

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CLOUD LAKE, FLORIDA AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 28 ZONING IN ORDER TO CREATE A NEW ARTICLE II. IN ORDER TO ADOPT REGULATIONS PERTAINING TO VACATION RENTALS; PROVIDING FOR APPLICABILITY, REGISTRATION AND PERMITTING OF VACATION RENTAL UNITS; PROVIDING STANDARDS FOR THE OPERATION OF SUCH UNITS; PROVIDING FOR GROUNDS FOR VIOLATIONS, REMEDIES AND ENFORCEMENT; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CLOUD LAKE, FLORIDA, AS FOLLOWS:

Section 1. Chapter 28 ZONING of the Code of Ordinances of the Town of Cloud Lake, Florida is hereby amended in order to create a new Article II which shall read as follows:

ARTICLE II. VACATION RENTALS

Section 28-25. Applicability.

The regulations set forth in this Article shall apply to any building or structure utilized as a vacation rental within any Town zoning district. A vacation rental is a dwelling unit that is also a transient public lodging establishment, but is not a time share project. A transient public lodging establishment, as defined by section F.S. § 509.013(4)(a), as amended, is any unit which is rented out to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out the public as a place regularly rented to guests for periods less than 30 days or one calendar month, whichever is less.

Section 28-26. Registration and inspection.

(a) Registration required. It shall be unlawful for any person or entity to operate a vacation rental within the corporate limits of the Town without first registering the vacation rental with the Town Clerk in accordance with the requirements of this Article. All existing vacation rentals shall be required to be registered by December 31, 2023.

(b) Initial registration. Every vacation rental owner or operator shall first register with the Town by submitting to the Town Clerk a properly completed and notarized registration form, as prescribed by the Town, together with a registration fee in an amount established by Resolution of the Town Council. A separate registration form shall be required for each vacation rental. The registration form shall be accompanied by the following:

- (1) A copy of the business tax receipt issued by the Town;

- (2) A copy of the Florida Department of Business and Professional Regulation license as a transient public lodging establishment/vacation rental;
- (3) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purpose of collecting and remitting sales taxes, transient rental taxes and any other taxes required by law to be remitted, as applicable;
- (4) Proof of the establishment of an account with the Palm Beach County tax collector for the payment of tourist development taxes or that payment is arranged through a third party;
- (5) Copies of the postings required by Section 28-27(b)(2) below;
- (6) A copy of a sample lease agreement; and
- (7) A completed vacation rental responsible party designation, in the format prescribed by the Town, which includes the information required by Section 28-27(b)(1) below.
- (8) A statement of the total number of sleeping rooms in the vacation rental.

(b) Registration renewal. After a vacation rental is initially registered, the registration shall be renewed by October 1 of each year through the execution of a renewal affidavit, in the format prescribed by the Town, and the payment of the renewal fee established by Resolution of the Town Council.

(c) Registration updates. Any changes to the information or submittals included with the initial registration must be reported to the Town within 30 days of the occurrence of such changes.

(d) Incomplete registration/renewal. If the registration form or renewal form submitted pursuant to this Section is incomplete, the registrant shall be informed of such deficiency and shall have ten (10) days to correct the deficiency.

(e) Inspection. Inspection by the Town to verify compliance with the requirements of the Article may be required subsequent to initial registration with the Town and annually after each renewal. Noncompliance with the requirements of this Article discovered during any inspection shall be treated as a violation of the Town Code and be processed in accordance with Section 28-28 below. Failure to allow the Town to inspect the vacation rental within twenty (20) days after the Town notifies the owner or responsible party that the Town is ready to conduct an inspection shall constitute a separate violation of the Town Code and be processed in accordance Section 28-28 below.

(f) Evidence of vacation rental operation. Advertising, listing or posting a property on the internet, utilizing any mass communication medium or in any publication as being available for use as a vacation rental creates a rebuttable presumption that the owner or operator is utilizing

the property as a vacation rental. Nothing set forth herein precludes the Town from presenting other forms of evidence of vacation rental operation.

(g) *False information.* it shall be unlawful for any person to give any false or misleading information in connection with the requirements and obligations set forth in this Section.

Section 28-27. Vacation rental standards.

(a) No person or entity shall operate a vacation rental within the Town unless such vacation rental complies with the following 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, as set forth in Chapter 515, *Florida Statutes*.
- b. *Smoke and carbon monoxide (CO) detection and notification system.* If an interconnected and hardwired smoke and carbon monoxide (CO) detection and notification system is not in place within the vacation rental, then 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.* Each vacation rental dwelling unit shall comply with the occupancy limitations set forth in the Property Maintenance Code referenced in section 6-104 of this Code, provided, however, that in no event shall maximum occupancy of such dwelling unit exceed two persons per bedroom plus two additional persons. The maximum number of individuals that may gather at a vacation rental property at one time is one and one-half times the maximum occupants authorized to stay overnight at the vacation rental unit.

- (3) Lease requirements. There shall be a written or online lease, rental, tenant or other recorded agreement memorializing each vacation rental tenancy between the owner or responsible party and the occupant(s). The agreement shall, at a minimum, contain the following information:
- a. The maximum number of occupants for the unit as specified in subsection (2) above;
 - b. The number of parking spaces associated with the vacation rental unit, if applicable, and the location of such spaces;
 - c. The names and ages of all persons who will be occupying the unit;
 - d. The dates of such occupancy; and
 - e. A statement that all occupants must evacuate from the vacation rental following any evacuation order issued by local, state or federal authorities.
- (b) The Town reserves the right to request and receive a copy of any vacation rental lease or rental agreement from the owner or responsible party at any time.
- (1) Vacation rental responsible party. Each vacation rental must designate a responsible party to respond to routine inspections as well as non-routine complaints and any other problems related to the operation of the vacation rental. The property owner may serve in this capacity or shall otherwise designate another person 18 years or older to perform the following duties:
- a. Be available by telephone at the listed phone number 24 hours per day, seven days per week and be capable of handling any issues relating to the operation of the vacation rental;
 - b. If required, be willing and able to come to the vacation rental within one (1) hour following notification from an occupant, the owner, or the Town to address any issues relating to the operation of the vacation rental;
 - c. Maintain a record of all lease or rental agreements for the vacation rental;
 - d. Receive service of any legal notice on behalf of the owners for violation of the requirements set forth in this division; and
 - e. Otherwise monitor the vacation rental to ensure compliance with the requirements set forth in this division.
- (2) Minimum vacation rental information required postings. The vacation rental shall be posted with the following information, either on the back of or next to the main entrance door or on the refrigerator:

- a. The name, address and telephone number of the vacation rental responsible party;
 - b. The days of trash pick-up and recycling pick-up and a notification that all garbage or trash must be placed in a garbage or trash can or other approved garbage receptacle and that all recyclables must be placed in approved recyclable containers;
 - c. The location of the nearest hospital;
 - d. The location of designated parking spaces/areas, if applicable;
- (3) Other regulations. Vacation rentals must comply with all other regulations, standards and requirements set forth in the Town Code of Ordinances

Section 28-28. Violations; remedies; enforcement.

(a) Violations. Non-compliance with any provision of this Article shall constitute a violation of the Town Code of Ordinances and each day the violation exists shall constitute a separate and distinct violation.

(b) Remedies and enforcement. Any violations of this Article may be enforced pursuant to Section 1-12 of the Town Code of Ordinances; through the code enforcement process set forth in Chapter 2, Article V of the Town Code of Ordinances; or through any other manner authorized by law, including, but not limited to, injunctive relief. The special magistrate's findings and order shall constitute the final administrative action of the Town for purposes of judicial review under State law.

(c) No waiver. A valid vacation rental registration shall not be construed as a waiver of any of the requirements contained within the Town Code of Ordinances or the Town's Comprehensive Development Plan nor shall such registration be construed as approval of a use or activity that would otherwise be illegal under Florida law or prohibited by the Florida Building Code or the Florida Fire Prevention and Life Safety Code.

(d) Specific criteria which may result in the denial, suspension, or revocation of a vacation rental permit by the Town or special magistrate. A vacation rental permit may be denied, suspended, or revoked by the Town, or suspended or revoked by the special magistrate, as further provided herein, when it is determined that:

- (1) A property owner or vacation rental permit applicant (owner/applicant) has misrepresented or failed to disclose material facts or information which is required to be included in the vacation rental permit application and any other application required by the Town, the County or the State;
- (2) The same or substantially similar vacation rental activity on the subject property during the preceding 12-month period, has been conducted in such a manner as to have violated the Town's Code of Ordinances which regulates the use or operation

of the vacation rental premises and/or one of the following determinations is made:

- a. The activity has become a public nuisance as set forth in Town Code;
- b. The activity constitutes a public nuisance at common law;
3. The vacation rental has been operated in such a manner as to injure the health, safety, or welfare or to disturb the quiet enjoyment of the citizens in the nearby vicinity.

This criterion shall not apply if the vacation rental permit application/renewal is in conjunction with new ownership of the subject property. "New ownership" for this purpose requires an actual change in the individuals who have ownership interests in the subject property. The mere re-structuring of corporate holding companies or other transfers deemed to be illusory in nature shall not be considered "new ownership."

- (3) The issuance or renewal of the vacation rental permit was contingent upon the owner's/applicant's compliance with specific provisions of the Town's, the County's or the State's laws and the owner/applicant has not satisfied or has violated such conditions, to include but not limited to, specific conditions of approval imposed through development orders issued by the Town;
- (4) An owner/applicant has violated any provision of this Article and has failed or refused to cease or correct the violation at the subject property after having been notified to do so by the Town or by an Order of the special magistrate;
- (5) The premises have been condemned by the local health authority or by the Town building official and/or fire marshal for failure to meet state and local standards.
- (6) If the owner/applicant fails to seek timely appellate review of an order of the special magistrate under this subsection and continues to operate the vacation rental premises in violation of the order and/or this article, the Town may pursue any and all enforcement procedures necessary, including abatement of the violation. Any costs for enforcement or abatement action shall be placed as a lien against an owner/applicant's real and personal property.
- (7) Fees or taxes. No fees or taxes shall be refunded if a vacation rental permit is suspended, revoked, or cancelled pursuant to this section.
- (8) Additional remedies. 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 and criminal penalties as provided by law, as well as referral to other enforcing agencies.

SECTION 2. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the Town of Cloud Lake, Florida. The sections of this Ordinance may be renumbered or lettered to accomplish such, and the word “Ordinance” may be changed to “section,” “article,” or any other appropriate word.

SECTION 3. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of the Ordinance.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 5. This Ordinance shall become effective immediately upon its passage on second and final reading.

FIRST READING this 10th day of August, 2023.

SECOND READING and FINAL PASSAGE this 14th day of September, 2023.

TOWN OF CLOUD LAKE, FLORIDA

Russell Nidy YES
MAYOR

- Marion Chateau-Flagg YES
COUNCIL MEMBER

Kathleen Hoock YES
COUNCIL MEMBER

ATTEST:

Beatriz E. Wallace YES
COUNCIL MEMBER

Dorothy C. Gravelin
TOWN CLERK

Cory Dolling ABSENT
COUNCIL MEMBER