

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. _____

CREATING ARTICLE V IN CHAPTER 26 OF THE MICHIGAN CITY MUNICIPAL CODE TO REQUIRE A PERMIT FOR SHORT TERM RENTALS & CREATING SEC 50-167 IN CHAPTER 50 OF THE MICHIGAN CITY MUNICIPAL CODE TO CREATE A PERMIT FEE AND FINE

WHEREAS, the City of Michigan City, Indiana, due to its' proximity to Lake Michigan, has seen an increase in owners utilizing residential properties as short term rentals and advertising the same on such sites as AIRBNB and VRBO; and

WHEREAS, I.C. 36-1-24, et seq., provides that a municipality may require an owner of a short term rental to obtain a permit for each property utilized as a short term rental in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property; and

WHEREAS, the Common Council finds that it would be in the best interest of the City and its residents to establish a permitting process for short term rentals within the City.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, Indiana, in order to protect the public's health and safety related to fire and building safety, sanitation, transportation, traffic control, and pollution control; to implement and enforce residential use and zoning rules related to noise, protection of welfare, property maintenance, and nuisance issues; and to prohibit illegal activity on permitted property, that:

- I. Article V shall be created in Chapter 26 of the Michigan City Municipal Code to read as follows:

Article V. Short Term Rentals.

Sec. 26-325. Definitions.

The definitions as set forth by I.C. 36-1-24, et. seq., shall apply to this Article:

Owner means a person that has an interest in title or a present possessory interest in property that is offered to the public as a short term rental.

Owner occupied short term rental property means property that is the owner's primary residence and is offered to the public as a short term rental.

Permit means a short term rental permit issued by the City of Michigan City, Indiana.

Permitted property means a property that is subject to a valid, unexpired, unrevoked permit issued under this Chapter. A permitted property may contain one (1) or more dwelling units offered as short term rentals.

Short term rental means the rental of:

- (1) a single family home;
- (2) a dwelling unit in a single family home;
- (3) a dwelling unit in a two-family or multifamily dwelling; or
- (4) a dwelling unit in a condominium, cooperative, or time share;

for terms of less than thirty (30) days at a time through a short term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single family residential use. The term does not include property that is used for any nonresidential use.

Short term rental platform means an entity that:

- (1) provides a platform through which unaffiliated parties offer to rent a short term rental to an occupant; and
- (2) collects consideration for the rental from the occupant.

Sec. 26-326. Short Term Rental Permits.

- (a). **Permits Required.** An owner must obtain a permit for each property utilized as a short term rental in Michigan City, however, only (1) permit is required for each single family home, two-family or multifamily dwelling, condominium, cooperative, or time share that an owner rents in whole or in part. A permit covers all:
- (1) dwelling units; and
 - (2) detached accessory structures;
- located on the permitted property that the owner offers to the public as a short term rental.

All owners utilizing a property as a short term rental at the time of adoption of this Ordinance, shall obtain the necessary permit(s) required by this Article by July 1, 2021.

- (b). **Permit Application(s).** An owner must submit a permit application for each property for which a permit is sought to the Michigan City Planning & Inspection Department. If the owner is a corporation, partnership, or other legal entity, the permit application must be made by an officer or agent of the owner. The permit application shall require the owner to provide only the following information for each property:
- (1) The owner's name, street address, mailing address, electronic mail address, and telephone number. If the owner is a corporation or partnership, the application must require the:
 - (A) Owner's state of incorporation or organization; and
 - (B) Names, residence addresses, and telephone numbers of the owner's principal officers or partners.
 - (2) If a property manager is used, the property manager's name, street address, mailing address, electronic mail address, and telephone number.
 - (3) A short description of how each of the owner's short-term rentals on the property are marketed or advertised, including the following:
 - (A) The advertised occupancy limits of each short-term rental.
 - (B) Whether the short-term rental is:
 - (i) A single family home.
 - (ii) A dwelling unit in a single family home;
 - (iii) A dwelling unit in a two-family or multifamily dwelling; or
 - (iv) A dwelling unit in a condominium, cooperative, or time share.
- (c). **Permit Fee & Expiration of Permit.**
- (1) A permit expires one (1) year after the date the permit is issued.
 - (2) The fee for an initial permit (and reissuance if the permit is revoked) is established as set forth in Sec. 50-167(a). The permit must be renewed annually with updated information with no fee for renewal.
- (d). **Issuance of Permit & Display of Permit.** Subject to subsection (e) below, if an owner submits a permit application under this Article that meets the requirements set forth in this Article ~~and pays the initial permit fee~~, the Michigan City Planning & Inspection Department shall issue a permit to the owner within thirty (30) days of receipt of the application.

~~All permitted properties must display the permit decal with the permit number assigned to it in an obvious and visible place near the front door of the permitted property.~~

- (e) **Re-Application for Permit Previously Revoked.** An owner may apply for a permit for a short-term rental for which a previous permit of the owner was revoked by the unit. However, a new permit may not be issued until any outstanding fines are paid for ordinance violation citations issued to the owner with regard to use of the short-term rental.
- (f) **Duty of Owner to Update Application Information.** If any information provided by an owner to the City in the permit application changes, the owner shall provide updated information to the Planning & Inspection Department in writing within thirty (30) business days after the change.
- (g) **Non-Transferrable.** If an owner sells all or part of a permitted property, the permit may not be transferred to the new owner. The new owner must submit an application for a new permit and pay the initial permit fee.

Sec. 26-237. Revocation of Permit.

- (a) **Ordinance Violations.** If three (3) or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the Michigan City Planning & Inspection Department may revoke the permit for that permitted property for a period of not more than one (1) year after the date the permit is revoked.
- (b) **Notice & Hearing.**
 - (1) **Written Notice.** Whenever the Michigan City Planning & Inspection Department determines that there are reasonable grounds to believe that a permit should be revoked, the Department shall give notice of the alleged violation and of the revocation to the owner. The notice shall be in writing, including the statement of the reason(s) why it is being issued and be served upon the owner. The notice shall be deemed to be properly served upon the owner if a copy thereof is sent by registered or certified mail to the owner at the address of the owner as listed on the permit application.
 - (2) **Hearing.** The owner may request and shall be granted a hearing on this matter before the Michigan City Board of Public Works and Safety. The owner shall file in the Office of the City Clerk a written petition requesting the hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of the petition, the Board shall set a time and place for the hearing and shall give the owner written notice thereof. At the hearing, the owner shall be given an opportunity to be heard and to show why the notice should be denied. The hearing shall be open to the public.
 - (3) **Decision and Order.** After the hearing, the Michigan City Board of Public Works & Safety shall either sustain or deny the revocation. The Board's decision shall be deemed to be an order and final. Any notice served pursuant to this Section shall automatically become an order if a written petition for a hearing is not filed in the Office of City Clerk within ten (10) days after the notice is served. The Michigan City Planning & Inspection Department shall not sit as a member of the Board at the hearing on the petition, but shall be allowed to be present, present evidence, cross examine witnesses, and be cross examined by the Petitioner. The Board of Public Works & Safety shall make findings of facts relative to a decision under this Section, which shall be reduced to writing.

Sec. 26-238. Violations of this Article.

- (a) **Failure to Obtain Permit.** Pursuant to I.C. 36-1-24-18, an owner who rents a short-term rental without first obtaining a valid permit from the Michigan City Planning & Inspection Department commits a Class C infraction. Each short-term rental transaction that the short term rental provider completes without a short term rental permit constitutes a separate violation of this Article.
- (b) **Failure to Comply with this Article.** With the exception of the violation stated in subsection (a) above, failure to comply with the other terms and conditions of this Article shall be deemed to be a violation of this Article and subject to a fine as set forth in Sec. 50-167(b).

II. Sec. 50-167 shall be created in Chapter 50 of the Michigan City Municipal Code to read as follow:

Sec. 50-167. Initial Permit Fee Short Term Rental & Fine.

- (a) The fee for an initial permit (and reissuance if permit is revoked) as set forth in Sec. 26-326(c) is ~~\$150.00~~ 0.
- (b) The fine as established by Sec.26-238(b) shall be as follows:
 1st offense: \$250.00;
 2nd offense \$500.00; and
 3rd offense & continuing offenses thereafter: \$750.00.

This Ordinance shall be effective upon passage and approval by the Mayor.

INTRODUCED BY: _____
 Dalia Zygas, Member
 Michigan City Common Council

Bryant Dabney, Member
 Michigan City Common Council

~~Gene Simmons, Member~~
 Michigan City Common Council

Don Przybylinski, Member
 Michigan City Common Council

Angie Nelson Deutch, Member
 Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this _____ day of _____, 2021 by a vote of _____ to _____.

 Michael Mack, President
 Michigan City Common Council

Approved by me, this _____ day of _____, 2021.

 Duane Parry, Mayor
 City of Michigan City, Indiana

ATTEST:

 Gale A. Neulieb, Clerk
 City of Michigan City, Indiana

Prepared by Corporation Counsel Upon Request