ORDINANCE NO. 2016 - 02

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, CREATING ARTICLE XIV OF CHAPTER 7 OF THE CODE OF ORDINANCES ENTITLED "VACATION RENTAL LICENSE " TO INCLUDE, BUT NOT BE LIMITED TO, PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR A VACATION RENTAL LICENSE; PROVIDING FOR A VACATION RENTAL AGENT; PROVIDING FOR SAFETY AND OPERATIONAL REQUIREMENTS; PROVIDING FOR PARKING STANDARDS; PROVIDING FOR SOLID WASTE HANDLING AND CONTAINMENT; PROVIDING FOR THE POSTING OF VACATION RENTAL INFORMATION; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 2011 Florida's legislature enacted House Bill 883 (Florida Chapter 2011-119, Laws of Florida)(hereafter "HB 883") which preempted the local regulation of specific land use commonly called short-term vacation rentals (transient rentals less than thirty (30) days in duration and commonly located in residential areas); and

WHEREAS, the 2014 Florida Legislature enacted Senate Bill 356 (Florida Chapter 2014-71, Laws of Florida) (hereafter "SB 356") which rescinded the previous preemption on local regulation of short-term vacation rentals, but provided that a local law, ordinance, or regulation adopted after June 1, 2011 may not prohibit short-term vacation rentals or regulate the duration or frequency of rental of vacation rentals; and

WHEREAS, adoption of SB 356 permits local government to enact legislation to mitigate the effects of short-term vacation rentals in an attempt to make them safer, more compatible with existing neighborhoods, and accountable for their proper operation; and

WHEREAS, the presence of short-term vacation rentals within single-family dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, many local jurisdictions 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 City desires to encourage short-term vacation rentals that are safe, protect the character and integrity of the neighborhood, provide positive impacts on the community, increase property values, and achieve greater neighborhood compatibility; and

WHEREAS, the City seeks to balance respect for private property rights and incompatibility concerns between the investors/short-term vacation rentals and families/permanent single-family residences in established single family residential neighborhoods through the use of reasonable development and regulation standards; and

WHEREAS, these standards are deemed necessary by the Mayor and the City Commission of the City of Hallandale Beach to preserve property values and to protect the health, safety, and general welfare of permanent residents, lot/parcel owners, investors, and transient occupants and visitors alike; and

WHEREAS, the application of these minimum standards to short-term vacation rental properties located in single family zoning districts ensures that transient occupants are provided the same minimum protections as is required by the current statutes and codes for transient uses; and

WHEREAS, the Mayor and City Commission have determined that it is not necessary to apply the regulations set forth in this ordinance to vacation rentals located in multifamily zoning districts and condominiums because multifamily housing is typically built to a more stringent standard and condominiums are required to be governed by an association which provides its own necessary regulations on rentals; and

WHEREAS, Mayor and City Commission have determined that this program shall apply to properties located within the City's RS-5, RS-6, and RS-7 single family Zoning Districts, both currently and in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

(Coding: Words in ~~struck through~~ type are deletions from existing law; words <u>underscored</u> are additions).

<u>Section 1</u>: Creating Article XIV of Chapter 7 of the Code of Ordinances entitled "Vacation Rental License" is hereby created as follows:

* * *

ARTICLE XIV.VACATION RENTAL LICENSE

GENERAL PROVISIONS

7-465 PURPOSE.

The purpose of this chapter is to promote public health, safety, welfare and convenience through regulations and standards for short-term vacation rental properties by providing:

(A) for a vacation rental license;

(B) for safety and operational requirements;

(C) for parking standards;

(D) for solid waste handling and containment;

(E) for licensure requiring posting of vacation rental information;

(F) for administration, penalties and enforcement.

7-466 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Hallandale Beach, Florida, as geographically described in the City Charter.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.

OCCUPANT. Any person who occupies, either during the day or overnights, a Vacation Rental.

TRANSIENT PUBLIC LODGING ESTABLISHMENT. Any unit, group of units, dwelling, building or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

VACATION RENTAL. Any individually or collectively owned single family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare.

VACATION RENTAL AGENT. A Vacation Rental property owner, or his/her authorized designee, as identified in the application for a City Vacation Rental license.

VACATION RENTAL LICENSE

7-467 LICENSE REQUIRED.

After October 1, 2016, an active Vacation Rental license shall be required to operate a Vacation Rental within properties that are located in single family residential districts RS-5, RS-6, and RS-7, as indicated on the City's Zoning Map. Only Vacation Rentals holding an active Vacation Rental license issued by the City of Hallandale Beach may operate within the City. Prior to the issuance of a Vacation Rental license, the City shall ensure that the building in which the Vacation Rental is or will be located, is in full compliance with the appropriate portions of the Florida Building Code and the Florida Fire Prevention Codes. A separate Vacation Rental license shall be required for each Vacation Rental.

Any agreements for vacation rentals which were entered into prior to February 17, 2016 shall be vested under this ordinance.

7-468 APPLICATION FOR VACATION RENTAL LICENSE.

(A) A property owner seeking initial issuance of a Vacation Rental license, or the renewal, or modification of a Vacation Rental license, shall submit to the City a completed Vacation Rental license application in a form promulgated by the City, together with an application fee in an amount set by resolution of the City Commission.

(B) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental license shall demonstrate compliance with the standards and requirements set forth in this chapter through the following submittals:

(1) A completed Vacation Rental license application form, which must identify; the property owner, address of the Vacation Rental, Vacation Rental Agent, and the phone number of the Vacation Rental Agent.

(2) Payment of applicable fees.

(3) A copy of the Vacation Rental's current and active license as a Transient Public Lodging Establishment with the Florida Department of Business and Professional Regulation, if such license is required.

(4) A copy of the 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.

(5) Evidence of the Vacation Rental's current and active account with the Broward County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Broward County Tax Collector.

(6) A copy of the current Certificate of Occupancy for the building in which the Vacation Rental is or will be located.

(7) A copy of the current Local Business Tax Receipt.

(8) *Interior building sketch by floor.* A building sketch by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this chapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, fire extinguishers and exit signage/lighting.

(9) A sketch showing the number of parking spaces and the location of parking spaces for the Vacation Rental.

(10) An affidavit certifying that each room has been equipped with smoke detectors per NFPA regulations.

(11) Evidence indicating the number of occupants that can inhabit the house.

(12) A report from licensed professionals certifying compliance with Section 4-476 of this chapter.

(13) Proof of compliance with Section 7-480 of this chapter.

(C) 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.

(D) Vacation Rental license applications shall be sworn to under penalty of perjury and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

(E) Failure to procure a vacation rental license may subject violators to notices of violation, civil citations, or any other remedies available to the City.

7-469 FEES FOR REGISTRATION.

Reasonable fees for registration shall be provided for, from time to time, by resolution adopted by the City Commission. Such fees are necessary to compensate for administrative expenses.

7-470 MODIFICATION OF VACATION RENTAL LICENSE.

An application for modification of a Vacation Rental license shall be required in the event that any of the following changes to the Vacation Rental are proposed:

(A) An increase in the gross square footage.

(B) An increase in the number of bedrooms.

(C) An increase in the maximum occupancy.

(D) An increase in the number of parking spaces, or a change in the location of parking spaces.

(E) A change in the number of bathrooms.

(F) Any other material modifications that would increase the intensity of use or any other material information that would modify the information provided in the original application.

7-471 DURATION OF VACATION RENTAL LICENSE.

A Vacation Rental license shall be valid for 1 year, and shall expire each September 30th.

7-472 RENEWAL OF VACATION RENTAL LICENSE.

A property owner must apply annually for a renewal of the Vacation Rental license no later than 60 days prior to the expiration date of the previous Vacation Rental license. The application for renewal shall include the renewal fee and a report from licensed professionals certifying compliance with all applicable Fire and Building Codes.

7-473 LICENSES NON-TRANSFERABLE, NON-ASSIGNABLE.

Vacation Rental licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental license as to that Vacation Rental shall be null and void upon the sale or transfer.

VACATION RENTAL AGENT

7-474 DUTIES OF VACATION RENTAL AGENT.

Every Vacation Rental Agent shall:

(A) Be available by landline or mobile telephone answered by the Vacation Rental Agent at the listed phone number 24-hours a day, 7 days a week to handle any problems arising from the Vacation Rental; and

(B) Be willing and able to be physically present at the Vacation Rental within 60 minutes following notification from a Vacation Rental Occupant, law enforcement officer, emergency personnel, or the City for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and

(C) Conduct an on-site inspection of the Vacation Rental at the end of each rental period to assure continued compliance with the requirements of this chapter.

STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

7-475 GENERAL.

The standards and requirements set forth in this section shall apply to the rental, use, and occupancy of Vacation Rentals in the City.

7-476 MINIMUM SAFETY AND OPERATIONAL REQUIREMENTS.

Vacation Rentals in the City shall meet the following minimum safety and operational requirements, and the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Prevention Code. Whenever there is an inconsistency among the requirements of this section, the Florida Statutes, the Florida Building Code, or the Florida Fire Prevention Code, the most restrictive requirement shall apply.

(A) *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub offered or made available as an amenity at a Vacation Rental shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The property owner shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The Vacation Rental Agent shall maintain a contemporaneous log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.

(B) *Bedrooms.* All bedrooms within a Vacation Rental shall meet the applicable requirements of the Florida Building Code, and the Florida Fire Prevention Code.

(C) *Smoke and carbon monoxide (CO) detection and notification system.* A fully operational smoke alarm and carbon monoxide (CO) alarm system shall be installed within the Vacation Rental 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.

(D) *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 of a Vacation Rental. 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 of the fire extinguisher.

(E) *Emergency egress maintenance and lighting.* Halls, entrances and stairways within a Vacation Rental shall be clean, ventilated and well lit day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.

(F) *Local phone service.* At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

7-477 PARKING STANDARDS.

Occupants and visitors to the Vacation Rental shall comply with all relevant parking codes as found in Chapter 32 of the Code of Ordinances.

7-478 SOLID WASTE HANDLING AND CONTAINMENT.

(A) Trash storage containers shall be provided and shall be screened with a 6 foot fence, with an opening for container removal.

(B) The Vacation Rental shall contract with the waste management provider for side door pick-up service.

(C) Properties with alley garbage collection are exempt from (A) and (B).

(D) Notice of the location of the trash storage containers shall be posted by the main entrance of the Vacation Rental.

7-479 MAXIMUM OCCUPANCY.

Requirements for space shall be as follows:

(A) Each Vacation Rental shall have a minimum gross floor area of not less than 150 square feet for the first occupant and not less than 100 square feet for each additional occupant.

(B) Every room in a Vacation Rental occupied for sleeping purposes shall:

(1) Have a gross floor area of not less than 70 square feet; and when occupied by more than one occupant, it shall have a gross floor area of not less than 50 square feet for each occupant. The maximum number of occupants for each room used for sleeping purposes shall be four (4).

(2) Have a minimum width of 8 feet.

(C) Gross area shall be calculated on the basis of total habitable room area, and those exclusions appearing in the definition of "habitable room" shall not be considered in calculation of such floor areas.

(D) Every habitable room in a Vacation Rental shall have a ceiling height of not less than 7 feet for at least half the floor area of the room. Any portion of a habitable room having a ceiling height of 5 feet or less shall not be included in calculating the total floor area of such room.

7-480 POSTING OF VACATION RENTAL INFORMATION.

(A) In each Vacation Rental, located on the back 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 Vacation Rental Agent;

(2) The maximum occupancy of the Vacation Rental;

(3) A statement advising the Occupant must comply with the noise regulations found in Chapter 9 or Chapter 32 of the Code;

(4) A sketch of the location of the off-street parking spaces;

(5) The days and times of trash pickup;

(6) The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable;

(7) The location of the nearest hospital; and

(8) The local non-emergency police phone number.

(B) There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".

ADMINISTRATION, PENALTIES, AND ENFORCEMENT

7-481 ADMINISTRATION OF VACATION RENTAL LICENSE PROGRAM.

The ultimate responsibility for the administration of this chapter is vested in the City Manager, or his/her authorized designee, is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental licenses for proposed and existing Vacation Rentals as set forth in this chapter.

7-482 APPEALS.

Any appeal of a decision of the City Manager, or his/her authorized designee, relating to the grant, denial, renewal, modification, or suspension of a Vacation Rental license under this chapter shall be rendered in writing, and reviewed by the City Commission if a notice by the applicant is filed with the City Clerk within 10 days after the action to be reviewed. The City Clerk shall place the matter on the agenda of an upcoming meeting of the City Commission, at which the matter will be reviewed in a quasi-judicial hearing. The decision of the City Commission shall be final. Such final decision may be reviewed as permitted under Florida law.

7-483 NOTICE.

Any notice required under this chapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Agent set

forth on documents filed with the City under this chapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Agent.

7-484 PENALTIES AND ENFORCEMENT.

(A) Any violation of this chapter or chapter 9 may be punished by citation, as specifically described in Chapter 9 of the Code of Ordinances, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of $250.00, for the first offense, $500.00 for the second and subsequent offenses, plus a suspension or revocation of the Vacation Rental license as provided hereinafter.

(B) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this chapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the City. Nothing contained herein shall prevent the City from seeking all other available remedies which may include, but not be limited to, a special magistrate hearing, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(C) *Suspension of license.*

(1) In addition to any fines and any other remedies described herein or provided for by law, the City Manager may suspend a Vacation Rental license as follows:

(a) 7 days upon a third violation of this chapter in any continuous 12 month period.

(b) 30 calendar days upon a fourth violation of this chapter in any continuous 12 month period.

(c) An additional 30 calendar days for each subsequent violation within a continuous 12 month period. For example, a fifth violation may result in a 60 calendar day suspension.

(d) For violations of section 7-476, or violations of the Florida Building Code, or Florida Fire Prevention Code, a Vacation Rental license shall be subject to temporary suspension starting immediately 3 working days after citation for such violation if it is not corrected, re-inspected, and found in compliance. Such suspension shall remain in place until corrected, re-inspected, and found in compliance.

(D) *Revocation of license.*

(1) The City Manager may refuse to issue or renew a license or may revoke a Vacation Rental license issued under this chapter if the property owner has willfully withheld or falsified any information required for a Vacation Rental license.

(2) The City Manager may revoke a Vacation Rental license issued under this chapter upon the fifth conviction for a noise violation where such noise emanated from the Vacation Rental or fifth conviction of a parking violation where such parking violation occurred on the Vacation Rental property within any continuous 12 month period.

(3) The property owner shall not be entitled to any refund of the annual fee paid for a license for any portion of the unexpired term of a license, because of revocation or suspension of the Vacation Rental license.

(E) For all purposes under this chapter, service of notice on the Vacation Rental Agent shall be deemed service of notice on the property owner and Occupant.

(F) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental license.

VESTING

7-485 RENTAL AGREEMENT VESTING.

It is recognized that there are likely existing rental/lease agreements for Vacation Rentals at the time of passage of this Ordinance which may not be in compliance with the regulations herein. Rental agreements that were entered into prior to the date of the adoption, shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit.

* * *

Section 2. Codification. That it is the intention of the City Commission and it is hereby ordained that the provisions of this ordinance shall be made a part of the Code of Ordinances of the City of Hallandale Beach, Florida, and the sections of this Code may be renumbered to accomplish such intention.

Section 3. Severability. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4 Conflict. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. Reserved Sections. Chapter 7, Article XIV shall reserve the following sections as follows:

Sec. 7-486---7-490. Reserved.

Section 6. Effective Upon Passage. That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED on 1st reading on February 3, 2016.

PASSED AND ADOPTED on 2nd reading on February 17, 2016.

JOY F. COOPER
MAYOR

SPONSORED BY: CITY COMMISSION

ATTEST:

MARIO BATAILLE, CMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY and FORM

V. LYNN WHITFIELD
CITY ATTORNEY

VOTE AYE/NAY	
Mayor Cooper	✓/
Vice Mayor Julian	✓/
Comm. Lazarow	✓/
Comm. London	✓/
Comm. Sanders	✓/