

CITY OF FRANKFORT, MICHIGAN

**Ordinance # D -1 of 2023
Formerly referred to as Ordinance D-5 of 2022**

SHORT-TERM RENTAL ORDINANCE

At a special meeting of the Frankfort City Council held on January 23, 2023, the City Council adopted this Ordinance No. D-1 of 2023 to amend Chapter 7: Housing and Building of the 1999 Revised Frankfort Municipal Code in accordance with Section 5.2 of the City Charter and Section 1203 of the 1999 Revised Frankfort Municipal Code as set forth below:

Section 1. Recitals.

A. The City Council for the City of Frankfort finds and determines the following:

1. Short-term rentals (i.e. those generally lasting less than 30 days) of single- and multi-family structures in the City are becoming increasingly popular and widespread following the rise of online short-term rental platforms and marketplaces such as Airbnb and VRBO.
2. The purchase of available housing units and residential structures in the City may be increasingly purchased by investors solely for short-term rental purposes, and not for occupancy by a local owner, which may further reduce the availability of affordable housing units for the permanent residents of the City and may artificially inflate the value of such properties.
3. Commercial and recreational activities associated with short-term rentals are frequently incompatible with residential uses and often constitute a public nuisance.
4. The City suffers from a shortage of affordable housing for permanent residents of the City, which limits economic growth and drives up costs for residents, as documented in the City's Master Plan.
5. The shortage of affordable housing directly affects the economic well-being of the City and its residents because major employers in the City and surrounding areas are unable to attract workers to the City.
6. The purchase of available housing units by investors to operate short-term rentals may further diminish the availability of affordable housing for the residents of the City.
7. Short-term rentals occur primarily in the summer months (June through August), due to the summer resort nature of the community. Short-term rentals in the off-season (September through May) are markedly diminished, which may leave many neighborhoods with numerous vacant houses for large parts of the year.

B. The City Council has further determined that:

1. It is in the best interests of the city and its residents to preserve and retain the residential community character of the City.
2. It is the intent of this *City of Frankfort Short-Term Rental (STR) Ordinance* to make the STR activity permitted by this ordinance resemble the existing and traditional residential uses made by resident owners and lessees.
3. STR's can provide a community benefit by providing a number and type of lodging facilities that support commerce in our community.
4. This ordinance is designed to minimize complaints involving excessive noise, disorderly conduct, overcrowding, traffic, congestion and parking at STR properties.
5. The ordinance is further designed to minimize the burdens posed by STR's upon City and County services, and the impacts on residential neighborhoods.
6. This ordinance will provide guidance to STR owners and renters and clear regulations to facilitate compliance, and will protect the health, safety and welfare of residents, tenants, guests, and business owners through enforcement.

THE CITY OF FRANKFORT ORDAINS:

Section 2. Article 4, Sections 7401 through 7407 are hereby added to Chapter 7: Housing and Building as follows:

Section 7401. Purpose. The purpose of this Article 4 is to secure the public health, safety, and general welfare of City residents and property owners, as well as visitors to the City, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with City residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

Section 7402. Applicability. All requirements, regulations and standards imposed by this Ordinance are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in other ordinances of the City and County Zoning Ordinances. Further, this Ordinance does not affect additional requirements placed on use of property (or a portion thereof) imposed by deeds, associations, or rental agreements.

Section 7403. Definitions. Unless otherwise specified herein, the terms used in this ordinance shall be defined as follows:

7403.1 "Dwelling Unit" means any house, room, boarding house/rooming house or apartment, or group of rooms located within a building forming a single habitable area which is wholly or partly used or intended to be used for living, sleeping,

cooking, and eating. Hotels, motels, bed and breakfasts, resorts, tents, and recreational equipment (including, but not limited to travel trailers, pickup campers, motorized homes, folding tent trailers, private buses, boats, boat trailers, and utility trailers) shall not be defined as a dwelling unit for purposes of this Chapter.

- 7403.2 “Good Neighbor Guide” refers to a specific document containing guidelines developed by the City of Frankfort to be provided to and made available for Short-Term Renters to ensure our residents’ quiet and peaceful enjoyment of their neighborhood. The “Good Neighbor Guide” is to be posted in the STR and a copy given to the renter.
- 7403.3 “Local Contact Person” means a local Owner, Managing Agency or Agent, or Operator who is available to be onsite or respond within one hour, to tenant and neighborhood questions or concerns, and be owner-authorized to take remedial action and respond to any violation of this ordinance.
- 7403.4 “Managing Agency” or “Agent” means a Person, firm, or agency representing the Owner of the Property (or portion thereof) used for an STR; or a Person, firm or agency owning the property (or portion thereof) used for an STR.
- 7403.5 “Operator” means the Person who is the proprietor of a property (or portion thereof) used for an STR whether in the capacity of owner, lessee, mortgagee in possession, licensee, or any other capacity.
- 7403.6 “Owner” means the Person or entity that holds legal or equitable title to the property (or portion thereof) used as an STR.
- 7403.7 “Parking” means all parking associated with the STR.
- 7403.8 “Permit” means a short-term rental permit issued by the City to the owner of a premises authorized to be used as a short-term rental. No permittee shall acquire by virtue of having been granted a permit, a right of automatic renewal, nor shall any permittee have or acquire a property or liberty interest in or expectation of an initial or renewed permit. All permits terminate upon transfer of ownership of the premises, and may not be assigned, transferred, or hypothecated, in whole or in part.
- 7403.9 “Person” means a human individual, a group of individuals, or an association, firm, partnership, corporation, or other entity, public or private.
- 7403.10 “Premises” means real property, and all fixtures and improvements, including the dwelling, located upon it.
- 7403.11 “Short-Term Rental” or “STR” or “STR unit” means the rental or subletting of any dwelling unit on a premises rented for a period of time less than thirty days.
- 7403.12 “Special Event Venue” means the place where a meeting or event of a specific

type takes place and/or is held (ie. – weddings, showers, bachelor/bachelorette parties, and other parties/gatherings) that exceed the defined building/room capacity of the Dwelling Unit and/or structure.

Section 7404. Short-Term Rental (STR) Standards.

- A. It shall be unlawful for any person to offer any premises or dwelling unit as a short-term rental, or conduct or operate a short-term rental on any premises or in any dwelling unit within the City without a short-term rental permit issued by the City.
- B. Persons seeking to operate a short-term rental must be registered with and permitted by the City prior to the commencement of any short-term rental activity. All short-term rental operations shall comply at all times with the requirements of this Article 4.
- C. The City of Frankfort reserves the right to limit the number of STR permits to 120 STR units per calendar year. The number of STR units operated by a single Owner shall be limited to two (2) after December 31, 2022; any Owner operating three (3) STR units prior to that date may continue to maintain and operate such units, which shall be considered “grandfathered” under this ordinance and may remain operational as STR units of the Owner unless and until the ownership of the underlying property changes hands and/or is occupied as a conventional residential dwelling unit occupied by the same individual(s) for more than thirty (30) days.
- D. All STR’s must meet the following standards:
 - 1. All lodging is to be exclusively within the Dwelling Unit and not in a recreational vehicle, camper, or tent.
 - 2. A separate permit is required for each STR dwelling unit.
 - 3. Each owner of an STR must designate a Local Contact Person who has access and authority to assume management of the unit and take remedial measures if necessary.
 - 4. The Local Contact Person must be available twenty-four (24) hours a day during the rental period and capable of responding to notice of a complaint within sixty (60) minutes.
 - 5. The Owner will provide the phone number of the Local Contact Person to all immediately adjacent neighbors along the subject property’s boundaries. An Owner meeting the requirements of subsections (B)(3) – (B)(4) above may designate themselves as the Local Contact Person.
 - 6. The sleeping occupancy of an STR shall be limited to two people per the number of legal bedrooms (as defined by the State of Michigan/Benzie County /City of Frankfort Building Codes), plus four additional individuals.
 - 7. A copy of the “Good Neighbor Guide” developed by the City must be provided to the

occupants of the STR unit.

8. All short-term rentals shall be for purposes of renting as a temporary dwelling only, and may not include any commercial activities such as yard sales, festivals, retreats, class reunions, home occupations, or similar uses. STR's shall not be marketed or used as Special Event Venues.
- E. This ordinance applies to all residential Zoning Districts (East City Residential, West City Residential, North City Residential and Rural), excluding hotels, motels, and units rented for less than 2 weeks per calendar year.
- F. When Parking, renters should utilize the STR's off-street parking and/or off-site municipal parking (as designated on Good Neighbor Guide Map) before parking on the street. There shall be no parking of any vehicle(s) within the right-of-way of any alley within the City of Frankfort. Please note that overnight on-street parking is only allowed between April 1 and October 31.
- G. A Dwelling Unit may not be sublet by any tenant of the permittee.
- H. The Owner shall familiarize themselves with and refer to the City of Frankfort Municipal Code and Zoning Ordinance and shall require and ensure that these standards are met by the Owner's renters as part of all rentals:
 1. Fires (Chapter 5; Article 2);
 2. Fireworks (Chapter 5; Article 13);
 3. Trash (Chapter 5, Article 6);
 4. Animals (Chapter 5, Article 11); and
 5. Noise and Disturbances (Chapter 5, Article 4).

Section 7405. Owner Responsibilities.

- A. Applicants for a short-term rental permit shall file an application to conduct a short-term rental operation within the City on a form provided by the City for that purpose. The application shall include:
 1. The name, mailing address, and phone number of the owner(s) of the premises to be permitted;
 2. The name, mailing address, and phone number of the applicant, if different than the owner;
 3. A notarized letter of authorization from the owner to the applicant, if the applicant is not the owner of the premises sought to be permitted.

4. The name of a local contact person that will be available by phone twenty-four (24) hours a day, seven (7) days a week whenever the unit is utilized as an STR.
 5. A description of the premises proposed to be used for short term rentals, including but not limited to:
 - i. Number of bedrooms;
 - ii. Number of bathrooms;
 - iii. Maximum occupancy;
 - iv. Tax Parcel ID Number and legal description.
 6. A non-refundable application fee in an amount set from time to time by resolution of the City Council or its designee. If a permit is granted, the application fee will be applied towards payment of the permit fee.
 7. Written confirmation that the premises owner does not have an ownership interest in more than one other premises for which a short-term rental permit has been issued or is being sought in the City of Frankfort. In the event the owner owned and operated more than two short-term rentals in the City prior to December 31, 2022, such an owner shall provide documentation of said ownership and operation.
 8. A statement whether the applicant has ever been cited for a violation of this Ordinance or had a short-term rental permit revoked.
- B. All applicants selected to receive a permit shall also file with the City prior to issuance of the permit, the following:
1. A permit fee in an amount set from time to time by City Council or its designee.
 2. A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the permittee against risks arising from commercial rental activities on the premises. The owner must provide proof of current insurance for the duration of the permit.
- C. Owners of Short-Term Rentals must comply with all State of Michigan, Benzie County and City of Frankfort safety standards related to smoke detectors, carbon monoxide detectors, fire extinguishers, and building capacity.
- D. The Owner shall provide a permanent binder of information materials including the “Good Neighbor Guide,” and will display the “Good Neighbor Guide” in the Dwelling Unit for all to see.
- E. The owner must ensure the occupants or guests of the STR do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ordinance. The owner or Local Contact Person must take appropriate action to abate the violative conduct when notified that occupants or guests are breaking rules regarding

their occupancy. It is not intended that the owner, or Local Contact Person act as a peace officer or place themselves in harm's way.

Section 7406. Short-Term Rental (STR) Permit.

- A. A separate permit is required for each STR Dwelling Unit.
- B. STR permits shall not run with the land; each STR permit is unique to the Owner/permittee and may only be utilized at the property / dwelling unit specified in the application for STR permit.
- C. A STR Permit may be issued at any time, and shall be valid for a period of up to three (3) years. Each STR Permit becomes effective upon issuance by the City, and shall remain effective until midnight of the 31st day of December of the final year as stated on the Permit.
- D. The Frankfort City Superintendent and Fire Chief or his/her designee is empowered to inspect any short-term rental unit prior to the granting of a short-term rental permit. The Fire Chief or his/her designee is empowered to inspect a permitted short-term rental dwelling unit not less than once during every 3-year permit period. The Fire Chief or his/her designee is empowered to inspect any short-term rental at any time when there is reasonable belief that a safety hazard exists.
- E. Each permittee shall have a continuing duty and/or obligation to communicate changes in the contact information for the owner, applicant, permittee, and local contact person to the City as soon as practicable if the change takes place while rental(s) are occurring on the permittee's premises, or within one week if no rentals are taking place at that time.

Section 7407. Violation and Administrative Penalties.

- A. A violation of this Article is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare of the City.
- B. Any of the following conduct is a violation of the STR ordinance:
 - 1. The Owner or permit holder has failed to comply with any of the provisions of this Ordinance.
 - 2. Any advertising or leasing of an STR without first having obtained an STR permit.
 - 3. Any false or misleading information supplied in the application process.
 - 4. Failure of an Owner/designated Local Contact Person to be available 24/7 to respond to a complaint within 60 minutes.
 - 5. Where any person knowingly files a fraudulent, false, or fictitious complaint relating to an STR unit, an Owner/permittee, or any activity described within this ordinance.

- C. Any person violating any provision of this Article shall be responsible for a municipal civil infraction within the City of Frankfort as recognized under state law, and shall be subject to the penalties or sanctions set forth below, plus the costs and attorney fees of the City in the enforcement. In addition, this Article shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this Article. Each day this Article is violated shall be considered as a separate violation. The penalties for violations of this Article are as follows:
1. For a first violation within any calendar year, the penalty is a written notice of violation and a fine of fifty dollars (\$50).
 2. A second violation within the same calendar year shall be subject to a municipal civil infraction citation punishable by a fine of two hundred fifty dollars (\$250). All Owners, regardless of their interest in the property, may be held jointly and severally responsible for any such municipal civil infraction. The City Building Zoning Administrator and other officials designated by the City Council are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court.
 3. A third violation within the same calendar year at a single STR unit shall be subject to a municipal civil infraction punishable by a fine of five hundred dollars (\$500), and the permit for that STR unit may be revoked. The Owner of such a unit may reapply for an STR permit no sooner than twelve (12) months after revocation of an STR permit, and may be added to any waitlist for such permits that the City may maintain upon the Owner's request.
 4. If there are one or more violations each year during any three (3) consecutive year period, the permit may be revoked.
- D. An owner may appeal a decision to revoke a permit to the Frankfort City Council in accordance with the following process:
1. Upon a determination that a third violation within the same calendar year at a single STR unit has occurred and following the issuance of a written citation therefore by any City official or designee thereof authorized to issue municipal civil infraction citations shall prepare or cause to be prepared a written notice specifying the factual basis for the violation(s) and a statement that the City intends to revoke the STR permit within fourteen (14) days. The written notice shall inform the Owner/permittee of a right to an appeal hearing to show cause as to why the STR permit should not be revoked.
 2. An Owner/permittee may avail themselves of the right to an appeal hearing by filing with the City Clerk a written "Notice of Appeal" within fourteen (14) days of service of the written notice by the City described above.
 3. If an appeal hearing is requested by the Owner/permittee within 14 days of service of the written notice from the City, the City Clerk shall refer a copy of the

Owner/permittee's Notice of Appeal to the City Council and shall further add the appeal hearing to the agenda for the next regularly scheduled City Council meeting. The Owner/permittee may request that the appeal hearing be held on an expedited basis, which—in the City's sole discretion—may be scheduled for a date prior to the next regularly scheduled City Council meeting by the City, subject to the availability and schedule of the City's elected officials and staff.

4. Written notice of the appeal hearing including the time, date, and place of the hearing shall be served on the Owner/permittee or the Local Contact Person either personally or by certified mail, restricted delivery and return receipt requested.
 5. At the hearing, the Owner/permittee shall be given an opportunity to present evidence and legal arguments. The Owner/permittee may be represented by an attorney, and the City Council may request the assistance of the City Attorney. The City Council shall make factual findings regarding the facts and circumstances relating to the alleged violations and shall issue a decision in writing which shall be a final decision that specifies the factual evidence upon which the decision is based.
- E. The City of Frankfort Building and Zoning Administrator or their designee are authorized to issue all permits under this Ordinance.
- F. The City of Frankfort Building and Zoning Administrator or their designee, any police officer having jurisdiction in the City, and other persons as may be appointed from time to time by the City Council are authorized to issue municipal civil infraction violation notices and/or citations for violations of this Ordinance. The City of Frankfort shall have the right to commence a civil action to enforce compliance with this ordinance.
- G. Any person who knowingly files a fraudulent, false, or fictitious complaint about a short-term rental shall be deemed to be in violation of this Article and may be found responsible for a civil infraction and penalties under the municipal code of the City of Frankfort.

Section 2. Repeals & Severability.

All ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of their inconsistency with this ordinance. If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. Publication & Effective Date.

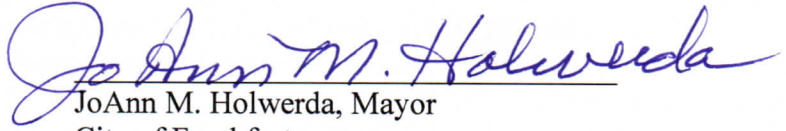
The City Clerk is hereby directed to cause this ordinance to be published as provided by law and to be posted in three public places in the City of Frankfort as provided by law. This ordinance shall take effect thirty (30) days after its publication.

At a meeting of the City Council of the City of Frankfort held this 23rd day of January, 2023, the above Ordinance is adopted/rejected.

Yes: Holwerda, Olsen, Short, Stratton, Walenta

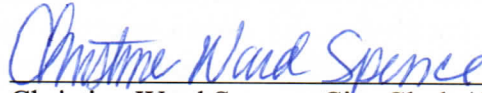
No: None

Abstain: None


JoAnn M. Holwerda, Mayor
City of Frankfort

I, Christine Spence, Clerk for the City of Frankfort, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the City Council of the City of Frankfort at its special meeting of January 23, 2023 relative to the adoption of this Ordinance; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act of the State of Michigan (being Public Act 267 of 1976; MCL 15.261 *et seq.*); and that the minutes of said meeting were kept and will be made available as required by said Act.

The Ordinance was published on February 1, 2023.


Christine Ward Spence, City Clerk / Treasurer
City of Frankfort