

DRAFT
VACATION RENTAL REGISTRATION WORKSHOP
CITY OF FORT LAUDERDALE
CITY COMMISSION CHAMBERS
100 NORTH ANDREWS AVENUE
FT. LAUDERDALE, FLORIDA 33301
SEPTEMBER 22, 2016 – 6:00 P.M.

Staff

Anthony Fajardo, Director, Department of Sustainable Development
Jeremy Earle, Deputy Director, Department of Sustainable Development
Rhonda Hasan, Assistant City Attorney
D'Wayne Spence, Assistant City Attorney
Dick Eaton, Acting Code Enforcement Administrator
Ingrid Gottlieb, Senior Code Compliance Officer
Lillian Haughton, Senior Code Compliance Officer
Stacey Gordon, Clerk III
Mona Laventure, Recording Secretary, Prototype, Inc.

Welcome and Program Overview

The meeting came to order at 6:05 p.m.

Anthony Fajardo, Director of the Department of Sustainable Development, welcomed all present, stating that tonight's meeting was a result of City Commission direction given at their meeting of September 7, 2016. Staff will review the proposed amendment and hear input from stakeholders. The City Commission will hear the first reading of this Item at their October 5, 2016 meeting.

Mr. Fajardo continued that on September 28, 2016, a supplemental workshop will be held to review any changes proposed to the Ordinance as a result of tonight's discussions. He recalled that at the September 7 City Commission meeting, three specific items were brought to light:

- Whether or not there should be different fees for owner-occupied vacation rentals
- Whether or not occupancy should be limited to two people per bedroom
- Whether or not the full renewal fee should be required of registered parties approaching the renewal deadline

Mr. Fajardo advised that any individuals wishing to speak at tonight's meeting would be allowed three minutes to address their concerns. The City Commission's direction of September 7 specified that Staff must hold a workshop to discuss the actual proposed Ordinance, as there was not a completed draft available at the time of the previous workshop meeting.

Presentation and Stakeholder Discussion

Mr. Fajardo showed a PowerPoint presentation highlighting the items that have changed between the first iteration of the proposed Ordinance in August 2015 to the amended Ordinance presented at tonight's meeting. He further clarified that the Ordinance passed by the City Commission in 2015 is currently being enforced by the City, and amendments to that document are the topic of today's meeting. Until the amended Ordinance is adopted, there will be no changes to current enforcement.

Changes include:

- Definition of Vacation Rental Certificate of Compliance;
- Definition of sleeping rooms;
- Revision to the definition of transient occupants;
- Revision to the definition of vacation rental;
- Addition of language specific to single-, two-, three-, and four-family houses or dwellings as specified in Florida Statutes;
- Language clarifying when a vacation rental application is pending and when occupancy may occur, subject to specific criteria;
- Addition of language specific to the registration of vacation rentals on or before September 30 each year;
- Advertisement of a vacation rental is considered evidence of the property's use as such; however, language stipulates that an Applicant may provide Staff with evidence that the property does not fall under the definition of vacation rentals;
- Addition of language specific to separate application requirements for each dwelling unit within a multi-dwelling unit building;
- Addition of language to address any change to the property in terms of parking, square footage, number of bedrooms, or maximum occupancy;
- Clarification that fees are nonrefundable;
- Removal of distance requirement for the party responsible for the property, providing that the responsible party must be able to be on-site to address any issues within one hour;
- Clarification of the written summary of information to be provided to guests, including applicable Fort Lauderdale Ordinances;
- Addition of language requiring the responsible party to perform on-site inspections at the end of each rental period to ensure maintenance;
- Addition of language regarding sworn statements;
- Addition of language clarifying minimum requirements for issuance of a Certificate of Compliance regarding nonrefundable fees and satisfaction of inspection of properties subject to suspension;
- Clarification of language regarding dwelling units and minimum housing Code;
- Clarification of the time period for compliance, subject to Florida Department of Business and Professional Regulations license issuance;
- Revision to the maximum occupancy regulation, allowing two persons per bedroom;

- Language clarifying advertisement of properties, expiration of registration, and clarifying City Ordinances regarding sexual predators;
- Addition of language to address the time period for renewal, which is now 60 days, as well as penalties for late renewal;
- Clarification of penalties, offenses, and revocation, stipulating that each offense is a separate violation; also clarifying that each offense is a civil infraction for which both law enforcement and Code Enforcement Officers may issue citations;
- Revision of language in terms of the periods of time for suspension, raising the time period for a third violation to 180 days and a fourth violation to 365 days; any additional violations may extend from 30 days to 12 months; violations of Florida Building Code or Fire Prevention Code begin five working days after the citation is issued; renewals and/or applications may be submitted during periods of suspension.

At this time Mr. Fajardo opened public comment, requesting that comments do not address any existing complaints or Code Enforcement cases on neighboring properties. He reiterated that the amended Ordinance will be heard for its first reading on October 5, 2016, with a second reading anticipated on October 22, 2016.

Steve Coleman, private citizen, asserted that while there are already Ordinances in existence to regulate vacation rental properties and the activities at these properties, these regulations are not being enforced. He described some of the issues related to vacation rental properties in his neighborhood, which he stated were not addressed by Police or Code Enforcement. He concluded that transient lodgings should compete with the City's hotels and motels, not with the properties of neighboring residents.

Mr. Fajardo explained that the City convened a committee to develop regulations that could be used to address vacation rental use; however, legislation was passed at the State level which pre-empted the committee's recommendations. This State legislation prohibited the City from regulating vacation rental use unless there were already Ordinances on the books to regulate it. At a later date, the State Legislature subsequently modified its law to allow municipalities some regulation of vacation rentals.

Mr. Fajardo continued that existing Ordinances are cross-referenced in the draft amended Ordinance. The draft Ordinance is intended to allow the City to regulate vacation rentals to the extent it is allowed by the State.

Yavocka Young, realtor, pointed out that tourism is a major driver of industry in Fort Lauderdale. She noted that many families who want to visit the City may not be able to afford a hotel and have to seek affordable accommodations elsewhere.

David Bowles, owner/manager of vacation rental properties, asked how the number of occupants allowed in sleeping rooms would address children. Mr. Fajardo replied that

there is no current regulation to exempt children of any age from the Ordinance, which requires a limit of two persons per sleeping room.

John Hoffman, private citizen, recommended that the Ordinance require a minimum rental of 30 days in order to prevent transient activity in residential neighborhoods.

Assistant City Attorney D'Wayne Spence clarified that State Statute 509.032 prohibits municipalities from enacting any local Ordinances to prohibit vacation rentals or regulate their duration or frequency of rental.

Mr. Hoffman pointed out that the property in question was originally platted as part of a residential community, which he felt would limit the property's non-residential use. Mr. Fajardo reiterated that the City must act within the limitations imposed upon it by the State Statute. Changes to the use of the property are also regulated at the State and not the City level.

Joe Amorsino, private citizen, stated that he is the former president of the Lauderdale Beach Homeowners' Association and served as vice chair of the City's Short-Term Residential Use Committee in 2009. He did not feel the discussion of amending the vacation rental Ordinance was compliant with the City's community beautification efforts, and recommended that environmental impact and other studies be undertaken to determine the impact vacation rental properties have on surrounding communities.

Attorney Spence reiterated that the City has held a number of public meetings at which individuals have raised concerns. While City Staff members are not policy makers, they are attempting to assist policy makers in the adoption of regulations. He encouraged members of the public to directly address the draft amended Ordinance.

Mr. Amorsino declared that the amended Ordinance is not consistent with some of the projects undertaken throughout the City. He did not feel there is sufficient enforcement of parking and other issues, or that the existing Ordinance should be amended.

Chrysti Cassel, private citizen, described some of the issues related to vacation rental properties in her neighborhood, and advised that the City impose strict regulations where possible, such as requiring doors on bedrooms or sleeping rooms.

Carolyn Edelstein, private citizen, observed that most vacation rental properties are used as "party houses" attracting several attendees and cars to residential neighborhoods. She added that she did not take issue with services such as Airbnb if they are used responsibly.

Rob Larson, private citizen, commented that there are three types of short-term rentals: houses that are rented full-time, houses rented during the owners' vacations, and rooms for rent while the owner occupies the property. He concluded that the Ordinance

provides neighbors with a starting point to raise the issue of violations, and characterized the \$750 registration fee as punitive or discouraging to these properties.

Mr. Fajardo clarified that the existing Ordinance defines vacation rentals, and this definition is not expected to be changed with the proposed amendment. If a property is only rented for two weeks or less per year, it does not meet the City's definition of a vacation rental and the Ordinance is not applicable. With regard to owner-occupied rentals that follow the Airbnb model, other cities may allow for exemption of these properties. He concluded that he could not speak to any prospective changes that may be made to the proposed Ordinance as a result of comments from today's meeting.

Marilyn Mammano, President of the Council of Fort Lauderdale Civic Associations, characterized the greatest problem as vacation rental properties along the beach, which can attract partygoers as well as other vacationers, and felt this could only be controlled by maintaining limits on the number of people who may occupy the property. She agreed with the proposed definition of sleeping rooms, which could be used to enforce this limit, and did not feel that other types of rooms, such as living rooms with fold-out sofa beds, should be considered sleeping rooms. She concluded that she was in favor of passing the amended Ordinance.

Brian Donaldson, President of the Birch Park Beach Homeowners' Association, recalled that members of this organization met with Code Enforcement in February 2016, as there is a heavy concentration of vacation rental properties in his area. He encouraged all present to assist the City in identifying these properties, many of which are advertised online. He noted that of the 26 properties in his neighborhood that are actively advertised, 13 have registered as vacation rentals, six have ceased to do transient business and are offered only for annual rental, and six have not responded to City notices. Four more properties are actively being rented but have not yet registered.

Mr. Donaldson continued that four additional properties in the area have been sold for the purpose of use as vacation rentals. He asked how properties that refuse to register are handled by the City, and requested that the City's website clarify what action can be taken after hours and/or on weekends when problems arise.

Senior Code Compliance Officer Ingrid Gottlieb replied that the majority of after-hours complaints focus on noise issues or cars. Because Code Enforcement is not available to address these issues, she recommended that residents call the Police Department; she also recommended that they let Code Enforcement know a complaint was made. Property owners who are not willing to comply with the Ordinance must go before a Special Magistrate, where they can be fined for noncompliance.

Mr. Fajardo emphasized the importance of a partnership between Code Enforcement and residents, who must let them know if unregistered vacation rentals exist. He reiterated that identifying these properties is the first step in a process.

Yelka Mikolji, member of the Flagler Village Board of Directors, stated that she owns a registered vacation rental property. She requested further clarification of the renewal process, and concluded that she did not feel a landline should be required in each property.

Lillian Haughton, Senior Code Compliance Officer, explained that the renewal process is very similar to the original application process: the first page of the application includes a box that should be used to indicate renewal. A complete application is required each year. Mr. Fajardo added that applicants may submit the same application with a revised cover sheet if no information has changed.

Yavocka Young, realtor, suggested that once a vacation rental owner has received his or her Certificate of Compliance, copies of the certificate could be made available to adjacent property owners, as it includes pertinent information.

Mark Robinson, vacation rental property owner, stated that he supported the Ordinance passed in 2015 with the exception of the fee, which he felt was high. He pointed out that vacation rentals bring a good deal of money into the local economy, characterized "party houses" as a minority among rental properties, and noted that less than 4% of the properties advertised on sites such as Airbnb are registered with the City, which he felt was the result of exorbitant fees. He concluded that reputable businesses are being penalized for the actions of disreputable properties.

Mr. Fajardo addressed the issue of fees, which are governed by a separate Ordinance. Staff has been directed to look into fees and the fee structure, and will address these issues over the next several weeks.

Jim Miller, Airbnb host, advised that he primarily hosts visitors who stay for a duration of one month or longer. While he would like to host other visitors for shorter stays, this can be difficult due to the current vacation rental Ordinance. He suggested that the Ordinance include an exemption for property owners who reside on the subject properties as their primary residence, as they are more restrictive and do not contribute to the problems stemming from other types of rental properties. Mr. Miller expressed concern with the definition of sleeping rooms and the landline requirement, and asked how the City would address these concerns.

Mr. Fajardo replied that as part of the application process, applicants are asked to provide a sketch, which Staff attempts to verify. Individual properties are inspected as part of the process as well. He was not aware of whether or not the State requires a landline in each property.

Marty Bilowich, private citizen, stated that there are several vacation rentals in his neighborhood. He felt the primary issue regarding the Ordinance is occupancy, and

emphasized that commercial rental businesses with a presence in residential neighborhoods should be held to the same occupancy standard as residents. With regard to registration fees, he felt the rate should be sufficient to manage the issues that arise from the management of commercial rental properties.

Mr. Fajardo advised that some years ago, the City Commission directed Staff to conduct a City-wide fee study, including permitting, development review, and other types of fees. The direction at the time referred to full cost recovery, which determined how fees are structured.

Penny Shea, owner of a vacation rental property, advised that each County has different regulations regarding fee structures. She recommended the requirement of a landline in the event of a safety issue. With regard to sleeping rooms, however, she felt the Ordinance should be adjusted, as families with small children may be unable to rent properties on which this limit is enforced. She asserted that responsible property owners do not rent their buildings as party houses or to large groups.

Sheri Garner, private citizen, stated that she shares her home with guests from all over the world. She felt there should be a separate Ordinance and fee structure for properties like hers, as they differ from investment properties and vacation rentals.

George Coggeshell, private citizen, spoke in favor of defining children as part of the total number of tenant occupants. He also addressed issues with night parking and overnight visitors, who may be guests of tenant occupants. He recommended that complaints such as noise violations go on the record when responded to by Police, and suggested that a mobile app could be used to make complaints.

Heidi Coggeshell, private citizen, also expressed concern with occupancy, proposing that there be occupancy limits for vacation rental properties. She also noted that one ongoing issue is late-night noise, and asked how complaints of this nature could be placed on file with Code Enforcement.

Acting Code Enforcement Administrator Dick Eaton replied that Code Enforcement works with the Police Department on this issue, which may respond to calls but may not issue a written report. He advised that in the event of anonymous complaints, a report cannot be issued. Complainants must notify the Police of their identities and request a written Police report, which is then placed in a case file with Code Enforcement.

Steve Ganon, President of the Lauderdale Beach Homeowners' Association, stated that roughly 25% of the homes in his neighborhood are vacation rentals, a handful of which are party houses with multiple cars and high occupancy. He did not feel the Ordinance's occupancy rate should be amended, and emphasized the need for daytime enforcement as well as after hours.

Attorney Spence advised that Code Enforcement cannot regulate how many individuals come to a property, although they may regulate the number allowed to stay overnight at the property.

Robert Lender, Vacation Rental Liaison for the Harbor Inlet community, stated that vacation rental properties serve as commercial “mini-hotels” located within residential neighborhoods. He characterized most of these properties as belonging to corporations or limited liability companies (LLCs), which interfere in the concept of neighborhoods. He suggested that there should be separate classifications and registration fees for small- and large-scale rentals, and that fees be used to enhance and assist in Code Enforcement operations.

Beverly Mackel, private citizen, commended the vacation rental owners who take appropriate care of their properties. She asserted that her neighborhood is residentially zoned, and asked if it would be possible to prevent any other vacation rental properties from locating in her neighborhood.

Mr. Fajardo replied that prevention of vacation rentals in residential neighborhoods is not possible under current State legislation, and reiterated that the City has been preempted from prohibition of these properties. Attorney Spence further clarified that the State defines vacation rentals as “a type of use of a residential home for rental of a certain duration” and has explicitly prohibited local governments from prohibition of this use.

David Stout, private citizen, stated that the presence of a vacation rental used as a party house in his neighborhood has greatly affected quality of life in the area. He agreed with the increase in suspension periods associated with Ordinance violations, but pointed out that while he has called in complaints regarding noise and traffic, the Police do not always respond, nor is a record kept of his complaint.

Attorney Spence advised that the draft amended Ordinance clarifies that each violation is considered separately of other violations for a given property, and the responsible party will be cited for these infractions, with steps taken toward enforcement action. In the event of a third violation, Code Enforcement may authorize a suspension of up to 180 days, with suspensions increasing progressively for each additional violation. Complainants will be able to track individual cases on the City’s website, although the City does not have sufficient resources to notify individual complainants.

Milic Mico, private citizen, asked how many of the 246 complaints on record are made against the 107 vacation rental properties registered with the City. He stated that an attempt should be made to address these complaints without taking steps that would be harmful to the owners and operators of duly registered vacation rentals. He added that he did not feel small children or infants should be counted as tenants, and encouraged the City to treat vacation rentals as part of the tourism industry.

Ashley Hodgini, Government Affairs Manager for HomeAway, estimated that Fort Lauderdale's compliance rate has been extremely low during the year in which the Ordinance has been in effect, and recommended that the City evaluate what is keeping property owners from complying with its program, such as the \$750 fee. She urged Staff to remove barriers to compliance, pointing out that if a significant number of vacation rental properties are registered, the City will be able to lower its fee.

Ms. Hodgini continued that most vacation rental properties are not party houses, and that most clients are families. She felt the City's licensing and registration practices, as well as the two per sleeping room occupancy limits, are standard in many cities. She concluded that the City should explore alternatives to the landline requirement.

Greg Brewton, private citizen, advised that the Ordinance itself does not change the use of structures on residential parcels: what is at issue is the activity that may go on at a single-family home used as a vacation rental. He did not feel the sleeping room limitations promoted single-family use, especially for families with small children. He recommended that property owners be required to provide strong leases that limit or prohibit problematic activities. He also proposed that the properties currently registered with the City be rewarded for their compliance, and that the registration period be prorated.

John Mulroy, private citizen, stated that the Ordinance should limit how many vacation rental homes are located in a specific area, as there may be a high percentage of these properties in some residential neighborhoods. He suggested that the sleeping room regulation make allowances for children under 10 years of age, and that there be a limitation on the number of vacation rental properties per square mile.

Arthur Diamond, private citizen, advised that vacation rental properties are part of the new sharing economic model. He also felt the registration fee may be a barrier to registration, and suggested that the 5% tax rate in Broward County might be used to calculate an appropriate fee.

Larry Temple, private citizen, proposed that the registration fee be calculated in a way that does not impose a "one size fits all" amount on all rental properties, as some properties only rent for one to two nights.

Kristen Maus, private citizen, observed that the issue is primarily shorter-term rentals, and added that when complaints are made about activities at these properties, they are not considered a priority by the Police Department. She felt these problems would only be exacerbated as vacation rentals continue to gain popularity and add income. She was supportive of restrictions on the number of tenants as well as increased penalties and fines, as well as different classifications for owner-occupied rentals and a cap on the number of times a home can be rented in a residential neighborhood.

Georgia Evaul, private citizen, stated that she has purchased a property to rent and spent a substantial amount of money renovating it. She felt the current fees are too high and that exceptions to the tenant limit should be made for families with children under the age of two.

Terry [last name not provided], private citizen, advised that he is an Airbnb host. He did not feel he should be placed in the same category as owners who have purchased houses as investment properties.

Audrey Edwards, private citizen, felt the issue was with property owners who have shown no interest in compliance. She felt fines against violators should be higher in order to encourage compliance. She also suggested establishing communication with homeowners' associations to inform them of complaints in their neighborhoods that are scheduled to go before a Special Magistrate.

Wrap Up and Next Steps

Mr. Fajardo explained that there will be other opportunities for members of the public to address this issue, including the first and second readings of the proposed amendment to the Ordinance. When an amendment to an Ordinance is proposed, two readings are required with the City Commission acting as the approving body. The document must be approved upon first reading and adopted upon second reading, after which it will take effect after an established time period.

Mr. Fajardo reiterated that the City Commission has directed Staff to hear additional public input on this issue, including a review of the Ordinance's language. Comments at tonight's and previous workshops will be incorporated into the backup materials provided to the City Commission. He advised that he could not predict at this time whether or not changes to the proposed Ordinance would be recommended by Staff.

The September 28, 2016 public meeting will include a presentation from Staff to provide additional information regarding the materials submitted to the City Commission. Mr. Fajardo cautioned that this meeting would not provide an extensive opportunity for additional discussion of changes to the Ordinance.

Mr. Fajardo continued that when Staff reviews complaints made about properties, they take into consideration the complaints regarding Ordinance violations. He emphasized that the Ordinance is designed to bring vacation rental properties into compliance. Staff is considering the purchase of proprietary software that will allow for the tracking of vacation rental properties within the City's boundaries, as it is very time-consuming to investigate every individual property that is reported.

Mr. Fajardo concluded that the amended Ordinance will not be determined until the City Commission renders an opinion at the October 5, 2016 meeting. He noted that the Ordinance is intended to be fair and equitable and to meet the restrictions provided by State legislation. Blast emails will be sent to all who have provided their contact information when updates on this issue are available.

Adjourn

There being no further business at this time, the meeting was adjourned at 8:17 p.m.

[Minutes prepared by K. McGuire, Prototype, Inc.]