

ORDINANCE NO. C-15-29

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING ARTICLE X. – VACATION RENTALS, OF CHAPTER 15 – BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO PROVIDE FOR REGULATION OF VACATION RENTALS AS DEFINED IN SECTION 509.242, FLORIDA STATUTES (2015); AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, Subsection 163.3202(1), Florida Statutes (2015), requires municipalities to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plans; and

WHEREAS, the City of Fort Lauderdale Comprehensive Plan Future Land Use Map designates areas for residential use that are intended primarily for dwellings as well as other land uses that support the residential environment; and

WHEREAS, the City of Fort Lauderdale established residential zoning districts within its Unified Land Development Regulations (“ULDR”) consistent with the residential land use designations of the City of Fort Lauderdale Comprehensive Plan Future Land Use Map; and

WHEREAS, the ULDR provides a list of permitted and conditional uses permitted within each zoning district and prohibits any use not substantially similar to those permitted uses; and

WHEREAS, Chapter 509, Lodging and Food Service Establishments; Membership Campgrounds, regulates public lodging establishments, which is divided into the two subcategories: transient public lodging establishment and nontransient public lodging establishment; and

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WHEREAS, Subsection 509.013(4)(a)1., Florida Statutes (2015), defines transient public lodging establishment as “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.”; and

WHEREAS, land uses that are transient public lodging establishments, as defined in Section 509.013, Florida Statutes (2015), are non-residential uses not permitted within City’s single family residential zoning districts and are inconsistent with the City of Fort Lauderdale Comprehensive Plan Future Land Use Map; and

WHEREAS, the Chapter 2011-119, Laws of Florida, created a new classification of public lodging establishment known as vacation rentals that is defined in Section 509.242(c), Florida Statutes (2015), as “any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.”; and

WHEREAS, Subsection 509.032(7), Florida Statutes (2015), provides that local laws, ordinances, or regulations may not prohibit vacation rentals or regulate the duration and frequency of rental of vacation rentals; and

WHEREAS, the Florida Attorney General opined in Advisory Opinion AGO 2014-09, that “[t]o the extent a zoning ordinance addresses vacation rentals in an attempt to prohibit them in a particular area where residences are otherwise allowed, it would appear that a local government would have exceeded the regulatory authority granted in Section 509.032(7)(b), Florida Statutes.”; and

WHEREAS, unregulated vacation rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of vacation rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, the other classifications of transient public lodging establishments are subject to stricter development standards, undergo annual inspections, and have more stringent operational and business requirements; and

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WHEREAS, many residential structures were constructed prior to the enactment of more current building and fire prevention codes that require minimum life, safety improvements, like hardwired or interconnected smoke detectors, carbon monoxide detectors, or pool safety drains, etc.; and

WHEREAS, Section 509.032(7), Florida Statutes, authorizes local governments to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to Sections 553.80 and 633.206, Florida Statutes (2015); and

WHEREAS, the City of Fort Lauderdale finds a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, implementing its comprehensive plan, and establishing and enforcing minimum life safety standards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article X, Vacation Rental, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby created to provide as follows:

ARTICLE X. VACATION RENTAL

Sec.15-270. Purpose.

The city commission finds that certain transitory uses of residential property tend to affect the residential character of the community and are injurious to the health of the community. Therefore, it is necessary and in the interest of the public health, safety, and welfare to monitor and provide reasonable means for citizens of the City of Fort Lauderdale to mitigate impacts created by such transitory uses of residential property within the City of Fort Lauderdale. It is unlawful for any owner of any property within the geographic bounds of the City of Fort Lauderdale, Florida, to rent or operate a vacation rental of residential property contrary to the procedures and regulations established in this Article or applicable state statute, except as provided in subsection 15-272(b).

Sec. 15-271. Definitions.

For the purpose of this Article, the following terms, phrases, words, abbreviations and

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their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their meaning as provided in Section 1-2, Rules of construction, of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Garbage as defined in Section 24.1 of the Code of Ordinances.

Residential property as defined in Section 47-35.1 of the Unified Land Development Regulations.

Responsible party shall mean the owner or the person designated by the owner of the property to be called upon to answer for the maintenance of the property and the conduct and acts of occupants of residential properties.

Transient Occupants means any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as a Vacation Rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the Vacation Rental is a Transient Occupant.

Vacation Rental shall mean any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is rented to Transient Occupants more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to Transient Occupants, but that is not a timeshare project.

Sec. 15-272. Registration Required.

(a) It is unlawful for any person to allow another person to occupy any residential property as a Vacation Rental within the City of Fort Lauderdale, or offer such rental services within the City of Fort Lauderdale, unless the person has registered the Vacation Rental property with the City of Fort Lauderdale and the Vacation Rental property has been issued a certificate of compliance in accordance with the provisions of this Article.

(b) A person may allow another person to occupy any residential property as Vacation Rental without the issuance of a certificate of compliance if:

1. The residential property has an effective and valid license as a Vacation Rental

classification of public lodging establishment issued by the Florida Department of Business and Professional Regulations prior to August 18, 2015; and,

2. The residential property is not in violation of any section of the Code of Ordinances of the City of Fort Lauderdale; and,

3. An application for registration of the residential property as a Vacation Rental has been filed pursuant to Section 15-273 and all applicable fees have been paid; and,

4. That said occupancy was scheduled prior to August 18, 2015 as evidenced by a written and validly executed rental agreement or contract provided to the City Manager no later than November 2, 2015.

Sec. 15-273. Application for registration.

Application for registration of a Vacation Rental shall be made to the City Manager or his or her designee and shall set forth at a minimum:

- (1) The legal description of the property offered for rental (i.e., address, lot, block and subdivision name);
- (2) Name, address, and phone number of owner of said property;
- (3) Name, address, and emergency contact phone number of Responsible party for said property, which shall be a twenty-four (24) hour, seven (7) days a week contact number;
- (4) That the phone number for the Responsible party will be answered twenty-four (24) hours a day, seven (7) days a week by the Responsible party;
- (5) Acknowledgements by owner of the following:
 - a. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the City of Fort Lauderdale;
 - b. That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Chapter 17, Noise Control;
 - c. That the owner shall comply with all applicable city, county, state and

federal laws, rules, regulations, ordinances and statutes.

- d. That no solid waste container shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and solid waste container shall be removed before midnight of the day of pickup;
 - e. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance;
 - f. That other properties are not jointly shared commodities and should not be considered available for use by transient occupants of the property subject of the application; and
- (6) Proof of owner's current ownership of the property;
 - (7) Proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax; and
 - (8) Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment; and
 - (9) Proof of compliance with Subsection 15-275.

Submission of an incomplete registration application form shall result in rejection of the application.

Sec. 15-274. Fees for registration.

The City of Fort Lauderdale charges reasonable fees for registration to compensate for administrative expenses. The fees for registration shall be provided for, from time to time, by resolution adopted by the City Commission of the City of Fort Lauderdale.

Sec. 15-275. Responsible party required.

Whenever any property is required to be registered under this Article, the owner shall appoint a natural person who resides within twenty-five (25) miles of the Vacation Rental property, the distance measured using airline measurement from the closest property lines of

the Vacation Rental and the Responsible party's residence, to serve as the Responsible party for service of notices as are specified herein, and notices given to the Responsible party shall be sufficient to satisfy any requirement of notice to the owner. An initial Responsible party shall be designated and name submitted with the application for registration, and the city manager or his designee shall thereafter be notified of any change of Responsible party within fifteen (15) days of such change. Further, it is the affirmative duty of the Responsible party to:

- (1) Inform all guests, in writing, prior to occupancy of the property of applicable City of Fort Lauderdale ordinances concerning noise, vehicle parking, garbage, and common area usage with a copy of the applicable City of Fort Lauderdale ordinances printed in the English language and posted prominently near the main entrance of the establishment;
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the Florida Building Code and the Code of Ordinances of the City of Fort Lauderdale, Florida, as determined by the building official or his designee;
- (3) See that the provisions of this Article are complied with and promptly address any violations of this Article or any violations of law which may come to the attention of the Responsible party;
- (4) Be available with authority to address and coordinate solutions to problems with the rental of the property twenty-four (24) hours a day, seven (7) days a week;
- (5) Be situated close enough to the property as to be able to, and shall, respond to emergency calls within one (1) hour of notification;
- (6) Keep available a register of all guests, which shall be open to inspection by authorized personnel of the City of Fort Lauderdale at all times; and
- (7) Maintain the entire property free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection.

Sec. 15-276. False information.

It shall be unlawful for any person to give any false or misleading information in connection with the application for registration required by this Article.

Sec. 15-277. Minimum Requirements for Issuance of a Certificate of Compliance.

The city manager or his designee may issue a Certificate of Compliance to the applicant upon proof of the following:

- (a) The owner or Responsible party completes the City of Fort Lauderdale registration application form;
- (b) The registration fee has been paid to the City of Fort Lauderdale;
- (c) A business tax receipt from the City of Fort Lauderdale pursuant to Chapter 15 of the Code of Ordinances;
- (d) A business tax receipt from Broward County;
- (e) A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes;
- (f) A Florida Department of Business and Professional Regulation license as a transient public lodging establishment;
- (g) An affidavit, demonstrating maintaining initial and on-going compliance with Vacation Rental Standards contained herein, plus any other applicable local, state and federal laws, regulations and standards to include, but not be limited to Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A, Florida Administrative Code; and
- (h) A copy of the form vacation rental/lease agreement to be used when contracting with Transient Occupants and guests.

Sec. 15-278. Vacation Rental Standards.

The following standards shall govern the use of any vacation rental as a permitted use:

1. Minimum life/safety requirements:
 - a. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.
 - b. Sleeping rooms. All sleeping rooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.
 - c. Smoke and carbon monoxide (CO) detection and notification system. If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the vacation rental unit, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be required to be installed and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential.
 - d. Fire extinguisher. A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.
 - e. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the City of Fort Lauderdale
2. Maximum occupancy. The occupancy of a Vacation Rental shall not exceed:
 - a. One (1) person per one hundred fifty (150) gross square feet of permitted, air-conditioned living space, and
 - b. Two (2) persons per sleeping room, meeting the requirements for a sleeping room.

3. Solid waste handling and containment. Based on the maximum transient occupancy permitted, City solid waste containers shall be as required in Chapter 24 of this Code. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval and be incorporated into the Certificate. For purposes of this section, a solid waste container shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pickup, and the solid waste container shall be removed from curbside before midnight of the day of pickup.
4. Minimum vacation rental/lease agreement wording. The vacation rental/lease agreement shall contain the minimum information as provided for in this subsection 15-278.
5. Minimum vacation rental lessee information. The vacation rental lessee shall be provided with a copy of the information required in subsection 15-278 and shall post the following conspicuously within the establishment:
 - a. A statement advising the Occupant that any sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 10:00 p.m. and 7:00 a.m. daily and at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 10:00 p.m. daily;
 - b. A sketch of the location of the off-street parking spaces;
 - c. The days and times of trash pickup;
 - d. The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable;
 - e. The location of the nearest hospital; and
 - f. The City's non-emergency police phone number.
 - g. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".
6. Designation of a vacation rental responsible party capable of meeting the duties provided in subsection 15-276.

7. Advertising. Any advertising of the vacation rental unit shall conform to information included in the Vacation Rental Certificate of Compliance and the property's approval, particularly as this pertains to maximum occupancy.
8. Sexual offenders and sexual predators. It is unlawful to allow another person to occupy any residential property as a Vacation Rental within the City of Fort Lauderdale, with the knowledge that it will be occupied by a person prohibited from establishing a permanent residence or temporary residence at said residential property pursuant to section 16-127 of the Code of Ordinances, if such place, structure, or part thereof, trailer or other conveyance, is located within one thousand four hundred (1,400) feet of any school, designated public school bus stop, child day care facility, park or playground or other place where children regularly congregate as described in Article VI, Chapter 16 of the Code of Ordinances.
9. Posting of Certificate of Compliance. The Certificate of Compliance shall be posted on the back of or next to the main entrance door and shall include at a minimum the name, address and phone number of the Responsible party and the maximum occupancy of the Vacation Rental.
10. That all vehicles associated with the Vacation Rental must be parked within a driveway in compliance with the Code of Ordinances of the City of Fort Lauderdale.
11. Other standards. Any other standards contained with the Code of Ordinances and the Unified Land Development Regulations of the City of Fort Lauderdale to include, but not be limited to: noise, setbacks, stormwater and similar provisions.

Sec. 15-279. Initial and Routine Compliance Inspections of Vacation Rentals.

(a) An inspection of the dwelling unit for compliance with this section is required prior to issuance of an initial Vacation Rental Certificate of Compliance. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial Vacation Rental Certificate of Compliance as provided herein.

(b) Once issued, a Vacation Rental unit must be properly maintained in accordance with the Vacation Rental Standards herein and will be re-inspected annually. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in the suspension of the vacation rental certificate of compliance until such time as the violations are

corrected and re-inspected.

(c) The inspections shall be made by appointment with the Vacation Rental responsible party. If the inspector has made an appointment with the responsible party to complete an inspection, and the Responsible Party fails to admit the officer at the scheduled time, the owner shall be charged a "no show" fee in an amount to be determined by resolution of the City Commission of the City of Fort Lauderdale to cover the inspection expense incurred by the City of Fort Lauderdale.

(d) If the inspector(s) is denied admittance by the vacation rental Responsible Party or if the inspector fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing vacation rental certificate of compliance or the application for vacation rental.

- (1) For an initial inspection, the notice of failure of inspection results in the certificate of compliance not being issued; the Vacation Rental is not permitted to operate without a valid certificate of compliance.
- (2) For a subsequent inspection, the notice of failure of inspection is considered a violation and is subject to enforcement remedies as provided herein.

Sec. 15-280. Registration not transferable.

No registration issued under this Article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

Sec. 15-281. Expiration of registration.

All registrations issued under the provisions of this Article shall be valid for no more than one year, and all registrations shall expire on September 30th of each year. Dates for renewal and applicable late renewal fees shall be established by resolution of the City Commission of the City of Fort Lauderdale.

Sec. 15-282. Revocation.

(a) Any certificate of compliance issued pursuant to this Article may be denied, revoked, or suspended by the City Manager upon the adjudication of a violation of this Article, any City of Fort Lauderdale Ordinance, or state law by the Responsible party, property owner or

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Transient Occupant attributable to the property for which the certificate of compliance is issued. Such denial, revocation or suspension is in addition to any penalty provided herein.

(b) Offenses/violations.

- (1) Non-compliance with any provisions of this Article shall constitute a violation of this Article.
- (2) Separate violations. Each day a violation exists shall constitute a separate and distinct violation, except that occupancy violations shall be governed by subsection 15-282(e).

(c) Remedies/enforcement.

- (1) Violations of this article shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective vacation rental program it is key that vacation rental Responsible Parties are responsive and responsible in the management of the property for compliance with this section. Code enforcement activities will be in accordance with Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale, Florida and the Unified Land Development Regulations of the City of Fort Lauderdale.
- (2) Additional remedies. Nothing contained herein shall prevent the City of Fort Lauderdale from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a Vacation Rental certificate of compliance, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

(d) Suspension of Vacation Rental Certificate of Compliance. In addition to any fines and any other remedies described herein or provided for by law, a special magistrate may suspend a Vacation Rental certificate of compliance in accordance with the following:

(1) Suspension time frames.

- a. Upon a third violation of this Article the vacation rental certificate shall be suspended for a period of seven (7) calendar days.

- b. Upon a fourth violation of this Article the Vacation Rental Certificate shall be suspended for a period of thirty (30) calendar days.
- c. For each additional violation of this Article the Vacation Rental Certificate shall be suspended for an additional thirty (30) calendar days up to a maximum period of twelve (12) months. For example, the fifth violation shall be for sixty (60) calendar days; the sixth violation shall be for ninety (90) calendar days, and so on.

(2) Suspension restrictions. A vacation rental may not provide transient occupancy during any period of suspension of a Vacation Rental certificate.

- a. The suspension shall begin immediately following notice, commencing either:
 - i. at the end of the current vacation rental lease period; or
 - ii. within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the special magistrate.
- b. Operation during any period of suspension shall be deemed a violation pursuant to this article and shall be subject to daily fine, up to One thousand dollars (\$1,000.00) or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.

(e) Number of violations. For purposes of this section only, violations shall be considered per the rental period or per every seven (7) days, whichever is less and for only those violations in which a code enforcement citation or criminal charge was issued. Violations could potentially occur multiple times over the same rental period.

Sec. 15-283. Complaints.

Whenever a violation of this Article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the city manager or his designee. The city manager or his designee shall promptly record such complaint, investigate, and take action thereon in accordance with this article and Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Sec. 15-284. Enforcement.

The provisions of this Article shall be enforced as provided in Chapter 11 – Code Enforcement, of the Code of Ordinances of the City of Fort Lauderdale, Florida.

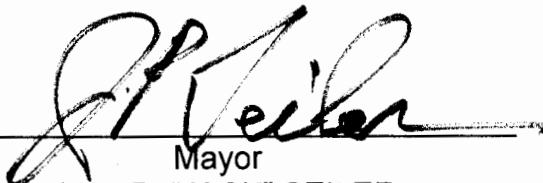
SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be in full force and effect on November 1, 2015.

PASSED FIRST READING this the 7th day of July, 2015.

PASSED SECOND READING this the 18th day of August, 2015.



Mayor
JOHN P. "JACK" SEILER

ATTEST:



City Clerk
JEFFREY A. MODARELLI

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