

Sec. 142-1111. - Short-term rental of apartment units or townhomes.



(a) Limitations and prohibitions.

- (1) The rental of apartment or townhome residential properties in districts zoned RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, RO-3 or TH for periods of less than six months and one day, unless expressly provided for in these land development regulations (such as for a portion of the RM-1 district, and for apartment hotels in the RPS-1 and RPS-2 districts) are not a permitted use in such districts unless conducted in accordance with this section.
- (2) Any advertising or advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.
 - a. "Advertising" or "advertisement" shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.
- (b) *Previously existing short-term rentals in specified districts.* For a period of six months after the effective date of the ordinance enacting this section (June 19, 2010), owners of certain properties located in the following districts shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units for these properties under the requirements and provisions set forth below. Other neighborhoods may be added to this provision in the future by action of the city commission.

Districts: Properties within the RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts.

Eligibility: Those properties that can demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building, as defined by the requirements listed below.

- (1) For apartment buildings of four or more units, or for four or more apartment units in one or more buildings under the same resort tax account. In order to demonstrate current, consistent and predominant short-term renting, the property must comply with all of the following:

- a. Have been registered with the city for the payment of resort tax and made resort tax payments as of March 10, 2010; and
- b. Have had City of Miami Beach Resort Tax taxable room revenue equal to at least 50 percent of total room revenue over the last two-year period covered by such payments; and
- c. Have been registered, with the State of Florida as a transient apartment or resort condominium pursuant to F.S. ch. 509, as of March 10, 2010.

For properties containing more than one apartment building, eligibility may apply to an individual building satisfying a. through c. above.

- (2) For apartment and townhouse buildings of three or less units, or for three or less apartment units in one or more buildings under the same state license: In order to demonstrate current, consistent and predominant short-term renting, the property must:
 - a. Have been registered with the State of Florida as a resort dwelling or resort condominium pursuant to F.S. ch. 509, as of March 10, 2010.
- (c) *Time periods to apply for short-term rental approvals.*
 - (1) Owners demonstrating compliance with subsections (b)(1) or (2) above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(d) within a time period of six months from the effective date of this section (June 19, 2010), or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.
 - (2) Within three months of the effective date of the ordinance enacting this section (June 19, 2010), eligible owners shall apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.
 - (3) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code, shall be demonstrated by October 1, 2011, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.
 - (4) Applications under this ordinance may be accepted until 60 days after adoption of this subsection (adopted on April 11, 2012; 60 days expire June 11, 2012), upon determination to the planning director that a government licensing error prevented timely filing of the application.
- (d) *Regulations.* For those properties eligible as per (b) above, unless otherwise expressly provided for in these land development regulations, short-term rental of apartment and townhome residential units shall be permitted, provided that the following mandatory requirements are followed:
 - (1) *Approvals required: applications.* Owners, lessees, or any person with interest in the property seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be on a form provided for that purpose, and

contain the contact information for the person identified in subsection (3) below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information as the planning director may determine. The application shall be accompanied by the letter or documents described in subsection (9) below, if applicable. The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of \$600.00.

- (2) *Time period.* All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.
- (3) *Contact person.* All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within the Flamingo Park or Espanola Way historic districts. Each agreement, license, or lease, of scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein, is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.
- (4) *Entire unit.* Only entire apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.
- (5) *Rules and procedures.* The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.
- (6) *Signs.* No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.
- (7) *Effect of violations on licensure.* Approvals shall be issued for a one-year period, but shall not be issued or renewed if violations on three or more separate days at the unit, or at another unit in the building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special master's determination of a violation, within the 12 months preceding the date of filing of the application.
- (8) *Resort taxes.* Owners are subject to resort taxes for rentals under this section, as required by city law.
- (9) *Association rules.* Where a condominium or other property owners association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum

rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (1) above are not prohibited by the association's governing documents, shall be submitted to the city as part of the application. If the applicant, after best efforts, is unable to obtain such a letter from the association, he or she may submit the latest version of the association's documents to the city attorney's office for confirmation of the above.

(10) *Variances.* No variances may be granted from the requirements of this section.

(e) *Enforcement.*

(1) Violations of [sub]section 142-1111(a) or (b) shall be subject to the following fines. The special master shall not waive or reduce fines set by this section.

- a. If the violation is the first violation: \$1,500.00
- b. If the violation is the second violation within the preceding 12 months: \$3,000.00
- c. If the violation is the third violation within the preceding 12 months: \$5,000.00
- d. If the violation is the fourth violation within the preceding 12 months: \$7,500.00
- e. If the violation is the fifth or greater violation within the preceding 12 months: \$10,000.00 and the suspension or revocation of the certificate of use allowing short-term rental.

Fines for repeat violations by the same offender shall increase regardless of locations.

- (2) In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
- (3) Any code compliance officer may issue notices for violations of this section, with enforcement of subsection 142-1111(a) and alternative enforcement of subsection 142-1111(b) as provided in chapter 30 of this Code. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records and a courtesy notice to the contact person identified in subsection (d)(3) above.

(Ord. No. 2010-3685, § 1, 6-9-10; Ord. No. 2012-3758, § 1, 4-11-12; Ord. No. 2014-3854, § 3, 4-23-14)