restriction to a continuous violation; (4) whether the later violation significantly increased the noise or pollutant level on restricted land; (5) whether the later violation increased the level of traffic occasioned by the prior violation; (6) whether the later violation permitted an action that had been previously prohibited; and (7) whether the later violation altered in some material respect the character of the use of the restricted property. *Bloomfield Estates Improvement Ass’n, Inc v City of Birmingham*, 479 Mich 206; 737 NW2d 670 (2007). The Supreme Court in *O’Connor v Resort Custom Builders, Inc*, found that Plaintiffs did not waive their restrictions when they previously allowed short-term rentals that became commercialized, 459 Mich 335; 591 NW2d 216 (1999).

6. Michigan law provides that, even in the event of multiple prior breaches of a restriction, equity will grant relief if the restriction can be shown to be of value to complainant and such breaches have not resulted in a subversion of the original scheme of development resulting in a substantial, if not entire, change in the neighborhood. *Misch v Lehman*, 178 Mich 225; 144 NW 556 (1913). *Kustarz v Janesick*, 347 Mich 223; 79 NW2d 613 (1956)
7. Commercial rental activity has established a foothold in the subdivision, but fewer than 6 of over 200 total parcels have been involved. Although the number of short term rental periods have increased over time and the number of day time and overnight visitors to those rentals parcels have increased and surged for holiday parties and wedding participants on occasion, there is no evidence that the character and use of the subdivision or has been significantly changed over time. The predominant use in the subdivision continues to be for single family residences where commercial rentals do not occur. The nature and character of the neighborhood has not been significantly or permanently altered and the development plan of the subdivision remains largely intact. The enforcement of these deed restrictions barring commercial rental activity still has significance and importance to it's residents.
8. The court finds credible the trial testimony which attributed to commercial renters both a sudden surge of population, but a variety of rude, inconsiderate, annoying and even dangerous activities associated with a non-stop "party like" atmosphere. The offensive behaviors including "cat call" solicitations to nearby female residents, beer bottles carelessly discarded into the waters of Lake Michigan, drunken, disorderly and argumentative behavior toward parcel owners, unsupervised minors on the beach who require water rescue, misuse of the roads, traffic congestion, parking problems and other ills. The profit-making parcel owners who rent are seldom, if ever, present to control or eject their short term renters, though a few renters have been invited never to return. The subdivision, lacking any functional, compulsory homeowner's association since the creation of the subdivision, is ill-equipped to manage the rental process and protect the rights of parcel owners.

9. The court has considered the testimony of all of the named Plaintiffs and Defendants in this case. By our interpretation of the above case law, it is proper to issue an injunction to ban commercial activity in the subdivision even though one or more of the named Plaintiffs have unclean hands, provided that other Plaintiffs have clean hands. This Court finds at least three named Plaintiffs of the ten who testified, meet these criteria. One of the Plaintiffs whose claim for injunctive relief is not barred by unclean hands is Dr. Charles Zeller. The Court finds that Dr. Zeller credibly testified that he never acquiesced in commercial rental activity, never facilitated commercial rental activity in the subdivision, nor engaged in commercial rentals of his own parcel to members of the public for a fee in violation of the deed restrictions.
10. Accordingly, the Court finds that an injunction shall issue to equitably enforce the deed restrictions despite the fact that some of the Plaintiffs are barred by unclean hands because they have rented their own properties or acquiesced in that practice by other owners.
11. **THEREFORE**, it is further ordered that all rental activity for a fee occurring within the Sunset Shores will cease and desist effective on midnight, Tuesday, September 6, 2016. As prior stipulated on the record, the Court's opinion and order does not enjoin rental activity for which an enforceable contractual commitment has already been made for a rental ending prior to midnight on September 6, 2016, provided that an enforceable contractual commitment has been made prior to the date of this Decision.

Nuisance Per Se

12. The alternative theory proffered by the Plaintiffs to terminate rental activity in Sunset Shores is one of nuisance per se due to an alleged violation of the Casco Township zoning ordinance. The Defendant claims the Plaintiffs have no standing to make such a claim. The Court will first address the Defendant's claim that the Plaintiffs have no standing to independently assert a zoning violation. As articulated in *Indian Vill Ass'n v*

Shreve, 52 Mich App 35, 216 NW2d 447, (1974), the Supreme Court of this state has long recognized the propriety of private citizens bringing an action to abate public nuisances arising out of violations of zoning ordinances. *Baura v. Thomasma*, 321 Mich. 139, 32 N.W.2d 369 (1948); *Jones v. DeVries*, 326 Mich. 126, 40 N.W.2d 317 (1949); *Wolff v. Steiner*, 350 Mich. 615, 87 N.W.2d 85 (1957); *Cook v. Bandeen*, 356 Mich. 328, 96 N.W.2d 743 (1959). THEREFORE this Court finds that the Plaintiffs have standing to assert a zoning violation.

13. This Court applies the rules of statutory construction when construing a zoning ordinance. *Albright v. Portage*, 188 Mich.App. 342, 350, n. 7, 470 N.W.2d 657 (1991); *Settles v. Detroit City Clerk*, 169 Mich.App. 797, 808, 427 N.W.2d 188 (1988). Therefore, when the language used in an ordinance is clear and unambiguous, we may not engage in judicial interpretation, and the ordinance must be enforced as written. *Livingston Co. Bd. of Social Services v. Dep't of Social Services*, 208 Mich.App. 402, 406, 529 N.W.2d 308 (1995); *Oberlin v. Wolverine Gas & Oil Co.*, 181 Mich.App. 506, 511, 450 N.W.2d 68 (1989). *Kalinoff v Columbus Tp.*, 214 Mich App 7; 542 NW2d 276 (1995).
14. The Court in *Indian Village* relied on the zoning ordinance in its decision to find a nuisance per se. As stipulated by the parties, the Court looks to the Casco Township Zoning Ordinance as approved on October 9, 2006 as amended through October 20, 2008. Chapter 8 of this ordinance describes a low-density residential zone, which is the type of zone in dispute in this case.
15. In a low-density residential district two commercial activities are expressly is permitted: (1) day care in family homes, and (2) adult foster care in family homes. All other commercial activities must require a special land use, including bed and breakfast establishments. Other than a bed and breakfast establishment, there are no other analogous commercial uses related to rental activity. In looking at the requirements for a bed and breakfast establishment, the Court finds that none of the current homes in Sunset Shores would meet the criteria for a bed and breakfast establishment due to a lack of paved public roads or sanitary sewer system.

16. Alfred Ellingsen, the township zoning administrator, testified that he found no zoning violations on behalf of the Defendants regarding commercial activities. The ordinance definition of "Commercial" states as follows:

The use of property for the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services or the maintenance of service offices, recreation, amusement enterprise, or garage/yard sales operating more than twelve (12) days during any one (1) twelve (12) month period.

17. The Court finds the testimony of Mr. Ellingsen is not binding. The Court respectfully disagrees with Mr. Ellingsen's conclusion. This Court finds that the defendant's rental activity is a commercial sale of personal recreation services, impermissible under the zoning ordinance in zoning district where the subdivision is located. The record reflects that several of the homes are essentially being treated like hotels for guests.

18. **THEREFORE**, the Court finds that the Defendants are in violation of the Casco Township Zoning ordinance regarding commercial activity and this constitutes a *nuisance per se*.

Zoning enforcement and estoppel.

19. As a potential defense to zoning enforcement is the doctrine of estoppel. Generally a municipality is not precluded by estoppel from enforcing its zoning code. *Fass v. Highland Park*, 326 Mich 19, 28-29, 39 NW2d 336 (1949). However, where a building is created in good faith reliance on a permit issued by the municipality, and the only reasonable use for the property is in fact outside the regulations, an exception to the rule may be made. *Pittsfield Twp. v. Malcolm*, 375 Mich 135, 146-147, 134 NW2d 166 (1965). *City of Holland v. Mantsh Enterprises*, 174 Mich App. 509; 514; 436 NW2d 398, 401 (1988).
20. The Court finds that if private citizens can enforce a zoning restriction as a *nuisance per se*, then it would be logical and consistent to apply the same rules of estoppel in this context to private citizens enforcing a zoning restriction as a *nuisance per se*. Here, there

have been no declarations by Casco Township, or other residents of Sunset Shores, which the Defendants have detrimentally relied on regarding the construction or use of the structures on their property. All of the homes in Sunset Shores, as found on the record, are single family dwellings. **THEREFORE**, the Court finds that the Plaintiffs are not estopped from enforcing the zoning violations as a *nuisance per se*.

21. Continuing violations of the zoning ordinance concerning commercial activity are hereby enjoined on the same terms expressed as to the violations of the deed restrictions. See paragraph 11 *supra*.

THE DEFENDANT'S COUNTER CLAIMS: (1) violation of sunset shores property restrictions, (2) trespass upon property owned as tenants in common, (3) waste, (4) ejectment, and (5) quiet title

Violation of Sunset Shores Deed Restrictions (unrelated to commercial activity):

22. The Defendants filed a counter claim alleging violations of the Sunset Shores property restrictions. These violations deal with non-conforming structures built on individual lots, structures built on the Beach Parcel will be addressed separately. The specific restrictions the Defendants are complaining of are as follows:

- a. No building shall be erected or maintained on any lot in Sunset Shores other than a private residence and a private garage for the sole use of the owner or occupant...
- b. Any garage erected or maintained must conform in appearances and construction of the residence on such lot.
- c. No building shall be erected or maintained on any lot in Sunset Shores closer than 10 feet from front lot line, nor closer than 5 feet from back or side lot lines.
- d. No outside toilet or privy shall be erected or maintained in Sunset Shores.
- e. The placing of for sale signs on lots in Sunset Shores shall be prohibited.

23. As a preliminary matter, the Court finds that there has been no waiver or estoppel by the Defendants in enforcing these particular deed restrictions against the Plaintiffs.

24. The Defendants allege the following as one of several violations against some or all of the Plaintiffs: (1) homes are constructed too close to property lines, (2) port-o-johns/ outside toilets were placed on lots during a party, (3) certain properties have more than one garage, (4) certain properties have sheds which are too small to park an automobile, (5) some homeowners placed for sale signs on some lots.
25. A stipulation was placed on the record that the Defendant is not seeking the tear down or alteration of anyone's home, garage, or secondary garage as a remedy for violation of the deed restrictions. However, it is clear to the Court that certain lot owners are in clear violation of the deed restrictions with regard to the number of garages and the encroachment of lot lines. **THEREFORE**, currently existing non-conforming homes and garages may remain in place. However future violations will not be afforded this protection unless stipulated by all property owners and recorded as such with the Register of Deeds.
26. No definition of "garage" appears in the deed restrictions. In construing restrictive covenants, the overriding goal is to ascertain the intent of the parties. *Tabern v. Gates*, 231 Mich. 581, 583, 204 N.W. 698 (1925). Where the restrictions are unambiguous, they must be enforced as written. *Hill v. Rabinowitch*, 210 Mich. 220, 224, 177 N.W. 719 (1920). However, restrictions are strictly construed against the would-be enforcer and doubts are resolved in favor of the free use of property. *Stuart v. Chawney*, 454 Mich. 200, 210, 560 N.W.2d 336 (1997). As noted by *Jayno Hts Landowners Ass'n v Preston*, 85 Mich App 443; 271 NW2d 268 (1978), the Michigan Supreme Court has held that definitions employed in housing codes and zoning ordinances do not control the interpretation of restrictive covenants. *Phillips v. Lawler*, 259 Mich. 567, 244 N.W. 165 (1932), *Morgan v. Matheson*, 362 Mich. 535, 541, 107 N.W.2d 825 (1961), *CE Karpenko v. Southfield*, 75 Mich.App. 188, 193, n.3, 254 N.W.2d 839 (1977).
27. A garage is the most common form of storage for private automobiles. *Nelson v Goddard*, 43 Mich App 615, 617; 204 NW2d 739, 740 (1972). "Garage" is commonly defined as "a building or wing of a building, as of a house, in which to park a car or cars." *The American Heritage Dictionary of the English Language* (1981).

28. **THEREFORE**, any outbuildings which do not meet the definition of a garage, as defined in this order, will be removed within 90 days, at the owner's expense. This order includes the removal of "for sale" signs and outdoor toilets, the placement of which also violated the deed restrictions.

Trespass & Waste:

29. The Court will address these two claims together because they both share similar facts and legal principles as regard to the Beach Parcel. The Defendants complaint regarding waste is essentially one involving the removal of trees and brush on the Beach Parcel to accommodate the construction of private stairs and decks from the homes on the bluff leading to the lakeshore. This claim also applies to the removal of trees and brush and the addition of large boulders on the Beach Parcel regarding a rain-water erosion-control project. This rain-water control project is also the basis for the Defendant's trespass claim; the allegation is that the Plaintiff is accelerating the flow of rain water onto the Beach Parcel.
30. As a general principle, because every tenant in common has a right to possess the whole of the estate, a claim of trespass cannot lie as against another cotenant. 20 Am Jur 2d, § 98, p 198; 24 Callaghan's Michigan Civil Jurisprudence, Tenants in Common and Joint Tenants, §§ 7 & 10, pp 146, 150-151; *Merritt v Nickelson*, 407 Mich 544; 555; 287 NW2d 178 (1980). Principal distinction between trespass and waste is the character of the presence of the defendant on the land; in the case of waste, the injury is done by one rightfully in possession. *Stevens v. Mobil Oil Corp.*, 412 F.Supp. 809 (ED Mich 1976).
31. The Defendants argue that a trespass occurs though the diversion of surface water so that an amount of water in excess of natural flowage is channeled onto the land of a neighboring owner. *Allen v Morris Building Company*, 360 Mich 214, 103 NW2d 491 (1960). *Lewallen v City of Niles*, 86 Mich App 322, 272 NW2d 350 (1978) "the owner of the dominant estate may not, by changing conditions on his land, put a greater burden on the servient estate by increasing and concentrating the volume and velocity of the surface water." *Id.*, at 335, 351.

32. The Court finds that, as a matter of law, the Plaintiff cotenants cannot perform a trespass on the Beach Parcel. Even if one of the cotenants could be found to have trespassed pursuant to the Defendants' rain-water diversion theory, the Court finds that this claim also fails. The Court finds that the rain-water diversion project was granted proper permits. The Court also finds that the property on which this project occurred is a natural low-point that collects rain water from the subdivision. There was a major erosion problem where this project occurred; the water was originally being diverted through an approximately 8 inch plastic tube which failed. There was a very real danger that the bluff would be "blown out" by erosion. There was some brush and a small, dead tree that were removed to accommodate the project. The permit for the project implicitly authorized their removal. The project actually helped to disperse and slow the rain water, preserved the bank, and protected the common property as well as several individually owned parcels. There was no evidence that the erosion control project harmed any parcel owner's interest. This Court concludes that it did the opposite. Defendant's failed to prove any damage to the interests of individual lot owners or cotenants of the Beach Parcel. **THEREFORE**, the Defendant's claim for trespass is **DENIED** as to liability and damages.

33. As to the Defendant's claim for waste regarding the removal of trees and for damages pursuant to MCL 600.2919, this Court finds that Defendants did not present sufficient credible testimony to meet their burden of proving the improper removal of any trees or any reasonably specific value of damages. **THEREFORE**, the Defendant's claim for waste is **DENIED**.

Ejectment and Quiet Title:

34. The Court will address these two claims together because they both share similar operative facts and legal principles as regard to the Beach Parcel. As a factual basis, it is well-proven to the Court that the Plaintiffs, particularly those owning homes on the bluff adjacent to the Beach Parcel, have constructed stairs, decks, a motorized tram on rails and erected at least one outbuilding which rest in part or in whole on the Beach Parcel. It is also well proven that the cotenants that erected these structures on the Beach Parcel

have set out to place locks, gates, and "no trespassing" signs on these structures, to the exclusion of all other cotenants.

35. It is undisputed in case law that tenants-in-common have a right to enjoy the whole estate. Tenancy in common is legal estate with each tenant having separate and distinct title to an undivided share of the whole; each is entitled to possession of the whole and every part thereof, subject to the same right in the other cotenants. *Quinlan Inv. Co. v. Meehan Companies, Inc.* 430 N.W.2d 805, 171 Mich.App. 635 (1988). "Tenants in common" are persons who hold land or other property by unity of possession; when two or more persons are entitled to land in such manner that they have undivided possession, but separate and distinct freeholds, they are tenants in common; not only is possession of one, possession of all, but tenants respectively have present rights to enter upon whole land, and upon every part of it, and to occupy and enjoy the whole. *Merritt v. Nickelson* 264 N.W.2d 89, 80 Mich.App. 663 (1978), affirmed 287 N.W.2d 178, 407 Mich. 544.
36. It is possible for a cotenant to adversely possess property held in common to the exclusion of other cotenants. Where land is owned by cotenants, an ouster of one of them is not effective, unless the possession asserted by the other as adverse has been taken and continued with intent to oust the other tenant. *Croze v. Quincy Mining Co.* 165 N.W. 786, 199 Mich. 515 (1917). A claim of adverse possession, as between tenants in common, must be clear and unambiguous. *Campau v. Campau* 8 N.W. 85, 45 Mich. 367 (1881). For a tenant in common to acquire title to land as against his cotenants by adverse possession, his exclusive claim of title and denial of cotenants' rights should be clear and unambiguous and brought home to cotenants' knowledge, either by express notice or by implication, in which case all doubt should be against ouster and the tenant in possession should be presumed to respect and recognize cotenants' rights until or unless the contrary clearly appears. *Taylor v. S.S. Kresge Co.* 40 N.W.2d 636, 326 Mich. 580 (1950). Where a cotenant is distinctly notified that the tenant in possession claims to own the land absolutely, his adverse possession begins to run from such notice. *Weshgyl v. Schick* 71 N.W. 323, 113 Mich. 22 (1897). To overcome the general rule that tenant in possession recognizes rights of his cotenants, the open, hostile holding out by one tenant must be established. *Harbes v. Ahearn* 120 N.W.2d 215, 369 Mich. 423

(1963). For tenant in common to acquire title by adverse possession, presumption of occupancy as cotenant must be overcome by clearly inconsistent acts and declarations brought home to the cotenant. *Donohue v. Vasper* 155 N.W. 407, 189 Mich. 78 (1915), affirmed 37 S.Ct. 350, 243 U.S. 59, 61 L.Ed. 592.

37. As discussed above, it is well-established by the evidence that the cotenants that erected these structures on the Beach Parcel have set out to place locks, gates, and "no trespassing" signs on these structures to the exclusion of all other cotenants. The Court finds that the cotenants that built these structures and then placed locks, gates, and "no trespassing" signs on the structures did so openly, in a hostile and exclusory intent hostility to the exclusion of other cotenants. This exclusion was done clearly and unambiguously. Absent findings supporting adverse possession by Plaintiffs of the portions of the Beach Parcel they have occupied for decks, stairs, etc., all cotenants of Sunset Shores have a right to enjoy the entire Beach Parcel because the Beach Parcel is held as tenants in common. Plaintiffs have not made any express claim for adverse possession in this case and at trial, they uniformly expressed no objection to the future use of the entire Beach Parcel, including their privately built improvements, by other cotenants of the Beach Parcel.
38. **THEREFORE**, any potential claims for adverse possession by the Plaintiffs of any portion of the Beach Parcel against any cotenant, are hereinafter barred and **TITLE IS QUIETED** on the Beach Parcel to the enjoyment of all cotenants of Sunset Shores.
39. **IT IS FURTHER ORDERED** that within 90 days all locks, gates, and "no trespassing" signs will be removed from these structures to the extent that the structure exists on the Beach Parcel. These structures will exist for the use and benefit of all cotenants to the extent they exist on the Beach Parcel. If a lock is to remain on the shed located on the Beach Parcel, for example, then a key or lock combination must be provided to all of the cotenants.

IT IS FURTHER ORDERED this Court finds that the current structures which encroach upon on the Beach Parcel include the stairs, decks, the motorized tram and a storage outbuilding. As to the parts of the structures which encroach on the Beach Parcel, minimal repairs may be performed on them in the future, but only to preserve the current function of the structure and not to expand the encroachment or extend the structures useful life. Once the structure has surpassed its useful life, the ultimate removal of any structure will be done at expense of the owner of the parcel adjoining the Beach Parcel and no contribution will be had from any other cotenant. If the encroaching structures are damaged by catastrophic acts of God the encroaching structure cannot be replaced.

40. **IT IS FURTHER ORDERED** the stairs leading to the beach at the end of Cliff Drive will be the official access stairs to the Beach Parcel, and are owned in joint tenancy by and are accessible for the use of all subdivision parcel owners. These stairs were constructed by the home-owners association. The restrictions on the other encroaching structures located on the Beach Parcel do not apply to these stairs.

IT IS SO ORDERED AND ADJUDGED.

ATTEST & TRUE COPY

Court Clerk


Kevin Cronin, Circuit Judge.

PROOF OF SERVICE

I certify that on this date, the above parties were personally served or mailed by ordinary mail a copy of this notice.

09-08-16
Date


Signature

Attachment #1 **Considering regulation of short-term rentals in light of the sharing economy: Part 2**

Short-term rentals are sometimes perceived as nuisances in neighborhoods, but the emergence of the sharing economy suggests communities may want to offer something for everyone in terms of lodging experiences for visitors of all kinds.

Posted on **December 22, 2015** by **Brad Neumann** (http://msue.anr.msu.edu/experts/bradley_neumann_1/), Michigan State University Extension

[Part one \(news/considering_regulation_of_short_term_rentals_in_light_of_the_sharing_economy\)](#) of this article introduced the idea of offering something for everyone when regulating short-term rentals in light of the [sharing economy](http://www.greattransition.org/publication/debating-the-sharing-economy/) (<http://www.greattransition.org/publication/debating-the-sharing-economy/>). This article highlights regulatory options for communities and offers some considerations related to definitions, process of approval, and review standards for short-term rentals.

In Michigan, cities, villages, and townships have the authority to adopt regulations related to rentals either through the zoning ordinance or a separate police power ordinance. Counties with zoning have the ability to include such regulations in their zoning ordinance. Under a zoning ordinance however, property owners who had legally rented their homes prior to a zoning amendment would be grandfathered and would be allowed to continue their rentals as they did before the ordinance amendment (see [Understanding nonconformity: Are you 'grandfathered' in?](#) (news/understanding_nonconformity_are_you_grandfathered_in/)). Instead, rental regulations as a general police power ordinance are not required to allow the continuation of legal non-conforming uses. It is important to keep in mind that Michigan counties do not have police power authority and cannot adopt stand-alone ordinances on topics like short-term.

One of the tricks to regulating short-term rentals is to define them as a commercial use, so that they are treated similar to other lodging enterprises and different from residential uses. This approach reflects the Constitutional protection of equal treatment in which similarly situated individuals must be treated similarly. (The distinction of short-term rental being commercial is reinforced by court rulings on the issue, and communities which have not carefully made that distinction have not fared as well in courts.) Then, a community would list short-term rentals as a special land use in the appropriate zoning districts based on public engagement on the topic as to where the special use is generally acceptable. The community would then hear individual requests for a special land use permit for a particular property in those zoning districts where it is listed as a special land use.

Another step for a community is to identify the standards that will apply when reviewing applications from property owners for the short-term rental of their property. Such standards should include discretionary and non-discretionary standards. A discretionary standard is something like "The use will be harmonious with the surrounding neighborhood." This is a type of standard that a planning commission would need to discuss in an open meeting with

opportunity for public comment. A non-discretionary standard on the other hand is something that is more black or white, for instance, "two off-street parking spaces shall be provided on site for each short-term rental unit." This standard is either met in the pending application or it is not.

Considering the sharing economy, communities may find it beneficial to consider all types of short-term rentals, beyond just the conventional 'vacation rental' home and develop a single set of standards that apply to all of them. Such a set of standards could possibly include licensing, allowable length of stay, number of rooms that can be rented, separation requirements for same rental types, parking, guest register, display of fire escape routes and owner contact information, and so on.

Communities should keep in mind that a zoning ordinance that completely excludes an otherwise legal or legitimate land use is suspect. If a municipality's ordinance is silent on the issue of short-term rentals, it typically means short-term rentals are not permitted anywhere. Zoning ordinances that are written in a permissive format state the permitted use within the district and necessarily imply the exclusion of any other use not listed. Communities that do not allow short-term rentals or do not address the topic should ask 'what's the legitimate government purpose of prohibiting short-term rentals?' Prohibiting short-term rentals may be a legally risky approach, even if motivations for doing so are thoroughly documented in the ordinance and master plan. It is important to note that any amendment to a community's zoning ordinance should be reviewed before adoption by the community's corporate attorney who is experienced in municipal and land use law.

[Michigan State University Extension](#) [in](#) helps communities learn how to improve their social and economic appeal to create and retain jobs. Community leaders are given the tools they need to have a positive effect on their cities, villages, townships, counties and the whole state.

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Related Events



Rental Inspection Checklist

This is a summary checklist to ensure compliance with Fire and Life Safety codes. The entire International Fire Code 2012 edition may be referenced if other violations are found.

Please ensure compliance with the entire checklist **PRIOR** to scheduling your fire safety inspection. Violations found upon initial inspection may require a re-inspection and additional fees.

1. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction. *Exceptions: LP-gas cooking devices having LP-gas container with a water capacity not greater than 1 pound (0.454 kg) LP-gas capacity. (IFC 308.1.4)*
2. Storage of combustible materials shall be separated from heaters or heating devices by a distance or shielding so that ignition cannot occur. Maintain a minimum 36" clearance on all sides of fuel fired appliances to storage of combustibles. (IFC 315.3)
3. Fire Safety Plans shall be posted on each floor level of the structure adjacent to the main egress travel path and shall include the following information: (IFC 404)
 - a. The procedure for reporting a fire or other emergency. (ie: *Call 911, there is a fire at 123 Main St. or there is a medical emergency at 123 Main St.*)
 - b. Current address and location of occupancy.
 - c. Floor Plans identifying the locations of the following:
 - i. Exits
 - ii. Primary evacuation routes
 - iii. Secondary evacuation routes
 - iv. Portable fire extinguishers
 - d. Identification and assignment of personnel responsible for emergency contact and maintenance of systems. (Local representative)
4. Address must be installed so it is visible from the road fronting property with 4" minimum letters and numbers. *(Green Reflective 911 Address Signs mounted at road fronting property and visible from both directions of travel are recommended.) (IFC 505.1)*
5. Portable unvented fuel-fired heating equipment is prohibited. (IFC 603.4)
6. Electrical hazards shall be abated. (Cover plates intact, no open wiring junction boxes) (IFC 605.1)
7. Electrical Panels require a minimum 30" clear working space provided in front of the panel. No storage of any materials shall be within the 30" clear designated space. (IFC 605.3)



SAUGATUCK TOWNSHIP FIRE DISTRICT



8. Extension cords shall not be a substitute for permanent wiring. Ensure there are NO extension cords within the occupancy. *(Approved UL listed surge protectors may be utilized)* (IFC 605.5)
9. Holes in walls, ceilings, and doors must be repaired to maintain the fire resistance rating of the barrier. (IFC 703.1)
10. Portable Fire Extinguishers of a 2A10BC minimum rating must be installed and mounted on an approved hanger within the egress path on each level of the structure. (IFC 906)
11. Portable Fire Extinguishers require annual maintenance by an approved fire protection contractor. (IFC 906)
12. Smoke Alarms are required to be installed in every sleeping room and outside of every sleeping room, in all mechanical rooms, and in every room in the path of the means of egress. In addition, there must be a smoke alarm on each level of the structure including basements. Interconnected smoke alarms may be required. (IFC 907.2)
13. Carbon Monoxide alarms shall be installed on each level of the structure. They shall be installed outside of the sleeping areas where sleeping occurs. (Carbon Monoxide alarms are not required if the home contains NO fuel fired appliances and utilizes only electric heat and cooking devices.) (IFC 1103.9)
14. Minimum dimensions of egress windows shall be 24" in height, and 20" in width. The bottom of the clear window opening shall not be more than 44" measured from the floor. Non-compliant windows shall be replaced or rooms will not be utilized for sleeping. (IFC 1029)
15. Exits shall be maintained free of obstructions including ice and snow at all times. (IFC 1030.2)
16. Basements shall be free of flammable liquid storage. (ie: solvent, thinners, oil paints, gasoline, propane, etc.) (IFC 5704)

By signing below, I acknowledge completion of the checklist and have ensured that the structure meets all of the required fire and life safety code requirements as a condition of the rental permit application.

Printed Name: _____ Date: _____

Signature: _____



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PHONE (269) 857-7721
FAX (269) 857-4542

RENTAL DWELLING PERMIT APPLICATION

This application becomes a permit upon signed approval of the Township Zoning Administrator and requires an approved Fire Safety Inspection of the Saugatuck Township Fire District. Upon approved final inspection of the Fire District the permit shall be valid for a period of 3 years subject to conditions of non-compliance of Chapter 8, Article V "Single And Two Family Rental Dwelling, Property Registration And Safety Ordinance" of the Saugatuck Township Code of Consolidated Ordinances.

SCHEDULE ALL INSPECTIONS WITH THE SAUGATUCK TOWNSHIP FIRE DISTRICT CONTACT PHONE: (269) 857-3000; FAX (269) 857-1228; 3342 BLUE STAR HIGHWAY, SAUGATUCK, MI 49453; E-MAIL: stfdinspect@gmail.com

Designated Agent: _____ Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

Parcel No: 0320- _____ - _____ - _____

Designated Agent E-Mail: _____

(Owner): _____

Permit No: _____

Permit Fee: _____ (\$250 includes 1 Fire Safety Inspection)
(\$60 per Re-inspection as needed)

____ Number of Occupants. If proposed occupancy exceeds 12 individuals, approval by Saugatuck Township Fire District as well as Saugatuck Township Zoning Administrator is required. ____ Number of Bedrooms. ____ Attached Parking Site Plan

Re-inspections are billed to the applicant. If inspections cannot be completed upon request of the applicant because: 1. Building Locked 2. Violation of Code 3. Work Not Completed; then additional fees are billed to the applicant.



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PHONE (269) 857-7721
FAX (269) 857-8542

TO BE COMPLETED BY APPLICANT

I hereby certify that I am authorized as the Designated Agent to complete this application and I understand and conform to applicable laws of the Saugatuck Township Code of Ordinances as amended and the State of Michigan. All information submitted on this application is accurate to the best of my knowledge.

Owner or Designated Agent's

Signature: _____

Date: _____

TO BE COMPLETED BY TOWNSHIP ZONING ADMINISTRATOR

Chapter 8, Article V "Single And Two Family Rental Dwelling, Property Registration And Safety Ordinance" of the Saugatuck Township Code of Consolidated Ordinances shall be provided with this application. Upon the authorized receipt of all fees and final approval of Fire Safety Inspection(s) this application shall be considered a Rental Dwelling Permit and hereby granted to the above applicant.

Steve Kushion
Zoning Administrator

Date

FOR USE BY SAUGATUCK TOWNSHIP FIRE DISTRICT

Application Received ___/___/___

Fire Dept. Notified ___/___/___

Fire Dept. Approval Received ___/___/___

Reg. Cert. Issued ___/___/___



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FAX (269) 857-4543

FREQUENTLY ASKED QUESTIONS

Saugatuck Township
Single And Two Family Rental Dwelling
Property Registration And Safety Ordinance

Q: What is the purpose of this ordinance?

A: The ordinance is intended to ensure that homes that are intended to be rented to public meet the requirements of the International Fire Code based on inspection of the Saugatuck Township Fire District.

Q: When is the ordinance effective?

A: The Single And Two Family Rental Dwelling Property Registration And Safety Ordinance was approved by the Saugatuck Township Board January 6, 2016 and took effect 30 days after publication in the Township's newspaper of record.

Q: What types of properties are effected by the ordinance

A: The ordinance applies to all single family or two family dwellings located in Saugatuck Township and to all persons owning or exercising control over such buildings or premises which in total or in part that are rented or leased. Unless excluded under Section 8-104 of the Ordinance, occupancy of a single family or two family dwelling by any person other than the owner of record, shall be presumed to require registration of the dwelling as rental property. Such presumption may be rebutted if the occupant has ownership equity of 25 percent or more of the fee or life estate. An occupant claiming ownership may be required to provide proof that a transfer of ownership is supported by a substantial equity interest in the property.

Q: How to Register a Rental Dwelling with Saugatuck Township?

A: The steps for Registration of a Rental Dwelling Unit are included on the application of registration as follows:

1. Complete application for Registration of Rental Dwelling Unit and file with Saugatuck Township.
2. Upon registration the owner or owner's agent is required to obtain a Rental Dwelling Permit contingent upon approval of Fire Safety Inspection to be performed by the Saugatuck Township Fire District.



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FAX (269) 857-4542

3. Rental Dwelling Permit Applicants are responsible for all permit fees pursuant to final approval of Fire Safety Inspection(s).
4. Saugatuck Township Fire District and Applicant shall arrange for a mutual beneficial date and time to perform a Fire Safety Inspection of premises. An inspection checklist and answers to "Frequently Asked Questions" are included with all Rental Dwelling Permit Applications.
5. Rental Dwelling Permits shall be finalized upon receipt of all applicable permit fees and certification of approval of Fire Safety Inspection from the Saugatuck Township Fire District.
6. Applicants may contact the Saugatuck Township Fire District to report any changes in conditions of inspection that may affect final approval or denial of Fire Safety Inspection(s).

Q: What about a registration fee refund?

A: Maybe. Permit fees are non-refundable should inspection and/or re-inspection of the Saugatuck Township Fire District take place of a property in Saugatuck Township. Contact the Saugatuck Township Office to rescind any Rental Dwelling Permit or make a request for refund of a Rental Permit Fee.

Rental Dwelling property owners or their agents are required to pay a fee for rental dwelling inspection and/or re-inspection performed as a result of any violation. Fees shall be paid at the time of registration and application at the Saugatuck Township Office.

Q: What about a transfer of Property?

A: Occupancy by a prior owner after the sale of a dwelling under a rental agreement for a period of less than 91 days following closing. Rental property registration is required if legal or equitable ownership is not transferred in its entirety within 90 days of execution of the conditional sales agreement.

Q: What are the penalties and/or fines for non-compliance or non-registration or valid permit for a Rental Dwelling?

A: Failure to comply with requirements of the Single And Two Family Rental Dwelling Property Registration And Safety Ordinance is a violation of the Township Code of Ordinances, and any person failing to comply is subject to a municipal civil infraction. Any person found responsible or admits responsibility for municipal civil infraction shall be subject to a civil fine for the first infraction and increasing penalties for additional infractions as established by the Code of Ordinances, of the Township of Saugatuck.

Q: Do Condominiums apply?

A: Yes. Condominiums that are intended to be rented are subject to terms of the



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FAX (269) 857-4542

Single And Two Family Rental Dwelling Property Registration And Safety Ordinance. Please be aware that condominium association bylaws may also apply to owner's use of property.

Q: What information should I provide to renters of property?

A: It is recommended that all agents remind their renters either verbally or in written form that they be respectful of the neighboring properties. Topics to make your renters aware are: designated parking spaces for the rental dwelling upon property, garage and trash collection information, the use of fireworks and outdoor noise.

Q: Is the display of registration or permit required?

A: The display of a Rental Dwelling Permit and/or Registration of a Rental Dwelling is not a requirement of the Single And Two Family Rental Dwelling Property Registration And Safety Ordinance. Accurate and up-to-date status of all Rental Dwelling Registrations and Permits are kept file at the Saugatuck Township Office.

Q: Who should I contact for information regarding Rental Dwelling Registration or Rental Dwelling Permits in Saugatuck Township?

A: Saugatuck Township Office at 3461 Blue Star Highway, MI 49453; Phone: (269) 857-7721; Fax (269) 857-4542; www.saugatucktownship.org

TOWNSHIP OF SAUGATUCK
ALLEGAN COUNTY, MICHIGAN

ORDINANCE NO. 2016-01

AN ORDINANCE TO AMEND CHAPTER 8, ARTICLE V, OF THE TOWNSHIP OF
SAUGATUCK CODE TO REGULATE SHORT-TERM RENTALS

The Township of Saugatuck Ordains:

Section 1. Amendment. Chapter 8, Article V, of the Township of Saugatuck Code, entitled "Single- and Two-Family Rental Dwellings, Property Registration and Safety," is hereby amended to read as follows:

Sec. 8-100. Findings and purpose.

- (a) *Findings*. The Saugatuck Township Board finds that dwellings and dwelling units that are leased or rented to the public, when improperly maintained, in terms of their structures, equipment, use or occupancy, may adversely affect the public health, safety and general welfare. The township board establishes these regulations to correct and prevent unsafe conditions that may exist within properties not originally intended or constructed for non-owner occupancy, to establish mechanisms for the continued safety of single- and two-family rental housing within the township, and to promote the public health, safety and general welfare of its citizens.
- (b) *Purpose*. This article is intended to protect and promote the health, safety and welfare of all the citizens of the township by requiring the registration and permitting of single- and two-family rental dwellings in the township along with proper fire safety facilities and equipment. Rental dwelling registration, when combined with periodic inspections of certain habitable area and exterior accessibility aspects of the property, will aid in the enforcement of the minimum standards for safety from fire and accidents.

Sec. 8-101. Authority.

This article is adopted under the township's general regulatory authority to adopt ordinances for the protection of the health, safety and welfare of its inhabitants under the Township Ordinances Act, MCL 41.181 et seq.

Sec. 8-102. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Bedroom*. Room which is intended, arranged, and designed to be occupied by one or more persons primarily for sleeping purposes, as determined by the zoning administrator. A bedroom must be not less than 70 square feet and not less than 7 feet in any dimension.
- (b) *Dwelling, single-family* means a detached building or structure, including a mobile home, containing one dwelling unit, designed for the use and occupancy of one family only and containing housekeeping facilities.
- (c) *Dwelling, two-family (duplex)* means a detached building or structure containing two dwelling units, designed for the use and occupancy of one family in each unit with each unit containing housekeeping facilities.
- (d) *Dwelling unit* means one or more rooms designed for use or occupancy by one family for living and sleeping purposes with housekeeping facilities.
- (e) *Designated agent* shall mean an individual designated to perform obligations under this article and to serve as contact person for the Township for issues relating to a rental property. The designated agent must live or maintain a physical place of business within 45 miles of the rental unit.
- (f) *Maximum occupancy load* means the maximum number of allowable occupants for a rental property, as established in section 8-107(d).
- (g) *Occupant* means an individual living in, sleeping in, or otherwise having possession of a space.

- (h) *Owner* means any individual or other person holding legal or equitable title to a property or to real improvements upon a property solely, jointly, by the entireties, in common, or as a land contract vendee or title to a mobile home or house trailer.
- (i) *Premises* means the land and the improvements on it, such as a building, store, shop, apartment, or other designated structure.
- (j) *Property* means land, firmly attached structures and integrated equipment (such as light fixtures or a well pump), and anything growing on the land.
- (k) *Rental dwelling* means any dwelling, including a single-family home, two-family home, or mobile home, containing a rental unit.
- (l) *Rental property* refers generally and collectively to all types of rental dwellings and units.
- (m) *Rental unit* means a particular living quarters within a dwelling intended for occupancy by a person other than the owner and the family of the owner, including mobile homes, single-family homes, apartments, hotel/motel units, and rooming units.
- (n) *Short-term rental* shall mean the rental of any rental unit for a term of less than 28 days, but does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit 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.
- (o) *Violation notice* means a writ issued by the Township Zoning Administrator, advising an owner, or his agent, of a violation of this article. Violation notices shall list all infractions and corrective measures necessary to comply with this article and a period within which corrections must be completed.

Sec. 8-103. Applicability.

This article applies to single-family or two-family dwellings located in Saugatuck Township and to all persons owning or exercising control over such buildings or premises which in total or in part, are rented or leased. Unless excluded under section 8-104 of this article, occupancy of a single-family or two-family dwelling by any person other than the owner of record, shall be presumed to require registration of the dwelling as rental property. Such presumption may be rebutted if the occupant has ownership equity of 25 percent or more of the fee or life estate. An occupant claiming ownership may be required to provide proof that a transfer of ownership is supported by a substantial equity interest in the property.

Sec. 8-104. - Exceptions and exemptions.

Rental property registration under this article is not required where occupancy of a dwelling unit occurs, under the following circumstances:

- (a) *Family occupancy.* Any member of a family (and that family member's guests) may occupy a dwelling as long as any other member of that family is the owner of the dwelling or dwelling unit. Family occupancy also exempts guest houses or similarly separate dwelling units located on the same premises as the owner's domicile, when occupied by family guests, exchange students, visiting clergy, medical caregivers, and child care givers, without remuneration to the owner.
- (b) *House-sitting.* During the temporary absence of the owner and owner's family the owner may permit non-owner occupancy of the premises, without remuneration, without a rental dwelling property registration.
- (c) *Dwelling sales.* Occupancy by a prior owner after the sale of a dwelling under a rental agreement for a period of less than 91 days following closing. Rental property registration is required if legal or equitable ownership is not transferred in its entirety within 90 days of execution of the conditional sales agreement.
- (d) *Estate representative.* Occupancy by a personal representative, trustee, or guardian of the estate and his family, with or without remuneration. The estate shall notify the township of the owner's name, date of death, and name of the person occupying the premises.

Sec. 8-105. Registration and permitting required; prohibition.

Each single-family and two-family rental dwelling and each rental unit within such dwelling, shall be registered with, and permitted by the Township of Saugatuck. An owner of any single-family or two-family dwelling located within Saugatuck Township shall not rent a dwelling, or a dwelling unit, to another unless the dwelling or dwelling unit, has been registered and permitted in accordance with the requirements of this article.

Sec. 8-106. Application for rental dwelling property registration and permit.

- (a) *Responsibility.* It shall be the responsibility of the owners of rental property to apply for registration through the submission of a rental dwelling property registration and permit application. The application shall be on a form prepared and supplied by the township.
- (b) *Application.* To register a rental unit, the owner or designated agent shall:
 - (1) Truthfully provide and certify as true the following on a form provided by the township:
 - (A) Name, address, and telephone numbers of the owner and any agent for the owner.
 - (B) The street address of the rental unit, along with other identification if more than one (1) rental unit has the same street address.
 - (C) The number of rental units in the building, if more than one.
 - (D) The number of bedrooms in each rental unit, and the intended number of occupants in each rental unit.
 - (E) For short-term rentals, a parking site plan as described in section 8-106(b).
 - (F) An affidavit and agreement, signed by the property owner, permitting inspections of the subject property by officials of the township.
 - (G) Such other information as the Township requests.
 - (2) Pay an administrative fee, as set by resolution of the township board.
- (c) *Acceptance of completed application.* An application is not considered accepted by the township until the township zoning administrator schedules the inspection of the premises and delivers to the owner a written acknowledgement of a completed application.
- (d) *Provisional rental dwelling property registration and permit.* The written acknowledgement of a completed application shall serve as the issuance of provisional rental property registration and permit. The provisional permit shall indicate the maximum occupancy load of the rental unit.

Sec. 8-107. Inspections, issuance of final registration and permit.

Final approval of the application and permit is contingent upon a fire safety inspection and compliance with the township fire code. Subsequent to the filing and acceptance of a completed registration application, the rental property shall be inspected by the township fire code official.

- (a) *Rental property registration inspections.* Within 60 days following the acceptance of an application for rental dwelling registration and permit, the provisional rental dwelling shall have an inspection for compliance with the requirements of the township's fire safety standards.
- (b) *Governing fire safety standards.* The provisions of the International Fire Code as amended, hereinafter referred to as the "fire code", as adopted by Saugatuck Township and included by reference in chapter 16, article II of "Code of Ordinances", Saugatuck Township, shall govern the minimum conditions and standards for fire safety relating to the structures and the exterior premises of rental dwellings regulated under this article, including the fire safety facilities and equipment to be provided.
- (c) *Approval.* Upon a finding of compliance with the fire safety standards of the township, by the township fire code official, the rental property registration and permit shall be declared approved and a final rental property permit for the rental property shall be issued to the owner by the zoning administrator. The date of issuance shall be assigned by the zoning administrator and shall be affixed to the permit and the permit shall be posted near the main entrance.

- (d) *Maximum occupancy load as condition of permit.* Except as otherwise provided in this section, the maximum occupancy load shall be 2 persons per bedroom, plus two additional persons per finished level with means of emergency egress (e.g. a functional window), up to a total of 12 persons. Applicants who wish to request a maximum occupancy load of more than 12 persons, or more than 2 persons per bedroom, must do so on the application form. The Zoning Administrator and Fire Code Official may approve such requests upon determining that the proper safety features are met, may require some or all of the following:
- (1) Provides one bedroom for every two requested occupants.
 - (2) Has a parking site plan allowing sufficient access for emergency vehicles.
 - (3) Automatic sprinkler systems
 - (4) Fire alarm systems
 - (5) Interconnected smoke alarm systems.
 - (6) Fire rated corridors
 - (7) Fire rated stairwell enclosures.
 - (8) Sleeping rooms with automatic door closers.
 - (9) A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms.
- (e) *Changes in registration information.* During the approved permit period, the owner or his registered agent shall provide written notification to the township of any change in the information required under section 8-106.

Sec. 8-108. Short-term rental regulations.

In recognition of the unique difficulties presented by short-term rentals, the Township adopts the following regulations:

- (a) *Designation of 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 article.
- (b) *Parking site plan.* Applicants seeking a short-term rental permit must submit a parking site plan depicting or describing the available off-street parking. The plan must provide adequate access for emergency vehicles, as determined by the fire chief.
- (c) *Off-street parking.* Occupants in a short-term rental unit shall not park in a parking space on a public street within 1 mile of the rental unit. Occupants shall be informed of, and shall acknowledge in writing, the number of off-street parking spaces provided for the rental unit prior to leasing such unit.
- (d) *Waste disposal.* Occupants shall not leave trash or refuse within public view, except in proper containers for the purpose of collection by the collectors between the hours of 5:00 a.m. and 9:00 p.m. on scheduled waste collection days.
- (e) *Local agent's duty to remedy.* For any violation of this article, the township may (in addition to other remedies) notify the designated agent for the rental unit by telephone. The designated agent shall be deemed to have received notice upon receipt of a voicemail message. Upon receiving notice, the local agent shall ensure that the violation of this section is remedied within 5 hours. Failure to remedy the violation within 5 hours shall constitute a violation by the local agent.

Sec. 8-109. Expiration, renewal, voidance by change of use or structural change.

- (a) *Expiration.* A final rental property registration and permit issued under this article shall be valid for a period of three years (36 months) from the date of issuance, as affixed to the final permit.
- (b) *Renewal.* Rental property permits shall be renewed at least 30 days before the expiration date assigned by the township, or within 30 days of sale or transfer of ownership of a property, following the same requirements set forth in section 8-106 and section 8-107 of this article.

- (1) *Renewal registration requirements.* An application for the renewal shall contain the same information as an initial application. If there have been no changes from the previous registration and permit form, the information previously submitted may be incorporated by reference.
- (a) *Changes in use or structure.* Any change in the use or structure of a dwelling that results in noncompliance with the standards of the township fire code or building code, as determined by the township zoning administrator and/or township fire code official, or building code official, shall void the rental property permit.

Sec. 8-110. Fire code violations, notices and inspections.

- (a) *Violations not imminently dangerous.* If upon inspection by the township fire code official, a violation of the fire code is discovered, but the violation is deemed by the fire code official not to be imminently dangerous to life or limb, a violation notice shall be issued. The notice shall be in writing, and shall include the street address of the rental dwelling or rental unit in question, a statement of the violation or violations and why the notice is being issued. The notice shall also include a correction order allowing a reasonable time to make the repairs and improvements needed to bring the rental dwelling or rental dwelling premises into compliance. The notice shall be delivered personally or sent by certified or first-class mail addressed to the owner or designated agent at the address indicated on the accepted rental property registration application form.
 - (1) *Re-inspection and fees.* Re-inspection of a property shall occur on the date specified on the violation notice, or sooner if requested by the owner and township scheduling permits such inspection. A fee, as published in the schedule of fees, shall be charged for each re-inspection. A re-inspection may be waived as determined by the fire code official if the owner or designated agent has provided written notification and supporting documentation to the township that all corrections have been made within the specified time period.
 - (2) *Schedules.* Time schedules for the correction of violations shall be reasonable as determined by the township fire code official.
 - (3) *New violation notice.* If a violation is not corrected upon the expiration of the allowed time, as identified in the violation notice, but a good faith effort has been made to correct the violation, the zoning administrator or fire code official may provide a revised compliance date. If new violations are found at the same premises, a new notice shall be issued with an appropriate date before which corrections must be completed.
- (b) *Violations that threaten life, limb, or property.* If upon inspection of the rental property the fire code official determines that a violation is of such a serious nature so as to immediately threaten the life, limb, health, property, safety or welfare of the public or the occupants thereof, the fire code official may inform the township official and may recommend that the structure be further investigated for possible declaration as a "dangerous building" under article III, chapter 8, Code of Ordinances, Saugatuck Township. If so declared, notice of the violation shall proceed in accordance with section 8-58 of article III, chapter 8, Code of Ordinances, Township of Saugatuck.

Sec. 8-111. Fees.

Rental dwelling property owners shall be required to pay a fee for initial rental dwelling property registration, the initial inspection, re-registration and for any re-inspection performed as a result of any violation. Fees shall be paid at the time of registration, inspection, re-registration or re-inspection, as applicable. Such fees shall be established by the township board and included in the Saugatuck Township consolidated fee resolution as amended.

Sec. 8-112. Violations and penalties.

- (a) *Municipal civil infraction.* Any person failing to comply with any of the provisions of this article is responsible for a municipal civil infraction. Any person who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine of not more than \$100.00 for the first infraction and increasing penalties for additional infractions as established by the Code of Ordinances, of the Township of Saugatuck.

- (b) *Initial suspension of rental permit.* Upon a determination by the zoning administrator that the owner or local agent of a rental unit have (individually or in combination) committed a total of three or more unresolved violations of this article relating to the unit within the last three years, the zoning administrator shall issue a notice of rental permit suspension to the owner, with a copy to any local agent. The notice shall notify the owner that a hearing may be requested to show cause why the permit for the rental unit should not be suspended. If, within 14 days of service of the notice, a hearing is requested, the township shall schedule a hearing before the township board and notify the owner in writing of a time and place for that hearing. At the hearing, the owner or owner's representative shall have the opportunity to show cause why the township should not suspend the permit.
- (c) *Subsequent suspensions.* After a rental permit has been suspended for a given unit, any additional violation committed within the 2 years of the expiration of the last suspension is grounds for an additional suspension. Notice and an opportunity for hearing on a subsequent suspension shall be provided in the same manner as provided in subsection (b).
- (d) *Length and timing of suspensions.* Suspensions shall generally be effective immediately upon the final administrative determination of the township pursuant to subsection (b). However, the zoning administrator shall have discretion to defer the suspension as appropriate to reasonably protect the interests of any occupant residing in the rental unit. Suspensions shall be for the following periods:
 - (1) First suspension – 3 months.
 - (2) Second suspension – 6 months.
 - (3) Third suspension – Permanent.

Section 2. Publication and Effective Date. The Township Clerk shall cause to be published a notice of adoption of this ordinance within 30 days of the date of its adoption. This ordinance shall take effect the day following its publication.

YEAS: Rudich, Wester, Babinski, Phillips, McHwaine.
 NAYS: None.
 ABSTAIN: None.
 ABSENT: None.

CERTIFICATION

This is a true and complete copy of Ordinance No. 2016-01 adopted at a regular meeting of the Township of Saugatuck Board held on January 6, 2016.

 William W. Wester, Township Supervisor

 Brad Rudich, Township Clerk

Adopted: January 6, 2016
 Published: January 14, 2016
 Effective: February 5, 2016

MODEL LOCAL LAW
Permit to Operate a Short Term Rental Unit

1. PURPOSE:

- a. The purpose of Local Law #__ is to allow the homeowners of _____ (name municipality) to provide short-term rental units, while at the same time, to protect the public interest, and to preserve the rural beauty and residential character of the town/village/city. Homeowners may become authorized to operate a short term rental unit in a residential dwelling in the _____ zoning districts subject to the following conditions:

2. AUTHORIZATION:

- a. The _____ (governing body) authorizes the _____ (reviewing body) to issue permits to town/village/city homeowners to operate short term rental units according to the provisions of this ordinance. Applications for a permit to operate a short term rental unit shall be processed under the procedures set forth in this ordinance. The _____ (governing body) shall impose reasonable and appropriate conditions and safeguards to insure the public interest is not adversely affected, and to insure the operation of any short term rental unit is not in conflict with the _____ (comprehensive/master plan). Simultaneous site plan review shall be required for all short term rental applications.

3. FEE:

- a. A nonrefundable permit fee of \$___ for each short term rental unit for new permit applications and \$___ per short term rental unit for permit renewals.

4. APPLICATION FORMS:

- a. Applications for a permit to operate a short term rental unit and site plan review shall be available from either the _____ (enforcing officer) or the town/village/city clerk. The application form(s) and the application fee shall be uniform for all applicants. Applicants must file a separate application and provide a separate application fee and obtain a separate permit for each dwelling unit to be used as a short term rental unit.

5. SITE PLAN REVIEW PROCESS:

- a. Upon submission of a site plan for review, the _____ (reviewing body) shall determine that all information required by this ordinance is depicted thereon or contained in accompanying documents. The _____ (reviewing body) shall notify the application of any additional information required, or that the site plan is complete within seven (7) days of its submission to him/her.
- b. Within 62 days of receipt of a completed site plan, the _____ (reviewing body) shall review same, and approve, approve with changes, or disapprove the site plan application. Failure of the _____ (reviewing body) to act within 62

days shall constitute approval unless the application and the _____ (reviewing body) mutually agree to extend this time limit.

- e. Except as may be waived by the _____ (reviewing body), all site plans required under this ordinance shall include the following information presented in drawn form or accompanied by a written text:
- i. A plat of the property showing approximate property boundaries and existing features, including, buildings, structures, parking spaces, streets, and neighboring buildings within _____ ft of the property line. Measure and show on the plot plan the exact distances from on site buildings to the property line(s).
 - ii. The location of all buildings, showing the floor area and location of vehicular and pedestrian entrances. Include a diagram of the interior of the unit, including dimensions and functions of each room, clearly indicating bedrooms and sleeping rooms.
 - iii. The proposed traffic circulation, parking, and pedestrian walks. Carefully measure the distances from proposed parking spaces to all buildings and property lines.
 - iv. Existing and any proposed landscaping, including visual screens from the road and neighbors
 - v. A brief description of each bedroom and sleeping room, including the furnishings, occupancy of each room and the methods of ingress and egress (examples: doors and windows)
 - vi. A description of adjacent land uses on all sides, including across the street. Indicated approximate distances between neighboring buildings and the property line.
- d. Prior to rendering a decision on the site plan applicaiton, the _____ (reviewing body) shall review the site plan and supporting data and take into consideration the following:
- i. Harmonious relationship with existing adjacent uses
 - ii. Maximum safety of vehicular circulation between the site and the street.
 - iii. Adequacy of site traffic circulation and parking with particular attention to pedestrian safety
 - iv. Adequacy of landscaping and setbacks to achieve compatibility with, and protection of , adjacent residential uses
 - v. Factors deemed necessary by the _____ (reviewing body) for the health, safety, and welfare of the public

The _____ (reviewing body) may require changes or additions in relations to yards, driveways, and landscaping to ensure safety, to minimize traffic difficulties, and to safeguard adjacent properties. Should changes or additional facilities be required, final approval of the site plan shall be conditional upon satisfactory compliance by owner with the changes or additions.

- c. The _____ (reviewing body) shall within _____ days of the meeting at which the site plan and supporting data were submitted, either approve, approve with conditions, or disapprove the site plan. The decision shall be in writing to both the applicant to the _____ (enforcing officer).

6. PERMIT APPLICATION PROCESS:

- a. A permit application to operate a short term rental unit shall be submitted concurrent with submission of a site plan for review, the _____ (reviewing body) shall determine that all information required by this ordinance is depicted thereon or contained in accompanying documents. The _____ (reviewing body) shall notify the applicant of any additional information required, or that the applications is complete within seven days of its submission.
- b. The application form will include the following requirements:
- i. Contact information: The names, addresses and day/night telephone numbers of the owners and local managers must be included on the application.
 - ii. Fire and safety compliance: The applicant shall attach a copy of the current and valid certificate of compliance issued by the County Codes Officer to the application.
 - iii. Parking: The number of off street parking spaces will be indicated on the application. Wherever possible, enough off street parking spaces must be provided to accommodate the occupancy level of the dwelling unit, generally one parking space for each four people housed. The parking spaces must be situated so as to be in keeping with the neighborhood. Vehicles shall not be parked on front lawns. Where off street parking is not possible, street parking may be allowed in accordance with State DOT regulations.
 - iv. Occupancy: The occupancy level will be indicated on the application. Occupancy is limited to no more than nine (9) persons per dwelling unit unless further restricted by fire and safety codes. The Zoning Enforcement Officer may also limit the number of occupants to fewer than nine (9) in a specific dwelling unit based on the number, size, configuration, and furnishings of the bedrooms and/or sleeping rooms, and according to the provisions of state laws.
 - v. Water and septic: The source of the domestic water shall be stated on the application and the permit. The septic system must be functioning, and the type, size, and location of the septic system, if known, shall also be stated on the application. New and renewal permit applications completed for year 20__ shall require documentation that the septic system has been inspected and found to be working properly with in the last five years, and the type, size, and location of the system shall be stated on the application. All new permit applications after 20__ shall require documentation of inspection and proper functioning, as well as type, size, and location of the system.

- c. Prior to rendering a decision on the application for permit to operate a short term rental unit, the _____ (reviewing body) shall review the permit application and supporting data and take into consideration the following:
- i. Harmonious relationship with existing adjacent uses
 - ii. The operation of the short term rental unit will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
 - iii. The short term rental unit shall not conflict with the Comprehensive Plan.
 - iv. Operation of the short term rental unit shall not be more objectionable to nearby properties by reason of noise, traffic, or lights than would be the operation of any permitted use.
 - v. All State Environmental Quality Review requirements have been met.
- d. Conditions for denial of permit to operate a short term rental unit
- i. The applicant failed to conform to permit conditions of the previous year.
 - ii. Tenants at the property were issued more than two noise ordinance violations during the previous summer rental season;
 - iii. Any other reasonable and rational factors or combination of factors (e.g. small lot, inadequate street parking, etc) that would cause a clearly detrimental impact on the neighborhood.
 - iv. If an application is denied, the applicant may correct any deficient conditions and reapply. The applicant may also apply to the _____ (governing body) for review and public hearing. A new inspection will be required if the applicant reapplies, and the application fee will be \$ _____. Whenever an application or a renewal application is denied, the _____ (reviewing body) will provide the applicant with a written list of deficient conditions, including a list of sustained unresolved legitimate complaints in the case of a denied renewal application.
- e. If the property has any existing violations of this town/village/city law or any other town/village/city or state law, no permit shall be issued until such violations are corrected. The _____ (reviewing body) shall within _____ days of the meeting at which application and supporting data were submitted, either approve, approve with conditions, or disapprove the permit to operate a short term rental unit. The decision shall be in writing to both the applicant to the _____ (enforcing officer).

7. INSPECTIONS:

- a. Each unit shall also be inspected by the Otsego County Codes Enforcement Officer to determine fire and safety code compliance. Proof of inspection in the form of the certificate of compliance must be included with the application form.

b.

8. GENERAL PERMIT STIPULATIONS:

- a. Copies of the permit must be displayed in the dwelling unit in a place where it is easily visible to the occupants and in a window where it is easily visible from the street.
- b. The permit to operate a short term rental unit in any given year will expire on December 31.
- c. Permits for operation of a Short Term Rental Unit may not be assigned, pledged, sold or otherwise transferred to any other persons, businesses, entities or properties. The permit belongs solely to the original applicant as it applies to a particular property, and shall remain in that applicant's name for the duration of the permit.
- d. All short term rental unit properties shall have posted on or about the inside of the front or main door of each dwelling unit a card listing emergency information. Such information shall include, but not be limited to: the name, address and phone number of the building owner, if local, or a local manager, and a second local contact person who will be available for problems/emergencies that may arise, and instructions on dialing 911 for emergency/fire/ambulance assistance. A local agent shall be able to respond in person within one hour.
- e. All applicants, both renewal and new, must notify, in writing, via regular first class mail, all property owners within a 200 foot radius of the proposed short term rental unit and must include in such notification the name and phone numbers of at least a total of two local contact persons who will be available for problems/emergency that may arise and who neighbors may contact in the event of complaints or problems with the short term rental unit. This will not serve as an official complaint.
- f. No person or persons may be housed separately and/or apart from the dwelling unit in any tent, trailer, camper, lean-to, recreation vehicle or other structure.

9. ENFORCEMENT:

- a. Enforcement of this town/village/city law is the duty of the _____ (enforcement officer), who may be assisted by any other agencies having jurisdiction.
- b. The _____ (enforcement officer) and the County Codes Enforcement Officer have the right of entry for inspection to determine compliance with the conditions of the permit, with reasonable notice. The _____ (enforcement officer) shall have the right of entry for unannounced inspection only when investigating a signed complaint.
- c. The _____ (governing body) may, after a public hearing, terminate an operating permit during the period for which it was issued if the property or owner is found to be in material breach of the terms and conditions of the permit or other conditions of this law.
- d. Any person, entity, business or corporation found to be providing short term rental units without a permit issued by the _____ (name municipality) shall be determined to be in violation of this law.

10. COMPLAINTS:

- a. Complaints regarding the operation of a short term rental unit may be received by the _____ (enforcement officer) or the town/village/city Clerk. Complaints shall be forwarded to the owners and their local manager at their addresses of record by the _____ (enforcement officer). All correspondence from the owners and their agents shall be kept and maintained along with the permit.
- b. A complaint of violation may be made by any aggrieved person or town/village/city Official, including the _____ (enforcement officer). Such complaints shall include the following information:
- i. The name, address, telephone number of the complainant.
 - ii. The address of the offending property. The name, and day/night telephone numbers of the owner and local manager can be supplied by the _____ (enforcement officer) if they are not known by the complainant.
 - iii. A description of the nature of the alleged violation including reference to the provisions of the laws alleged to be violated.
 - iv. The date(s) and time(s) of the alleged violations.
- c. Upon receipt of a complaint of violation, the _____ (enforcement officer) shall investigate to determine the presence of a violation, and upon finding to his/her satisfaction that a violation was or is currently occurring, he/she shall issue to the landowner and the local manager a notice detailing the alleged violation(s) as determined by the _____ (enforcement officer). Such notice shall also specify what corrective action is required of the property owner, and the date by which action shall be taken.
- d. Notices required by this section shall be issued by the _____ (enforcement officer) either by personal service to the landowner and the local manager or by certified mail to the address of the owner and local manager as shown on the permit application.
- e. If the landowner does not comply with corrective action by the date given by the _____ (enforcement officer), the town/village/city may initiate procedures to revoke the permit, or the town/village/city may begin a criminal action against the landowner.
- f. Any time the _____ (enforcement officer) deems it to be appropriate, he/she shall refer to the _____ (governing body) any landowners whom he/she believes to be in violation of this Local Law. The _____ (governing body) shall determine whether the permit in question shall be revoked. A revocation of a permit requires a public hearing by the _____ (governing body). The referral to the _____ (governing body) may be done in addition to all other penalties allowed in Section 6b. of this Local Law.

II. VIOLATIONS:

- a. The _____ (enforcement officer) shall issue a ticket to any permit holder who, after having been investigated for and notified of non-compliance, fails to become compliant with this Local Law by the end of the time period set by the _____ (enforcement officer).

- b. A violation of this local law is an offense punishable by a fine not exceeding _____ dollars or imprisonment for a period not to exceed _____ months, or both, for conviction of a first time offense. Conviction of a second offense committed within a period of _____ years of the first offense, is punishable by a fine not less than _____ dollars and not more than s _____ dollars, or imprisonment for a period not to exceed _____ months, or both. Conviction of a third offense committed within a period of _____ years of the first offense, is punishable by a fine not less than _____ and not more than _____, or imprisonment not to exceed _____ months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, generally, violations of this law or any of its provisions shall be considered an unclassified misdemeanor. Under Penal Law Section 55-10(2).

12. BEGINNING EFFECTIVE DATE:

- a. This local Law shall be in effect beginning _____ (date). Applications for permits will be accepted and processed beginning _____ (date).

13. DEFINITIONS

Bedroom: A room in a dwelling unit specifically furnished for sleeping. The room must have at least one operable window and must be separated from other rooms by a door.

Legitimate Complaint: A complaint lodged against a Short Term Rental Unit based on a specific item in this Local Law or in the town/village/city's Land Use Law or in State Law. Examples of legitimate complaints: "There are 12 people housed in the dwelling when the maximum allowed is only nine."(this Law). "The noise from the boom box was so loud last night that it rattled my windows."(Land Use Law). "The occupants were shooting off fireworks and bottle rockets."(State Law). Examples of nuisance (not legitimate) complaints: "I'm uncomfortable having strangers in the neighborhood." and "Their baby kept me up all night."(these are not prohibited by Local or State Laws).

Local manager: The person specifically named on the application and permit who is responsible for the day to day operation of the Short Term Rental Unit, and who maybe contacted, day or night, if there is a problem at the Unit. The local manager may be the owner or an agent of the owner.

Non-resident owners: owners that reside outside the following zip codes:

Short Term Rental Unit: A dwelling unit in any of the residential zoning districts which is rented or leased to individuals or families who occupy overnight accommodations for compensation for a period of less than 30 days. Occupancy is limited to no more than nine (9) persons per dwelling unit. Any dwelling which is rented or leased for a period of thirty days or more to individuals or families who then allow others to occupy the dwelling for periods of less than thirty days shall be considered a short term rental unit and will require a permit for this use. Motels and hotels are excluded from this definition.

Sleeping Room: An interior room other than a bedroom having at least one operable window and furnishings that may serve to afford sleep to a person or persons, however, sleep shall not be the primary function of the room. Examples include a living room, family room, den or great room furnished with a futon or convertible couch.

14. SAVING CLAUSE

- a. If any clause, sentence, paragraph, section or part of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Attachment: 12

Published in South Haven Tribune (pg 83)
Feb. 14, 2016 "Classified" Legals.
Adopted February 10, 2016

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CHARTER TOWNSHIP OF SOUTH HAVEN

ORDINANCE NO. ~~125~~ 126

ORDINANCE ADDING ARTICLE XIV B (SHORELINE PROTECTION OVERLAY DISTRICT) TO THE ZONING ORDINANCE OF SOUTH HAVEN CHARTER TOWNSHIP

SOUTH HAVEN CHARTER TOWNSHIP ORDAINS:

Section 1. Purpose.

The Township adopts the following amendments for the health, safety and welfare of Township residents.

Section 2. Addition of Article XIV B to the Zoning Ordinance. Article XIV B shall be added to the Township Zoning Ordinance after Article XIV A and shall read as follows:

ARTICLE XIV B

SHORELINE PROTECTION OVERLAY DISTRICT

SECTION 14B.01 Purpose and Intent

A. Purpose

The Shoreline Protection Overlay District includes all land located within 300 feet of the U.S. Army Corps of Engineers High Water Mark or as amended by the US-ACE, and as depicted on the Official Zoning Map for South Haven Charter Township. This boundary extends across all underlying zoning districts. This overlay zoning district is intended to be used in addition to any requirements of Article XIX Environmental Conservation Provisions.

B. Intent

The Shoreline Protection Overlay District is intended to protect the unique and sensitive natural environment of the lake shore areas adjacent to Lake Michigan in South Haven Charter Township. Its purpose is based on the recognition that:

1. The economic and environmental well-being and health, safety, and general welfare of South Haven Charter Township is dependent on, and connected with the preservation of its Lake Michigan shoreline areas;
2. The shoreline zone has unique physical, biological, economic, and social attributes;
3. Future land development and redevelopment should not be conducted at the expense of these attributes;

4. Property values will be enhanced when the natural features of the shoreline zone are preserved; and
5. Pollution, impairment or destruction of the shoreline area and the adjacent bottomlands and waters of Lake Michigan should be prevented or minimized.

SECTION 14B.02 General Requirements

A. Allowable Uses

1. All land located in the Shoreline Protection Overlay District must comply with this Article, in addition to any use restrictions or other regulations applicable under the underlying zoning district(s).
2. In the event that regulations imposed in this Article conflict with regulations of an underlying zoning district, the regulations established in this Article shall prevail to the extent of the conflict and no further.

B. Requirements to Receive Land Use Permit

1. Prior to any construction, earth moving or removal of vegetation within the Shoreline Protection Overlay District, and prior to the issuance of any Land Use Permit, all of the following criteria must be met:
 - a. A site plan meeting the requirements outlined in Article XXII and in Section 14B.03 of this Article, shall be submitted to the Zoning Administrator;
 - b. A land use permit shall be withheld pending verification that the applicant has received all required county, state or federal permits, including but not limited to septic and water well permits; soil erosion and sedimentation control permits; wetland permits; flood plain and culvert permits; driveway permits; or building permits.
 - c. If a permit or approval has been issued by the State of Michigan for a building, structure, or any grading, filling, earth moving, clearing, or removal of vegetation within the jurisdiction and scope of regulations set forth above, a copy of such permit shall be filed with the Zoning Administrator, and such permits or approvals shall be attached to and made a condition of performance for any permit issued under this Article. This Article is intended to supplement, and not abrogate, the Michigan Department of Environmental Quality's authority over the review of applications and issuance of permits for construction activities under the provisions of the Sand Dune Protection and Management Act (Part 353, Natural Resources Environmental Protection Act, MCL 324.35301 et. seq) and the Shore Lands Protection and Management Act, (Part 323, Natural Resources Environmental Protection Act, MCL 324.32301 et. seq.);
 - d. Prior to receiving site plan approval, slopes of over 30 degrees from the toe of the slope to the crest shall be protected in a natural state, as defined in Article II of this Zoning Ordinance.

C. Setback Requirements

1. For all earth removal or excavations within the Shoreline Protection Overlay Zone, a side setback of one (1) foot per each foot of depth of excavation or earth removal shall be required.
2. All structures proposed to be built within the Shoreline Protection Overlay Zone shall be set back according to the requirements below, except for the following exempt structures: pump houses, recreational docks, storm water and erosion control devices, picnic tables, benches, recreational watercraft, and stairways and walkways.
 - a. Within the Shoreline Protection Overlay boundary, the following setback requirements apply:
 - i) No structure, except those listed in subparagraph (1) above, shall be allowed within 50 feet of ordinary high water mark;
 - ii) All structures, except those specifically exempted in subparagraph (1) above, shall be set back 100 feet from the 1986 High Water Mark.
 - iii) On lots with a steep bluff which begins within 100 feet of the 1986 High Water Mark all structures, except those specifically exempted in subparagraph (1) above, shall be set back at least 50 feet from the top of the bluff;
 - b. If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply. Where the imposition of the setbacks in the above table precludes the location of a dwelling or other primary structure, the applicant may request a variance. Any variance must be obtained from the Zoning Board of Appeals in accordance with Article XXIV. No variance shall be granted for any use or structure in violation of the intent and purpose of this Article or state law.

SECTION 14B.03 SITE PLAN REVIEW

A. Site Plan Approval Standards

In addition to Site Plan Review Standards set forth elsewhere in the South Haven Township Zoning Ordinance, the following standards shall be considered by the Zoning Administrator or Planning Commission when reviewing a Site Plan submission in the Shoreline Protection Overlay District:

1. The Site Plan shall demonstrate that erosion and sedimentation shall be prevented, and that the risk of structural loss due to future changes in lake levels is minimized;
2. Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance on adjacent properties.

B. Site Plan Data Required

An application for a land use permit in the Shoreline Protection Overlay District requires submission of a site plan, even if the underlying zoning district does not require a site plan. The site plan must contain the following documents and information:

1. Two complete sets of plans that show the placement of any buildings or other structures, delineate a perimeter line encompassing all proposed activities, and identify the location and extent of the Shoreline Protection Overlay District boundary;

2. All shoreline types and coastal resources should be identified, including bluff ridges, wetland boundaries, dune crest, ordinary high water mark, and tree line (as defined by trees with a minimum diameter of 4" DBH), and first landward boundary of native grasses;
3. A description of outdoor lighting;
4. A plan for controlling traffic to the lakefront, detailing construction and maintenance of paths, stairs or boardwalks;
5. A Grading Plan that delineates areas of cut and fill, and identifies changes in topography and drainage. If the area to be graded exceeds a depth or fill of two (2) feet the applicant shall submit a map showing the existing contours of the site and finished contours to be achieved by grading. Contours shall be sufficiently detailed to define the topography over the entire site (generally at two-foot intervals) and shall be design to have no impact upon neighboring properties;
6. Detailed drawings and descriptions of all temporary and permanent soil erosion and sedimentation control measures, and bank stabilization measures as submitted to the Soil Erosion Control Enforcement Officer;
7. Detailed drawings delineating areas to be cleared of vegetation before and during development activities, with area calculations and descriptions of the vegetation to be removed, and detailed drawings and descriptions of proposed vegetation restoration for those same areas;
8. Detailed drawings that show the location of existing structures on the property, as well as dwellings on neighboring parcels;
9. Detailed map identifying the location of property, including a full tax identification number, location of the nearest public road intersection, a north arrow and map scale;
10. The name, address, professional status, license number (if applicable), and phone number of the person who prepared the plan;

C. Site Plan Review Procedures

1. The Zoning Administrator shall review and approve permits for the construction of any single family dwelling, or accessory buildings or structural additions to a proposed or existing single family dwelling, on lots or parcels with Lake Michigan frontage. The Planning Commission shall review and approve permits for the construction of any commercial or industrial structures, or residential applications for more than one dwelling, or any other structure, land use, or clearing and grading, or other earth removal activities on lots or parcels with of Lake Michigan frontage.

Section 3. Validity and Severability.

Any section or subsection not expressly amended by this Ordinance shall remain in full force and effect. Should any portion of this Ordinance be found invalid for any reason, such

holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 4. Repealer Clause.

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. Effective Date.

This Ordinance shall take effect seven days after publication as provided by law.

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Attachment
South Haven Tribune
March 20, 2016

Letters to the editor

Vacation rentals should adhere to state safety codes

To the editor,
South Haven City government could solve most of the so-called "rental controversy" by simply following the 2012 Michigan Building Code and our own Zoning Ordinance.
Section 310.3 of the Michigan Building Code clearly defines transient boarding houses as residential dwellings with more than ten transient occupants. Section 420 of the Code delineates the safety measures applicable to transient housing: fire detection and fire suppression, safe egress and access, etc. Dwellings that conform to the "use" definition in Section 310.3 are commercial enterprises (not single family homes) and must conform to the more stringent safety requirements set forth in Section 420.

The owners of most of these large structures in question have themselves stated the current and/or intended use of their properties by advertising to all of us on the Internet that they are available for short term rental. I believe that any reasonable person could read these advertisements and conclude that the intended use is consistent with the definition in Section 310.3 of the Code, and that the commercial code requirements of Section 420 are indeed applicable.

One important role of government is to promote the safety of its citizens. I served on the

South Haven Harbor Commission during those difficult times following several tragic drownings off our pier. Our action in response to the tragedies was complicated by the fact that there were no clear and consistent beach safety guidelines. The current city government is again being asked to ensure the safety of our visitors. This time the solution is simple, follow the intent of the 2012 Michigan Building Code.

Lastly, to insurance brokers: Is any risk assessment in order?

Dr. Robert Halden
South Haven

Agriculture is an integral part of state's economy

To the editor,
As someone who grew up on a six-generation family farm, I witnessed the hard work and familial cooperation needed to make farming a productive endeavor to feed the world. Whether it's trimming and tying grapes in the spring, baling hay in the summer, or helping with harvest in the fall, every member of my family played an intricate role on the family farm. This is where I, along with millions of others, learned our work ethic that we still hold today. It is for this reason and so many others that I am proud to join my colleagues in celebrating Michigan Food and Ag Month.

Each year, states across the nation recognize March as a time to celebrate the importance of food and agriculture. Michigan farmers

produce over 300 commodities on a commercial basis including tart cherries, blueberries, dry beans, floriculture products, and cucumbers for pickles. Southwest Michigan is the number one producer of blueberries in the nation. Michigan is also home to 119 wineries and more than 200 micro-breweries.

Agriculture, food processors, and related businesses employ 923,000 Michiganders—22 percent of the state's workforce. Michigan farms and the commodities they produce account for \$13 billion in economic impact.

As agriculture is an integral part of our way of life, it is of the utmost importance that we protect and maintain our family farming heritage when it comes to the right to farm in the state of Michigan. A rich part of our culture, agricultural exports remain sig-



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