

**ORDINANCE NO. 2022-13**

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING TITLE 11, BUSINESS REGULATIONS, OF THE TOWN OF LONGBOAT KEY CODE OF ORDINANCES CREATING A NEW CHAPTER 115, ENTITLED “RESIDENTIAL RENTAL REGISTRY;” MAKING LEGISLATIVE FINDINGS REGARDING THE NEED TO REGULATE RESIDENTIAL RENTALS; PROVIDING FOR THE REGULATION OF TRANSIENT AND NONTRANSIENT PUBLIC LODGING ESTABLISHMENTS CONSISTENT WITH STATE LAW; REQUIRING REGISTRATION AND REQUIRING A RESIDENTIAL RENTAL CERTIFICATE OF REGISTRATION; PROVIDING MINIMUM REQUIREMENTS FOR REGISTRATION, INCLUDING THE DESIGNATION OF A RESPONSIBLE PARTY FOR EACH RESIDENTIAL RENTAL UNIT, PROPERTY INSPECTIONS, SAFETY REQUIREMENTS, AND POSTING REQUIREMENTS; PROVIDING AUTHORITY TO ESTABLISH PENALTIES FOR VIOLATIONS; PROVIDING FOR THE COLLECTION OF FEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2(b) of the Florida Constitution and Chapter 166 Florida Statutes provides municipalities with the authority to exercise any power for municipal purposes except when prohibited by law; and

**WHEREAS**, the Florida Legislature has adopted Chapter 509, Florida Statutes, for the purposes of regulating public lodging and food service establishments; and

**WHEREAS**, Section 509.013, Florida Statutes, establishes a distinction between “transient public lodging establishments” and “nontransient public lodging establishments” and Section 509.032, Florida Statutes, pre-empts local governments’ ability to prohibit vacation rentals or regulate the duration or frequency of vacation rentals unless the local government’s law, ordinance, or regulation was adopted on or before June 1, 2011; and

**WHEREAS**, the Town of Longboat Key (Town) has had a longstanding and ongoing ordinance dating back to 1982, Ordinance 82-10, that limits the duration and frequency of short-term rentals of residentially zoned properties; and

**WHEREAS**, the Town’s short-term rental regulation is currently codified in Chapter 158, of the Town Code, and such regulation requires that residentially zoned properties provide for occupancy periods of not less than 30 days; and

**WHEREAS**, the Town’s longstanding regulation of short-term rentals in residentially zoned neighborhoods has prevented the Town’s residentially zoned neighborhoods from becoming dominated by transitory occupants like many other coastal communities throughout Florida; and

**WHEREAS**, the Town recognizes that not all rentals of residentially zoned properties constitute short term rentals and that Florida law also classifies residential rentals as public lodging establishments depending upon the duration of the tenancy; and

**WHEREAS**, properties that are rented for a period of six months or less as public lodging establishments are required to pay Tourist Development Taxes within either Manatee or Sarasota Counties and pay Sales Taxes to the Florida Department of Revenue; and

**WHEREAS**, Town staff has indicated that approximately 1,300 residential units are being rented as public lodging establishments for periods of six months or less throughout the Town and the primary complaints received by Longboat Key Code Enforcement Division relate to the rental of residential units and accounted for 39% of all code enforcement cases in 2021; and

**WHEREAS**, the Town is concerned that the frequent rental of residential structures or dwelling units to transient and nontransient occupants can result in adverse impacts to other nearby residential properties, including, but not necessarily limited to, increased noise, problems with garbage collection, litter, and parking, and the owners of the units often do not personally experience the negative impacts that may be associated with unregulated residential rental units; and

**WHEREAS**, transient and nontransient occupants of residentially zoned properties may be unfamiliar with the Town's regulations in the neighborhoods, and the location of fire extinguishers, pool and home safety features, and other similar safety features within the interior residential structure; and

**WHEREAS**, according to the U.S. Census, the Town has an estimated average household size of 1.90 persons and residential rental units within the Town are currently being advertised for occupancies up to 12 persons per household, creating a significant disparity in potential adverse impacts as compared to owner-occupied residential units; and

**WHEREAS**, the Longboat Key Town Commission desires to ensure that the rental of residential units by transient and nontransient occupants are appropriately managed by the property owners and are safe, that negative impacts from residential property rentals can be addressed in a responsive manner, and that measures are established to mitigate adverse impacts of residential rental units on neighboring residential uses; and

**WHEREAS**, the regulation of the rental of residential units through a Residential Rental Registration Program will help to achieve a greater level of compatibility between owner-occupied homes and visitor occupied residential rental units; and

**WHEREAS**, this ordinance does not prohibit the rental of residential units, does not regulate the duration or frequency of residential units, nor does this amend the Town's existing land use regulations or definitions within Chapter 158 of the Town Code of Ordinances; and

**WHEREAS**, this ordinance does not impair, modify, or otherwise amend any separate rental restrictions and requirements burdening private property that are provided for in recorded covenants applicable to properties located in homeowners' associations, subdivisions and condominiums within the Town; and

**WHEREAS**, an ordinance regulating residential rental units in the Town is in the best interest of the citizens of the Town of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. Title 11 – Business Regulations is hereby amended to create a new Chapter 115, to read as follows:

**Chapter 115 – RESIDENTIAL RENTAL REGISTRY**

### **115.01 - Purpose and intent.**

The purpose of this Chapter is to establish a rental registry program that creates minimum standards for the rental of real property, for periods of six (6) month or less, in residentially zoned districts and does not prohibit the Owner of residential property from the reasonable use of the rental property, as provided for in Chapter 509, Florida Statutes. This Chapter shall not be construed nor is it intended to prohibit short term rentals or to add or modify any of the requirements or definitions of Tourism Uses in Title 15, Land Development Code, of the Town Code of Ordinances, and shall be implemented to achieve the following intent and purposes of the Town Commission:

- (A) To establish the regulations, procedures, and standards for the review and approval of a rental registry program applicable to all residentially zoned rental properties in the Town;
- (B) To preserve the public health, safety, general welfare, and aesthetics within the Town's neighborhoods where rentals of residential property are occurring;
- (C) To establish a rental registry review process that is efficient in terms of time and expense; effective in addressing the immediate adverse impacts of rental properties; and equitable with regard to regulations and procedures, while respecting the rights of property owners;
- (D) To ensure the safety of structures that are used as Residential Rental Units.

This Chapter shall not be construed nor is it intended to modify any of the requirements in Section 158.104 for tourism use, Town Ordinance 82-10, or rental properties located within the T-3 or T-6 zoning districts, explicitly approved by the Town Commission for tourism use in the MUC-2 zoning district, or approved for additional tourism units pursuant to Subsection 158.106(B) of the Town's Code. This Chapter shall not be construed nor is it intended to impair, modify, or otherwise amend any privately imposed rental restrictions and requirements that are set forth in homeowners association deed restrictions, restrictive covenants, declarations of condominium, condominium bylaws or other applicable condominium documents, or other recorded covenants applicable to particular property within the Town.

### **115.02 - Definitions.**

*Agent.* Any person or entity that manages the residential real property, such as a property management company or landlord, separate from the Owner; or manager or person in charge of the property.

*Bedroom.* A room as defined by the Florida Building Code. If a room has been added, altered or converted without required building permits having been issued, such room shall not be deemed a bedroom.

*Code Enforcement Officer.* Any authorized agent or employee of the Town appointed by the Town Manager, including Law Enforcement Officers, whose duty it is to ensure Code compliance with the Town's Code of Ordinances.

*Designated Responsible Party (DRP).* The Owner of a Residential Rental Unit or an Agent who has been designated by the Owner to be called upon to answer for the maintenance of the Residential Rental Unit and to respond to inquiries or complaints regarding the conduct of the occupants of the Residential Rental Unit.

*Emergency Communication.* A form of technology, capable of contacting the local 9-1-1 emergency services, such as a landline telephone, monitored security alarm system, or medical alert system.

*Good Standing.* Free from violations of the Town Code, and not subject to unpaid fees, fines, civil penalties, or liens owed to the Town.

Lessee. A person who takes temporary possession of an Owner's property interest through a lease or other form of rental arrangement.

Nontransient public lodging establishment. Shall be defined as provided for in Chapter 509, Florida Statutes, as may be amended.

Occupant. Any person that is present at the Residential Rental Unit as a lessee or overnight guest of the lessee.

Owner. A natural person or legal entity holding all or a portion of the fee simple title to residential real property or a Residential Rental Unit, whether an individual, partnership, corporation, limited liability company, trust, or other entity.

Repeat violation. Shall be defined as provided for in Chapter 162, Florida Statutes, as may be amended.

Residential Rental Certificate of Registration (RRCR). The Town issued document that shows that the Residential Rental Unit described on the Certificate of Registration is currently registered with the Town.

Residential Rental Unit (RRU). Any unit or group of units in a multi-family structure or any individually or collectively owned single-family, or two-family house, or dwelling unit that is either a transient public lodging establishment or a nontransient public lodging establishment that is rented for periods of six (6) months or less, and located in a residential zoning district.

Transient public lodging establishment. Shall be defined as provided for in Chapter 509, Florida Statutes, as may be amended.

Violation. An act or omission contrary to, not permitted by, or inconsistent with the Town Code or any ordinance, resolution, regulation, permit, approval, notice, order, directive, or administrative rule of the Town.

Violator. Any person or entity who commits a Violation. The term "violator" may include one or more of the following: the Owner of the property where the violation exists; the Occupant; Lessee; the person or entity that manages the property where the violation exists, such as a property management company, Agent, or landlord, if separate from the Owner; or manager, DRP, or person in charge of the property where the violation exists.

### **115.03 - Application for Residential Rental Certificate of Registration (RRCR).**

- (A) A Residential Rental Unit (RRU) is required to obtain a Residential Rental Certificate of Registration (RRCR) to rent a RRU in compliance with this Chapter. Operating a RRU without a valid RRCR is a violation of this Chapter.
- (B) Any person or entity who desires to rent a RRU shall apply for a RRCR on a form provided by the Town and submitted with the application fee. All required information on the form must be submitted and complete prior to processing by the Town. The Planning, Zoning, and Building Department Director, or designee, may revise the application requirements and forms to maintain compliance with current Federal, State, and local regulations. If the application is deemed incomplete or inaccurate, the applicant will be notified and shall have 30 days to complete or amend the application. If the application is not completed or amended within the timeframe noted herein, the application shall be deemed withdrawn and any fees shall be refunded.
- (C) A RRCR application may be cancelled by the Owner or Designated Responsible Party (DRP) by notifying the Planning, Zoning, and Building Department.
- (D) A RRCR shall be issued on the date of inspection approval and shall be considered current and valid until two (2) years from the date of issuance unless suspended, cancelled, revoked, transferred, or terminated.

- (E) An Owner or DRP can terminate a RRRCR by notifying the Planning, Zoning and Building Department.
- (F) A RRRCR must be renewed prior to the end of its term by filing a renewal application at least 30 and not more than 60 days before the expiration of the existing RRRCR. The renewal application shall be submitted on a form provided by the Town and submitted with the renewal fee. If a renewal application is filed in a timely manner, the current RRRCR shall remain in effect until the application for a renewal RRRCR is approved or denied. All required information on the form must be provided prior to processing by the Town. If the application is incomplete or inaccurate, the applicant will be informed and shall have 30 days to complete or amend the renewal application. If the renewal application is not completed or amended within the timeframe noted herein, the application shall be deemed withdrawn and any fees shall be refunded. If an application for a renewal Registration is not filed in a timely manner and the RRRCR expires, the RRU that continues to rent shall be in violation of this Chapter.
- (G) Modifications can be made to an issued RRRCR for an increase in the number of permitted bedrooms, an increase in the maximum number of vehicle parking, or both. A re-inspection fee shall be paid for a modification request, and the inspection shall be completed prior to modifications being made to the issued Registration.
- (H) A RRRCR shall be issued if all of the following occur:
  - 1) the appropriate application is complete;
  - 2) all required documents are submitted;
  - 3) an inspection shows that the RRU is in compliance with all applicable building, life safety codes, parking requirements (subject to legal nonconformities), and the provisions of this Chapter;
  - 4) payment of all required fees;
  - 5) if any fines or penalties have been previously imposed on the applicant or the RRU, those have been paid or otherwise resolved; and
  - 6) the property is in Good Standing with the Town.
- (I) A denial of an application for a new RRRCR or a renewal application shall be in writing and shall specify the grounds for the denial.
- (J) The DRP of the property Owner shall submit an acknowledgement to the Town for each RRU the DRP represents on a form provided by the Town accepting certain responsibilities on behalf of the Owner.
- (K) For any RRRCR application, modification, transfer, or renewal the DRP or Owner shall pay the appropriate fee adopted by Resolution.
- (L) The Town has the discretion to request any additional information from the applicant required to demonstrate compliance with all applicable state laws and Town Codes.

#### **115.04 – Designated Responsible Party (DRP).**

- (A) An Owner of a RRU may designate an Agent as the Designated Responsible Party (DRP) to manage the unit on his/her behalf on a form provided for such purpose. The individual or Management Company must accept the DRP designation on a form provided by the Town. The designation of a DRP does not relieve the Owner of the responsibility to comply with all state and local laws.
- (B) The duties of the DRP, whether the Owner or Agent, are outlined on the DRP application form provided by the Town. The DRP shall be responsible for all requirements in compliance with all applicable Town Codes.

- (C) The DRP who accepts a designation to act on behalf of an Owner is held to the same standard as the Owner with respect to compliance with all applicable state and local laws. The DRP may be cited for non-compliance with any Town Code with respect to the RRU or property.
- (D) An Owner can withdraw a DRP authorization by submitting a new properly executed DRP authorization form to the Town. The Town will rely on the latest form received from the Owner.

#### **115.05 – On-site parking.**

- (A) All vehicles associated with the RRU shall be parked within a driveway located on the RRU premises or designated parking area, and in compliance with all applicable Town Codes.
- (B) RRUs located on properties only accessible by vessel shall provide on-site vessel parking, such as a boat dock or boat lift. Any vehicles shall be parked in designated parking areas in compliance with all applicable Town Codes.

#### **115.06 – Required posting of information.**

In each RRU, safety information as specified by the Planning, Zoning, and Building Department, and outlined on an administratively maintained Inspection Checklist, shall be either posted in a conspicuous place in each RRU on a single page or contained in a tabbed notebook in each RRU.

#### **115.07 – Inspections.**

- (A) Within 30 days after submitting an initial application or an application for renewal, the Owner, or the DRP, shall contact the Town to schedule an inspection. Upon completion of all required submittal requirements and a satisfactory inspection, the Town shall issue a RRCR to the Owner. Failure to complete the application process, including a satisfactory inspection or re-inspection, within 30 days after the initial inspection shall result in a denial of the application.
- (B) The inspection report shall be signed by the Owner or DRP present during the inspection. The Inspector shall provide a copy of the inspection report prior to leaving the RRU. Refusal to sign the inspection report shall deem the inspection a failure.
- (C) Any violation of the Town Code which is observed by the Code Enforcement Officer (CEO), but unrelated to the RRU inspection are subject to the Town's Code Enforcement proceedings as set forth in Chapter 33 of the Town Code. Violations unrelated to the RRU inspection may not automatically deem the inspection a failure.
- (D) A CEO may initiate an inspection of any existing RRU for the purpose of investigating a violation of this Chapter. The CEO must schedule the inspection with the DRP. If the CEO is denied admittance by the DRP, or if the CEO is otherwise unable to inspect within 30 days of the inspection request, the CEO shall provide a notice of inability to conduct the inspection to the DRP at the address shown on the application for registration or on the RRCR. In such circumstances, the RRCR shall be suspended until the inspection has been conducted. The issuance of a notice of inability to conduct an inspection shall be a violation of this Chapter.
- (E) Transient public lodging establishments with a valid Florida Department of Business and Professional Regulation (DBPR) permit as a transient public lodging establishment are exempt from this Subsection.

**115.08 – Advertising requirements.**

- (A) Any advertisement for rental of a RRU, including, but not limited to print and internet-based advertising, shall include the Town issued RRCR number and the minimum stay requirement.
- (B) Advertisements that do not contain the required information or that contain inaccurate information shall be a violation of this Chapter.

**115.09 – Change of Owner or agent.**

Upon a change of ownership or a transfer of a DRP of a RRU, the Owner shall notify the Town of the new Owner, DRP, or both if known, within 15 business days of such change. The new Owner and DRP shall comply with all requirements of this Chapter for the RRCR to be transferred. Payment of a transfer fee will be collected at the time of a RRCR request.

**115.11 – Schedule of fees.**

The schedule of fees for activities and services performed by the Town in carrying out its responsibilities under this Chapter shall be set by the Town Commission and adopted by resolution.

**115.99 - Violations and penalties.**

A CEO shall have the power to enforce the provisions of this Chapter in accordance with Chapter 33 of the Town of Longboat Key Code of Ordinances, and Chapter 162, Florida Statutes. Each day of any such violation shall constitute a separate and distinct offense. The CEO may use officer discretion based on the gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.

SECTION 3. Providing for Severability. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 4. Conflict. In the event of a conflict between this Ordinance and all other previously adopted Ordinances or parts thereof, the more stringent Ordinance shall prevail.

SECTION 5. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption.

SECTION 6. Effective Date. This Ordinance shall take effect October 1, 2023, as provided by law. To assist in the implementation of the Residential Rental Certificate of Registration Program, applications can be submitted in advance to the Town’s Planning, Zoning, and Building Department for processing before October 1, 2023, and Town Staff may conduct the inspections and issue Residential Rental Certificates associated with complete applications with an issued date of October 1, 2023.

Passed on the first reading on the 6th day of February, 2023.

Adopted on second reading and public hearing the 6th day of March, 2023.

ATTEST:

/S/ Trish Shinkle  
Trish Shinkle, Town Clerk

/S/ Kenneth Schneier  
Kenneth Schneier, Mayor