

ORDINANCE NO. 471

ORDINANCE AMENDING ORDINANCE AMENDING RENTAL INSPECTION
REQUIREMENTS AND LANDLORD REPORTING IN
THE VILLAGE OF McCULLOM LAKE

ADOPTED BY THE VILLAGE BOARD
OF THE VILLAGE OF McCULLOM LAKE
THIS 28 DAY OF APRIL, 2015

Published in pamphlet form by the authority
of the Village Board of the Village of McCullom Lake
McHenry County, Illinois, this 28 day of APRIL, 2015.

Passed: April 28, 2015
Approved: April 28, 2015

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THE VILLAGE OF McCULLOM LAKE

WHEREAS, the Village of McCullom Lake is authorized to protect the health, safety and welfare of its residents; and

WHEREAS, the Village of McCullom Lake has previously passed and approved Ordinances 412, 415, 429, 445, 459 AND 466 related to Landlord reporting and rental inspections; and

WHEREAS, the Village of McCullom Lake has a proportionately high number of rental units within the Village; and

WHEREAS, the Village has determined that it is necessary to take additional steps to encourage the wellbeing of the residents living in rental units within the Village; and

WHEREAS, the Village has determined that it is difficult to ascertain necessary information regarding occupants when said persons are leasing or renting living quarters within the Village; and

WHEREAS, the Village has passed and approved Ordinance No. 275 and subsequent Ordinances mandating the purchase of Village stickers for vehicles housed in the Village; and

WHEREAS, the Village levies waste water treatment charges based upon the number of occupants in each dwelling; and

WHEREAS, the Village is entitled to know the number of residents as well as the number of vehicles housed at each rental unit within the Village; and

WHEREAS, the Village has determined that

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of McCullom Lake, McHenry County, Illinois, as follows:

SECTION 1: The above recitals are incorporated herein.

SECTION 2: Section 5-12 of the Code of Ordinances of the Village of McCullom Lake is hereby deleted in its entirety and replaced with the following section:

Sec. 5-12. - Rental housing requirements and landlord reporting.

(A) Applicability. This section shall be applicable to all owners and landlords and the real property that they rent/lease located within the corporate limits of the Village. All requirements, obligations and penalties herein shall apply jointly and severally to the landlord and owner(s) of the premises.

(B) Requirements. Unless specifically exempted herein, all residential rental units within the Village shall be subject to inspection by the Village. While it is expected that every such rental unit will comply with all building codes of the Village, the inspection shall be limited to the following specific items related to open and obvious health and safety hazards, which shall be addressed and corrected prior to the occupancy of such premises or the continued use of such property for residential occupancy:

- i. All outlet covers in place;
- ii. No broken windows;
- iii. No exposed wiring;
- iv. No mold or mold-like substance found openly visible occupying any one area in excess of two square feet;
- v. No holes in the floor or ceiling;
- vi. Working door locks on all exterior doors;
- vii. Smoke detectors present and operational per current code;
- viii. Carbon monoxide detectors present and operational per current code;
- ix. No visible signs of rodent infestation;
- x. No obvious and open hazards.
- xi. Flushing toilets;
- xii. Running water;
- xiii. Properly vented plumbing, per current codes.

(C) Non-liability of Village. It is not the intent of this section to certify the safety of any such residence, only to verify that a landlord has, in fact, complied with the above requirements. All landlords will be required to execute a statement as to the number of tenants upon completion of the inspection as well as providing any evidence that such property is subject to the Housing and Urban Development (HUD) rental programs which would otherwise require inspections. Said statement will indemnify the Village from any accidents, injuries, claims or casualties resulting from any occurrence on any such rental property.

(D) Reporting and fees.

i. There shall be a fee of \$100.00 for the inspection of a rental unit within the Village. Every two (2) years thereafter the residence shall be inspected and a fee of \$75.00 shall be paid. If there is a new tenant/occupant before the end of the two (2) year period, the inspection fee is \$35.00 and will be required prior to a new tenant/occupant moving in. The fee shall be payable within ten (10) days of the Village giving notice of the required inspection to the owner/occupant/landlord of the property. After payment of the fee, the Village shall, within ten (10) business days, make inspection of said premises for compliance with the guidelines set forth herein. Any property which is exempt from this fee, consistent with this Section, shall not be required to have the Village inspection completed.

ii. All buildings, or portions of buildings, subject to this section shall be inspected at least every two (2) years, unless exempt from inspection as set forth below. Written notice of the date of inspection shall be given to all owners/occupants at least 5 days prior to the date of inspection. Said notice shall be on a form prescribed by the Village building inspector and shall advise the owner and/or

occupant of the date and time of the inspection, his/her right to refuse the inspection and the Village's right to seek issuance of an administrative search warrant in the event of any refusal. No inspection of a building shall occur without the consent of the occupant unless an administrative search warrant is obtained. In those cases where the owner and occupant are not identical, an owner's denial of access shall not preclude a tenant from granting access.

iii. Landlords shall be required to report to the Village upon the entry into a lease with new occupants/tenants. Upon such a report, the leased premises shall be inspected prior to beginning date of tenancy as set forth above. All such inspections shall be made so as not to delay the start of the lease term, provided, however, that the landlord has timely reported the change in occupants. All such inspections that are the result of the change in tenants shall pay a reduced inspection fee of \$35.00. If reinspection is required for any reason, the first reinspection fee shall be \$25.00. Any inspections required after the first reinspection shall be \$25.00 per inspection, payable by the landlord at the time of such reinspection.

iv. Nothing herein shall preclude the inspection of any building subject to this Section more frequently than set forth hereinabove, provided however, that any inspection more frequent than set forth hereinabove shall be based upon a citizen's complaint or other evidence indicating that it is more probable than not that an ordinance violation exists.

v. All landlords within the Village shall make an annual report to the Village within the first quarter of the calendar year. At that time, the landlords shall be required to report the number of tenants occupying the structure or structures being reported, the make, model and registration number of all vehicles owned by any such tenant, a declaration that such unit is or is not part of a government subsidized housing program, that there have been no safety issues (as identified herein) which exist at, in or on the premises, as well as scheduling the inspection if required hereunder. In addition to such statements, in the year where an inspection is not required, the Landlord shall make an affirmative written declaration that he/she has inspected the smoke and carbon monoxide detectors in such unit and that the same are operating properly.

vi. Nothing herein shall preclude the inspection of any building subject to this section more frequently than set forth hereinabove, provided however, that any inspection more frequent than set forth hereinabove shall be based upon a citizen's complaint or other evidence indicating that it is more probable than not that an ordinance violation exists.

(E) Administrative search warrants.

(1) It shall be the responsibility of the owners, owner's agent or occupant to be present at the building on the date and time of inspection indicated on the written notice to provide access for the inspection. Owners or occupants wishing to deny access to their property and wishing to have the Village obtain an administrative search warrant may notify the Village in writing of such denial on the form provided. Any failure by the owner or

occupant to respond to the Village's request for consent shall be deemed a denial of consent.

(2) Where the owner and/or occupant has refused to give consent to an inspection of the building, the building inspector, or his designated agent, may apply to the Circuit Court of McHenry County for an administrative search warrant.

(3) The court may consider any of the following factors along with such other matters as it deems relevant in its decision as to whether a warrant shall be issued:

- i. Eyewitness accounts of violation(s);
- ii. Citizen complaints;
- iii. Tenant complaints;
- iv. Plain view violation(s);
- v. Violation(s) apparent from Village records;
- vi. Property deterioration;
- vii. Age of property;
- viii. Nature of alleged violations;
- ix. Similar property in the area;
- x. Documented violations of similar properties in the area;
- xi. Passage of time since last inspection;
- xii. Previous violations on the property;
- xiii. The use for which the building was constructed.

(4) Cause for issuance of an administrative search warrant shall be deemed to exist in light of reasonable legislature and administrative standards which show that there is a reason to believe that a condition of nonconformity exists with respect to a particular property in violation of a Village ordinance.

(F) Violations. The landlord of any such rental unit inspected shall be notified in writing of any violations found as a result of the inspection to the rental unit. Unless disputed in writing by the landlord within seven calendar days of receiving said notice, there shall be no occupancy of the unit until all repairs are completed and the premises reinspected. If the violation is disputed in writing by the landlord, the Village inspector, along with an officer of the Village, shall reinspect the premises and document the violations. The evidence shall be submitted to the Board of Trustees prior to their next regularly scheduled meeting. The landlord shall have the right to appear before the Board to contest the findings. The Board shall then determine whether or not the unit complies with this section. If the unit does not comply, the landlord shall be ordered to comply prior to allowing the unit to be occupied. If the landlord further disputes the violations, the Village inspector shall file an ordinance violation against the property and the case will be referred for prosecution to the Village attorney.

(G) Fines and penalties. There shall be no fine assessed to any landlord if the violation cited in the written notice described in paragraph (E) is corrected within seven days of receipt of said written notice. If the landlord fails or refuses to correct violation within the seven days, the landlord shall be in violation of this section and said matter shall be referred to the Village attorney for prosecution as an ordinance violation. Any landlord violating this section shall be subject to a fine of not less than \$100.00 nor more than

\$500.00 for each violation that the court deems the landlord guilty of. Each day the violation exists shall be considered a new violation.

(H) Notice of inspections. The Village shall comply with the notice requirements of this Section. All attempts shall be made to accommodate the landlord so that the landlord or his representative is present at the unit for the inspection.

SECTION 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4: If any provision, clause, sentence, paragraph, section, or part of this Ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the Village of McCullom Lake that this Ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not have been included.

PASSED this 28 day of APRIL, 2015.

	AYES	NAYS	ABSENT	ABSTAIN
Trustee Dana Glave	<u>X</u>	_____	_____	_____
Trustee Denise Bogacz	<u>X</u>	_____	_____	_____
Trustee Mike Fritz	<u>X</u>	_____	_____	_____
Trustee Nancy Matthesius	<u>X</u>	_____	_____	_____
Trustee Marilyn Shepit	<u>X</u>	_____	_____	_____
Trustee Mike Walter	<u>X</u>	_____	_____	_____
TOTAL:	<u>6</u>	_____	_____	_____

APPROVED this 28 day of APRIL, 2015.



VILLAGE OF McCULLOM LAKE, ILLINOIS

BY: Terry Counley
Terry Counley
Village President

ATTEST:
[Signature]
Sherri Messina, Village Clerk