

Adopted by the Hillsboro Beach Mayor and Commission on this 2nd day of June, 2020

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA, AMENDING CHAPTER 12 ENTITLED "LAND DEVELOPMENT CODE", BY SPECIFICALLY AMENDING SECTION 12-111 ENTITLED "VACATION RENTALS"; PROVIDING FOR THE REGULATION OF VACATION RENTALS LOCATED IN ANY ZONING DISTRICT OF THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of this Chapter to regulate vacation rentals as defined by Florida Statutes, as well as other transient public lodging establishments that do not have on-site management, which are located in any zoning district of the Town of Hillsboro Beach, which is referred to herein as "Vacation Rentals".

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA THAT:

Section 1. The foregoing "Whereas" clause is hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

Section 2. Chapter 12 of the Code of Ordinances entitled "Land Development Code" is amended by specifically amending Section 12-111 as follows:

Sec. 12-111. - Vacation rentals.

(A) Authority, scope and purpose. This section is enacted under the home rule power of the town in the interest of the health, peace, safety and general welfare.

This section does not prohibit vacation rentals, or the duration or frequency of vacation rentals, nor is it the intention of the town to do so, but rather this section is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare.

(1) Findings of facts. Based on information gleaned from the practical first-hand experience and observations of Town Commissioners, common sense deductions of Town Commissioners based on long term experiences in Hillsboro Beach, information learned by Town Commissioners from various residents, information from the U.S. Census and from the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the Town Commission finds:

(a) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.

1 (b) In contrast, transient occupants of vacation rentals, due to their transient nature, are
2 typically not familiar with local surroundings, local weather disturbances, local hurricane
3 evacuation plans, and means of egress from the vacation rentals in which they are staying,
4 thereby increasing potential risks to themselves and their families, and putting an additional
5 burden on, and potentially putting at risk, emergency personnel in the event of an emergency
6 situation.

7 (c) Vacation rentals, left unregulated, can create negative impacts within a residential
8 neighborhood due to excessive noise, parking and traffic problems, excessive use and impact
9 on public services and public works, extreme size and/or greater occupancy.

10 (d) Vacation rentals situated within a residential neighborhood can disturb the quiet
11 nature and atmosphere of the residential neighborhood, and the quiet enjoyment of its
12 residents.

13 (e) Vacation rentals located within established residential neighborhoods can create
14 negative compatibility impacts relating to extreme noise levels, late night activities, on-street
15 parking issues and traffic congestion.

16 (f) According to the 2010 U.S. Census, the town has an average household size of 1.66
17 persons.

18 (g) According to the 2010 U.S. Census, the town has an average family size of 2.14 persons.

19 (h) Vacation rentals situated in a single-family residential neighborhood can and do create
20 a great disparity in occupancy.

21 (i) The presence of on-site management militates against the negative impacts of vacation
22 rentals.

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26 (2) *Definitions.* The following terms as used in this section are defined as set forth hereinafter:

27 *Bedroom* means any room in a vacation rental which has a bed or other place for sleeping
28 and a separate closet that is an integral part of the permanent construction within the
29 bedroom or an en suite bathroom, and complies with the Florida Fire Code and Florida Life
30 Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, or any
31 main living area. If a room has been added, altered, or converted without any required
32 building permit having been granted, such room shall not be deemed a bedroom. If a
33 previously approved bedroom in an existing vacation rental exists as of the effective date of
34 this Code, and does not have a separate closet that is an integral part of the permanent
35 construction of the structure, but rather utilizes an armoire or other furniture piece for
36 clothing storage, the requirement for a closet to qualify as a bedroom is waived.

37 *Occupant* means any person who occupies a vacation rental overnight.

38 *On-site management* means an office located at the site of a transient public lodging
39 establishment that has, no less than eight (8) hours per day, seven (7) days a week, a person
40 or persons physically present on site for purposes of supplying management, rental, and/or
41 maintenance services for that particular transient public lodging establishment, and, when
42 the office is closed, has a person who is available upon one hour's phone notice to return to
43 the transient public lodging establishment to supply management or maintenance services.

1 *Owner occupied* means the vacation rental is then occupied by person(s), at the vacation
2 rental owner's consent, who do not pay rent for the occupancy of the vacation rental, when
3 such persons are members of the family of the vacation rental owner. Family shall be
4 defined as any number of individuals related by blood, marriage or legal adoption, and not
5 more than four persons not so related, living together as a single housekeeping unit. Foster
6 children are considered part of a family.

7 *Transient public lodging establishments* means any unit, group of units, dwelling, building,
8 or group of buildings within a single complex of buildings which is rented to guests more
9 than three times in a calendar year for periods of less than 30 days or 1 calendar month,
10 whichever is less, or which is advertised or held out to the public as a place regularly rented
11 to guests.

12 *Vacation rental* is collectively a vacation rental as defined under Florida Statutes, and any
13 transient public lodging establishment that does not have on-site management, which is
14 located in any zoning district of the town.

15 *Vacation rental owner* is the fee simple owner of the vacation rental, whether an individual,
16 partnership, corporation, limited liability company, trust, or other entity. In the event the
17 vacation rental owner is not an individual, each and every person who owns 20 percent or
18 more of the equitable interest in the vacation rental shall also be deemed a vacation rental
19 owner. The duties and functions of a vacation rental owner may, at the option of the vacation
20 rental owner, be performed by an agent of the vacation rental owner, so long as the vacation
21 rental owner notifies the town in writing, on a form provided by the town, of the identity
22 and contact information of such agent, and the specific duties that the agent will be
23 performing for the vacation rental owner. The vacation rental owner may change the
24 designation of agent at any time through the filing of a new form and the payment of an
25 administrative fee in an amount as set by resolution by the Town Commission. The vacation
26 rental owner shall be held responsible for all actions of such designated agent with respect
27 to the applicable vacation rental.

28 (3) *Enforcement.* Violations of the provisions of the Code of Ordinances relative to vacation
29 rentals shall be enforced in accordance with the provisions of Chapter 2 Article VI of the
30 Code of Ordinances, and through fines in accordance with ordinances and resolutions
31 adopted by the Town Commission.

32 (4) *Appeals.* Any decision of the Special Master shall be final and shall be rendered in writing
33 in appealable form. Such final decision may be reviewed as permitted under Florida law.

34 (5) *Construction of section.* This section shall be liberally construed to accomplish its purpose
35 of regulating vacation rentals, protecting the residential character of Hillsboro Beach, the
36 health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by
37 Hillsboro Beach's residents of their residential property.

38 **Section 3.** If any section, subsection, sentence, clause or provision of this Ordinance is
39 held invalid, the remainder of this Ordinance shall not be affected by such invalidity.
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1 **Section 4.** That all ordinances or parts of ordinances and all resolutions or parts of
2 resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

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4 **Section 5.** It is the intention of the Town Commission of the Town of Hillsboro Beach, that
5 the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Town
6 of Hillsboro Beach, Florida, and the Sections of this ordinance may be renumbered, re-lettered and
7 the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order
8 to accomplish such intention.

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10 **Section 6.** Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-
11 section(s), sub-section(s), or section(s) of this section, is contrary to law, or against public policy, or
12 shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of
13 competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or
14 section(s) of this section shall be null and void, and shall be deemed severed, and a separate, distinct,
15 and independent provision from the remaining provisions of this section, and such holding shall in
16 no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-
17 sections, or sections of this section, which shall remain in full force and effect. This section shall be
18 construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this
19 section as expressed herein.

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21 **Section 7.** This Ordinance shall be effective immediately upon passage and adoption by the
22 Town Commission of the Town of Hillsboro Beach.

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24 PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH,
25 FLORIDA, ON FIRST READING, THIS 5th DAY OF MAY, 2020.

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH, FLORIDA,
ON SECOND AND FINAL READING, THIS 2nd DAY OF JUNE, 2020.

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28 By: Deborah L. Tarrant
29 Deborah L. Tarrant, Mayor
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32 ATTEST:

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34 By: Sherry D. Henderson
35 Sherry D. Henderson, CMC
36 Town Clerk

37 ORDINANCE NO. 2020-03

38 RECORD OF TOWN COMMISSION VOTE:

39 APPROVED AS TO FORM:

40
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42 Donald J. Doody
43 Donald J. Doody, Town Attorney
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	<u>YES</u>	<u>NO</u>
MAYOR D. TARRANT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE MAYOR I. KIRDAHY Motion	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER V. FEAMAN Second	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER B. BALDASARRE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER A. BROWN	<input checked="" type="checkbox"/>	<input type="checkbox"/>