

315 Bridge Street  
P.O. Box 398  
Elk Rapids, MI 49629-0398



# Village of Elk Rapids

Phone: 231-264-9274  
Fax: 231-264-6337

**To:** President Janisse and Village Trustees

**From:** Caroline Kennedy, Asst. Village Manager/Clerk 

**Date:** September 21, 2020

**Re:** Short-term Rental Violations & Appeals Process

As indicated in my memo within your current Council Packet, the village attorney has reviewed and made very minor changes to the Short-term Rental Violations and Appeals Process.

The Village Attorney made only two changes, and they are consistent throughout the document. They are as follows:

- Strike: "and any other interested parties"  
This language is contained in our ordinance, making it unnecessary here
- Strike: "at a regularly scheduled council meeting"  
In order that Council may handle an appeal at a special council meeting, if they so choose

As stated, these are the only two changes from what you have in your packet, and they are consistent throughout the document. For your convenience, I have highlighted these specific changes in the attached document.



**VILLAGE OF ELK RAPIDS  
RESOLUTION 20-28**

**RESOLUTION AUTHORIZING THE ADOPTION OF THE PROCEDURE FOR  
SHORT TERM RENTAL APPEALS AND VIOLATIONS AND APPEALS**

- WHEREAS:** THE VILLAGE OF ELK RAPIDS ADOPTED ORDINANCE **A SHORT-TERM RENTAL BUSINESS ORDINANCE (#502)** ON AUGUST 17, 2020;
- WHEREAS:** SECTION 9 REQUIRES THE VILLAGE TO ADOPT A PROCEDURE FOR THE APPEALS AND VIOLATIONS OF THE PROPOSED SHORT-TERM RENTAL ORDINANCE #502-BY RESOLUTION; AND
- WHEREAS:** THE VILLAGE OF ELK RAPIDS HAS REVIEWED AND APPROVES THE FOLLOWING PROCEDURE FOR APPEALS AND VIOLATIONS OF THE PROPOSED SHORT-TERM RENTAL ORDINANCE #502.

Therefore, be it resolved that the Village of Elk Rapids adopts the following procedure for appeals and violations:

**1. Procedure for Appeals**

- A. *Appeal Procedure.* A person **short-term rental owner** who is aggrieved by any decision **violation notice** of the enforcement officer may appeal that decision to the village manager who will conduct, review, and dispose of the appeals **process** accordingly on the basis of competent, material, and substantial evidence.
- i. The appeal shall be made in writing and delivered to the village manager within 44 7 calendar days of the **receipt of the enforcement officer's violation notice** action complained of. The village manager shall hold a hearing **within 14 calendar days of receipt of the appeal or** at a mutually agreeable time, **although not to exceed 21 calendar days. The village manager will** and notify the owner **and any other interested party** in writing of a time and place for that hearing.
  - ii. At the hearing, the person **short-term rental owner** filing the appeal may present evidence that the action of the enforcement officer was unauthorized by the ordinance, unlawful, or not supported by competent, material and substantial evidence.
  - iii. The village manager shall independently determine whether there is competent, material and substantial evidence supporting the enforcement officer's action or decision.
  - iv. **The village manager decisions may be appealed to the village council at a regularly scheduled council meeting. Notice of appeal to the village council must be made in writing within 7 calendar days of the village manager's decision and will be heard by the village council at a regularly scheduled council meeting within 30 calendar days of the village manager's decision that is being appealed. The village will notify the owner and any other interested party in writing of the time and place for that appeal.**
- B. *Grandfathering Determinations.* Pursuant to Section 2, the enforcement officer shall determine whether a STR **short-term rental unit** is "grandfathered" for purposes of the ordinance. If an owner has used a property for a short-term rental business prior to 2018, the owner may appeal to the village manager to request **Grandfathering** status.



- i. The appeal shall be made in writing and delivered to the village manager **within 7 calendar days of receipt of the enforcement officer's decision**. The village manager shall hold a hearing **within 14 calendar days of receipt of the appeal or** at a mutually agreeable time, **but not to exceed 21 calendar days of receipt of the appeal**. ~~and~~ The village manager will notify the owner **and any other interested party** in writing of a time and place for that hearing.
- ii. At the hearing, the person **short-term rental owner filing** the appeal may present evidence that the property had been used for a short-term rental business prior to 2018.
- iii. At the hearing, the village manager shall make a determination whether the request for grandfathered status is supported by competent, material and substantial evidence.
- v. The village manager shall independently determine whether there is competent, material and substantial evidence supporting the enforcement officer's action or decision.
- vi. **The village manager decisions may be appealed to the village council at a regularly scheduled council meeting**. Notice of appeal to the village council must be made **within 7 calendar days of the village manager's decision and will be heard by the village council at a regularly scheduled meeting within 30 calendar days of the village manager's decision being appealed**. The village will notify the owner **and any interested party** in writing of the time and place for the hearing.

## 2. Procedure for Revocation

- A. *Revocation Procedure*. The written notice of the charges and the notice of the hearing shall be personally served on the owner or agent, **and if not served personally on the owner, shall be** ~~or~~ served on the owner by certified mail, restricted delivery, not less than 14 days before the hearing before **with** the enforcement officer.
  - i. Upon a finding by the enforcement officer of a first or second violation within any 12-month period, the short-term rental shall be subject to a fine as provided in Section 8 of the Proposed **short-term rental** ordinance ~~(#502)~~.
  - ii. Upon a finding by the enforcement officer of a third violation within any 12-month period, the short-term rental registration may be revoked and the owner or local agent who had been issued the short-term rental registration shall not again be issued a short-term rental license for a period of 12 months and during said time the premises shall not be utilized for a short-term rental.
  - iii. Upon a finding by the enforcement officer of a fourth violation within any 24-month period, the short-term rental registration and license may be revoked and the owner who had been issued the short-term rental registration and license shall not again be issued a short-term rental registration or license under that ownership name and the premises shall not be utilized for a short-term rental.
  - iv. A minimum of a 14-day notice will be given to owners and agents for any suspensions. Appeal ~~from~~ **of** denial or suspension or revocation of a short-term rental registration **license** is allowed.
- B. *Appeal Procedure for Revocation*. An owner who is subject to revocation of their license ~~as may~~ appeal that decision to the village manager who will conduct, review, and dispose of the appeal ~~accordingly~~ **the appeals process** on the basis of competent, material, and substantial evidence.
  - i. The appeal shall be made in writing and delivered to the village manager within ~~14-7~~ **calendar** days of the revocation notice. The village manager shall hold a hearing **within 14 calendar days of receipt of the appeal or** at a mutually agreeable

time but not to exceed 21 days from receipt of the appeal. The village manager will and notify the owner and any other interested party in writing of a time and place for that hearing.

- ii. At the hearing, the person short-term rental owner filing the appeal may present evidence that the revocation decision of the enforcement officer was unauthorized by the ordinance, unlawful, or not supported by competent, material and substantial evidence.
- iii. The village manager shall independently determine whether there is competent, material and substantial evidence supporting the enforcement officer's action or decision.
- iv. The village manager decisions can be appealed to the village council at a regularly scheduled council meeting. Notice of appeal to the village council must be made within 7 calendar days of the village manager's decision and will be heard by the village council at a regularly scheduled meeting within 30 calendar days of the village manager's decision being appealed.

YEAS:

NAYS:

EXCUSED:

I, CAROLINE KENNEDY, ASST. VILLAGE MANAGER/VILLAGE CLERK, DO HEREBY CERTIFY THAT THE ABOVE RESOLUTION 20-28 WAS DULY ADOPTED AT THE REGULAR COUNCIL MEETING HELD ON SEPTEMBER 21, 2020.