

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

ORDINANCE NO. 253

AN ORDINANCE TO AMEND SECTIONS 2-3, 6-2, 7-2, AND 8-2, AND ADD A NEW SECTION 20-8 TO THE NEW BUFFALO ZONING ORDINANCE TO PROHIBIT NEW SHORT-TERM RENTALS IN THE R-1, R-2, AND R-3 ZONING DISTRICTS

WHEREAS, in April 2019, the City Council adopted an ordinance requiring the registration and inspection short-term rental units within the City; and

WHEREAS, since enacting the ordinance, City staff has studied the registration statistics and the density of short-term rentals; and

WHEREAS, after extensive study of the proliferation and effects of short-term rental uses, the City Council has determined that if current trends were allowed to continue, short-term rental uses could undermine the character and stability of neighborhoods in certain districts by, among other things:

1. Decreasing the number of long-term residents;
2. Decreasing enrollment in local schools;
3. Decreasing the availability of long-term housing stock, thereby driving up prices and making long-term residency less affordable;
4. Creating significant numbers of vacant homes in the winter months; and
5. Increasing levels of noise, traffic, and on-street parking during the summer tourist season.

WHEREAS, in a series of recent cases, Michigan courts have recognized that transitory and commercial uses are in tension with the traditional use of single-family dwellings; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the zoning ordinance to curb the proliferation of short-term rental uses in certain zoning districts characterized by single-family residential neighborhoods, and to otherwise mitigate potential adverse effects of new short-term rentals.

The City of New Buffalo ordains:

Section 1. Amendment. Section 2-3 of the New Buffalo Zoning Ordinance is amended to add the following definitions of “Short-Term Rental Activity” and “Short-Term Rental Unit,” which shall appear between the definitions of “Shopping Center” and “Sign,” and to amend the definition of “Dwelling Unit” so that it reads in its entirety as indicated below. Except as expressly modified herein, the remainder of Section 2-3 is reenacted in full:

Short-Term Rental Activity. The rental of a dwelling unit for compensation for a term of less than one month. However, short-term rental activity does not include the following: 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, other health care related clinic, or 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.

Short-Term Rental Unit. A dwelling unit in which short-term rental activity is permitted to occur subject to the terms and conditions of this ordinance and Chapter 11 of the City Code.

Dwelling Unit. A building, or portion thereof, designed exclusively for human occupancy providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. A dwelling unit may be used as a short-term rental unit

when licensed pursuant to Chapter 11 of the City Code and when either: (1) short-term rentals are not prohibited in the zoning district where the property is located; or (2) the short-term rental unit is established as nonconforming and operating in compliance with the regulations in Section 20-8.

Section 2. Amendment. Sections 6-2, 7-2, and 8-2 of the New Buffalo Zoning Ordinance are amended to read as follows:

Sec. 6-2. Uses permitted by right.

- A. Land and/or buildings in the R-1 District may be used for the following purposes by right:
1. Single-family detached dwelling units.
 2. Accessory uses pursuant to Section 3-2.
 3. Home occupations pursuant to Section 3-26.
 4. State-licensed residential care family facilities.
 5. State-licensed family day-care centers.
 6. Municipal parks.
- B. Short-term rental units are prohibited in the R-1 District except when established as a nonconforming use and operating in compliance with the regulations in Section 20-8.

Sec. 7-2. Uses permitted by right.

- A. Land and/or buildings in the R-2 District may be used for the following purposes by right:
1. Single-family detached dwelling units.
 2. Two-family dwelling units.
 3. Accessory uses pursuant to Section 3-2.
 4. Home occupations pursuant to Section 3-26.
 5. State-licensed residential care family facilities.
 6. State-licensed family day-care centers.
 7. Municipal parks.
- B. Short-term rental units are prohibited in the R-2 District except when established as a nonconforming use and operating in compliance with the regulations in Section 20-8.

Sec. 8-2. Uses permitted by right.

- A. Land and/or buildings in the R-3 District may be used for the following purposes by right:
1. Multiple-family dwelling units, including single-family attached dwelling units, and apartment buildings.
 2. Single-family detached dwelling units.
 3. Accessory buildings and uses associated with the above permitted uses, including:
 - a. Automobile garages.
 - b. Health club facilities intended primarily for residents of the residential complex.
 - c. Recreational facilities intended exclusively for residents of the residential complex such as pools and tennis courts and other similar uses.
 - d. Community center building.

Accessory buildings shall also comply with regulations contained in Section 3-2 of this ordinance. As provided in Section 8-3, carports are permitted in the R-3 District by special use permit only.

4. Home occupations pursuant to Section 3-26.
5. State-licensed residential care family facilities.
6. State-licensed family day-care centers.
7. Municipal parks.
8. Public utility or service buildings, not requiring the outdoor storage of materials.

B. Short-term rental units are prohibited in the R-3 District except when established as a nonconforming use and operating in compliance with the regulations in Section 20-8.

Section 3. Addition. Section 20-8 of the New Buffalo Zoning Ordinance is added to read as follows:

Sec. 20-8. Nonconforming short-term rental units.

A. *Nonconforming short-term rental units permitted*. Short-term rental units that existed and were registered under Chapter 11 of the Code of Ordinances as of November 23, 2021, the effective date of the amendment creating this section, may be continued as nonconforming uses so long as they conform to the regulations provided herein.

B. *Regulations*. Notwithstanding any other provision of this ordinance:

1. The ability to operate a nonconforming short-term rental unit is not impaired by the making of modifications, improvements, or repairs to the structure or land where the use is located.

However, if the underlying residential use is nonconforming, the underlying use may be impaired by such activities as provided in section 20-5.

The ability to operate a nonconforming short-term rental unit is not impaired by any transfer of ownership or control of the property, unless the right to continue operating a short-term rental unit is later deemed abandoned by the new owner subsection B.3 below. New owners are responsible for obtaining renewal permits in accordance with the processes provided in Chapter 11 of the Code of Ordinances.

3. A short-term rental unit shall be deemed abandoned if either of the following transpire:
 - (a) The short-term rental unit is not rented for one or more short-term rental terms within a period of 12 months. The failure to submit a short-term rental reservation summary for the unit, as required by Section 11-4 of the City Code, for a period of one year or more shall constitute conclusive evidence of abandonment pursuant to this subsection.
 - (b) The short-term rental permit for the property expires, terminates, or becomes invalid and a new permit or renewal permit is not obtained within the later of: (i) 12 months from the expiration, termination, or invalidation; or (ii) in cases where the permit has been revoked pursuant to Chapter 11 of the Code, 6 months from the date when the period of ineligibility expires.
4. Notwithstanding subsection B.3, the ability to operate a nonconforming short-term rental unit is not impaired by the demolition of the structure in which the use is located, so long as:
 - a. There is a valid short-term rental permit in effect at the time of the demolition, and
 - b. A short-term rental permit is obtained for the newly constructed dwelling on the property within 18 months of the date of the demolition permit.

Section 4. Review after Implementation. Not later than November 1, 2022, City staff shall provide a report to the Planning Commission regarding the number of registered short-term rentals in each zoning district in the City. After receiving such report, the Planning Commission may evaluate whether the implementation of this ordinance has achieved its intent and what, if any, amendments should be made.

Section 5. Publication and Effective Date. The City Clerk shall cause this ordinance or a summary thereof 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: Lijewski, Flanagan, Mayor Humphrey

NAYS:

ABSTAIN:

ABSENT: Robertson, O'Donnell

CERTIFICATION

This is a true and complete copy of Ordinance No. 253 adopted at a regular meeting of the New Buffalo City Council held on November 23, 2021.

John Humphrey, Mayor

Ann M. Fidler, City Clerk