

ORDINANCE NO. 2017-05

**AN ORDINANCE REGULATING TOURIST
ROOMING HOUSES**

Purpose: To regulate short term rental of dwellings in residential neighborhoods.

Sponsor: Community Development Director

Recommended Referral: Plan Commission and Public Safety Committee

Public Hearing: None required.

The Village Board of the Village of McFarland do hereby ordain as follows:

1. Article XI of the McFarland Municipal Code is hereby created to read as follows:

“Article XI. – Tourist Rooming Houses.

§11-350 Purpose. The purpose of this Article is to ensure that the quality of tourist rooming houses operating within the Village is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists or transients, to protect the character and stability of residential areas of the Village; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof. The Village Board specifically finds that use of single family residences in the Village for short term rental creates the increased potential for adverse impacts on single family neighborhoods. The increased potential for adverse impacts is due to a higher degree of residential use and occupancy by vacationers who may tend to more frequently keep different hours engaging in recreational and social activities than the permanent residents in the surrounding neighborhood. Further, lacking any connection to the surrounding neighborhood, are less likely to be sensitive to the needs and concerns of neighbors. Finally, the lake side neighborhoods in which tourist rooming houses may be most likely to operate in the Village typically have small lots with homes very close to one another thereby increasing the potential for conflicts or disturbances.

§11-351 Definitions. In this Article:

“Bed and Breakfast Establishment” means any place of lodging that satisfies all of the following:

- (1) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients.

- (2) Provides no meals other than breakfast and provides the breakfast only to renters of the place.
- (3) Is the owner's primary place of residence.
- (4) Is occupied by the owner at the time of rental.
- (5) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

“**Dwelling Unit**” means a structure consisting of one (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom designed for or suited to the exclusive use by one (1) person or one (1) family.

“**Hotel**” means all places wherein sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used in connection therewith. “Inn”, “motel” and “hotel” are synonymous.

“**Local Agent**” means a person that, subject to the conditions established in Section 11-352, is authorized by the owner of a tourist rooming house to manage a tourist rooming house.

“**Short Term Rental**” means the rental of a dwelling unit for a period of less than 29 consecutive days.

“**Tourist Rooming House**” means any dwelling unit where sleeping accommodations are offered for pay on a short term rental basis to tourists or transients except that the following are expressly excluded:

- (1) Bed and breakfast establishments.
- (2) Hotels.
- (3) Any private boarding or rooming houses, ordinarily conducted as such, that do not accommodate tourists or transients.

“**Tourist or Transient**” means a person who travels from place to place away from his or her permanent residence for vacation, pleasure, recreation, culture, business or employment.

§11-352 Operation of Tourist Rooming Houses.

(a) Tourist rooming houses may only be operated in dwellings that serve as the owner’s primary place of residence or that are owned in their entirety by a person that maintains their primary residence in the Village of McFarland. A tourist rooming house not the primary residence of its owner may be titled in the name of a corporation, limited liability company, partnership or similar entity provided all ownership and controlling interest in the

entity is held by a natural person residing in the Village of McFarland. No person shall be permitted to own or operate more than one tourist rooming house in the Village nor shall multiple persons residing in the same household be permitted to operate multiple tourist rooming houses.

(b) Every owner of a tourist rooming house shall appoint a local agent to manage the tourist rooming house in the owner's absence while the property is being rented as a tourist rooming house. For purposes of this requirement, an owner shall be considered absent if he or she cannot be contacted and be present at the touring rooming house within forty-five (45) minutes. The local agent shall:

(1) if a natural person, keep their permanent residence within fifteen (15) miles of the tourist rooming house, or if a property management company or similar business entity, have offices within fifteen (15) miles of the Tourist rooming house;

(2) be authorized as owner, or on behalf of the owner of the Tourist rooming house, to accept service of all notices from the Village or service of legal process relating to any and all matters relating to the Tourist rooming house;

(3) be authorized to allow Village officers, employees, or agents, to enter the owner's property for purposes of inspection and enforcement of this Article or any other ordinance, statute, rule or regulation the Village may have the duty or authority to enforce;

(4) be authorized to act as owner, or on behalf of the owner, of the Tourist rooming house in all matters relating to dealing with renters of the Tourist rooming house;

(5) be authorized to undertake, or cause to be undertaken, any repair or act of maintenance of the Tourist rooming house necessary to comply with any Village ordinance, or any applicable state building regulations.

(6) subject to Wis. Stats. §§111.321, 111.322 and 111.335 has not been convicted of or have any pending charges for any offense as a felony, misdemeanor, or civil forfeiture, involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Wis. Stats. Chap. 944; and

(c) Each tourist rooming house, in addition to the permit under this Article, shall have and maintain the following licenses and permits:

(1) all required permits from State of Wisconsin Department of Agriculture, Trade and Consumer Protection or authorized agent including a permit for operation of a tourist rooming house under Wis. Stats. §97.605;

(2) a seller's permit issued by the Wisconsin Department of Revenue.

(e) No tourist rooming house shall be located within 1000 feet of any other tourist rooming house as measured by a straight line from the nearest property line of each tourist rooming house. Any tourist rooming house lawfully operating under a permit issued pursuant to Wis. Stats. §97.605 as of the effective date of this ordinance and which is located within 1000 feet of any other such tourist rooming house shall be exempt from the 1000 foot spacing requirement as to the other lawfully existing tourist rooming houses provided that within 120 days of the effective date of this Article, an application meeting all of the requirements of this Article is submitted and subsequently approved. Any tourist rooming house benefitting from this exemption shall lose the exemption if it fails to maintain a valid permit under this Article or Wis. Stats. §97.605 for a continuous period of one year or longer.

§11-353 Tourist Rooming House Permit.

Commencing July 1, 2017, no person may operate or permit to be operated a tourist rooming house in the Village of McFarland except upon receipt of a permit under this Article and subject to all the terms and conditions thereof. Any existing tourist rooming house, lawfully operating under a permit issued pursuant to Wis. Stats. §97.605 shall have 120 days from the effective date of this Article to submit an application meeting all of the requirements under this Article. If no such application is filed on a timely basis, or if such application is denied, the existing tourist rooming house shall cease operation after expiration of the 120 days, denial of the application, or expiration of the permit under Wis. Stats. §97.605, whichever is sooner.

§11-354 Application.

(a) All applications for a new tourist rooming house permit or renewal shall be filed with the Village Clerk on forms provided by the Village Clerk. All applications must be filed by the property owner. Each applicant shall certify to the Village that the tourist rooming house included in the permit is in compliance with the provisions of this Chapter. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.

(b) Each application for a new permit shall include the following information and documentation for each tourist rooming house:

(1) A nuisance response plan as described in Section 11-359.

(2) State of Wisconsin Department of Agriculture, Trade and Consumer Protection Permit for a tourist rooming house issued under Wis. Stats. §97.605.

(3) A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal.

(4) Proof of Liability Insurance. Such insurance shall be a Commercial General Liability, Hotel or Short-Term Rental Policy that specifically covers liabilities arising from rental of the tourist rooming house for Short-Term Rentals. The policy

shall provide no less than \$1,000,000 coverage, per occurrence. Claims-made coverage shall not be acceptable insurance under this Article.

- (5) Seller's Permit from the State of Wisconsin Department of Revenue.
- (6) Floor plan and requested maximum occupancy.
- (7) Site plan including available onsite parking.
- (8) Local Agent Agreement reflecting the Local Agent's authority and acceptance of all responsibilities under this ordinance.
- (9) Designation of the local agent.
- (10) Any other information requested on the application form deemed necessary in the reasonable discretion of the Village Clerk to evaluate the Application under this Article.

(c) Applications for renewal of a permit are not required to include the documentation for items listed in paragraphs (6) through (9) unless the information has changed from the preceding Application.

§11-355 Terms and Filing Date. Each permit shall run from July 1 through June 30 of the following year and shall not be transferrable to any other place or person. All applications must be filed by May 1st of each year. The filing fee shall be paid upon filing of the application. The Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete.

§11-356 New Application Review Procedure. (a) Committee Review. When satisfied that the application is complete, the Village Clerk shall forward initial applications for permits to the Public Safety Committee for review. The Clerk shall notify the owners of all properties lying within 300 feet of the property proposed as a tourist rooming house by regular mail that such application has been filed, the address of the proposed tourist rooming house and the date of the meeting at which the Public Safety Committee will review the application. Such notice shall be mailed no later than ten (10) days prior to the meeting. If the application is filed 14 days or more prior to its next scheduled meeting, provided the application is complete, the application shall be considered at that meeting. Otherwise, the application, provided the application is complete, will be considered within 40 days of the filing date. The Public Safety Committee shall consider the application and supporting documents. If the Committee determines that the application meets the requirements of this Article it shall forward the application to the Village Board for approval. If the Committee determines that the application does not meet the requirements of this Chapter, it shall deny the application. Any denial or conditional approval by the Committee shall be in writing setting forth the reasons for the determination.

(b) Village Board. The Village Board shall consider the application and the recommendation of the Public Safety Committee at its next scheduled meeting. The Village Board may approve, approve with conditions, or deny the application. Any denial or conditional approval by the Village Board shall be in writing setting forth the reasons for the determination. No approval shall be effective until the tourist rooming house has been inspected by the Building Inspector and Fire Inspector and found to contain no violations affecting the health or safety of occupants within one year of the application or renewal application filed with the Village Clerk.

(c) Issuance. The Village Clerk shall issue a permit for each tourist rooming house approved by the Village Board, subject to any required inspections under subsection (b) and payment of taxes, assessments and claims under Section 11-1. The permit shall contain all of the following information:

1. The name and address of the property owner.
2. The name, address and phone number of the local agent.
3. The maximum occupancy for the premises.
4. The permit term.
5. State lodging permit number.
6. Contact information for the Village.

§11-357 Renewal.

(a) Upon receipt of any renewal application and determination that the application is complete, the Village Clerk shall request reports from the Police Department and the Director of Community Development regarding any complaints received, calls for service or actions taken regarding the permitted properties. The Clerk shall issue renewal permits within forty-five (45) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Article or the reports from the Police Department and the Zoning Administrator indicate that there have been complaints or actions involving the property.

(b) If the Clerk finds that the permit should not be renewed because the application demonstrates that the requirements of Sections 11-352(b) and (c) and 11-354(a) and (b) are not met, or that due to complaints or actions during previous permit year, the application should be considered by the Public Safety Committee, the Clerk shall forward the application to the Public Safety Committee for action along with a written explanation of the reason for referral. Upon referral to the Public Safety Committee the procedures set forth in Section 11-356 shall apply.

§11-358 Inspections.

(a) Each separate unit which is offered for rental as a tourist rooming house is required to be inspected annually by the State and the Village Fire Inspector. If the State fails to inspect the tourist rooming house, the applicant may request that the Building Inspector conduct the inspection.

(b) If the Building Inspector conducts the inspection, the holder of the permit shall be responsible for payment of the inspection fees.

(c) If the Building Inspector or Fire Inspector at any time is unable to conduct an inspection due to denial of access, the tourist rooming house shall not operate until it has passed the inspection.

§11-359 Content of Nuisance Response Plans.

Each nuisance response plan accompanying an application for a permit required by this chapter shall contain the following information and otherwise be in a form required by the Village Clerk:

(a) The mailing address and telephone number of the owner or owners of the residential dwelling unit or units to be used as a short-term vacation rental pursuant to the permit;

(b) The name, address and telephone number of the local agent(s) who will be available by telephone, and who will be responsible for promptly responding to or causing a prompt response to a nuisance complaint arising out of the occupancy or use of the short term rental by tenants, their visitors or their guests. For the purposes of this Section, a return telephone call to a complainant within 45 minutes of the initial complaint shall be deemed “prompt”.

(1) No more than a total of three persons shall be designated in the response plan as a person responsible for responding to or causing a response to a nuisance complaint; and

(2) Only one such person shall be designated as the person responsible for responding to a nuisance complaint during any particular hours of the day, different days in a week, or different weeks of the year;

(3) Any such person designated shall have the powers of a local agent.

(c) The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.

(d) The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this chapter, “timely corrective action” shall include, at a minimum, a telephone call to the primary adult occupant of the short-term vacation rental within 30 minutes of the initial nuisance complaint.

(e) The proposed maximum number of overnight occupants.

(f) The number of off-street parking spaces and number of bedrooms available at the short-term vacation rental.

§11-360 Display of Permit. Each permit shall be displayed on the inside of the main entrance door of each tourist rooming house.

§11-361 Standards for Tourist Rooming Houses. Each tourist rooming house shall comply with all applicable Village Ordinances and all the following requirements:

(a) Space, Occupancy and Parking. Each tourist rooming house shall have:

(1) not less than one bathroom for every six occupants;

(2) not less than 150 square feet of floor space for the first occupant thereof and at least an additional 100 square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy.

(3) a maximum occupancy for any premises without a separate enclosed bedroom is two people;

(4) not less than one and one quarter onsite off-street parking spaces for every four occupants based upon maximum occupancy.

(b) Safety Requirements. Each tourist rooming house shall have:

(1) a safe, unobstructed means of egress leading to safe, open space at ground level;

(2) functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Wis. Admin. Code Chap. SPS 362;

(3) no accessible wood burning fireplace unless the owner provides a certificate from a licensed commercial building inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

(4) no hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking, heating, or any other purpose on any balcony, deck or under any overhanging structure or within 10 feet of any structure.

(c) Orderly Operation and Use

(1) The owner and local agent shall comply with all terms of an approved nuisance response plan.

(2) No tourist rooming house shall permit any number of daytime guests of renters in excess of 100% of the maximum occupancy limit of the tourist rooming house to be present on the property at any time.

(3) The owner shall require the primary overnight and daytime occupant of the tourist rooming house to be an adult 18 years of age or older. This adult shall provide a telephone number to the owner or local agent and shall be accessible to the owner or local agent by telephone at all times.

(4) Prior to occupancy, the owner or local agent shall obtain the name, address, and driver's license number or a copy of the passport of the primary adult occupant of the tourist rooming house. The owner shall require that adult to sign a formal acknowledgement that he or she is legally responsible for compliance of all occupants of the tourist rooming house or their guests with all provisions of this chapter. This information shall be readily available upon request of any police officer or employee of the city authorized to enforce this chapter or state law.

(5) Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection. The owner of the tourist rooming house shall provide sufficient trash collection containers and service to meet the demand of the occupants.

(6) Each lease or rental agreement for a tourist rooming house shall include the following terms, notifications and disclosures, which shall also be posted in a conspicuous location inside the unit:

- a. The maximum number of overnight occupants and day use visitors that are permitted.
- b. The number of off-street parking spaces that are provided.
- c. Notification that on-street parking is extremely limited in some areas of the Village.
- d. The trash pick-up day and applicable rules and regulations pertaining to leaving or storing trash or refuse on the exterior of the property.
- e. Notification that the occupant may be cited or fined by the Village or immediately evicted by the owner or local agent, in addition to any other remedies available at law, for violating any other provisions of this Article.
- f. Notification that failure to conform to the occupancy requirements of the tourist rooming house is a violation of this Article.
- g. Notification that amplified sound, including radios, televisions and other electronic devices are subject to the Village's noise regulations

as set forth in Sections 20-58, 20-59, 20-77, 20-79 and 20-80, copies of which shall also be provided.

- h. A recommendation that the occupant participate voluntarily in neighborhood quiet hours by avoiding parties and loud social events between the hours of 10:00 p.m. and 7:00 a.m.
- i. The name of the owner of the unit, local agent and a telephone number at which at least one or the other may be reached at all times.
- j. A copy of the “Good Neighbor Guidelines” which may from time to time be prepared by the permit administrator. These guidelines may include location-specific information, such as local speed limits and parking limitations.
- k. A copy of this Article and Sections 20-58, 20-59, 20-77, 20-79 and 20-80 of the McFarland Municipal Code, as it may be amended from time to time.

(7) Upon receipt of a nuisance complaint or upon notification that any occupant or guest of the short-term vacation rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of the McFarland Municipal Code or any state law, the owner or local agent shall promptly respond and take timely corrective action to prevent a recurrence of such conduct by those occupants or guests. Failure of the owner or local agent to respond promptly or to take timely corrective action regarding the condition, operation, or conduct of occupants of the tourist rooming house shall be a violation of this chapter. An owner or local agent is not required or authorized to act as a peace officer or to intervene in situations that pose a risk to personal safety. The owner, or local agent, shall maintain records of the name, violation, date, and time of each complaint, disturbance, response and corrective action.

(8) The owner and local agent shall keep written records documenting compliance with all elements of the performance standards and the approved nuisance response plan.

§11-362 Fees. Fees under this Article shall be as established by the Village Board from time to time and set forth in Appendix A of this Code.

§11-363 Enforcement and Penalties. The following penalties shall be assessed for violations of this Article:

(a) A violation of Section 11-353 shall be punishable by a forfeiture of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000) for each violation committed hereunder.

(b) Any other violation of any provision of this Article shall be punishable by a forfeiture of not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500) for each violation committed hereunder.

(c) In addition to any other penalty, any violation of this Article may result in the suspension or revocation of the permit, except that if any violation relates to actions or inactions on behalf of a local agent, no suspension or revocation may be imposed provided a different local agent is appointed within a reasonable period of time for the period the permit might otherwise be suspended or revoked.

(d) A citation for any violation of this section shall be issued no later than 30 days from the date evidence establishing the violation has been obtained by the Village. This subsection is directory to Village officers and employees and shall not affect the validity of any citation issued at a later date.

(e) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Chapter or otherwise.”

The above and foregoing Ordinance was duly adopted at a regular meeting of the McFarland Village Board on the 13th day of March, 2017.

APPROVED:

Brad Czebotar, Village President

ATTEST:

Cassandra Suettinger, Village Clerk

4837-4223-4691, v. 1

ORDINANCE 2017 –05			
MOTION		SECOND	
Adrian		Mooney	
ACTION		DATE	
Adopted		03/13/2017	
Referred			
Tabled			
Withdrawn			
Defeated			
Published			
INDIVIDUAL VOTING RECORD			
Adrian	Aye	Lytle	Aye
Brassington	Aye	Mooney	Aye
Czebotar	Aye	Utter, C	Nay
Kolk	Aye		
VOTING RESULTS			
Motion Carried: 6-1			
Motion Defeated:			