

## ORDINANCE NO. 2019-05

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SHORT-TERM/ RENTALS OF SINGLE-FAMILY RESIDENCES, TOWN HOUSES, CONDOMINIUMS AND APARTMENTS, AND SHORT TERM SUB-LEASES OF APARTMENTS, WITHIN PALMETTO BAY; PROVIDING THAT AGENTS ADVERTISING SUCH RENTALS FOR OWNERS, OR IN FACT ENGAGED IN SUCH RENTALS FOR OTHERS, MUST FIRST FILE AN ANNUAL REGISTRATION FORM AND REGISTRATION FEE, PROVIDING FOR REGULATIONS OF SHORT TERM RENTALS; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR AN EFFECTIVE DATE. *(Sponsored by Vice Mayor John DuBois)***

**WHEREAS**, short term/ vacation/ transient rentals via online hosting platforms are an emerging sector providing hosts and guests a medium for home-sharing; and

**WHEREAS**, despite the name, short term/ vacation/ transient rentals are not rented solely by vacationers, but may be used by travelers who find themselves in a locale for a variety of reasons and wish to stay in short-term residential rentals; and

**WHEREAS**, short term/ vacation/ transient rentals must be registered and licensed with the Florida Department of Business Regulation in order to operate within the state; and

**WHEREAS**, if unregulated, short term/ vacation/ transient rentals can create a negative impact on residential neighborhoods such as excessive noise, parking that overwhelms the use by residents and accumulation of trash; and

**WHEREAS**, to protect residential neighborhoods in the Village from disruptive behaviors and incompatible uses and to protect the health, safety and welfare of the community, the Village Community and Economic Development office wishes to enact a short term/ vacation/ transient rental license registration form with disclosures, in order to regulate and provide law-abiding residents the opportunity to

offer and use vacation/ short term rentals in an orderly manner, consistent with the state and local law; and

**WHEREAS**, the purpose of this ordinance is to establish a license registration form in order to promote compliance with the Village code and to establish a process for those who wish to offer and use short term/ vacation/ transient rentals in this community; and

**WHEREAS**, short-term/ vacation/ transient rentals of single-family residences, town houses, condominiums, and apartments, within the Village of Palmetto Bay often result in consequences which must be evaluated for compliance with Village codes and compliance action undertaken by the Village in a timely fashion; and

**WHEREAS**, **section 30-60-20** of the Palmetto Bay municipal code will be incorporated to bring forward; and

**WHEREAS**, such compliance evaluation and enforcement place a financial burden on the Village; and

**WHEREAS**, this registration ordinance must be enforced and used in conjunction with the enforcement ordinance brought forth by the Village Council; and

**WHEREAS**, the expense of such evaluation and compliance enforcement should be borne by the owners and/or agents renting such single-family residences.

**NOW, THEREFORE, THE FOLLOWING ORDINANCE IS HEREBY ENACTED BY THE VILLAGE OF PALMETTO BAY, FLORIDA:**

**Section 1. Section 30-60.20 is hereby created as follows:**

**30-60.20 Short-term Rentals and Transient Occupancy:**

**1) Applicability and Purpose**

(A) This section applies to the municipality of Palmetto Bay.

(B)The purpose of this section is to regulate short term/ vacation/ transient rentals within the Village of Palmetto Bay and provide law- abiding residents the opportunity to offer and use vacation/ short term/transient rentals in an orderly manner, consistent with the state and local law. The purpose of the regulation is to promote compliance with the Village code for those who wish to offer and use short term/ vacation/ transient rentals in Palmetto Bay. No person shall rent or lease all or any portion of a dwelling unit as a short-term rental or to a transient occupant, as defined in this section, without complying with the criteria set forth herein.

## **2) Definitions**

*'Short term rental'* shall be defined as any dwelling unit or residence, town house, condominium and apartment and short term leases of apartments, including, but not limited to, any unit or group of units in a condominium or apartment building, that is rented in whole to or in part to a transient occupant for more than three 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 guest (509.242(1)(c) and 509.013 (4)(a)1.,Florida Statues) a period less than 2 months or a maximum of 60 days, consecutive or not, in a calendar year. For the purpose of this section, the term short term rental is synonymous with the term vacation term rental and transient rental.

*'Transient occupant'* shall be defined as any person who rents or occupies any dwelling unit or residence or part thereof for less than 2 months or a maximum of 60 days, consecutive or not consecutive days, in a calendar year, and any guest or invitee of such person. Any person or guest or invitee or such person, who occupies or is in actual or apparent control or possession of a short-term vacation/ short term/ transient rental. There should be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of a short term/ vacation rental is a

transient occupant.

*'Agents'* shall be defined as any person, service, business, company, marketplace or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer short- term rentals to transient occupants, whether through the internet or other means.

*'Property owner'* shall mean the person or entity listed as owner with the Miami-Dade County Property Appraiser's office and/or listed on the deed to the property as owner.

*'Responsible Party'* the property owner or person/ entity designated by the property owner, to be called upon for matters regarding the vacation rental, including but limited to. The maintenance and upkeep of property, request for inspection, emergencies and to answer for conduct and acts of occupants and guests of the rental. The responsible party shall be available to be contacted at any hour of the day, any day of the week during any period that the vacation rental is occupied.

### **3) Registration Form Requirements**

An Annual registration application form and registration fee and all applicable fees herein shall be filled and paid through the Village of Palmetto Bay's Planning and Zoning office.

(3) Such registration must be filed, and the applicable fee paid annually each calendar year. Fees are as follows: An application processing fee of forty-five (\$45) per application submitted, a vacation rental registration fee of one-hundred dollars (\$100) for each single-family residence, town house, condominium, or apartment annually. If initial registration occurs after one-half or more of a calendar year has passed, the registration fee shall be fifty dollars (\$50), a rental annual registration renewal fee of one-hundred dollars (\$100), a rental reinstatement after suspension fee of one-hundred (\$100), a vacation registration modification fee of one-hundred dollars (\$100), a rental appeal fee of one-hundred (\$100) and applicable penalties for first,

second and third offenses.

(5) The owner or owner representative offering a rental of property covered herein, represented by an agent for the purpose of renting such property for a rental period of (3) three months or less, and such agent, are responsible to ensure that registration and fee payment as required herein are accomplished.

- (a) Failure to file or pay the fee prior to advertising such rental shall result in a five hundred-dollar (\$500) fine levied against both the owner and/or tenant offering a rental and agent, which each must pay separately within thirty (30) days of date of levy.
- (b) Failure to file or pay the fee occurring a second time within a five year period with respect to the same property shall result in a fine of one thousand dollars (\$1,000) levied against both the owner or tenant offering a rental and the agent, which each must pay separately within thirty (30) days of levy.
- (c) Failure to file or pay the fee occurring a third time within a five year period with respect to the same property shall result in a fine of two thousand dollars (\$2,000) levied against both the owner or tenant offering a rental and the agent, which each must pay separately within thirty (30) days of levy, and in suspension for a one year period of the right to rent such property for a rental period of two months or less.
- (d) The levying of any such fine or the suspension of the right to rent may be challenged through the administrative appeal process as provided elsewhere in the Palmetto Bay Code, if such appeal is filed within twenty (20) days of the levy of any such penalty. During the pendency of such appeal, the thirty (30) day time period for payment and the suspension of the right to rent shall be automatically stayed during such appeal process.
- (e) Failure to obtain a background check or falsify background check will result in a fine of twenty-five thousand dollars

(\$25,000) against the owner.

- (f) Unpaid fines may be recorded as a lien against the relevant property.

**Section 2. Effective Date.** This ordinance shall become effective thirty (30) days following adoption on second reading.

**FIRST READING:** March 4, 2019

**SECOND READING:** May 6, 2019

**PASSED** and **ADOPTED** on **SECOND READING** this 6<sup>th</sup> day May 2019.

Attest: \_\_\_\_\_  
**Missy Arocha**  
**Village Clerk**

\_\_\_\_\_ **Karyn Cunningham**  
**Mayor**

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:

\_\_\_\_\_  
**Dexter W. Lehtinen**  
**Village Attorney**

**FINAL VOTE AT ADOPTION:**

Council Member David Singer	<u>YES</u>
Council Member Patrick Fiore	<u>YES</u>
Council Member Marsha Matson	<u>YES</u>
Vice-Mayor John DuBois	<u>YES</u>
Mayor Karyn Cunningham	<u>YES</u>