



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#16-1253

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Lee R. Feldman, ICMA-CM, City Manager

DATE: October 18, 2016

TITLE: Ordinance Amending Article X, Vacation Rentals, Chapter 15 of the
Code of Ordinances of the City of Fort Lauderdale (Code)

Recommendation

It is recommended that the City Commission adopt an ordinance on first reading amending the regulation of vacation rentals.

Background

To address the use of vacation rentals the City Commission directed staff to develop an ordinance that would include standards by which the vacation rental use would be regulated. As a result, on August 18, 2015, the City Commission voted unanimously to approve the new Vacation Rental Ordinance on second reading with an effective date of November 1, 2015.

Since this time the City Commission has directed staff to draft a revised ordinance to address certain items that have been brought up by our neighbors, members of the vacation rental community, as well as the City Commission. To address this request the Code Compliance Division of the Department of Sustainable Development (DSD) held multiple outreach meetings in order to gain feedback prior to drafting the revision.

These meeting dates were held on the following dates:

- June 29, 2016 - Public Engagement Workshop (Minutes attached as Exhibit 1)
- July 14, 2016 - Ordinance Review Committee Meeting (Minutes attached as Exhibit 2)
- August 4, 2016 – Public Engagement Workshop (Minutes attached as Exhibit 3)

Subsequent to these meetings, staff placed the draft amendment on the September 7, 2016 City Commission meeting for consideration on first reading. However, at this meeting the City Commission expressed a concern that not all members of the vacation rental community had been able to express their concerns and position on the matter.

As a result, the City Commission deferred the item to the October 5, 2016 City Commission meeting and directed staff to hold an additional workshop with the intent of accomplishing the goal of allowing our neighbors and members of the vacation rental community the time to go over the draft ordinance in detail with staff and gain additional input in regards to the proposed amendments and any additional comments or concerns that were not addressed by the previous workshops and meetings.

Staff held this workshop the evening of September 22, 2016 on the first floor of City Hall in the City Commission chambers. At this workshop, staff gave a presentation to the attendees that outlined the public engagement up to this point, gave an overview of the direction the City Commission gave to staff, and then went through each of the proposed changes to the current ordinance by this amendment page by page. Once the presentation concluded, staff opened the workshop up to input from the attendees who were each given three minutes to speak at the microphone. The workshop was attended by approximately 55 people and consisted of strong opinions on both sides of the issue, however, generally speaking, there are some common comments that were presented at the workshop, which are as follows:

1. Occupancy – Number of People Allowed to Occupy a Vacation Rental

Neighbors - Our neighbors generally felt that all vacation rentals should be limited to no more than 2 persons per bedroom. They consistently gave the opinion that allowing more than this could encourage vacation rental homes to become party houses that will generate additional noise and traffic.

Vacation Rental Community - Members of the vacation rental community took an opposing view. They felt that a good many people have other sleeping options in their private homes, such as fold out sofas, and that in particular, large homes (some quoted as being 10,000 square feet or more) it was unreasonable to allow only 2 people per bedroom. In addition, members of the vacation rental industry felt that children under a certain age should be exempted from the restriction on occupancy. The general thought is that children within a specific age group would share a room with their parents. The age range suggested for the exemption was generally up to 12 years old.

Staff Comments - The current draft language only permits 2 people per bedroom with no exemption for children and does not permit any occupancy outside of the bedrooms regardless of sleeping options available, such as sofa beds.

2. Owner Occupied Vacation Rental – Owner Resides at the Rental Location

Neighbors - Some of the neighbors that attended the meeting felt that it was important to have all vacation rentals register and pay the fee to ensure the City is aware of where these locations are so they can be monitored.

Vacation Rental Community - Members of the vacation rental community felt that owner occupied rental properties would be maintained specifically by the individual owner of the property living on the site. In addition, this was the typical model for companies such as Airbnb that allows for residents to rent out a room to make some extra money that allows them to keep their home when individual circumstances may require otherwise. Further, they felt that none of the concerns raised by our neighbors were a result of this type of vacation rental, and under these circumstances, owner occupied vacation rentals should be exempted from the registration process because the owner can directly address issues as they arise.

Staff Comments - The current draft language does not exempt owner occupied vacation rentals from the registration process nor does it have an alternative application or fee. However, staff has researched other municipalities and has found that some do exempt owner occupied vacation rentals from having to register if the property is homestead. For instance, the City of Wilton Manors includes this exemption in Section 10-277(c) of their vacation rental ordinance 2016-002.

3. Vacation Rental Registration Fees

Neighbors - Our neighbors were consistent in their comments regarding the fees associated with vacation rentals. They felt that it was important to collect the fees in direct relation to the cost of recovery of staff time and services. . It was also suggested that the fees/costs should be in relation to the number of bedrooms.

Vacation Rental Industry - Members of the vacation rental industry had multiple comments regarding the fees associated with an application for vacation rental. At the workshop there was a representative of Airbnb whose comments indicated that it has been their experience that fees that are too high do not encourage owners to register their properties as the cost is excessive. She cited examples of other municipalities that have a higher rate of registrations and made the correlation to their fees that are lower than Fort Lauderdale's.

Other members of the vacation rental community felt that the fees associated with the registration should be prorated if the first time registration is not one calendar year from the renewal period. They felt that having an arbitrary cutoff period did not equitably cover the cost associated with the registration and the subsequent renewal fee.

Some other members of the vacation rental community felt that if they are owners of the property and only rent out a room or rooms at various times of the year they should not have to pay the same cost as a typical vacation rental property.

Staff Comments - The current draft language does not provide for an exemption in regards to fees between standard vacation rental property and owner occupied vacation rentals. In addition, the draft language states the following in relation to fees:

- All fees are non-refundable
- Renewal fees are due to the department no later than 60 days prior to the September 30 annual expiration date
- Renewals received after September 30 will be processed as a new application and is subject to all applicable fees
- Fee associated with new registrations for certificates of compliance that are paid within 90-days of the renewal date shall remain valid and not expire till the following year

It should be noted the fees associated with vacation rentals are determined by a separate resolution and DSD is currently working on an analysis of the existing fees to ensure they meet the City Commission directive of 100% cost recovery unless otherwise specified by the City Commission. Once this analysis is completed staff will bring the item to the City Commission for consideration of any recommended adjustment to the current approved fees.

Minutes were taken at the September 22, 2016, however they were not available at the time of publication.

The following is a breakdown of the proposed amendments to the existing ordinance. Each item is summarized and cross referenced with the proposed ordinance with the section/subsections and page numbers listed:

Definitions, Sec. 15-271 (pg. 2)

- Certificate of Compliance means the document that is issued by the city that bears the words "vacation rental certificate of compliance" and evidences that the person or entity, in whose name the document is issued, has complied with the provisions of this article relating to vacation rentals.

Definitions, Sec. 15-271 (pg. 2)

- Sleeping Room shall mean a room or space within a dwelling unit, as defined in Section 9-236, Code of Ordinances, Fort Lauderdale, Florida, primarily designed and used or intended to be used for sleeping purposes, excluding living rooms, kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.

Definitions, Sec. 15-271 (pg. 2)

- 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 or required pursuant to this Article to be 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.

Definitions, Sec. 15-271 (pg. 2)

- 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, and also a transient public lodging establishment as defined in Section 509.013, Florida Statutes (2016), but that is not a timeshare project.

Registration Required, Sec. 15-272 (pg. 3)

- (a) Language added specific to single-family, two-family, three-family, or four-family house or dwelling as specified in Florida State Statute and clarification language.
- (b) Clarification language specifying when a vacation rental application is pending and when occupancy may occur subject to criteria.

Registration Required, Sec. 15-272 (pg. 3)

- (c) Language added specific to registration of a vacation rental on or before September 30th annually.
- (d) Advertisement as a vacation rental as rebuttable evidence of the property being used as a vacation rental.

Application for Registration, Sec. 15-273 (pg. 4)

- (a) Clarification language specific to application requirements for each dwelling unit.

Application for Registration, Sec. 15-273 (pg. 5)

- (c) Specific language added to address any change to the property in terms of parking, square footage, number of bedrooms, or maximum occupancy.

Fees for Registration, Sec. 15-274 (pg. 6)

- Clarification language regarding non-refundable fees.

Responsible Party Required, Sec. 15-275 (pg. 6)

- Revised language removing distance requirements for the responsible party and adding required response time of one (1) hour.
- Clarification on written summary of information to be provided to guests regarding applicable Fort Lauderdale Ordinances.
- Addition of language requiring the responsible party to perform an on-site inspection at the end of each rental period.

False Information, Sec. 15-276 (pg. 7)

- Additional language regarding sworn statements and revocation as a result of false statements.

Minimum Requirements for Issuance of a Certificate of Compliance, Sec. 15-277 (pg. 7)

- Clarification language and additional language for Minimum Requirements for Issuance of a Certificate of Compliance regarding non-refundable fees and satisfaction of an inspection and vacation rental and not subject to suspension.

Vacation Rental Standards, Sec. 15-278 (pg. 8)

- Clarification regarding dwelling units and minimum housing code
- Clarification regarding smoke and carbon monoxide detection systems
- Adding requirement for local phone service (landline)
- Time period for compliance subject to Florida Department of Business and Professional Regulations issuance of license

Vacation Rental Standards, Sec. 15-278 (pg. 10)

- Revision to maximum occupancy regulation with removal of one (1) person / one hundred and fifty (150) square feet and allowing up to two (2) persons / bedroom (subject to records of BCPA)

Vacation Rental Standards, Sec. 15-278 (pg. 11)

- Revision to maximum occupancy regulation with removal of one (1) person / one hundred and fifty (150) square feet and allowing up to two (2) persons / bedroom (subject to records of BCPA)

- Clarification language regarding advertising and the inclusion of sexual predatory statement
- Clarification regarding compliance with the City's sexual offenders/predators ordinance 16-127 and 15-278(8)

Expiration of Registration and Certificates of Compliance, Sec. 15-281 (pg. 12)

- Clarification language added to address time period for renewal sixty (60) days / late renewal / registrations within 90-days of renewal date shall remain valid
- Clarification language regarding advertising and the inclusion of sexual predatory statement
- Clarification regarding compliance with the City's sexual offenders/predators ordinance 16-127 and 15-278(8)

Penalties, Offenses and Revocation, Sec. 15-282 (pg. 12)

- (b) Clarification language regarding offenses/violations in relation to separate violations
- (c) Clarification language regarding civil infractions and authorization of law enforcement to issue a citation and for law enforcement and code enforcement officers to issue citation without written notice as provided in Section 11-18.b

Penalties, Offenses and Revocation, Sec. 15-282 (pg. 14)

- (d) Revised language regarding suspension periods
 - 3rd violation = 180 days (was 7 days)
 - 4th violation = 365 days (was 30 days)
 - Each additional violation = + 30 days up to 12 months
 - Violations of Florida Building Code and Florida Fire Prevention Code to begin 5 working days after citation
 - Renewal application may be submitted during suspension period

To review in more detail please see draft ordinance amendment attached as Exhibit 4.

Please note that staff has a follow-up public meeting to go over this information with the public on September 28, 2016. This meeting is meant to allow for additional public discussion prior to the City Commission meeting, however it is not intended to allow for additional recommendations for amendments to the ordinance as the Commission Agenda Memo has already been submitted and no further changes to the item can occur at this time. At the time of publication the minutes from this meeting are not available.

Resource Impact

There is no resource impact associated with this action at this time.

Strategic Connections

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included in the Public Places Cylinder of Excellence, specifically advancing:

- Goal 5: Be a community of strong beautiful neighborhoods.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

Attachments

Exhibit 1 – June 29, 2016 Meeting Minutes

Exhibit 2 – July 14, 2016 Meeting Minutes

Exhibit 3 – August 4, 2016 Meeting Minutes

Exhibit 4 – Proposed Ordinance

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