



City of Deerfield Beach

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Face Sheet

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Reading

In Control: City Commission

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P.H. 2018-057: Ordinance 2018/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING SECTION 98-106 OF THE CITY LAND DEVELOPMENT CODE, ENTITLED "VACATION RENTALS", BY REMOVING AND REPLACING THE CERTIFICATE OF USE REQUIREMENT WITH A VACATION RENTAL REGISTRATION PROCESS, PROVIDING FOR VACATION RENTAL RESPONSIBLE PARTY APPLICATION AND AFFIDAVIT OF COMPLIANCE SUBMITTAL REQUIREMENTS, AND ELIMINATING INTERIOR AND EXTERIOR PROPERTY SKETCH SUBMITTAL REQUIREMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CITY CODE, AND AN EFFECTIVE DATE.

Commission to vote on Ordinance and set second public hearing for February 20, 2017

Background/History:

The City Commission approved an Ordinance on June 19, 2017 that required that all short term rental properties receive a Certificate of Use.

Current Activity:

The purpose of this amendment is to modify the way in which short term rental properties will be registered and monitored. Under the proposed Ordinance, all property owners will be required to register annually with the Planning and Development Services Department. Property owners will still be required to apply for an annual Business Tax License. Staff is seeking to enter into an agreement with a third party software provider who has the capacity to monitor all vacation rental websites and determine which residential properties are available for short term rental occupation within the City of Deerfield Beach. This process will allow Code Compliance the necessary information to determine which properties need to register with the City. As with the previous Ordinance, this Ordinance does not prohibit vacation rentals or provide restrictions on length of stay. The Ordinance simply looks to ensure the safety of property owners, transient visitors to the City and to adjacent property owners of the vacation rental.

Recommendation:

The attached Ordinance seeks to amend an Ordinance previously approved by the City Commission on June 19, 2017. On December 7, 2017 the Planning and Zoning Board voted to recommend approval of the proposed ordinance.

ORDINANCE NO. 2018/

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING SECTION 98-106 OF THE CITY LAND DEVELOPMENT CODE, ENTITLED “VACATION RENTALS”, BY REMOVING AND REPLACING THE CERTIFICATE OF USE REQUIREMENT WITH A VACATION RENTAL REGISTRATION PROCESS, PROVIDING FOR VACATION RENTAL RESPONSIBLE PARTY APPLICATION AND AFFIDAVIT OF COMPLIANCE SUBMITTAL REQUIREMENTS, AND ELIMINATING INTERIOR AND EXTERIOR PROPERTY SKETCH SUBMITTAL REQUIREMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CITY CODE, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2(b) of the Florida Constitution and as further provided in Section 166.021, Florida Statutes, the City of Deerfield Beach, Florida may exercise any power for municipal purposes (“Home Rule Powers”) except when expressly prohibited by the Florida law; and

WHEREAS, on June 19, 2017, pursuant to the City of Deerfield Beach’s Home Rule Powers, the City Commission adopted Ordinance No. 2017/014, creating section 98-106 of the City of Deerfield Beach, Florida Land Development Code, entitled “Vacation Rentals” (the “Ordinance”); and

WHEREAS, Section 509.032(7)(b), Florida Statutes, expressly preempts any local regulation that prohibits vacation rentals or regulates the duration or frequency of vacation rentals; and

WHEREAS, the Ordinance does not prohibit vacation rentals or restrict their duration or frequency; rather, the Ordinance requires vacation rental owners to obtain a certificate of use and imposes minimum life safety standards in the interests of health, peace, safety and general welfare; and

WHEREAS, the City Commission now desires to amend the Ordinance by replacing the certificate of use requirement with a vacation rental registration process in order to reduce the burden on vacation rental owners, and to make such other changes to the Ordinance as provided herein; and

WHEREAS, the vacation rental registration process provided for herein would not be enforced until October 1, 2018.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part hereof.

Section 2. That section 98-106 of the City of Deerfield Beach, Florida Land Development Code is hereby amended to read as follows:

Sec. 98-106. - Vacation rentals.

(a) *Authority, Scope and Purpose.*

- (1) This ~~chapter~~section is enacted under the home rule power of the City of Deerfield Beach in the interest of the health, peace, safety and general welfare.
- (2) Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments," which are rented, or advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less; and "non-transient public lodging establishments," which are rented, or advertised or held out for rental to guests for periods of at least 30 days or one calendar month, whichever is less.
- (3) Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments, called "vacation rental", which is 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.
- (4) It is the intent of this section to regulate life safety requirements for vacation rentals, as defined by Florida Statutes, which are located in ~~single-family and two-family~~ residential dwelling zoning districts of the City of Deerfield Beach, ~~which collectively are referred to herein as "vacation rental(s)."~~
- (5) In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending Florida Statutes, Section 509.032(b) to provide that "[a] local law, ordinance or regulation may not restrict the use of vacation rentals, prohibit vacation rentals or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance or regulation adopted on or before June 1, 2011."
- (6) In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read "[a] local law, ordinance or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance or regulation adopted on or before June 1, 2011."
- (7) This ~~ordinance~~section does not prohibit vacation rentals, or regulate the duration or frequency of vacation rentals, nor is it the intention of the City of Deerfield Beach

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to do so, but rather this section is intended to address life safety and compatibility concerns and the secondary effects of vacation rentals in residential neighborhoods in the interests of health, peace, safety and general welfare.

(b) *Findings of fact.*

- (1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.
- (2) In contrast, transient occupants of vacation rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the vacation rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.
- (3) Certain vacation rentals are presently located within the city's residential dwelling zoning districts ~~single family and two-family dwelling residential zoning districts of the City of Deerfield Beach.~~
- (4) Vacation rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, extreme size and/or greater occupancy.
- (5) Vacation rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of ~~the such residential~~ neighborhoods, and the quiet enjoyment of its residents.
- (6) Vacation rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.
- (7) A residential dwelling is typically the single largest investment a family will make, with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of vacation rentals.

- (c) *Vacation rental standards.* Vacation rentals shall be permitted in all residential dwellings ~~zoning districts~~ provided they are in compliance with this section and the applicable zoning district regulations. No person shall rent or lease all or any portion of a “dwelling unit” as a “vacation rental”, as those terms are as defined in section 98-3, without complying with the following standards governing the use of any vacation rental as a permitted use:

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- (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. *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~~ one such 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.
 - c. *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 dwelling 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.
 - d. *Battery powered emergency lighting of primary exit.* Battery powered emergency lighting which provides illumination automatically in the event of any interruption of normal lighting shall be provided for a period of not less than one hour to illuminate the primary exit.
 - e. *Emergency egress and maintenance.* Halls, entrances and stairways within a vacation rental shall be clean and ventilated. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.
- (2) *Maximum occupancy.* ~~All~~ Each vacation rental dwelling units shall be occupied by no more than one “family”, as ~~such is~~ defined in section 98-3 of this Code, and in no event shall maximum occupancy of such dwelling unit exceed two persons per bedroom plus two additional persons.
- (3) *Minimum vacation rental lease wording.* The vacation rental lease agreement shall contain the minimum information as provided for in subsection 98-106(~~f~~g).
- (4) *Minimum vacation rental information required postings.* The vacation rental shall be provided with posted material as ~~required by the city as~~ prescribed in subsection 98-106(~~g~~h).
- (5) *Responsible party.* Designation of a vacation rental responsible party capable of meeting the duties provided in subsection 98-106(~~e~~g).

- (6) *Other standards.* Any other applicable standards contained within the City of Deerfield Beach Land Development Code and the City of Deerfield Beach Code of Ordinances including but not limited to, Section 14-105 (Exterior building and structure standards), section 14-106 (Minimum standards for yard and landscape areas), section 58-69 (Preparation and storage of residential refuse), section 66-58 (Parking prohibitions on certain streets) and section 98-74 (Swimming pool enclosure requirements).
- (d) ~~Certificate of use~~Registration Required. It shall be unlawful for any person to operate a vacation rental within the corporate limits of the city without first registering the vacation rental with the planning and development services department in accordance with the requirements in this subsection. All vacation rentals shall be registered no later than October 1, 2018, or a date up to 90 days later if such later date is approved by resolution of the City Commission. a certificate of use as set forth within Article IX of this Code. ~~Prior to the issuance of a certificate of use, the applicant must provide the following to the planning and development services department:~~
- (1) Initial Registration. Every vacation rental owner, either personally or through an authorized agent, shall first register with the city by submitting to the planning and development services department a properly completed registration form, utilizing a form approved by the city, together with a registration fee in an amount established by resolution of the City Commission. A separate registration form shall be required for each vacation rental. The registration form shall include the following submittals:
- (1)a. A copy of the business tax receipt from the City of Deerfield Beach pursuant to Chapter 38, Article VII, Division 5 of the Code of Ordinances.
- (2)b. A copy of the vacation rental's current registration with the Broward County Tourist Development Tax Section for purposes of collecting and remitting tourist development taxes.
- (3)c. A copy of the Florida Department of Business and Professional Regulation license as a transient public lodging establishment/vacation rental.
- (4)d. A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes and any other taxes required by law to be remitted to the Florida Department of Revenue, if the registrant has such certificate of registration.
- ~~(5) Exterior site sketch. The sketch shall be drawn to scale showing all structures, pools, fencing and uses, including areas provided for off street~~

~~parking and trash collection. For purposes of the sketch, off street parking spaces will be delineated so as to enable a fixed count of the number of spaces provided; however, no parking shall be permitted within a public right-of-way or private roadway tract.~~

~~(6) Interior building sketch by floor. A building sketch(s) shall be provided by floor. Showing a floor layout and demonstrating compliance with the standards contained herein. The sketch shall be drawn to scale, showing all bedrooms and sleeping areas, exits, smoke and carbon monoxide detectors, and fire extinguishers, etc.~~

~~(7)e. Required vacation rental postings. Copies of required the postings required by subsection 98-106(g) shall be provided.~~

~~f. A completed Vacation Rental Responsible Party Application, in a form approved by the city, which includes the name, address and 24-hour telephone number(s) of the vacation rental responsible party who satisfies the requirements in subsection 98-106(e)(2)-(3).~~

~~g. A properly executed and notarized affidavit, in a form approved by the city, acknowledging and agreeing to compliance with all of the vacation rental requirements set forth in this section.~~

~~(2) *Registration Renewal.* After a vacation rental is initially registered, the registration shall be renewed by October 1 of each year in the following manner:~~

~~a. *Renewal affidavit.* The registrant shall submit to the city a properly executed and notarized affidavit, in a form approved by the city, attesting that there have been no changes to the information in the initial registration form and accompanying documents, including all updates pursuant to subsection 98-106(3) or, alternatively, identifying and attesting to specific changes to the registration information with any applicable supporting documents to be submitted to the city.~~

~~b. *Renewal fee.* The registrant shall pay a renewal fee in an amount established by resolution of the City Commission.~~

~~(3) *Registration Updates.* Any change(s) to the information or submittals included with the initial or renewal registration must be reported to the city within 30 days of the occurrence of such change(s) via a form approved by the city. The registrant shall sign the form and attest to the truth and accuracy of the changes.~~

~~(4) *Incomplete Registration/Renewal Affidavit.* If a registration form or renewal affidavit submitted pursuant to this subsection is incomplete, the registrant shall be~~

notified of the deficiency and shall have 10 days from notification to correct the deficiency.

(5) Evidence of Vacation Rental Operation. Advertising, listing or posting a property on the internet, in a newspaper advertisement or other similar publication as being available for use as a vacation rental creates a rebuttable presumption that the property owner is operating it as a vacation rental. Nothing in this paragraph precludes the city from presenting other forms of evidence.

(6) False Information. It shall be unlawful for any person to give any false or misleading information in connection with the vacation rental obligations under this section.

~~(e) — Compliance inspections of vacation rentals. An inspection of the dwelling unit for compliance with the minimum life/safety requirements set forth in subsection 98-106(e)(1) above is required prior to issuance of a certificate of use. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the certificate of use.~~

~~(e)~~ (ef) *Vacation rental responsible party.*

- (1) The purpose of the responsible party is to respond to routine inspections as well as non-routine complaints and other more immediate problems related to a vacation rental ~~of the property~~.
- (2) The property owner may serve in this capacity or shall otherwise designate a vacation rental responsible party to act on their behalf. Any person 18 years of age or older may be designated by the owner provided they can perform the duties listed in subsection 98-106(ef)(3) below.
- (3) The duties of the vacation rental responsible party whether the property owner or an agent are to:
 - a. Be available by ~~landline or~~ mobile telephone at the listed phone number 24 hours a day, seven days a week and capable of handling any issues arising from the vacation rental use; and
 - b. If necessary, be willing and able to come to the vacation rental dwelling unit within two hours following notification from an occupant, the owner, or the City to address issues related to the vacation rental; and
 - c. Authorized to receive service of any legal notice on behalf of the owner for violations of this section; and
 - d. Otherwise monitor the vacation rental dwelling unit at least once weekly to assure continued compliance with the requirements of this section.

- (4) A property owner may change his or her designation of a vacation rental responsible party temporarily or permanently; however, there shall only be one vacation rental agent for each vacation rental at any given time. To change the designated agent, the property owner shall notify the city ~~in writing via a completed form provided pursuant to subsection 98-106(d)(3).~~ by the city.
- (fg) *Vacation rental/lease agreements minimum provisions.* The rental agreement must contain the following information at a minimum:
- (1) ~~*Occupancy of the vacation rental unit.*~~ A copy of the language in subsection 98-106(c)(2) regarding maximum occupancy. ~~No more than one family as such is defined in section 98-3 of this Code and a total occupancy shall not be more than two persons per bedroom plus two additional persons. Copy of City of Deerfield Beach definition of family;~~
 - (2) A statement regarding the total number of parking spaces allowed for the vacation rental dwelling unit; and
 - (3) A statement that all transient occupants must evacuate from the vacation rental ~~upon posting of following~~ any evacuation order issued by local, state or federal authorities.
- (gh) *Required posting of the following vacation rental ~~unit~~ information.*
- (1) On the back of or next to the main entrance door or on the refrigerator there shall be provided as a single page the following information:
 - a. The name, address and mobile telephone number of the vacation rental responsible party;
 - b. Notice that quiet hours are to be observed between 9:00 p.m. and 7:00 a.m. daily or as superseded by any subsequent city noise regulation—Chapter 34, Article II, Noise Control;
 - c. The maximum number of vehicles that can be parked at the vacation rental dwelling unit, along with a sketch of the location of the off-street parking spaces;
 - d. The days of trash pickup and recycling pickup;
 - e. If the vacation rental ~~unit~~ is located on the barrier island, notice of sea turtle nesting season restrictions and sea turtle lighting usage; and
 - f. The location of the nearest hospital.
 - (2) If the vacation rental ~~unit~~ includes three or more occupied floors, on the third floor above ground level and higher floors there shall be posted, next to the interior door

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of each bedroom a legible copy of the building evacuation map—Minimum 8;hflf;" 8 1/2" by 11" in size.

(hj) *Offenses/violations.*

- (1) Non-compliance with any provisions of this section shall constitute a violation of this section.
- (2) *Separate violations.* Each day a violation exists shall constitute a separate and distinct violation.

(ij) *Remedies/enforcement.* Any violation of the provisions of this section may be enforced either pursuant to Section 1-15 of the City of Deerfield Beach Code of Ordinances or through the code enforcement process set forth within Chapter 2, Article VI of the City of Deerfield Beach Code of Ordinances, or in any other manner authorized by applicable law. Nothing contained herein shall prevent the City from seeking all other available remedies which may include, but not be limited to, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies. Violations of this section 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.

- ~~(1) Warnings. Warnings shall be issued for first time violations and have a correction/compliance period associated with it. Such warnings may include notice to other agencies for follow up by such agencies, such as the Department of Business and Professional Regulation, Broward County and the Broward County Property Appraiser, as applicable.~~
- ~~(2) Penalties. Any violation of the provisions of this section may be enforced either pursuant to Section 1-15 of the City of Deerfield Beach Code of Ordinances or through the code enforcement process set forth within Chapter 2, Article VI of the City of Deerfield Beach Code of Ordinances.~~
- ~~(3) Additional remedies. Nothing contained herein shall prevent the City from seeking all other available remedies which may include, but not be limited to, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.~~

(jk) ~~*Vesting*~~*Additional Time to Comply with Minimum Life Safety Standards.* Some existing vacation rentals may not meet the minimum life safety standards required in this section. Correcting these measures may take some time to secure a licensed contractor, obtain the necessary permits and complete the work. A vacation rental in operation on or before February 20, 2018 shall have until October 1, 2018 to come into compliance with the

minimum life safety standards, provided that the vacation rental is in compliance with all other requirements contained in this section. Existing vacation rentals as of the date of the adoption of the ordinance from which this section derives may become vested in the ways described below, provided they are otherwise in compliance with all other requirements contained herein. To qualify for any vesting existing vacation rentals shall have until 90 days after the effective date of this section to make a full and complete application for a vacation rental certificate and/or to receive a vacation rental certificate to come into compliance with the city's requirements.

- ~~(1) *Rental agreement vesting.* It is recognized that likely there are existing rental agreements for vacation rentals in existence at the time of passage of the ordinance enacting this section which may not be in compliance with the terms of this section. Rental agreements that were entered into prior to the effective date of this section shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the normal certificate of use process. Such agreement(s) shall not be required to be submitted to the city to obtain this vesting.~~
- ~~(2) *Temporary vesting of certain safety requirements.* Some existing vacation rentals may not meet the minimum life safety standards required herein. Correcting these measures may take some time to secure a licensed contractor, obtain the necessary permits and complete the work. All vacation rentals shall have six months from the effective date of the ordinance enacting this section to come into compliance with these standards. A provisional certificate of use may be issued for up to a maximum of six months past the adoption of the ordinance enacting this section granting time for the facility to comply with the physical changes required. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the normal certificate of use process.~~
- ~~(k) *Certificate of use revocation.* Any vacation rental certificate of use issued under this division may be revoked in accordance with section 98-165 for failure to comply with the requirements of this section of the Code. No Waiver. An effective vacation rental registration shall not be construed as a waiver of any requirements contained within the City of Deerfield Beach Code of Ordinances or Comprehensive Plan. The effective registration of a vacation rental shall not be construed as an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code.~~

Section 3. It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Deerfield Beach, and that the sections of this Ordinance may be renumbered to accomplish such intent.

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Section 4. Should any section, provision or word of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof.

Section 5. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

Section 6. This Ordinance shall be in full force and effect immediately upon its passage and adoption.

PASSED 1ST READING ON THIS ____ DAY OF _____, 2018

PASSED 2ND READING ON THIS ____ DAY OF _____, 2018

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CMC, CITY CLERK