



**City of New Buffalo  
224 W. Buffalo Street  
New Buffalo MI 49117  
SPECIAL ZOOM CITY COUNCIL MEETING AGENDA  
January 28, 2021 at 6:30 p.m.**

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Public Comment- Three Minute Time Limit
5. Presentation- Company-Beach-Tech, Subject-Beach Rake, Presenter-Evan Huckaby
6. New Business
  - a. First Reading of amendment of Ordinance 237 Chapter 11 Regulating the Short-Term Rental of Residential Dwellings
  - b. Beach Rake and Tractor Sale
  - c. Crack/Sealing Boat Ramp
  - d. Discussion of Building Code Changes
  - e. Discussion of Future Long-Term Rental Ordinances
7. Council Comments
8. Adjournment



## Manager's Report

1/27/2020

### Agenda Item A

### Revision of STR Ordinance

#### Summary:

In April of 2019 the City adopted Chapter 11 of our Code of Ordinances placing restrictions on Short Term Rental Units and requiring licensing. The ordinance was the initial attempt at regulating STRs and it was expected to have to be revised at some point in time. Now that we have had two seasons to see how the ordinance worked, we have found a few limitations that the old ordinance has. Some of those include:

- Lack of enforceability on certain points.
  - Who gets the tickets and no administrative options other than tickets for remedies?
- Not enough funds retained by the City to properly enforce regulations.
  - 90% of all fees went to Safebuilt for program admin which left nearly nothing for the City to support enforcement and program management.
- Does not support an aggressive approach to management of STRs in the City.

Proposed is the first draft of the revised ordinance which deals with the items above and relevant other topics that needed addressed.

On 10/12/2020 a joint meeting was held of the Planning Commission and the City Council specifically to address STR regulation in the City and a date for a follow up meeting should be scheduled tonight to continue to address these issues and the eventual resolution, by enactment of code, to the moratorium.

Approximate total cost: N/A

Budgeted: No

Recommendation: Publicly discuss first reading of amended ordinance. Schedule joint meeting with PC to start the resolve of the issue.

Respectfully submitted,

Rich Killips, Interim City Manager

**CITY OF NEW BUFFALO  
BERRIEN COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_**

**ORDINANCE TO AMMEND CHAPTER 11 OF THE NEW BUFFALO CITY  
CODE OF ORDINANCES TO PROVIDE AN EFFICIENT PROCEDURE FOR  
REVOKING RENTAL PERMITS AND MAKE OTHER MODIFICATIONS  
ALLOWING MORE EFFECTIVE REGULATION OF SHORT-TERM RENTAL  
UNITS**

The City of New Buffalo ordains:

Section 1. Amendment. A new Chapter 11, entitled “Short-Term Rental Units,” is added to the New Buffalo City Code, to read in its entirety as follows:

**Chapter 11  
Short-Term Rental Units**

**Sec. 11-1. Purpose.**

- A. The City recognizes that one of our largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The City believes that the tourism industry will continue to grow.
- B. The City recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. This marketplace has grown exponentially with the increasing use of online booking websites, and it will most likely continue to grow as surrounding municipalities limit, restrict or eliminate the practice.
- C. The City needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owners, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.
- D. The City recognizes that the establishment of licensing hearing system is needed in order to effectively enforce the short-rental regulations provided in this chapter in a cost-efficient manner. Final determinations made in any licensing hearing shall be subject to judicial review.

**Sec. 11-2. Definitions.**

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

- A. *Bedroom*. A room intended for sleeping or placement of a bed, separated from other spaces in dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedroom: (i) kitchens; (ii) dining areas; (iii) gathering spaces such as family rooms, dens, or living rooms; and (iv) attics or basements without egress meeting standards in applicable building, residential, and fire codes. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in Chapter 3 of the Michigan residential code.
- B. *City*. The department, officer or individual designated by the City Manager or City Council to administer all or any part of the permitting and inspection programs under this chapter.
- C. *Hearing Officer*. An individual designated by the City Council who presides over and adjudicates permit revocation hearing and permit ineligibility hearings as described in Section 11-13. The

hearing officer may be either an employee or independent contractor of the City, but in either case shall act as an impartial adjudicator. To ensure impartiality, an individual who serves as a hearing officer may not be involved in enforcing this chapter in any way other than as described in Section 11-13.

- D. *Local Agent*. An individual designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the City; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal paper's relating to the unit on the owner's behalf.
- E. *Occupant*. An individual who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight.
- F. *Off-Street Parking Space*. Shall mean a parking space that is provided on the same lot as the short-term rental unit that satisfies the requirements to count toward the minimum-parking calculation in Article 15 of the Zoning Ordinance.
- G. *Owner*. A natural person who is the legal or equitable titleholder of the premises in question. In situations where the record title holder is a trust, corporation, limited liability company, or other similar legal entity, the term "owner" shall refer to natural persons with control or partial control over such entity, *e.g.*, a trustee, designated corporate representative, any and all members and managers of a limited liability company, etc.
- H. *Professional Short-Term Rental Management Permit*. A written document issued by the City indicating that that a business satisfies the permitting requirements in Section 11-4. Section 11-3(C)(2) requires, in certain circumstances, that the designated local agent for a short-term rental unit be an employee of a business with a professional short-term rental management permit.
- I. *Short-Term Rental Unit*. A dwelling unit rented for a term of less than one month. The term short-term rental unit does not include the use of transitional housing operated by a nonprofit 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. Dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity are not short-term rental units.
- J. *Short-Term Rental Unit Permit*. A written document issued by the City indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter.

### **Sec. 11-3. Short-Term Rental Permit Applications and Review Procedure.**

- A. *Permits required*. All dwelling units used for short-term rentals must be registered with and have a short-term rental unit permit issued by the City. The short-term rental of a dwelling unit without a permit is prohibited.
- B. *Application*. To apply for a short-term rental unit permit, the owner(s) shall:
  - 1. Provide and certify as true the following on a form provided by the City:
    - a. Name, address, email address, and telephone numbers (local and cell phone) of each and every owner of the property, as well as the local agent designated by the owners.
    - b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.

- c. The number of short-term rental units in the building, if more than one.
  - d. The number of bedrooms in each short-term rental unit.
  - e. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit.
  - f. The length of the typical rental period for which the applicant intends to rent the property.
  - g. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner(s) or local agent will check those devices at least every 90 days.
  - h. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
  - i. A statement certifying that the owner(s) consent to inspections by the City and that the owner(s) or local agent will make the dwelling unit available to inspections upon request.
  - j. A brochure or other document to be given to each group of occupants containing all the information required in the subsections above.
  - k. Such other information as the City requests.
2. Sign the application form and provide the signature of the local agent.
  3. Pay an annual administrative fee, as set by resolution of the City Council.
  4. Submit the property to an annual inspection for compliance with applicable codes and ordinances. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void. Voiding a permit under this section is not subject to the procedures provided in Sections 11-10 and 11-13.
- C. *Local agent required.* All short-term rental units must have a designated local agent that satisfies the following requirements:
1. The local agent shall be a natural person who resides within 30 miles of the geographic boundaries of the City of New Buffalo. An owner may serve as the local agent so long as: (1) he or she is the owner of no more than 1 short-term rental unit within the City; and (2) he or she has the ability to continue residing at a location within 30 miles of the City of New Buffalo during the duration of any short-term rental lease. Except as required in subsection 2, an individual may serve as a local agent without being employed by a business with a professional short-term rental management permit.
  2. If any owner of a short-term rental unit owns more than 1 short-term rental units within the City, the local agent must be an individual employed by a business with a professional short-term management permit issued pursuant to Section 11-4.
- D. *Permit issuance.* A short-term rental unit permit shall be granted after a successful inspection if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met.
- E. *Validity and renewal.* Short-term rental unit permits are valid for a period of one year from the date of issuance and must be renewed annually. Permits shall also expire upon conveyance of the property to which the permit applies. So long as the application is made with 12 months of expiration the permit shall be considered a renewal permit rather than new permit. The renewal process shall be subject to the same requirements as the initial application.
- F. *Delinquent payments.* No permit shall be issued or renewed unless the owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other

amounts due to the City. Delinquencies on any such payments to the City, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.

- G. *Changes in information.* An owner or local agent shall notify the City in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the City in writing within ten days of any change in the designated local agent.

**Sec. 11-4. Professional Short-Term Rental Management Permits.**

- A. *Permit required.* In certain circumstances, described in Section 11-3(C)(2) above, the registered local agent for a short-term rental unit must be an employee of a business possessing a professional short-term rental management permit issued pursuant to this section.
- B. *Application.* To apply for a professional short-term rental management permit, an applicant shall:
1. Provide and certify as true the following on a form provided by the City:
    - a. The name of the business and a copy of its organizing documents as filed with the Michigan Secretary of State or similar agency within the state in which the business was organized.
    - b. The name, address, email address, and telephone numbers of each employee that may be designated as a local agent for one or more short-term dwelling units within the City.
    - c. The name of any employee or independent contractor that will perform routine cleaning or maintenance for one or more short-term dwelling units within the City.
    - d. The address of each short-term rental unit within the City for which an employee of the applicant has, within the last 3 years, served as the designated local agent for at least a year, along with the accompanying permit numbers for each unit.
    - e. To the extent needed to satisfy the requirements of subsection (C)(3) below, a list of short-term rental units outside the City for which an employee of the applicant has, within the last 3 years, served as a local agent, or performed substantially similar functions, for at least a year.
    - f. The URL address of the business's website. The website must be accessible to the general public without the need to create a login for a third-party site, and must provide a clear and effective mechanism for guests, owners, and members of the general public to provide feedback to the company.
    - g. A statement that the applicant will do all of the following:
      - i. Employ consistent company housekeeping standards.
      - ii. Develop, implement, and adhere to company safety policies.
      - iii. Implement onboarding and training procedures for all staff that includes training regarding the requirements of this chapter and other applicable local ordinances.
      - iv. Develop and implement exclusive rental management agreements with homeowners the business serves.
      - v. Regularly visit the short-term rental units managed by the business to ensure that quality and safety standards are maintained.
      - vi. Recommend that the homeowners the business serves contact their insurance professional to ensure they have proper and adequate insurance.

- vii. Ensure that renters sign rental contracts that contain specific information with regard to the maximum occupancy of the dwelling, the number of parking spaces provided on the lot, and proper trash disposal, before being allowed occupancy.
      - viii. Address complaints from owners, guests, neighbors and the community in a timely, courteous and effective manner.
    - h. Such other information as the City requests.
  - 2. Pay an annual administrative fee, as set by resolution of the City Council.
- C. *Standards for review.* Upon receipt of a complete application, the City shall issue a professional short-term rental management permit if all of the following are satisfied:
- 1. The applicant has at least 3 employees qualified to serve as the local agent for short-term rental dwellings in the City. This requirement is intended to ensure that a representative of the business is reasonably available to address issues as they arise, even when the designated local agent for a specific short-term rental unit is unavailable.
  - 2. Within the last 3 years, employees of the applicant have served as a local agent, or performed substantially similar functions in another jurisdiction, for at least 10 short-term rental dwelling units for a period of at least a year.
- D. *Responsibilities.* Professional short-term rental management businesses and their employees shall satisfy all duties described in subsection (B)(1)(g) above and, as applicable, all duties this ordinance imposes on designated local agents. Failure to do so shall be a violation of this ordinance.
- E. *Validity and renewal.* Professional short-term rental management permits are valid for a period of one year from the date of issuance and must be renewed annually. The renewal process shall be subject to the same requirements as the initial application. In addition to any other remedy available under this ordinance or applicable law, the City shall deny renewal if, within the last 24 months prior to the permit's expiration date, the business has been the designated local agent for 3 or more short-term rental dwelling units that have had their permits revoked pursuant to Section 11-10; provided that an employee of the business served as local agent during each of the 3 incidents that served as the basis for the revocation. Such business shall not be eligible to reapply for a professional short-term rental management permit for a period of 24 months.

#### **Sec. 11-5. Short-Term Rental Regulations.**

The owner(s) and local agent for each short-term rental unit shall each be solidarily responsible for ensuring compliance with the following regulations:

- A. *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the City has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section. Any advertisement posted on an online short-term rental platform must state the maximum occupancy in accordance with subsection B below.
- B. *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated pursuant to Section 11-8 below. The owner(s), local agent, and occupants shall be in violation of the chapter if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated on any lease or other rental contract for the unit and any advertisement for the unit posted on an online short-term rental platform.
- C. *Contact information posted in window.* A city issued notice shall be posted in a prominent first-floor window of any dwelling unit used for short-term rentals stating (in at least 24-point type) the name of the local agent, a 24-hour telephone number with which the agent can be reached, and the

maximum occupancy of the dwelling unit as permitted by this ordinance. This notice must be posted at all times.

- D. *Duty to provide permit.* Upon request by any occupant or prospective occupant, the owner(s) or agent shall provide the occupant or prospective occupant with a copy of the short-term rental unit permit, as well as a copy of the lease or other document containing the required disclosures. A full-sized copy of the short-term rental unit permit must be prominently displayed in each short-term rental unit.
- E. *Applicable codes, permits, and ordinances.* Compliance with applicable zoning, construction, fire, and property maintenance codes or permits, as well as any City ordinances pertaining to noise, nuisances, or parking shall be a condition of all rental unit permits. Violations of any of those codes, permits, or ordinances shall also be a violation of this ordinance and shall be subject to all the permitting remedies described in Sections 11-4, 11-10 and 11-11 below.
- F. *Basement regulations.* No basement can be used for a bedroom unless it has an egress window approved by the City inspector and found in compliance with local and state code requirements.
- G. *Curbside refuse pickup.* The owner(s) or local agent must make provisions to have refuse picked up (curbside) on at least once per week when the short-term rental unit is being rented. Where curbside pickup is not reasonably available, this requirement may be satisfied by provision of a communal dumpster available for use by occupants of the short-term rental unit.
- H. *Renter turnover procedure.* For short-term rental units, the owner(s) or local rental agent shall, at least once per month, inspect the premises (or ensure inspection by a designee) using a City designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for City inspection and copying for a period of at least two years.
- I. *Compliance with safety equipment requirements.* All short-term rental units shall comply with the safety equipment requirements in Section 11-7 below.
- J. *Rental of partial dwelling units prohibited.* This chapter pertains only to the short-term rental of an entire dwelling unit. The short-term rental of partial dwelling units (e.g., a room or rooms within a dwelling unit) is prohibited.

#### **Sec. 11-6. Inspections.**

- A. *Scheduling.* Upon written notice from the City, it shall be the owner(s)' responsibility to schedule and allow the City's inspection of the short-term rental unit. Inspections shall occur during the City's regular business hours, unless the City agrees to other arrangements, and all fees shall be paid prior to the inspection.
- B. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner(s) shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
- C. *Additional inspections.* The City may conduct additional inspections as it deems necessary, upon reasonable notice to the owner(s) or agent, such as when:
  1. A complaint is filed with the City; or
  2. The City otherwise has reasonable cause to believe a short-term rental unit is in violation of any City ordinance.



- D. *Changes in conditions following inspection.* The owner(s) or local agent shall notify the City in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the City.

**Sec. 11-7. Safety Equipment.**

- A. *Smoke detectors.* The owner(s) and local agent of each short-term rental unit shall each be solidarily responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) Standards § 72.
- B. *Smoke detector locations.* Smoke detectors/alarms shall be installed in the following locations:
1. In each sleeping room;
  2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
  3. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.
- C. *Carbon monoxide detectors.* The owner(s) and local agent of each short-term rental unit shall each be solidarily responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detectors shall be of the type described in MCLA § 125.1504d.
- D. *Fire extinguisher.* The owner(s) of each short-term rental unit shall each be solidarily responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
- E. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

**Sec. 11-8. Maximum Occupancy Calculation.**

The number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of:

- A. Ten total occupants;
- B. Two occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code; or
- C. Except for units within a planned unit development, four occupants for every off-street parking space that is provided on the lot and reserved exclusively for occupants of the short-term rental unit. For units within a planned unit development, the occupancy is determined only by the limits described in Subsection A and B.

**Sec. 11-9. Violations.**

- A. *Violations as municipal civil infractions.* Any person who violates any of the provisions of this ordinance is responsible and may be prosecuted for a municipal civil infraction in court of competent jurisdiction, subject to payment of a civil fine of not less than \$500, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:
1. The fine for any offense which is a first repeat offense shall not be less than \$750 plus costs and other sanctions.

2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$1,000, plus costs and other sanctions.
  3. A repeat offense means a second (or any subsequent) violation of this ordinance:
    - a. Committed by a person within any twelve-month period; and
    - b. For which the person admits responsibility or is determined to be responsible.
- B. *Administrative notices in lieu of citations.* As an alternative or initial remedy, the City may seek to obtain compliance with this ordinance by issuing an administrative violation notice to the owner(s) and/or local agent for the unit to which the violation pertains. Each time a violation notice is issued, the owner(s) and local agent shall be responsible for: (1) paying a notice fee in an amount set by resolution of the City Council, which shall be proportionate to the costs incurred by the City relating to the preparation of the notice; and (2) immediately ceasing the offending conduct or taking corrective action to terminate the violation described. Each violation notice shall be served in accordance with Section 11-12 and shall contain the following information:
1. A statement that a notice fee is being imposed on the responsible person(s) pursuant to this chapter of the code;
  2. The name of the responsible person(s);
  3. The code section violated;
  4. The address where the code violation occurred;
  5. A description of the code violation;
  6. The names of the issuing department and enforcement officer;

**Sec. 11-10. Short-Term Rental Permit Revocation.**

- A. *Grounds for revocation.* The City may revoke the short-term rental permit for any short-term rental unit which is the site of at least three separate incidents within a 12-month period (occurring on three separate days) constituting a violation of any provision of this ordinance. In order to qualify as incident for purposes of this paragraph, the City must have issued a civil infraction citation or administrative violation notice regarding the offending conduct prior to commencing revocation proceedings pursuant to subsection B below.
- B. *Revocation Procedure.* Upon a determination by the City that the short-term rental permit is subject to revocation pursuant to subsection A, the City shall serve a notice, pursuant to Section 11-12, to the property owner(s) and the local agent stating that the City intends to revoke the short-term rental permit. The notice shall inform the owner(s) and local agent of the date and time at which a revocation hearing will be conducted before a hearing officer, in accordance with Section 11-13. Determinations by the hearing officer regarding revocation shall constitute final orders of the City.
- C. *Defenses to Revocation.* At the hearing, the owner(s) and local agent may present evidence that the requirements for revocation provided in Subsection A are not satisfied, or that the property owner(s) and local agent should not be held responsible for one or more of the three requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a nonrenter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner(s) or the local agent could not reasonably anticipate and prevent, and could not reasonably control.

- D. *Period of ineligibility following revocation.* Upon revocation of a permit, a new permit will not be issued for a period of 12 months and cannot be used for short-term rentals until a new permit is obtained.

**Sec. 11-11. Unauthorized Short-Term Rentals; Permit Ineligibility.**

- A. *Available remedies.* In addition to any other remedy available under the law of Michigan or applicable ordinances, the City may pursue an order authorizing the following remedies for violations involving the short-rental of an unregistered dwelling unit or the advertisement of such a unit for short-term rentals:
1. The right to deem the subject dwelling unit ineligible for a short-term rental permit (even if all other requirements of this and other applicable ordinances are satisfied) for a period of 36 months; and
  2. The placement of a placard in the right-of-way adjacent to the parcel on which the unit is located that states “Dwelling Not Permitted for Short-Term Rental.” Once posted, such placard shall remain in place for up to one year and shall not be removed except by City personnel; and
- B. *Procedure.* In order to seek the remedies described in subsection A above, the City shall serve a notice of a permit-ineligibility hearing on the record title owner of the property in question. The notice shall include all the information as required for a violation notice issued under 11-9(B) and shall also include the date and time of a scheduled permit-ineligibility hearing. Hearings shall be conducted by a hearing officer in accordance with Section 11-13. Determinations by the hearing officer shall constitute final orders of the City.

**Sec. 11-12. Service of Notices.**

Any notice issued pursuant to this chapter shall be considered served as of the date of the earliest of any of the following events:

- A. The posting of the notice on or adjacent to the premises, in conjunction with the mailing of the notice to the responsible party’s last known address;
- B. The sending of the notice by email to an email address designated on a short-term rental permit for the property or on a professional short-term rental management permit;
- C. Personal delivery of the notice to the responsible party;
- D. The responsible party’s receipt of the notice by certified U.S. mail, as indicated in a notification of receipt; or
- E. The reading of the notice to the responsible party over the phone.

**Sec. 11-13. Permit Revocation and Permit-Ineligibility Hearings.**

The following standards and procedures shall apply in any permit revocation or permit-ineligibility hearing conducted under this chapter:

- A. *Opportunity to be heard.* Property owners and local agents shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. Hearings shall be scheduled with reasonable promptness, provided that the property owner(s) and local agent shall be given at least 14 days after service of process to prepare for the hearing.
- B. *Evidence.* The hearing officer may admit and give probative effect to evidence of any type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in

the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

- C. *Burden of Proof.* The City shall have the burden of establishing that the grounds for permit revocation or ineligibility, as described in Sections 11-10 and 11-11, by a preponderance of the evidence. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence.
- D. *Appeals.* Final determinations of the hearing officer shall be subject to judicial review in accordance with Article VI, Section 28 of the Michigan Constitution in an appeal taken pursuant to Michigan Court Rule 7.123.

Section 2. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**CERTIFICATION**

This is a true and complete copy of Ordinance No. \_\_\_\_ adopted at a regular meeting of the New Buffalo City Council held on \_\_\_\_\_, 2020.

\_\_\_\_\_  
John Humphrey, Mayor

\_\_\_\_\_  
Ann M. Fidler, Clerk

**CITY OF NEW BUFFALO**  
**BERRIEN COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE TO AMMEND CHAPTER 11 OF THE NEW BUFFALO CITY**  
**CODE OF ORDINANCES TO PROVIDE AN EFFICIENT PROCEDURE FOR**  
**REVOKING RENTAL PERMITS AND MAKE OTHER MODIFICATIONS**  
**ALLOWING MORE EFFECTIVE REGULATION OF SHORT-TERM RENTAL**  
**UNITS**

The City of New Buffalo ordains:

Section 1. Amendment. A new Chapter 11, entitled “Short-Term Rental Units,” is added to the New Buffalo City Code, to read in its entirety as follows:

**Chapter 11**  
**Short-Term Rental Units**

**Sec. 11-1. Purpose.**

- A. The City recognizes that one of our largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The City believes that the tourism industry will continue to grow.
- B. The City recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. This marketplace has grown exponentially with the increasing use of online booking websites, and it will most likely continue to grow as surrounding municipalities limit, restrict or eliminate the practice.
- C. The City needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property ~~owner~~owners, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

D. The City recognizes that the establishment of licensing hearing system is needed in order to effectively enforce the short-rental regulations provided in this chapter in a cost-efficient manner. Final determinations made in any licensing hearing shall be subject to judicial review.

**Sec. 11-2. Definitions.**

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

- A. *Bedroom.* A room intended for sleeping or placement of a bed, separated from other spaces in dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedroom: (i) kitchens; (ii) dining areas; (iii) gathering spaces such as family rooms, dens, or living rooms; and (iv) attics or basements without egress meeting standards in applicable building, residential, and fire codes. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in Chapter 3 of the Michigan residential code.
- B. *City.* The department, officer or individual designated by the City Manager or City Council to administer all or any part of the permitting and inspection programs under this chapter.

C. *Local Agent.* An individual or legal entity *Hearing Officer.* An individual designated by the City Council who presides over and adjudicates permit revocation hearing and permit ineligibility



hearings as described in Section 11-13. The hearing officer may be either an employee or independent contractor of the City, but in either case shall act as an impartial adjudicator. To ensure impartiality, an individual who serves as a hearing officer may not be involved in enforcing this chapter in any way other than as described in Section 11-13.

~~C.D.~~ Local Agent. An individual designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the City; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal paper's relating to the unit on the owner's behalf. ~~The local agent must live or maintain a physical place of business within 45 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.~~

~~D.E.~~ Occupant. An individual who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight.

~~E.F.~~ Off-Street Parking Space. Shall mean a parking space that is provided on the same lot as the short-term rental unit that satisfies the requirements to count toward the minimum-parking calculation in Article 15 of the Zoning Ordinance.

~~F.G.~~ Owner. ~~The individual or entity who is the legal or equitable titleholder and who controls the premises occupied by one or more rental units~~ A natural person who is the legal or equitable titleholder of the premises in question. In situations where the record title holder is a trust, corporation, limited liability company, or other similar legal entity, the term "owner" shall refer to natural persons with control or partial control over such entity, e.g., a trustee, designated corporate representative, any and all members and managers of a limited liability company, etc.

~~G.~~ Short-Term Rental Appeals Board. A five-member board empowered to consider matters specified in this chapter, consisting of the City Manager, Police Chief, and three individuals appointed by the Mayor with the concurrence of the City Council. Two of the three appointed members must be residents of the City and the third member must be an employee or owner of a business that operates short-term rentals within the City. The Mayor, with the concurrence of the City Council, shall also appoint a resident as an alternate member, who may serve when a regular member abstains from deciding a matter due to a conflict of interest. Meetings of the Short-Term Rental Appeals Board shall be conducted in accordance with the Open Meetings Act.

~~H.~~ Professional Short-Term Rental Management Permit. A written document issued by the City indicating that that a business satisfies the permitting requirements in Section 11-4. Section 11-3(C)(2) requires, in certain circumstances, that the designated local agent for a short-term rental unit be an employee of a business with a professional short-term rental management permit.

~~H.I.~~ Short-Term Rental Unit. A dwelling unit ~~or portion thereof~~ rented for a term of less than one month. The term short-term rental unit does not include the use of transitional housing operated by a nonprofit 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. Dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity are not short-term rental units.

~~I.J.~~ Short-Term Rental Unit Permit. A written document issued by the City indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. ~~A short-term rental unit permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly or later detected violations of the City's Property~~

~~Maintenance Code, Fire Code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.~~

**Sec. 11-3. Short-Term Rental Permit Applications and Review Procedure.**

A. *Permits required.* All dwelling units used for short-term rentals must be registered with and have a short-term rental unit permit issued by the City. The short-term rental of a dwelling unit without a permit is prohibited.

B. *Application.* To apply for a short-term rental unit permit, the owner(s) shall:

1. Provide and certify as true the following on a form provided by the City:

a. Name, address, email address, and telephone numbers (local and cell phone) of ~~the each and every owner and any of the property, as well as the local agent for~~ designated by the owner-owners.

b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.

c. The number of short-term rental units in the building, if more than one.

d. The number of bedrooms in each short-term rental unit.

e. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit.

f. The length of the typical rental period for which the applicant intends to rent the property.

g. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner(s) or local agent will check those devices at least every 90 days.

h. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.

i. A statement certifying that the ~~property owner consents(s) consent~~ to inspections by the City and that the owner(s) or local agent will make the dwelling unit available to inspections upon request.

j. A brochure or other document to be given to each group of occupants containing all the information required in the subsections above.

k. Such other information as the City requests.

2. Sign the application form and provide the signature of the local agent.

3. Pay an annual administrative fee, as set by resolution of the City Council.

4. Submit the property to an annual inspection for compliance with applicable codes and ordinances. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void. Voiding a permit under this section is not subject to the procedures provided in ~~Section~~ Sections 11-810 and 11-13.

C. Local agent required. All short-term rental units must have a designated local agent that satisfies the following requirements:

1. The local agent shall be a natural person who resides within 30 miles of the geographic boundaries of the City of New Buffalo. An owner may serve as the local agent so long as:

- (1) he or she is the owner of no more than 1 short-term rental unit within the City; and (2) he or she has the ability to continue residing at a location within 30 miles of the City of New Buffalo during the duration of any short-term rental lease. Except as required in subsection 2, an individual may serve as a local agent without being employed by a business with a professional short-term rental management permit.
2. If any owner of a short-term rental unit owns more than 1 short-term rental units within the City, the local agent must be an individual employed by a business with a professional short-term management permit issued pursuant to Section 11-4.
- D. *Permit issuance.* A short-term rental unit permit shall be granted after a successful inspection if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met.
- E. *Validity and renewal.* Short-term rental unit permits are valid for a period of one year from the date of issuance and must be renewed annually. Permits shall also expire upon conveyance of the property to which the permit applies. So long as the application is made with 12 months of expiration the permit shall be considered a renewal permit rather than new permit. The renewal process shall be subject to the same requirements as the initial application.
- F. *Delinquent payments.* No permit shall be issued or renewed unless the owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due to the City. Delinquencies on any such payments to the City, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.
- G. *Changes in information.* ~~The~~An owner or local agent shall notify the City in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the City in writing within ten days of any change in the designated local agent.

**Sec. 11-4. Professional Short-Term Rental RegulationsManagement Permits.**

- A. *Permit required.* In certain circumstances, described in Section 11-3(C)(2) above, the registered local agent for a short-term rental unit must be an employee of a business possessing a professional short-term rental management permit issued pursuant to this section.
- B. *Application.* To apply for a professional short-term rental management permit, an applicant shall:
1. Provide and certify as true the following on a form provided by the City:
    - a. The name of the business and a copy of its organizing documents as filed with the Michigan Secretary of State or similar agency within the state in which the business was organized.
    - b. The name, address, email address, and telephone numbers of each employee that may be designated as a local agent for one or more short-term dwelling units within the City.
    - c. The name of any employee or independent contractor that will perform routine cleaning or maintenance for one or more short-term dwelling units within the City.
    - d. The address of each short-term rental unit within the City for which an employee of the applicant has, within the last 3 years, served as the designated local agent for at least a year, along with the accompanying permit numbers for each unit.
    - e. To the extent needed to satisfy the requirements of subsection (C)(3) below, a list of short-term rental units outside the City for which an employee of the applicant has, within the last 3 years, served as a local agent, or performed substantially similar functions, for at least a year.





### Sec. 11-5. Short-Term Rental Regulations.

The owner(s) and local agent for each short-term rental unit shall each be solidarily responsible for ensuring compliance with the following regulations:

A. *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the City has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section. Any advertisement posted on an online short-term rental platform must state the maximum occupancy in accordance with subsection B below.

~~A. *Local agent required.* All short-term rental units must have a designated 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 chapter.~~

~~B. *Permit issuance and validity.* A short-term rental unit permit shall be granted only if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met. However, the City may issue a short-term rental unit permit prior to the successful completion of an inspection, if the property owner is not responsible for the delay in the inspection and if the permit is made contingent on successful completion within a reasonable time. Short-term rental unit permits are valid for a period of one year from the date of issuance and must be renewed annually.~~

~~*Delinquent payments.* No permit shall be issued to any owner unless that owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due to the City. Delinquencies on any such payments to the City, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.~~

B. *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated pursuant to Section 11-78 below. The owner, ~~(s)~~, local agent, and occupants shall be in violation of the chapter if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated ~~in the on~~ any lease or other rental documents, contract for the unit and any advertisement for the unit posted on an online short-term rental platform.

C. *Contact information posted in window.* A city issued notice shall be posted in a prominent first-floor window of any dwelling unit used for short-term rentals stating (in at least 24-point type) the name of the local agent, a 24-hour telephone number with which the agent can be reached, and the maximum occupancy of the dwelling unit as permitted by this ordinance. This notice must be posted at all times.

~~C.D.~~ Duty to provide permit. Upon request by any occupant or prospective occupant, the owner(s) or agent shall provide the occupant or prospective occupant with a copy of the short-term rental unit permit, as well as a copy of the lease or other document containing the required disclosures. ~~The owner of each short-term rental unit must prominently display a~~ A full-sized copy of the short-term rental unit permit must be prominently displayed in each short-term rental unit.

~~C. *Permit transfers.* A valid short-term rental unit permit may be transferred to a new owner of a short-term rental unit upon the City's prior written consent once the new owner files an application meeting all the requirements of this ordinance.~~

~~D.E.~~ Applicable codes, permits, and ordinances. Compliance with applicable zoning, construction, fire, and property maintenance codes or permits, as well as any City ordinances pertaining to noise, nuisances, or paring shall be a condition of all rental unit permits. Violations

of any of those codes, permits, or ordinances shall also be a violation of this ordinance and shall be subject to all the permitting remedies described in Sections 11-4, 11-10 and 11-11 below.

E.F. Basement regulations. No basement can be used for a bedroom unless it has an egress window approved by the City inspector and found in compliance with local and state code requirements.

F.G. Curbside refuse pickup. The owner(s) or local agent must make provisions to have refuse picked up (curbside) on at least once per week when the short-term rental unit is being rented. Where curbside pickup is not reasonably available, this requirement may be satisfied by provision of a communal dumpster available for use by occupants of the short-term rental unit.

G.H. Renter turnover procedure. For short-term rental units, the owner(s) or local rental agent shall, at least once per month, inspect the premises (or ensure inspection by a designee ~~of the agent~~) using a City designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for City inspection and copying for a period of at least two years.

H.I. Compliance with safety equipment requirements. All short-term rental units shall comply with the safety equipment requirements in Section 11-~~67~~ below.

J. Rental of partial dwelling units prohibited. This chapter pertains only to the short-term rental of an entire dwelling unit. The short-term rental of partial dwelling units (e.g., a room or rooms within a dwelling unit) is prohibited.

#### **Sec. 11-~~56~~. Inspections.**

- A. *Scheduling.* Upon written notice from the City, it shall be the ~~owner's~~ owner(s)' responsibility to schedule and allow the City's inspection of the short-term rental unit. Inspections shall occur during the City's regular business hours, unless the City agrees to other arrangements, and all fees shall be paid prior to the inspection.
- B. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner(s) shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
- C. *Additional inspections.* The City may conduct additional inspections as it deems necessary, upon reasonable notice to the owner(s) or agent, such as when:
1. A complaint is filed with the City; or
  2. The City otherwise has reasonable cause to believe a short-term rental unit is in violation of any City ordinance.
- D. *Changes in conditions following inspection.* The owner(s) or local agent shall notify the City in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the City.

#### **Sec. 11-~~67~~. Safety Equipment.**

- A. *Smoke detectors.* The owner(s) and local agent of each short-term rental unit shall each be solidarily be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the Michigan Residential Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) Standards § 72.

- B. *Smoke detector locations.* Smoke detectors/alarms shall be installed in the following locations:
1. In each sleeping room;
  2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
  3. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.
- C. *Carbon monoxide detectors.* The owner(s) and local agent of each short-term rental unit shall each be solidarily responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detectors shall be of the type described in MCLA § 125.1504d.
- D. *Fire extinguisher.* The owner(s) of each short-term rental unit shall each be solidarily responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
- E. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

**Sec. 11-78. Maximum Occupancy Calculation.**

~~Base calculation. Except as otherwise provided in Subsection B, the~~The number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of:

- A. ~~Fourteen~~Ten total occupants;
- B. Two occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code; or
- C. Except for units within a planned unit development, four occupants for every off-street parking space that is provided on the lot and reserved exclusively for occupants of the short-term rental unit. For units within a planned unit development, the occupancy is determined only by the limits described in Subsection A(1) and (2).B.

~~A. Applications for increase. An owner or local agent may apply for permission to have the maximum occupancy of a dwelling unit increased above the maximum of 14 total occupants established in subsection A to the lesser of: (i) 18 total occupants; or (ii) two occupants per bedroom plus two additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Construction Code, or (iii) except for units within a planned unit development, four occupants for every off-street parking space provided on the lot and reserved exclusively for occupants of the short-term rental unit. Applications for increase shall be submitted to the City Clerk and decided by the Short-Term Rental Appeals Board. Applications shall be submitted on a standard form provided by the City and shall be accompanied by any applicable fee established by resolution of the City Council. The Appeals Board shall decide an application for increase in a public meeting with advance notice of that meeting given to owners of real property within 300 feet of the boundaries of the property for which the application for increase has been filed. The Appeals Board shall grant the application only upon determining that the criteria below are satisfied:~~

~~1. All of the following are provided:~~

- a. ~~A parking site plan allowing sufficient access for emergency vehicles.~~
- b. ~~An automatic sprinkler system on all floors with one or more bedrooms.~~



- ~~e. A fire alarm system.~~
- ~~d. An interconnected smoke alarm system.~~
- ~~e. Fire-rated corridors.~~
- ~~f. Fire-rated stairwell enclosures on all stairways providing the primary means of egress for one or more bedrooms.~~
- ~~g. Automatic door closers and fire-rated doors on all bedrooms.~~
- ~~h. A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms, as determined in the discretion of the Appeals Board.~~
- ~~2. Due to one or more of the following features or other similar features of the applicant's property, an increased maximum occupancy would not have an adverse effect on surrounding properties:~~
  - ~~a. Isolation from properties used as residential dwellings.~~
  - ~~b. Size of the setbacks on the property.~~
  - ~~c. Provision of fencing or other screening from adjoining properties.~~
  - ~~d. Topography and layout of the applicant's property, or of the adjoining properties.~~
  - ~~e. Other characteristics and uses of properties within the vicinity of the applicant's property.~~

**Sec. 11-89. Violations; Permit Revocation.**

A. Violations as municipal civil infractions. Any person who violates any of the provisions of this ordinance is responsible and may be prosecuted for a municipal civil infraction in court of competent jurisdiction, subject to payment of a civil fine of not less than \$500, plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

1. The fine for any offense which is a first repeat offense shall not be less than \$750 plus costs and other sanctions.
2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$1,000, plus costs and other sanctions.
3. A repeat offense means a second (or any subsequent) violation of this ordinance:
  - a. Committed by a person within any twelve-month period; and
  - b. For which the person admits responsibility or is determined to be responsible.

B. Administrative notices in lieu of citations. As an alternative or initial remedy, the City may seek to obtain compliance with this ordinance by issuing an administrative violation notice to the owner(s) and/or local agent for the unit to which the violation pertains. Each time a violation notice is issued, the owner(s) and local agent shall be responsible for: (1) paying a notice fee in an amount set by resolution of the City Council, which shall be proportionate to the costs incurred by the City relating to the preparation of the notice; and (2) immediately ceasing the offending conduct or taking corrective action to terminate the violation described. Each violation notice shall be served in accordance with Section 11-12 and shall contain the following information:

1. A statement that a notice fee is being imposed on the responsible person(s) pursuant to this chapter of the code;
2. The name of the responsible person(s);
3. The code section violated;

4. The address where the code violation occurred;
5. A description of the code violation;
6. The names of the issuing department and enforcement officer;

### **Sec. 11-10. Short-Term Rental Permit Revocation.**

#### **A.—Grounds for revocation.**

~~A.—~~ The City may revoke the short-term rental permit for any short-term rental unit which is the site of at least three separate incidents within a 12-month period (occurring on three separate days) ~~within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or constituting a court's determination of responsibility or guilt by the owner, local agent, or violation of any renter for a violation of one or more of the following:~~

~~B.A.~~ Any provision of this ordinance; In order to qualify as incident for purposes of this paragraph, the City must have issued a civil infraction citation or administrative violation notice regarding the offending conduct prior to commencing revocation proceedings pursuant to subsection B below.

~~a.—~~ The City noise and nuisance ordinance; and

~~b.—~~ Any violation of the Zoning Ordinance or any permit or approval issued pursuant to the Zoning Ordinance.

**B. Revocation Procedure.** Upon a determination by the City that the short-term rental permit is subject to revocation pursuant to ~~division (B)(1), subsection A,~~ the City shall ~~issueserve~~ serve a notice, pursuant to Section 11-12, to the property owner(s) and the local agent stating that the City intends to revoke the short-term rental permit. The notice shall inform the owner(s) and local agent of the date and time at which a right to revocation hearing will be conducted before a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within 14 days of officer, in accordance with Section 11-13. Determinations by the service of the notice. If a hearing is timely requested, the officer regarding revocation shall constitute final orders of the City shall schedule the hearing before the Short Term Rental Appeals Board. The City shall notify the owner and local agent in writing of a time and place for that hearing.

**C. Defenses to Revocation.** At the hearing, the owner(s) and local agent may present evidence that the requirements for revocation provided in Subsection ~~(B)(1)A~~ are not satisfied, or that the property owner(s) and local agent should not be held responsible for one or more of the three requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a nonrenter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner(s) or the ~~owner's~~ local agent could not reasonably anticipate and prevent, and could not reasonably control.

**D. Period of ineligibility following revocation.** Upon revocation of a permit, a new permit will not be issued for a period of ~~18~~ 12 months, and cannot be used for short-term rentals until a new permit is obtained.

### **Sec. 11-11. Unauthorized Short-Term Rentals; Permit Ineligibility.**

**A. Available remedies.** In addition to any other remedy available under the law of Michigan or applicable ordinances, the City may pursue an order authorizing the following remedies for violations involving the short-rental of an unregistered dwelling unit or the advertisement of such a unit for short-term rentals:

1. The right to deem the subject dwelling unit ineligible for a short-term rental permit (even if all other requirements of this and other applicable ordinances are satisfied) for a period of 36 months; and
  2. The placement of a placard in the right-of-way adjacent to the parcel on which the unit is located that states “Dwelling Not Permitted for Short-Term Rental.” Once posted, such placard shall remain in place for up to one year and shall not be removed except by City personnel; and
- B. *Procedure.* In order to seek the remedies described in subsection A above, the City shall serve a notice of a permit-ineligibility hearing on the record title owner of the property in question. The notice shall include all the information as required for a violation notice issued under 11-9(B) and shall also include the date and time of a scheduled permit-ineligibility hearing. Hearings shall be conducted by a hearing officer in accordance with Section 11-13. Determinations by the hearing officer shall constitute final orders of the City.

**Sec. 11-12. Service of Notices.**

Any notice issued pursuant to this chapter shall be considered served as of the date of the earliest of any of the following events:

- A. The posting of the notice on or adjacent to the premises, in conjunction with the mailing of the notice to the responsible party’s last known address;
- B. The sending of the notice by email to an email address designated on a short-term rental permit for the property or on a professional short-term rental management permit;
- C. Personal delivery of the notice to the responsible party;
- D. The responsible party’s receipt of the notice by certified U.S. mail, as indicated in a notification of receipt; or
- E. The reading of the notice to the responsible party over the phone.

**Sec. 11-13. Permit Revocation and Permit-Ineligibility Hearings.**

The following standards and procedures shall apply in any permit revocation or permit-ineligibility hearing conducted under this chapter:

- A. *Opportunity to be heard.* Property owners and local agents shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. Hearings shall be scheduled with reasonable promptness, provided that the property owner(s) and local agent shall be given at least 14 days after service of process to prepare for the hearing.
- B. *Evidence.* The hearing officer may admit and give probative effect to evidence of any type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.
- C. *Burden of Proof.* The City shall have the burden of establishing that the grounds for permit revocation or ineligibility, as described in Sections 11-10 and 11-11, by a preponderance of the evidence. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence.

D. Appeals. Final determinations of the hearing officer shall be subject to judicial review in accordance with Article VI, Section 28 of the Michigan Constitution in an appeal taken pursuant to Michigan Court Rule 7.123.

Section 2. Publication and Effective Date. The City Clerk shall cause this ordinance to be published in a newspaper of general circulation in the City, and the ordinance shall be effective 20 days after enactment or upon publication, whichever is later.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**CERTIFICATION**

This is a true and complete copy of Ordinance No. \_\_\_\_\_ adopted at a regular meeting of the New Buffalo City Council held on \_\_\_\_\_, 2020.

\_\_\_\_\_  
John Humphrey, Mayor

\_\_\_\_\_  
Ann M. Fidler, Clerk



**CITY OF NEW BUFFALO  
BERRIEN COUNTY, MICHIGAN**

Council Member \_\_\_\_\_, supported by Council Member \_\_\_\_\_, moved adoption of the following resolution:

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION APPOINTING APPROVE A FEE SCHEDULE FOR THE CITY'S  
SHORT-TERM RENTAL PROGRAM**

WHEREAS, Chapter 11 of the City's Code of Ordinances authorizes the City Council to set fees for participation in the City's short-term rental program; and

WHEREAS, the City has reviewed the revenues and expenditures from its short-term rental program and determined that amendments to the fee schedule are needed in order to ensure that the revenues received adequately cover the cost of the program; and

WHEREAS, the City has further determined that a significantly higher percentage of City staff time and other resources are spent in connection with dwelling units that are used predominately for short-term rentals, as opposed to those that are occupied as principal residences, and that the applicable fees should be adjusted accordingly.

Now, it is therefore resolved that:

1. The City of New Buffalo adopts the short-term rental fee attached as Exhibit A to this resolution, effective upon adoption of this resolution.
2. All prior resolutions, or parts thereof, are rescinded to the extent of any conflict with this resolution.

YEAS: Council Members \_\_\_\_\_

NAYS: Council Members \_\_\_\_\_

ABSTAIN: Council Members \_\_\_\_\_

ABSENT: Council Members \_\_\_\_\_

**CERTIFICATION**

As its Clerk, I certify that this is a true and complete copy of a resolution adopted by the City Council of the City of New Buffalo, Berrien County, Michigan, at a regular meeting held on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Ann M. Fidler, City Clerk

EXHIBIT A

Short-Term Rental Registration Fee Schedule

<b>Description:</b>	<b>Fee:</b>
Annual City Administration fee principal residences	\$ 275 per dwelling unit
Annual City Administration fee for non-principal residences	\$1275 per dwelling unit
Annual City Administration fee for professional STR management permit	\$500.00

For purposes of this fee schedule, the term principal residence means a dwelling unit for which a valid Principal Residence Exemption (PRE) Affidavit, Michigan Department of Treasury Form 2368, has been filed with and certified by the City Assessor prior to the submission of the permit application.



## Manager's Report

**1/27/2020**

**Agenda Item B**

**Beach Rake Project**

### **Summary:**

In 2016 a new John Deer Tractor and Charrington beach rake were purchased by the city to groom the city beach and remove debris. The parks department has used this equipment for the last 4 years and it has proven to not be the "right tool for the job". The combination of the large tractor pulling the large beach rake on our small beach has proven to be a challenge throughout the years commonly resulting in the tractor being stuck while attempting to make the tight turns that our real estate required. A different style of machine has been tried by the city and works MUCH better. The new style of machine is an all-in-one machine that loosely resembles a Zamboni machine for the beach.

In order to fund the purchase of the new machine which has a sticker price of approximately \$120,000, the Parks Director is recommending that we auction off the existing equipment to recoup the majority of the costs of the new machine. If for some reason, there are not adequate bids to support this project, we will simply not accept the auction bid and move forward as we have been.

Approximate total cost: \$500.00 for advertising the machines for the online auction.

Budgeted: No

Recommendation: Place the machines on Ranger Bid Municipal Auctions and sell them if we get above \$70,000 for the set.

Respectfully submitted,

Rich Killips, Interim City Manager



## Manager's Report

**1/27/2020**

**Agenda Item C**

**Seal Coating of Boat Ramp Lot**

### **Summary:**

To support the continues maintenance of our assets, the Parks Director is requesting that we seal coat half of the asphalt lot at the boat ramp. It has been quite some time since this part of the lot has been seal coated and it is time to do this. In order to keep this project affordable, we are asking for approval so that we can have this done early in the season before the lot gets busy. These bids also include re-striping the lot so that we can more effectively manage the parking of the kayak vehicles in the lot. Two quotes were obtained, one from Schembarger out of Berrien Springs for \$27,870.00 and one from Arnt for \$32,200. I would like to have the City Engineer review the documents to ensure that they are apples to apples and recommend the award.

Approximate total cost: Not to exceed \$32,200

Budgeted: Funds are to be used out of Capital Improvements

Recommendation: Accept the bid that is recommended by our engineer, not to exceed \$32,200.00

Respectfully submitted,

Rich Killips, Interim City Manager

**Proposal**

1240 South Crystal Avenue  
Benton Harbor, MI 49022  
Phone: (269) 927-1532 Fax: (269) 927-1547  
Toll Free: (877) 880-2768

Niles Office  
(269) 684-2644

South Bend Office  
(574) 233-1505  
Michigan City/Elkhart Office  
(877) 880-2768

Website: arntasphalt.com

**Customer:** Attn: Kristen  
New Buffalo Maintenance Department  
204 Jefferson  
New Buffalo, MI 49117

**Date:** 01-14-2021

**Job Name:**  
**Location:** New Buffalo Boat Launch

**Phone:** 708-243-2927

**Fax:**

**Email:** [parks@cityofnewbuffalo.org](mailto:parks@cityofnewbuffalo.org)

**BOAT LAUNCH**

1. Remove and replace to 3" depth, approx. 3,400 sq. ft. of (7) damaged areas with hot mix asphalt. **COST: \$12,500.00**

**DONE IN HALVES**

2. Clean and fill approx. 5,320 feet of MAJOR cracks with hot rubberized crack sealant. No web areas are to be filled. **COST: \$3,300.00**
3. Clean entire area to be sealed of dirt and debris. Apply (2) coats of **STAR-SEAL®** pavement sealer with (2) lbs. of sand and (2) % latex per gallon added. (Approx. 146,000 sq. ft.) **COST: \$13,250.00**
4. Repaint parking lot striping and stencils with traffic paint, as it now exists. Layout and stripe new kayak only striping with white paint and straight in parking stalls per conversation. **COST: \$3,150.00**

**TOTAL COST: \$ 32,200.00**

**IF ALL CRACK FILL, SEALING AND STRIPING CAN BE DONE IN 1  
MOBILIZATION DEDUCT \$ 1,000.00  
DEDUCT ADDITIONAL \$700.00 IF PAID IN FULL WITH SIGNED  
CONTRACT UPON ACCEPTANCE.**

No Guarantee on Standing Water.

**ARNT ASPHALT SEALING, INC. WILL MAKE EVERY EFFORT TO MATCH ANY QUALIFIED COMPETITOR'S PRICE!**

**PAYMENT TERMS: 25% DOWN WITH SIGNED PROPOSAL – BALANCE DUE 10 DAYS FROM INVOICE DATE**

There shall be a one (1) year guarantee on the material and all workmanship, except that as applied to cracks. The guarantee shall be limited to the replacement of the material and application of the same. Any alterations or deviation from above specifications involving extra costs will be executed upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized **Jon Anderson (269)519-2526**  
Signature \_\_\_\_\_

**Note: This proposal may be withdrawn by us if not accepted within 10 days.**

**Acceptance of Proposal** – The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Legal fees and court costs incurred in the collection of monies according to this contract will be borne by the customer.

1 1/2% interest will be charged on past due accounts over 30 days from date of billing – NO EXEMPTIONS. This is an ANNUAL PERCENTAGE RATE OF 18%.

Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

Signature \_\_\_\_\_



Shembarger Asphalt Sealing  
 442 W. Ferry St  
 Berrien Springs, MI 49103 US  
 (269) 471-4944  
 shembarger.asphalt@hotmail.com  
 www.shembarger.com



**ADDRESS**  
 City Of New Buffalo  
 Kristen  
 201 Marquette Drive  
 New Buffalo, MI 49117 usa  
 (708) 243-2927

**SHIP TO**  
 City Of New Buffalo  
 Kristen  
 201 Marquette Drive  
 New Buffalo, MI 49117 usa

**Estimate 4961**

**DATE 08/28/2020**

**EXPIRATION DATE 09/30/2020**

ACTIVITY	DESCRIPTION	QTY	AMOUNT
1. Prep Work	Edge perimeter with commercial edger then clean area of all dirt and debris	1	0.00
2. Crackfilling	Cleaning and sealing of all cracks 1/4" and larger with Right Pointe rubberized hot pour crack sealant. Meets or exceeds requirements of ASTM D3405. (NO WEBBED AREAS OR EDGE CRACKS) NO GUARANTEE ON CRACKS AFTER WINTER	5,320	2,200.00
4. Seal Coating 2	Apply (2) coats of GemSeal asphalt sealer with (2) lbs. of sand and (2)% latex meeting federal spec RP 355-E	146,000	11,680.00
6. Diamond Shield 2	Sealcoating of asphalt surface with Gem Seal premium rubberized SEALER, with DIAMOND SHIELD FORTIFIER which exceeds federal spec RP 355-E. Applied in (2) coats to entire surface. Additional aggregate 2 lbs. per gallon. INCLUDES 2 YEAR WARRANTY AGAINST PEELING AND FLAKING (ADDITIONAL COST) \$700	700	0.00
Mill 3"	Mill and Replace various damaged areas with 3" of hot mix asphalt	3,400	12,750.00
8.Stripe Yellow	* Painting of 4" parking stripes, arrows, and no parkings in YELLOW * Marking of handicap spaces BLUE * Performed with SetFast acrylic paint that meets federal spec TTP-1952	1	1,240.00

DIAMOND SHIELD OPTION IS ADDITIONAL TO YOUR TOTAL IF DESIRED

**TOTAL \$27,870.00**

Accepted By

Accepted Date