

ORDINANCE NO. 2024-05

**AN ORDINANCE AMENDING THE BAY VIEW ZONING CODE AT SECTION 17 BY CREATING A NEW SECTION 17 REGULATING TRANSIENT RENTAL OF RESIDENTIAL PROPERTY WITHIN THE VILLAGE, AS SET FORTH HEREIN BELOW AND RENUMBERING ALL SUBSEQUENT SECTIONS OF THE CODE.**

**WHEREAS**, the Council of the Village of Bay View, Ohio, has considered amendments to the Village Zoning Code and has determined that those amendments are in the best interests of the Village of Bay View, Ohio, the residents thereof, and the public.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL, OF THE VILLAGE OF BAY VIEW, OHIO:**

**Section 1.** That the Zoning Code Ordinance adopted under Ordinance 2023-09 shall be and hereby is modified by incorporating therein a new Section 17, governing the Transient Rental of residential property within the Village as set forth in attached Exhibit A.

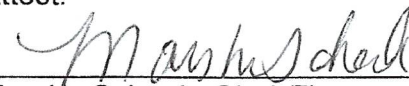
**Section 2.** That Section 17 and all sections thereafter of the prior zoning ordinance, are hereby renumbered as Section 18 and sequentially thereafter.

**Section 3.** If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof; and

**Section 4.** That it is found and determined that all formal actions of the Council of the Village of Bay View concerning and relating to the adoption of this Ordinance were taken in an open meeting of the Council of the Village of Bay View and that all deliberations of this Village's Council and any of its committees that resulted in these formal actions were in meetings open to the public, in compliance with all legal requirements.

  
Larry Gwinner, Mayor

Attest:

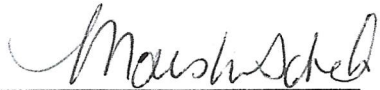
  
Marsha Schenk, Clerk/Treasurer

Adopted: 12-3, 2024

POSTING CERTIFICATE

The undersigned, Clerk/Treasurer of the Village of Bay View, Ohio, does hereby certify that Ordinance No. 2024-05 passed by the Council of the Village of Bay View, Ohio, on the 3<sup>rd</sup> day of Dec., 2024, was duly posted on 12-4, 2024 and will remain posted for a period of fifteen (15) days thereafter in not less than five (5) of the most public places in the Village as determined by the Council of said Village.

Dated: 12-3-24



Clerk/Treasurer

**SECTION 17 TRANSIENT RENTAL PROPERTY**

**17.1 PURPOSE**

The purpose and intent of this Ordinance is to regulate the health, safety, and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the Village of Bay View.

**17.2 DEFINITIONS.**

- (1) "Transient occupancy" means to use, occupy, or possess, or the use, occupancy, or possession of a dwelling or other living accommodation is defined by Village of Bay View for a period of thirty (30) consecutive calendar days or less.
- (2) "Transient rental" means the renting, letting, subletting, leasing, or subleasing of a dwelling for a period of thirty (30) consecutive calendar days or less.

**17.3 LIMITATIONS ON TRANSIENT RENTAL PROPERTIES**

- (1) Beginning on the effective date of this Ordinance, no more than fifteen (15) Transient Rental properties shall be permitted within the Village of Bay View.
- (2) Subject to the provisions of the foregoing paragraph, any existing Transient Rental properties located within the Village shall be permitted to continue to exist so long as the owners of the property apply for Transient Rental Registration Permit. The Zoning Inspector shall maintain a list of all Transient Rental Property located within the Village.

**17.4 ADMINISTRATION OF THIS SECTION.**

- (1) The Village Zoning Inspector shall maintain a registry of individual owners and specific properties offering transient rentals and shall maintain in essential records on licensed transient rentals.
- (2) The Village Zoning Inspector shall monitor transient rentals for compliance with the provisions of this section.
- (3) The Village Zoning Inspector shall investigate suspected violations of this section.
- (4) The Village Zoning Inspector shall refer suspected violations of the fire and or police departments.

17.5

**TRANSIENT RENTAL PERMIT APPLICATION.**

- (1) Each operator of a dwelling being used for transient occupancy must apply to the Village Zoning Inspector for an annual permit which expires on December 31<sup>st</sup> of the year the permit is issued, and pay a fee of \$500.00 per dwelling annually.
- (2) To obtain a permit, the owner of a dwelling intended to be used for transient occupancy must apply for a permit on a form approved by the Council of the Village of Bay View, which will include the following:
  - A. A certification from the Zoning Inspector that the dwelling is not subject to outstanding Village of Bay View ordinance or State law violations;
  - B. The name, street address, mailing address, and telephone number of the owner of the dwelling to be used for transient occupancy purposes;
  - C. If the owner does not reside within the Village of Bay View, the name, street address, mailing address, and telephone number of a local contact, (within 20 miles);
  - D. The street address of the dwelling to be used for transient occupancy purposes;

17.6

**TRANSIENT RENTAL HEALTH AND SAFETY REGULATIONS.**

- (1) The maximum number of persons who may occupy the dwelling overnight during a transient occupancy shall be limited to two (2) persons per bedroom, plus three (3) additional persons per dwelling in a dwelling located in a residentially zoned area. The overnight occupancy limit of dwellings located in areas other than residentially zoned areas shall be determined on a case-by-case basis by the Transient Rental Administrator at the time a permit application is submitted.
- (2) Only one open rental agreement per dwelling is permitted at a time for the purpose of transient occupancy.
- (3) The owner of a dwelling being utilized for transient occupancy must maintain a copy of all rental agreements for the dwelling being used for transient occupancy for a period of twenty-four (24) months, and provides said agreements to Village of Bay View for inspection upon request.
- (4) The dwelling being utilized for transient occupancy must have adequate off-street parking for vehicles of tenants and guests.



- (5) A property being utilized as a transient rental shall visibly display a transient occupancy permit outside the main entry of the property.
- (6) The registered owner or local contact for the transient rental shall be within a half-hour arrival of the transient rental unit while the transient rental is being occupied.
- (7) No person shall be allowed to transient rent a dwelling that is in violation of the Village of Bay View's building code, or zoning regulations.
- (8) No person shall display a transient occupancy permit or allow transient occupancy of a dwelling that has had its permit suspended, revoked, or denied.
- (9) No person shall allow a dwelling to be listed or advertised as a transient rental prior to obtaining a valid transient occupancy permit.
- (10) No person shall allow a dwelling to be listed or advertised as a transient rental if the transient occupancy permit has been suspended, revoked, or denied.

#### **17.7 ENFORCEMENT PROCEDURES.**

- (1) Upon the filing of a complaint that a person has engaged in a transient rental in violation of this section, the Zoning Inspector shall take all steps necessary to determine the validity of the complaint.
- (2) The Zoning Inspector shall independently determine whether a person has offered transient rental in violation of this section.
- (3) If while investigating transient rental activity the Zoning Inspector discovers suspected violations of the fire, health, building, or the zoning regulations, or other laws, the Zoning Inspector shall report such suspected violation to the relevant Village of Bay View department or governmental agency.
- (4) To determine if there is a violation of this section, the Zoning Inspector shall initiate an investigation of the subject property and/or request any pertinent, information from a person offering transient rental, including records required by this section, leases, or other documents.
- (5) If the Zoning Inspector determines that a person has violated any provision of

this section, the Zoning Inspector shall issue a cease-and-desist order and shall assess the appropriate penalty and fines for said violation.

- (6) The Zoning Inspector ability to assess penalties and fines for violations of this section, are separate and apart from any civil or criminal violations, penalties, and fines able to be assessed by any other Village of Bay View department, including, but not limited to, the Village of Bay View Fire Department, the Village of Bay View of Police Department, and the Village of Bay View Planning and Zoning Department.

#### 17.8 PENALTIES AND FINES.

- (1) The Transient Rental Administrator shall assess the owner for violations of this section.
- (2) Multiple violations that arise out of the same set of facts or circumstances, or occur on the same date, may constitute one violation or multiple violations based upon the severity of the violations as determined by the Village of Bay View Code Enforcement Division.
- (3) Each day the dwelling owner violates this section shall constitute a separate violation.
- (4) The Village of Bay View has the right to revoke the owner's right to use his or her dwelling for transient occupancy after three violations of this section within a period of twelve (12) months. If the Village of Bay View revokes the owner's right to use his or her dwelling for transient occupancy, such revocation shall be for a period of no less than twelve (12) months from the date of the third violation.

#### 17.9 OTHER REMEDIES.

- (1) Civil action. The following parties may also seek injunctive or other relief to prevent or remedy violations of this section:
  - A. The Solicitor for the Village of Bay View;
  - B. Any neighboring property owner or occupant who would be specially damaged by any such violation.
  - C. The prevailing party in such an action shall be entitled to recover reasonable costs, attorney's fees, and statutory damages.
- (2) Additional remedies. Any person convicted of violating any provision of this

section in a criminal case or found to be in violation of this section in a civil case shall remit all illegally obtained revenue to the Village of Bay View.

#### **17.10 ADMINISTRATIVE PENALTIES.**

In addition to any criminal penalties that may be imposed pursuant to subsection (d) hereof, any person, occupant, operator, owner or purchaser who violates or fails to comply with any of the provisions of this Ordinance shall be subject to following administrative penalties in accordance with the criteria stated herein:

- (1) For a first offense, an administrative fine of up to \$100.00.
- (2) For a second offense, an administrative fine of up to \$500.00.
- (3) For a third offense, an administrative fine of up to \$1,000.00.

#### **17.11 CERTIFICATION OF ADMINISTRATIVE PENALTIES TO TAX DUPLICATE**

- (1) If a person, occupant, operator, owner or purchaser fails, neglects or refuses to pay an administrative penalty within the time ordered paragraphs (17.10) (1)-(3) of this Section, then the Zoning Inspector shall so notify the Village Clerk who shall certify the administrative penalty to the County Auditor. In addition to the administrative penalty, an interest rate equal to the current rate of interest charged by the Village of Bay View on special assessments shall be imposed by the Village of Bay View for the life of the administrative penalty, added to the administrative penalty, and collected as provided in this section. The Village Clerk shall then certify the amount of the administrative penalty, including interest, to the County Auditor. The County Auditor shall enter the amount on the tax duplicate of the County as a special assessment against the person's real estate at issue.

#### **17.12 USE OF FUNDS COLLECTED UNDER THIS SECTION**

- (1) Money collected under Section 17 of the Village Zoning Code, shall first be used for Transient rental administrative and enforcement purposes. The balance of any funds collected thereafter, shall be used for general fund purposes to help offset the additional expenses incurred by the Village in providing police protection, fire protection, EMS Services, maintenance of roads, parks and other expenses directly attributable to the effects of Transient Rentals within the Village of Bay View Ohio.

#### **17.13 CRIMINAL PENALTIES.**

- (1) In addition to any administrative penalties that may be imposed pursuant to this Ordinance, any person, occupant, operator, owner or purchaser who violates or fails to comply with any of the provisions of this Section 18 of the Zoning Code, shall be guilty of a misdemeanor of the third degree and shall be fined not more than \$500.00 or imprisoned not more than 60 days, or both, and shall, in addition to any other penalties within these maximum amounts, be subject to imposition of the following minimum mandatory penalties, which shall not be suspended or held in abeyance:



- A. A person, occupant, operator, owner, or purchaser who has not previously been convicted of any violation of this ordinance shall be fined not less than \$50.00.
  - B. A person, occupant, operator, owner or purchaser who has previously been convicted of one violation of this ordinance shall be fined not less than \$200.00.
- (2) Continuing Violations. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (3) Strict Liability. The provisions of this Chapter are specifically intended to impose strict liability.