

ORDINANCE NO. 2018-_____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 217 ENTITLED “RENTAL PROPERTY,” OF THE CODE OF ORDINANCES OF SUNNY ISLES BEACH TO CREATE A NEW ARTICLE ENTITLED “REGULATING SHORT TERM VACATION RENTALS IN MULTI-FAMILY DWELLINGS”; PROVIDING FOR DEFINITIONS; REQUIRING SHORT TERM VACATION RENTAL LICENSE; PROVIDING FOR GENERAL STANDARDS AND SAFETY REQUIREMENTS; PROVIDING FOR DUTIES OF RESPONSIBLE PARTY AND PEER-TO-PEER OR PLATFORM ENTITIES; PROVIDING FOR THE POSTING OF SHORT TERM RENTAL INFORMATION; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority under its home rule power, to exercise any power for municipal purposes except when expressly prohibited by state law; and

WHEREAS, the maintenance of the character of multi-family dwellings is within the home rule power of the City; and

WHEREAS, the regulation of short-term vacation rentals in multi-family buildings serves a substantial governmental interest in preserving the character and integrity of residential neighborhoods; and

WHEREAS, numerous local governments in the State of Florida and across the nation have standards in place to minimize the negative impacts caused by short-term vacation rentals; and

WHEREAS, the presence of short-term vacation rentals within multi-family dwelling units can create negative compatibility, which includes but is not limited to, excessive noise and diminished public safety in high density buildings; and

WHEREAS, short-term vacation rental occupants in multi-family buildings, due to the transient nature of their occupancy, are unfamiliar with local and residential evacuation plans, location of fire extinguishers, and other similar safety measures that would readily be provided to guests in traditional lodging establishments; and

WHEREAS, the City Commission hereby finds this Ordinance necessary to protect the public welfare and to ensure to the residents the tranquility and peaceful enjoyment of their residences.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. Amendment. Chapter 217 entitled “Rental Property” of the Code of Ordinances of Sunny Isles Beach is hereby amended to include the following new article:

ARTICLE II
Regulating Short-Term Vacation Rentals in Multi-Family Buildings

§ 217-10. Purpose.

The City Commission of the City of Sunny Isles Beach recognizes that the unregulated rental of multi-family dwelling units uniquely impacts certain neighborhoods within the City of Sunny Isles Beach. Therefore, it is necessary and in the interest of the public health, safety, and welfare to the monitor and provide reasonable means for residents of City of Sunny Isles Beach to mitigate negative impacts created by such rental of multi-family dwelling units within the City of Sunny Isles Beach as set forth in this Article.

§ 217-11. Applicability.

This Article shall apply only to short-term vacation rentals in multi-family dwellings as defined herein. This Article shall not apply to short-term vacation rentals of single family homes which are subject to registration requirements in Article 1 of this Chapter. Nothing in this Article shall preclude a condominium association or an owner of a multi-family dwelling from imposing stricter requirements to regulate vacation rentals.

§ 217-12. Definitions.

For the purpose of this Section, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

CITY- The City of Sunny Isles Beach.

MULTI-FAMILY DWELLING- A building or structure in which multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex.

OCCUPANT- Guests, tourists, lessees, vacationers, or others who lease a multi-family dwelling unit for valuable consideration for a period of time between one (1) day to no more than one (1) year, or any person who occupies, either during the day or overnight, a vacation rental.

OWNER- The person or entity who has vested ownership, dominion, or title of the property or dwelling unit.

PEER-TO-PEER OR PLATFORM ENTITY- Any person, service, business, company, market place, or other entity that, for a fee or other consideration, provides owners and responsible parties a platform or means to offer vacation rentals to transient occupants, whether through the internet or other means.

RENTAL PERIOD- The rental period shall be for a term of less than six (6) months.

RESPONSIBLE PARTY- The owner or the person designated by the owner of the multi-family dwelling unit to be called upon to answer for the maintenance of the dwelling unit and the conduct and acts of occupants residing in such unit(s) as identified in the application for the Short-Term Vacation Rental License. The Responsible Party may be designated in writing under oath by the Owner to file an application for a Short-Term Rental License

SHORT-TERM VACATION RENTAL- Any unit, or portion thereof, or group of units, in a condominium or apartment or cooperative that is leased or rented to an occupant for a rental period less than six (6) months.

SHORT-TERM VACATION RENTAL LICENSE- The document that is issued by the City that bears the words "Short-Term Vacation Rental License" and shows that the person or entity, in whose name the document is issued has complied with the provisions of this Article relating to vacation rentals.

§ 217-13. Short-Term Vacation Rental License Required.

- A. An Owner or Responsible Party operating a Short-Term Vacation Rental shall obtain a Short-Term Vacation Rental License prior to leasing or renting a multi-family dwelling unit as a Short-Term Vacation Rental. This requirement includes dwelling unit(s) in which the Owner maintains a permanent residence and offers a portion of the dwelling unit as vacation rental.
- B. A separate Short-Term Vacation Rental License shall be required for each Short-Term Vacation Rental.
- C. The advertising or advertisement for the rental of a Short-Term Vacation Rental for a rental period defined herein is direct evidence of operating a Short-Term Vacation Rental, and such rental is subject to enforcement under this Article.

§ 217-14. Application for Short-Term Vacation Rental License.

- A. An Owner or Responsible Party is required to procure a Short-Term Vacation Rental License under this Article shall submit a formal application to the Planning and Zoning Department or any department designated by the City Manager.
- B. An Owner or Responsible Party seeking initial issuance of a Short-Term Vacation Rental License or renewal, or modification of a Short-Term Vacation Rental License, shall submit a completed application together with an application fee.

- C. A completed application for the initial issuance, or renewal, or modification of the Short-Term Vacation Rental License shall demonstrate compliance with the standards and requirements set forth in this Article. The requirements of the application shall set forth and/or include but are not limited to the following at a minimum:
- (1) Address, unit number and subdivision name of multi-family dwelling unit offered for rental.
 - (2) Name, address, and phone number of owner of said multi-family dwelling unit.
 - (3) Name, address, and emergency contact phone number of the Responsible Party for said multi-family dwelling unit, which shall be available on a twenty four (24) hours basis, seven (7) days a week.
 - (4) Name and contact information for the peer-to-peer or platform entity or entities on which the Short-Term Vacation Rental is, or will be, listed for rent.
 - (5) Payment of applicable fees to the City.
 - (6) A copy of the Short-Term Vacation Rental's current and active license as a Transient Public Lodging Establishment with the Florida Department of Business and Professional Regulation.
 - (7) A copy of the Short-Term Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue.
 - (8) Evidence of the Short-Term Vacation Rental's current and active account with the Miami-Dade County Tax collector for the purposes of collecting and remitting tourist convention development taxes and any other taxes required by law to be remitted to the Miami-Dade County Tax Collector.
 - (9) Statement that insurance coverage will be in effect at all times while the dwelling unit is being used as a Short-Term Vacation Rental to cover liability for injury or harm to transient occupants.
 - (10) A copy of current Local Business Tax Receipt from the City of Sunny Isles Beach.
 - (11) A copy of the rental/lease agreement to be used when contracting with the transient Occupant and guests and agreement with peer-to-peer or platform entities.
 - (12) The number and location of designated parking spaces legally available for Occupants of the vacation rental, excluding public parking spaces.
 - (13) Copy of Condominium's declaration page or bylaws relating to leasing of condominium unit or consent letter from Condominium Association or any homeowners association if applicable. A Short-Term Rental License shall not be

issued to any Owner or Responsibility Party where the Condominium Association or Owner of the building prohibits Short-Term Rental.

- (14) Evidence that the Short-Term Vacation Rental is within 1,000 feet of any school, designated public school bus stop, child day care facility, park or playground or other place where children regularly congregate.
 - (15) Evidence that the property or Short-Term Vacation Rental is in compliance with all applicable codes. A Short-Term Vacation Rental License shall not be issued for a property with open code violations.
 - (16) Statement confirming whether Short-Term Rental is a homestead property.
- D. It shall be unlawful for any person to give false or misleading information in connection with the application for the Short-Term Vacation Rental License required by this Article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the denial or revocation of any license issued pursuant to such application.
- E. Incomplete applications will not be accepted, but will be returned with any fees submitted to the property owner with a notation of what items are missing.

§ 217-15. Modification of License.

An application for modification of a Short-Term Vacation Rental License shall be required in the event that any of the following changes are proposed:

- A. An increase in the number of bedrooms.
- B. An increase in the number of Occupants.
- C. An increase in the number or parking spaces, or a change in the location of parking spaces.
- D. Any other material modification that would increase the intensity of use.

§ 217-16. Expiration and Renewal of Short-Term Vacation Rental License.

The following are the timeframes for expiration and renewal of a Short-Term Vacation Rental License:

- A. The Short-Term Vacation Rental License shall be valid for no more than one (1) year, and all licenses shall expire on September 30th of each year.
- B. The Owner or Responsible Party shall submit an application for renewal of a Short-Term Vacation Rental License at least thirty (30) days prior to the September 30th expiration date. If the application for renewal is filed after its expiration, a late fee shall be assessed. All licenses issued within one hundred eighty (180) days prior to September 30th shall remain valid and shall not expire until September 30th of the following year.

§ 217-17. Short-Term Vacation Rental License Nontransferable.

No Short-Term Vacation Rental License issued under this Article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued. Any attempt to transfer location or ownership shall render the license subject to suspension or revocation.

§ 217-18. Issuance or Refusal of License.

- A. The City Manager or his designee shall issue a Short-Term Vacation Rental License to the Owner or Responsible Party upon proof of the following.
- (1) The Owner and/or Responsible Party completes the City of Sunny Isles Beach Short-Term Vacation Rental application form.
 - (2) The payment of the non-refundable application fee paid to the City of Sunny Isles Beach.
 - (3) Any application submitted pursuant to this Article must be completed within two (2) months of the date the application is filed and the application fee is paid. Any application that remains pending after the expiration of the two (2) month time period, shall be administratively closed and the City Manager or designee shall deny the issuance of a license. Once an application expires, the applicant must begin the licensing process anew.
 - (4) The City Manager or designee shall complete a review of an application within ten (10) days of receipt if such application is complete. The review period may be extended by the City Manager or designee to investigate compliance with the requirements of this Article.

§ 217-19. Fees for License.

The City charges reasonable fees for the Short-Term Vacation License to compensate for administrative expenses. The application fee shall be \$100.00. The failure to renew license prior to its expiration is subject to a \$50.00 late fee. The modification of a Short-Term Vacation License is subject to a \$50.00 fee. The fees are subject to modification by resolution. Fees are non-refundable.

§ 217-20. Responsible Party Required.

Whenever any multi-family dwelling unit is issued a Short-Term Vacation Rental License under this Article, the Owner shall appoint a natural person to serve as the Responsible Party for Short-Term Vacation Rental. The Responsible Party shall be designated and name submitted with the application for Short-Term Vacation License. The City shall be notified in writing of any change of Responsible Party within ten (10) days of such change. Further, it is the affirmative duty of the Responsible Party to:

- A. Be available by landline or mobile telephone to address problems with the rental of the property on a twenty-four (24) hours a day basis, seven (7) days a week.
- B. Be situated close enough to the property as to be able to respond in person within one (1) hour of being notified by a vacation rental occupant, law enforcement officer, emergency personnel, or the City of issues related to the vacation rental.
- C. Keep available a list of all guests, which shall be made available for inspection by authorized personnel of the City at all times upon request.
- D. Maintain the entire property free of garbage and litter, provided however, that this section shall not prohibit the storage of garbage and litter in authorized receptacles for collection.
- E. Conduct an on-site inspection of the vacation rental at the end of each rental period to ensure continued compliance with the requirements of this Article.

§ 217-21. General Short-Term Vacation Rental Standards.

The standards and requirements set forth in this Article shall apply to the rental, use, and occupancy of the Short-Term Vacation Rental as follows.

- A. Parking Standard. Occupants and visitors to the Short-Term Vacation Rental shall comply with all relevant parking codes as set forth in the Code of Ordinances of the City Sunny Isles Beach.
- B. Solid Waste Handling and Containment Standard. Notice of the location of the trash storage containers and rules for collection shall be posted inside the Short-Term Vacation Rental.
- C. Posting of Vacation Rental Information Standard. In each Short-Term Vacation Rental, located outside or next to the main entrance door there shall be posted as a single page the following information:
 - (1) The name, address, and phone number of the Short-Term Vacation Rental Responsible Party.
 - (2) The maximum occupancy of the Short-Term Vacation Rental.
 - (3) Location of all proper parking spaces.
 - (4) The days and times of trash pickup.
 - (5) A copy of the building evacuation map (Minimum size of "8 ½" by 11").
 - (6) The local non-emergency police phone number.
 - (7) Statement advising the occupant that the Owner shall terminate the occupancy for violations of the Code of Ordinances of the City of Sunny Isles Beach or any applicable State or Federal law.

§ 217-22. Short- Term Vacation Rental Occupancy Requirements.

- A. The maximum occupancy for Short-Term Vacation Rentals shall be up to a maximum of two persons per bedroom, plus two additional persons per property, up to a maximum of 12 persons, excluding children under three years of age. At all times, maximum

occupancy for vacation rentals shall not exceed the maximum overnight occupancy of the vacation rental under applicable laws, which include but are not limited to rules and regulation adopted by the Condominium Association or Owner of the multi-family building. In the event of conflict between this provision and occupancy restrictions imposed by Condominium Association or Owner of multi-family dwelling, the most restrictive occupancy restriction shall govern.

- B. At no time may the occupancy of a vacation rental exceed the maximum occupant load for the property under the Florida Building Code.

§ 217-23. Minimum Life Safety Standards.

The following shall govern the use of any vacation rental under this Article:

- A. Smoke and carbon monoxide detection and notification system shall be installed within each rental unit.
- B. Fire extinguisher shall be installed within each rental unit.
- C. Sexual Offenders And Predators Prohibited. Within one thousand (1,000) feet of any school, designated public school bus stop, child day care facility, park or playground, or other private or public recreational facility where children regularly congregate shall not be rented to nor occupied by any person who has been convicted of a violation of F.S. §794.011, 800.04, 827.071, or 847.0145, or convicted of a similar felony sexual offense in any other state, Federal Court or military tribunal in the United States of, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age. Owner or Responsible Party shall determine, prior to submission of an application for Short-Term Vacation Rental License whether the vacation rental is located in an area in which it is unlawful for sexual offenders or predators to establish residence.
- D. Human Trafficking. It is unlawful for any Owner or Responsible Party to allow human trafficking activity within the vacation rental if such Owner or Responsible Party knew or should have known that the vacation rental will be used for human trafficking purposes. If such activity is found by law enforcement agencies, the City shall immediately revoke the Short-Term Vacation Rental License. The Owner or Responsible Party may file a new application with the City a Short-Term Vacation Rental License after a waiting period of six (6) months has expired.
- E. Public Nuisance. The Owner, Responsible Party, and all occupants shall abide by all applicable state and local public nuisance laws and ordinances including, but not limited to, Sections 823.05 and 823.10, Florida Statutes and Chapter 194 of the Code of Ordinances of the City of Sunny Isles Beach, which prohibit any place or premises from being used as the site for the unlawful sale or delivery of controlled substances, prostitution youth and gang activities, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior that adversely affects the public, safety, morals, and welfare.

- F. Noise. Owner or Responsible Party, and occupant shall abide by Chapter 193 of the Code of Ordinances of the City of Sunny Isles Beach, which prohibits unreasonably loud, excessive, unnecessary, or unusual noise. In addition, outdoor amplified sound at a Short-Term Vacation Rental shall not be permitted at any time.

§ 217-24. Duties of Peer-to-Peer or Platform Entities.

The Peer to Peer or Platform Entities shall have the following duties:

- A. Provide notice of the requirements of this Article to any person or entity listing or offering a vacation rental on its service or platform.
- B. Only provide a listing for, or collect a fee for listing a Short-Term Vacation Rental that has a valid license in accordance with this Article.
- C. Include language in rental documents to discourage the secondary subletting of vacation rentals.
- D. Maintain records demonstrating that the requirements of this Article have been satisfied, and such records shall be subject to inspection by the City upon request.
- E. Make available to the City for inspection upon request all records relating to any suspected violations of state or local law associated with any vacation rental property in the City.

§ 217-25. Administration, Penalties, and Enforcement of License.

- A. This Article shall be administered by the Planning and Zoning Department and enforced by the Code Compliance Department.
- B. Suspension of License. In addition to any fines for violation of the Short-Term Vacation Rental License, the City Manager or designee shall suspend the Short-Term Vacation Rental License upon the third violation of this Article in any continuous 12 month period. Such suspension of a Short-Term Vacation Rental License shall be for a period of one (1) year, and shall begin following notice subject to any appeal rights under this Article.
 - (1) No Occupant shall occupy the Short-Term Vacation Rental and no advertisement for the Short-Term Vacation Rental shall occur during any period of suspension of the Short-Term Vacation Rental License.
- C. Revocation of License. The City Manager or designee may refuse to issue or renew a License or may revoke a Short-Term Vacation Rental License issued under this Article if the Owner or Responsible Party has willfully withheld or falsified any information required for a Short-Term Vacation Rental License.
 - (1) The Owner or Responsible Party shall not be entitled to any refund of the fee paid for a license for any portion of the expired term of a license, because of a revocation or suspension of the Short-Term Vacation Rental License.

- D. Appeal of License Suspension, Denial or Revocation. Any decision relating to the suspension, denial or revocation of a Short-Term Vacation Rental License under this Article shall be rendered in writing, and reviewed by the City Manager if a notice by the applicant is filed with the City Clerk within 10 days after the decision. The City Manager shall review the decision to determine if the decision shall be affirmed. If the decision is affirmed, the applicant may appeal the decision to a Special Magistrate by filing an appeal with the City Clerk with in ten (10) days after issuance of the decision by the City Manager. The City Clerk shall place the matter on the agenda of an upcoming meeting of the Special Magistrate, at which the matter will be reviewed. The decision of the Special Magistrate shall be final. Such final decision may be reviewed as permitted under Florida law.
- E. Notice. Any notice required under this Article shall be accompanied by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Short-Term Vacation Rental Owner or Responsible Party set forth in the documents filed with the City under this Article, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the short-term vacation rental responsible party.
- F. Penalties and Enforcement. Any violation of this Article may be punished by warning prior to issuance of citation, subject to a fine in the amount of \$1000.00 for the first violation, \$2500.00 for the second violation, and suspension of the Short-Term Vacation Rental License upon the third violation for a period of one (1) year as indicated in this Article. Violations of this Article shall be enforced pursuant to Chapter 14 of the City Code.

§ 217-26. Inspection of Short-Term Vacation Rentals.

No inspection of a Short-Term Vacation Rental is required unless the Short-Term Vacation Rental is not in compliance with the requirements of this Article. Reasonable notice shall be provided before any inspection.

Section 3. Severability.

If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Repeal of Conflicting Provisions.

All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 5. Inclusion in the Code.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Sunny Isles Beach Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date.

This Ordinance shall become effective one hundred twenty (120) days after adoption on second reading to provide for informing the residents and property owners as to the requirements of this Article.

PASSED and **ADOPTED** on First Reading the ____ day of _____, 2018.

PASSED and **ADOPTED** on Second Reading this ____ day of _____, 2018.

George H. Scholl, Mayor

ATTEST:

Mauricio Betancur, CMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

Hans Ottinot, City Attorney

Moved by: _____

Second by: _____

VOTE AS FOLLOWS:

| | | |
|----------------------|---------|--------|
| Mayor Scholl | () yes | () no |
| Vice Mayor Goldman | () yes | () no |
| Commissioner Aelion | () yes | () no |
| Commissioner Gatto | () yes | () no |
| Commissioner Svechin | () yes | () no |