



City of Miami

Legislation

Ordinance

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File Number: 1661

Final Action Date:

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 62 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED, "PLANNING AND ZONING", MORE PARTICULARLY BY CREATING DIVISION 7, SECTION 62-618.21 ENTITLED "OTHER LODGING/VACATION RENTAL PROPERTIES", TO PROVIDE FOR REGULATION OF VACATION RENTALS AS DEFINED IN SECTION 509.242, FLORIDA STATUTES; A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, vacation rentals of less than thirty (30) days are not allowed in any area zoned as a T3 Transect Zone pursuant to the Miami 21 Code, the Zoning Ordinance of the City of Miami, Florida, as amended; and

WHEREAS, all other residentially zoned areas are not subject to this restriction and can be rented out as vacation rentals for less than a thirty (30) days period as allowed by Section 509.032(7), Florida Statutes, which precludes any further local regulation of public lodging after June 1, 2011; and

WHEREAS, the proliferation of online vacation rental businesses such as Airbnb have caused condominium and other multiple unit residential communities to see a rise in unit owner rental of dwelling spaces to vacationers; and

WHEREAS, Chapter 509, entitled "Lodging and Food Service Establishments", regulates public lodging establishments and Section 509.242(c), Florida Statutes, was established to regulate public lodging known as vacation rentals; and

WHEREAS, unregulated vacation rentals can create a serious impact and the health, safety, welfare and quality of life of the persons directly affected by the rentals and the community they are located in; and

WHEREAS, the presence of these rentals in multifamily residential communities can create impacts ranging from excessive noise, lessened availability of on-street and off-street parking and accumulation of trash; and

WHEREAS, other such rentals that qualify as transient public lodging are required to undergo annual inspections, among other regulatory business requirements, which include, but are not limited to, fire and life safety inspections; 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; and

WHEREAS, the Miami City Commission desires to regulate to protect the health, safety and welfare of the multi-family residential communities of the City enactive legislation to ensure like oversight over safety and use of the Vacation rental market;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 62 of the City Code, entitled "Planning and Zoning" is amended in the following particulars:¹

"CHAPTER 62

PLANNING AND ZONING

* * * *

DIVISION 7. ~~RESERVED~~ OTHER LODGING

Sec. 62-618,21 - Vacation Rental Properties.

(a) Purpose and intent. This Section is intended to promote the health, safety and welfare of the residents of the City of Miami by monitoring and requiring registration of residential properties that qualify to be used and are being operated as Vacation Rental properties.

(b) Definitions.

1. 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 thirty days, 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.
2. Allowed Residential Property shall mean any residential property not zoned as a T3 Transect Zone property located in the City of Miami.
3. Certificate of Compliance shall mean the certificate or document provided by the City of Miami showing the Allowed Residential Property has met all the requirements in this Section.
4. Property Owner shall mean the owner as provided by the Miami-Dade Property Appraiser, recorded Deed or other valid legal document.
5. Responsible Party shall mean the Property Owner or the party with whom the Property Owner has designated to have the legal obligation to be responsible for the maintenance, upkeep and care of the Allowed Residential Property being used as a Vacation Rental.
6. Transient Occupant(s) means any person, or guest, or invitee or such person, who occupies or is actual or apparent control or possession of an Allowed Residential Property registered as a Vacation Rental. It shall be a rebuttable presumption that any

¹ Words and/or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

person who holds themselves out as being a occupant or guest of an occupant of a Vacation Rental is a Transient Occupant.

7. Vacation Rental shall mean any unit or group of units in a condominium, cooperative, or more than two family dwelling unit that is rented to a Transient Occupant(s) for 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 as provide for by Florida Statute.

(c) Limitations and Prohibitions.

1. Unless otherwise exempted under this Section, Vacation Rentals and/or Lodging are prohibited in any residential zone designated T3 Transect Zone. Lodging uses are permitted in T4, T5, C and D Transect Zones.
2. Any Advertising or Advertisement that promotes the occupancy or use of the Allowed Residential Property for the purposes of holding commercial parties, events, assemblies, gatherings, or the occupancy of a T3 Transect Zone residence for less than thirty (30) days is a violation of this section
3. This Section does not apply to any property rentals that exceed thirty (30) days in nature and comply with all other applicable laws.
4. No Advertising or Advertisements or signs shall be placed on exterior of or abutting to the right-of-way of the Allowed Residential Property.

(d) Registration and Regulations for Vacation Rental Properties

1. It is unlawful for any person to allow another person to occupy any Allowed Residential Property as a Vacation Rental within the City, or offer such rental services within the City, unless the person has registered the Vacation Rental property with the City and the Vacation Rental property has been issued a Certificate of Compliance in accordance with the provisions of this article.
2. A Property Owner may allow another person to occupy any residential property as a Vacation Rental without the issuance of a Certificate of Compliance if:
 - a. 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,
 - b. The residential property is not in violation of any section of the City Code; and,
 - c. An application for registration of the residential property as a Vacation Rental has been filed pursuant to section and all applicable fees have been paid; and,
 - d. That said occupancy was scheduled prior to the enactment of this Legislation as evidenced by a written and validly executed rental agreement or contract provided to the City Manager or his/her designated representative no later than May 1, 2017.
3. The City Manager or his/her designee may adopt administrative rules and procedures, including, but not limited to, application, permit fees, to assist in the uniform enforcement of this section.
4. All registrations are valid for one (1) year and shall expire September 30 each year. Registrations shall not be reissued or renewed if the registered property has any open Code violations, tickets or other administrative enforcement matters pending with the City.

(e) Application for registration for Certificate of Compliance

Application for a Certificate of Compliance shall be made to the City Manager or his/her designee and shall be required to follow the below procedures:

1. The legal description of the property offered for rental;
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. The Responsible Party must reside within reasonable travel distance from the Vacation Rental property;
4. Acknowledgements by Property Owner of the following:
 - a. That all vehicles associated with the Vacation Rental must be parked within the subject property or in compliance with the City Code;
 - b. That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Chapter 36, Noise;
 - c. That the Property 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 the required pick-up times as set forth in Chapter 22 of the City Code;
 - 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 the Allowed Residential Property will only be rented to one party or group and not multiple, unrelated groups or parties at any given time;
 - g. 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
5. Proof of Property Owner's current ownership of the property;
6. Proof of registration with the Florida Department of Revenue for sales tax collection and Miami-Dade County for tourist development tax; and
7. Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment; and
8. Proof of compliance with subsection responsible party guidelines in subsection (f).
9. Shall keep all required City licensure, including but not limited to, a valid Certificate of Use and Business Tax Receipt permits.

Submission of an incomplete registration application form shall result in rejection of the application. The registration for a Certificate of Compliance is a non-refundable fee of \$250.00 per Allowed Residential Property and paid each year for the renewal of the required Certificate of Compliance. The registration fee may be adjusted at the discretion of the City Manager or his/her designee.

(f) Responsible Party requirements

Whenever any property is required to be registered under this article, the owner shall appoint a natural person who resides within reasonable travel distance for the Vacation Rental property. Any notices required by this Section shall be sufficient if provided by U.S. Mail to the Property Owner or the Responsible Party at the addresses provided in the application. An initial Responsible Party shall be designated and name submitted with the application for registration, and the City Manager or his/her designee shall thereafter be notified of any change of Responsible Party within fifteen (15) days of such change. Failure to timely notify of a change in the Responsible Party is grounds to suspend or revoke the Vacation Rental approval. 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 ordinances concerning noise, vehicle parking, garbage, and common area usage with a copy of the applicable City ordinances 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 this Code, as determined by the building official or his/her 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 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.

(g) Certificate of Compliance. The City Manager or his designee may issue a Certificate of Compliance to the applicant upon proof of the following:

1. The owner or responsible party completes the City registration application form;
2. The registration fee has been paid to the City;
3. A business tax receipt from the City pursuant to Chapter 31 of this Code;
4. A business tax receipt from Miami-Dade County;
5. A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes;
6. A Florida Department of Business and Professional Regulation license as a transient public lodging establishment;
7. An affidavit, demonstrating maintaining initial and on-going compliance with Residential 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
8. A copy of the form Vacation Rental agreement to be used when contracting with Transient Occupant(s).
9. Inspection of Vacation Rental Properties:
 - a. Initial Inspection: An inspection of the dwelling unit shall be made by the Department of Code Compliance prior to the initial Certification of Vacation Rental approval and any violations found therein have been complied within thirty (30) days of notification.
 - b. Annual Inspection: The Property Owner or Responsible Party shall contact the Department of Code Compliance for an annual re-inspection of the rental unit in order to receive a renewed Certificate of Compliance. Any violations found therein shall be complied within thirty (30) days. Any failure to request an annual inspection will result in a revocation of the Certificate of Compliance and re-application will be only allowed after six (6) months.
10. Certificates of Compliance are not transferable.

(h) Residential Vacation Rental standards.

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.

adjudication of a violation of this article, any City ordinance, or state law by the Responsible Party, Property Owner or 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.

2. Offenses/violations.

a. Non-compliance with any provisions of this article shall constitute a violation of this Article.

b. Separate violations. Each day a violation exists shall constitute a separate and distinct violation.

3. Remedies/enforcement.

a. Violations of this Article shall be subject to penalties with the primary focus on compliance and to accomplish a safe and effective Vacation Rental program. Enforcement may be made in accordance with City Code Chapter 2, Article X, Code Enforcement. Nothing contained herein shall prevent the City from seeking alternate remedies which may include, but are not limited to, injunctive relief, liens and/or other civil and criminal penalties as provided for by law.

b. Civil Infractions: Civil infraction tickets may be issued pursuant to Chapter 2 of the City Code and shall be issued as follows:

i. First Offense: \$250.00

ii. Second and Subsequent Offenses: \$500.00

4. Suspension of Certificate of Compliance. In addition to any fines or any other remedies described herein or provided for by law, the City Manager or his/her designee may suspend a Certificate of Compliance in accordance with the following:

a. Any violation of Chapter 31-48 of the City Code;

b. Any violations of the requirements of a Certificate of Use;

c. Any failure to correct a Code violation within thirty (30) days of notification to the Property Owner or Responsible Party;

d. Upon three (3) or more violations of this Section of the City Code the Certificate shall be suspended for a period of thirty (30) days;

e. For each additional violation of this Article the Certificate of Compliance shall be suspended for an additional thirty (30) calendar days up to a maximum period of twelve (12) months.

5. Suspension restrictions. A Vacation Rental may not provide transient occupancy during any period of suspension of a Certificate of Compliance.

a. The suspension shall begin immediately following notice, commencing either:

i. At the end of the current occupant rental agreement period; or

ii. Within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the City Manager or his/her designee.

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.

Section 3. If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective immediately upon its adoption and

signature of the Mayor.²

APPROVED AS TO FORM AND CORRECTNESS:

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten (10) days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.