

ORDINANCE NO.: 09-19

AN ORDINANCE AMENDING CHAPTER 20 OF THE TOWN OF ORANGE PARK TOWN CODE; ESTABLISHING ARTICLE VII, CONCERNING SHORT-TERM VACATION RENTALS WITHIN THE TOWN; DEFINING SHORT-TERM VACATION RENTALS FOR PURPOSES OF THIS ARTICLE; ESTABLISHING MINIMUM STANDARDS AND REQUIREMENTS FOR SHORT-TERM VACATION RENTALS WITHIN THE TOWN; PROVIDING FOR THE ISSUANCE OF SHORT-TERM VACATION RENTAL CERTIFICATES, COMPLIANCE INSPECTIONS, DESIGNATION OF QUALIFIED RESPONSIBLE PARTIES, ESTABLISHMENT OF MINIMUM RENTAL OR LEASE AGREEMENT REQUIREMENTS, AND THE POSTING OF CERTAIN ESSENTIAL INFORMATION WITHIN SHORT-TERM VACATION RENTALS; PROVIDING FOR ENFORCEMENT OF THE REQUIREMENTS OF THIS ARTICLE BEFORE THE SPECIAL MAGISTRATE; ESTABLISHING PENALTIES FOR VIOLATIONS OF THIS SECTION; ESTABLISHING AN APPEAL PROCESS WHEREBY SHORT-TERM VACATION RENTAL CERTIFICATE APPLICATIONS WHICH HAVE BEEN DENIED BY THE TOWN MAY BE APPEALED TO THE PLANNING AND ZONING BOARD; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE OF OCTOBER 1, 2019.

WHEREAS, the Town of Orange Park (the "Town") finds that the preservation, protection, safety and enhancement of residential neighborhoods in the Town is a matter of great public interest and necessity; and

WHEREAS, the Town further finds that property owners who choose to use their property as a vacation rental are entitled to certain protections under Florida law; and

WHEREAS, said protections must be balanced by reasonable regulations which do not prohibit vacation rentals or regulate the duration or frequency of vacation rentals, but rather protect the rights and expectations of all property owners within the Town; and

WHEREAS, the reasonable regulations contained in this Ordinance will benefit the Town's residents and visitors alike, while preserving and ensuring the health, aesthetics, safety, and economic development of the Town's residential neighborhoods; now therefore,

BE IT ORDAINED by the Town Council of Orange Park:

Section 1. Code Amended. That Chapter 20 of the Town Code is hereby amended to read as follows:

CHAPTER 20

* * *

ARTICLE VII: Short-term Vacation Rentals

Sec. 20-140. Applicability.

(a) This article shall apply to short-term vacation rental as a commercial business of single-family or two-family dwellings. This article shall not apply to short-term vacation rentals within a multi-family residential building, or a group of multi-family residential buildings, which includes three (3) or more individual dwelling units within such building or group of buildings.

(b) This article shall not apply to any facilities that are occupied on a full-time basis by the owner as an on-premises permanent resident.

(c) For purposes of this article, "short term vacation rentals" shall be defined as any individually or collectively owned single-family or two-family house or dwelling unit which is rented more than three (3) times a year for less than thirty (30) days at a time, or which is operated or marketed as a transient public lodging establishment.

Sec. 20-141. Short-term Vacation Rental Minimum Requirements

(a) Short-term vacation rentals shall be permitted in all residential zoning districts provided they are in compliance with this article. No person shall rent or lease all or any portion of a dwelling unit as a short-term vacation rental without initially and then on a continuing basis:

(1) Obtaining a Short-term Vacation Rental Certificate from the Town pursuant to this article;

(2) Obtaining a business tax receipt from the Town pursuant to Chapter 32, Article II of the Town Code;

(3) Obtaining a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental taxes;

(4) Obtaining a Florida Department of Business and Professional

Regulation license as a transient public lodging establishment; and

(5) As demonstrated through an affidavit, maintaining initial and ongoing compliance with the Short-term Vacation Rental Standards contained herein, plus any other local, state, and federal laws, regulations, and standards to include, but not be limited to, Chapter 509 Florida Statutes, and Rule Chapters 61C and 69A, Florida Administrative Code or such successor statutes or Rules as may be applicable.

Sec. 20-142. Short-term Rental Standards

The following Standards shall govern the use of any short-term vacation rental as a permitted use:

(a) Minimum life safety requirements:

(1) 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.

(2) Sleeping rooms. All sleeping rooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.

(3) 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 short-term vacation rental unit, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm 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.

(4) 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 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.

(5) 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 (1) hour to illuminate the primary exit.

(6) Florida Building Code and Florida Fire Protection Code. In addition to the above-listed minimum life safety requirements, all short-term vacation rentals shall be required to comply with the provisions of the Florida Building Code and the Florida Fire Protection Code.

(b) Maximum occupancy. The following specific site considerations in subsection(s) (1), (2), and (3) shall limit any short-term vacation rental occupancy to whichever is less, but not to exceed the permitted maximums provided subsection (4), as applicable, below:

(1) One (1) person per two hundred fifty (250) gross square feet

of permitted, conditioned living space;
or

(2) The maximum number of
occupants allowed shall be restricted
in accordance with any septic tank
permit and the assumed
occupancy/conditions pursuant to which
the permit was issued; or

(c) Parking standard. Based on the
maximum short-term transient occupancy
permitted, minimum off-street parking
shall be provided as one (1) space per
four (4) transient occupants. Garage
spaces shall count if the space is open
and available and the transient
occupants are given vehicular access to
the garage.

(d) Solid waste handling and
containment. Based on the maximum
transient occupancy permitted, one (1)
trash storage container shall be
provided per four (4) transient
occupants or fraction thereof.
Appropriate screening and storage
requirements for trash storage
containers shall apply per any
development approval, local
neighborhood standard or Town Code
provision, whichever is more
restrictive, and be incorporated into
the Certificate. For purposes of this
section, a trash storage container
shall be a commercially available
thirty-five (35) gallon or greater
capacity container with a lid that
securely fastens to the container so as
to prevent spills and animal access,
with the container to be placed at and
removed from curbside at the times
required under the Town Code.

(e) Minimum short-term vacation rental
required postings. The short-term

vacation rental shall be provided with posted material as required by the Town in section 20-148.

(f) Minimum short-term vacation rental lessee information. The short-term vacation rental lessee shall be provided with a copy of the information required in section 20-147.

(g) Designation of a short-term vacation rental responsible party capable of meeting the duties provided in section 20-146.

(h) Septic tank wastewater disposal. If wastewater service is provided through a private home septic system, then the owner shall provide the Town a valid septic permit for the property, and the application it is based upon, demonstrating the capacity for the short-term vacation rental occupancy requested.

(i) Advertising. Any advertising of the short-term vacation rental unit shall conform to information included in the Short-term Vacation Rental Certificate and the property's approval, particularly as this pertains to maximum occupancy.

(j) Other standards. Any other standards contained within the Town's Land Development Regulations to include, but not be limited to: noise, setbacks, and similar provisions.

Sec. 20-143. Short-term Rental Certificate.

To verify compliance with these short-term vacation rental standards, any property owner who wishes to use his or her dwelling unit as a short-term vacation rental must first apply for

and receive a Short-term Vacation Rental Certificate from the Town, and renew the certificate annually for as long as the unit is used as a short-term vacation rental. Each dwelling unit used as a short-term vacation rental requires a separate Short-term Vacation Rental Certificate. An annual certificate fee shall be paid for each dwelling unit certified as a short-term vacation rental in an amount of \$50 to cover the costs of administration, plus any additional costs incurred by the Town as a result of inspection(s) required under this Article. Failure to comply with any of the requirements of this section shall be subject to the remedies and enforcement provided in section 20-140.

Sec. 20-144. Application for a Short-term Vacation Rental Certificate.

Each property owner seeking initial issuance of a Short-term Vacation Rental Certificate, renewal, transfer, or modification of a Short-term Vacation Rental Certificate, shall submit a Short-term Vacation Rental Application in a form specified by the Town, along with an application fee in an amount of \$50. The initial Short-term Vacation Rental Certificate shall be valid through September 30, 2020.

(a) A complete application for the initial or modification of a Short-term Vacation Rental Certificate shall demonstrate compliance with the Short-term Vacation Rental Standards above through the following submittals:

(1) A completed application and applicable fees.

(2) Exterior site sketch.

(A) An exterior sketch of the facility demonstrating compliance with the Standards contained herein shall be provided to the Town. The sketch shall be drawn to scale, showing all structures, pools, fencing, and uses, including areas provided for off-street parking and trash collection.

(3) Interior building sketch by floor.

(A) A building sketch(es) shall be provided by floor showing a floor layout and demonstrating compliance with the Standards contained herein.

(B) The sketch shall be drawn to scale, showing all bedrooms and sleeping areas, exits, smoke and carbon monoxide detectors, and fire extinguishers, etc.

(4) Required short-term vacation rental postings.

(A) Copies of required postings shall be provided.

(5) A blank, draft short-term vacation rental/lease agreement showing required lease terms.

(6) A valid septic tank permit, if applicable.

(7) Any other required information necessary to demonstrate compliance with the Short-term Vacation Rental Standards herein.

(b) Certificate renewals or transfers. The application for renewal or transfer of a Short-term Vacation Rental Certificate shall demonstrate compliance with the following:

(1) If no changes have occurred since the issuance of the most recent Short-term Vacation Rental Certificate, then no additional submittals are required to accompany the renewal/transfer Short-term Vacation Rental Certificate application except as subsection (b)(s) below may be applicable.

(2) If minor changes not involving the specific modifications described below in subsection (c) have occurred since the issuance of the most recent Short-term Vacation Rental Certificate, then additional submittals specific to the minor changes shall be required to accompany the application as necessary to demonstrate compliance with the standards herein.

(3) An inspection is required whenever there is a transfer of a certificate.

(4) A Short-term Vacation Rental Certificate holder must apply annually for a renewal no later than October 1 of each year and shall have passed all inspections and complied fully with the requirements of this article by December 31.

(c) Modification of certificate. An application for modification of a Short-term Vacation Rental Certificate is necessary where any of the following apply:

(1) The gross square footage of the dwelling unit has increased; or

(2) The number of sleeping areas or bedrooms is proposed to increase; or

(3) The occupancy is otherwise proposed to increase.

For the inspection of a modification to a Short-term Vacation Rental Certificate, the modification in facility usage may not occur until after a successful inspection by the Town; however, pending such successful inspection the existing certificate shall apply.

Sec. 20-145. Initial and Routine Compliance Inspections of Short-term Vacation Rentals.

(a) An inspection of the dwelling unit for compliance with this section is required prior to issuance of an initial Short-term Vacation Rental Certificate. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial Short-term Vacation Rental Certificate as provided herein.

(b) Once issued, a short-term vacation rental unit must be properly maintained in accordance with the Short-term Vacation Rental Standards herein and will be re-inspected annually or, in the event of a Certificate transfer, re-inspected at the time of transfer. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in enforcement as provided in section 20-150 until such time as the violation(s) is/are corrected and re-inspected.

(c) The inspections shall be made by appointment with the short-term vacation rental responsible party. If the Town's inspector has made an

appointment with the responsible party to complete an inspection, and the responsible party fails to admit the officer at the scheduled time, the owner shall be charged a fee in an amount of \$50 to cover the administrative expense incurred by the Town, plus any additional costs incurred by the Town as a result of inspection(s) required under this Article.

(d) If the Town's inspector is denied admittance by the short-term vacation rental responsible party or if the inspector fails in a least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the Town shall provide notice of failure of inspection to the owner at the address shown on the existing Short-term Vacation Rental Certificate or the application for Short-term Vacation Rental Certificate.

(1) For an initial inspection, the notice of failure of inspection shall result in the certificate not being issued and the short-term vacation rental being deemed not in compliance with this article.

(2) For a subsequent inspection, the notice of failure of inspection is considered a violation pursuant to subsection (b) above and is subject to enforcement remedies as provided herein.

Sec. 20-146. Short-term vacation rental responsible party.

(a) The purpose of the responsible party is to respond to routine inspections, non-routine complaints, and other more immediate problems

related to the short-term vacation rental of the property.

(b) The property owner may serve in this capacity or shall otherwise designate a short-term vacation rental responsible party to act on the property owner's behalf. Any person eighteen (18) years of age or older may be so designated provided they can perform the duties listed in subsection (c).

(c) The duties of the short-term vacation rental responsible party, whether the party is a property owner or an agent, are to:

(1) Be available at a listed phone number twenty-four (24) hours a day, seven (7) days a week and capable of handling any issues arising from the short-term vacation rental use;

(2) If necessary, be willing and able to come to the short-term vacation rental unit within two (2) hours following notification from an occupant, the property owner, or the Town to address issues related to the short-term vacation rental.

(3) Authorized to receive service of any legal notice on behalf of the owner for violations of this section; and

(4) Otherwise monitor the short-term vacation rental unit at least once weekly to assure continued compliance with the requirements of this section.

(d) A property owner may change the designation of a short-term vacation rental responsible party temporarily or permanently; however, there shall only be one (1) short-term vacation rental

responsible party for each short-term vacation rental at any given time. To change the designated responsible party, the property owner shall notify the Town in writing via a completed form provided by the Town.

Sec. 20-147. Minimum provisions and requirements of short-term vacation rental or lease agreements.

Short-term vacation rental or lease agreements for properties subject to this Article shall contain the following information at a minimum:

(a) Maximum occupancy of the short-term vacation rental unit as permitted on the Short-term Vacation Rental Certificate for the property;

(b) The name and ages of all persons who will be occupying the unit;

(c) The license tag numbers for all vehicles that the occupant(s) will be parking at the unit, with a total number not to exceed the number of off-street parking spaces at the unit as designated on the Short-term Vacation Rental Certificate; and

(d) A statement that all transient occupants must evacuate from the short-term vacation rental upon posting of any evacuation order issued by local, state, or federal authorities.

(e) The rental or lease agreement shall be retained by the responsible party. The responsible party shall retain all rental or lease agreements for a minimum period of one (1) year following the end of the rental period.

(f) No rental or lease agreement shall be provided to or retained by the Town except as part of an enforcement investigation, emergency, or other action by the Town. At the Town's request, the responsible party shall immediately provide the Town with the rental or lease agreements described in subsection (e).

Sec. 20-148. Required posting of short-term vacation rental unit information.

(a) On the back of or next to the main entrance door to the short-term vacation rental unit or on the unit's refrigerator there shall be provided the following information:

(1) The name, address, and phone number of the short-term vacation rental responsible party;

(2) The maximum occupancy of the unit;

(3) Notice that quiet hours are to be observed between 10:00 p.m. and 7:00 a.m. daily or as superseded by any Town noise regulation;

(4) The maximum number of vehicles that can be parked at the unit, along with a sketch of the location of the off-street parking spaces;

(5) The days of trash and recycling pickup;

(6) The location of the nearest hospital.

(b) If the short-term vacation rental unit includes three (3) or more occupied floors on the third floor above ground level and higher floors

there shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map.

Sec. 20-149. Offenses and violations.

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

(b) For purposes of this section, each day a violation of this article exists shall constitute a separate and distinct violation.

Sec. 20-150. Remedies and enforcement.

Violations of this article 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 short term rental responsible parties are responsive and responsible in the management of the property for compliance with this article. Code enforcement activities will be in accordance with Florida Statutes Chapter 162 and the Town Code.

(a) Warnings. Warnings may be issued for first-time violations and have a correction and compliance period associated with it. Such warnings may include notice to other agencies for follow-up by such agencies as applicable. Non-compliance with a correction compliance period shall result in the issuance of a citation.

(b) The Town may utilize Florida Chapter 162 or the Town Code to prosecute a code violation and in such case, the Town's Special Magistrate

shall be authorized to hold hearings, assess fines, and authorize abatement in accordance with Florida law and the Town Code.

(c) Nothing contained herein shall prevent the Town from seeking all other available remedies which may include, but not be limited to, injunctive relief, liens, and other civil or criminal penalties as provided by Florida law or the Town Code, as well as referral to other enforcing agencies.

Sec. 20-151. Waivers and appeals.

(a) If an application for a Short-term Vacation Rental Certificate submitted pursuant to section 20-143 of this article is denied by the Town, the applicant may appeal said denial to the Planning and Zoning Board. The Planning and Zoning Board is authorized under this article to consider an appeal requesting a waiver from some or all of the requirements of this article. Applications appealing a denial of a Short-term Vacation Rental Certificate by the Town shall be in writing on the form prescribed by the Town. In order for an application to be deemed complete, the applicant must have also paid the fee established for appeals in accordance with Section 2.08.13.00 of the Town's Land Development Regulations.

(b) Waivers may be granted by the Planning and Zoning Board if the Board finds, based on competent and substantial evidence, that the appeal application meets all of the following criteria:

(1) There are practical or economic difficulties in carrying out the strict letter of the regulation;

(2) The request is not based exclusively upon the desire to reduce the costs of compliance with the regulation;

(3) The proposed waiver will not substantially diminish property values in, nor alter the essential character of, the area surrounding the property and will not substantially interfere or injure the rights of others whose property would be affected by the waiver; and

(4) The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.

Section 2. Conflicts. If any portion of this Ordinance is in conflict with any other ordinance, then the provisions of this Ordinance shall govern.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. Upon its adoption by Council, this ordinance shall become effective on the 1st day of October, 2019.

Passed on first reading this 21st day of
May, 2019.

Passed on second reading this 25th day of
June, 2019.

MAYOR

ATTEST:

TOWN CLERK

FORM APPROVED:

TOWN ATTORNEY