

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 153, "RENTAL HOUSING CODE," OF THE CITY OF POMPANO BEACH TO PROVIDE FOR AMENDMENTS TO SECTION 153.05, "DEFINITIONS"; BY AMENDING SECTION 153.08, "SHORT TERM RENTAL PERMIT REQUIRED," TO REQUIRE ANY OWNER WHO OPERATES A SHORT TERM RENTAL TO FIRST OBTAIN A SHORT TERM RENTAL PERMIT, AND PROVIDING FOR PENALTIES FOR VIOLATIONS; BY AMENDING SECTION 153.11, "INSPECTIONS," TO PROVIDE FOR ADDITIONAL INSPECTIONS; BY CREATING SECTION 153.26, "MINIMUM STANDARDS FOR SHORT TERM RENTALS," TO PROVIDE FOR REGULATIONS RELATING TO SHORT TERM RENTALS; BY AMENDING SECTION 153.33, "RESPONSIBILITIES OF OWNERS," TO REFERENCE EXISTING PROHIBITIONS ON RENTALS AND PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Subsection 163.3202(1), Florida Statutes (2015), requires municipalities to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plans; and

WHEREAS, the City of Pompano Beach's Comprehensive Plan Future Land Use Map designates areas for residential use that are intended primarily for dwellings as well as other land uses that support the residential environment; and

WHEREAS, the City of Pompano Beach established residential zoning districts within its Zoning Code consistent with the residential land use designations of the City of Pompano Beach's Comprehensive Plan Future Land Use Map; and

WHEREAS, the City's Zoning Code provides a list of permitted and special exception uses permitted within each zoning district and prohibits any use not substantially similar to those permitted uses; and

WHEREAS, Chapter 509, Lodging and Food Service Establishments Membership Campgrounds, Florida Statutes, regulates public lodging establishments, which is divided into the two subcategories: transient public lodging establishment and nontransient public lodging establishment; and

WHEREAS, Subsection 509.013(4)(a)1., Florida Statutes (2015), defines transient public lodging establishment as "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 period of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests."; and

WHEREAS, Chapter 2011, Laws of Florida, created a new classification of public lodging establishment known as vacation rentals that is defined in Section 509.242(c), Florida Statutes (2015), as "any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project."; and

WHEREAS, Subsection 509.032(7), Florida Statutes (2015), provides that local laws, ordinances or regulations may not prohibit vacation rentals or regulate the duration and frequency of rental of vacation rentals; and

WHEREAS, the Florida Attorney General opined in Advisory Opinion AGO 2014-09, that "[t]o the extent a zoning ordinance addresses vacation rentals in an attempt to prohibit them

in a particular area where residences are otherwise allowed, it would appear that a local government would have exceeded the regulatory authority granted in Section 509.032(7)(b), Florida Statutes."; and

WHEREAS, unregulated vacation rentals can create disproportionate impacts related to their size, excessive occupancy and lack of proper facilities; and

WHEREAS, the presence of vacation rentals and other types of short term rentals within residential 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, the other classifications of transient public lodging establishments are subject to stricter development standards, undergo annual inspections and have more stringent operational and business requirements; and

WHEREAS, many residential structures were constructed prior to the enactment of more current building and fire prevention codes that require minimum life, safety improvements, like hardwired or interconnected smoke detectors, carbon monoxide detectors or pool safety drains, etc.; and

WHEREAS, Section 509.032(7), Florida Statutes, authorizes local governments to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to Sections 553.80 and 633.206, Florida Statutes (2015); and

WHEREAS, in 1996 the City Commission adopted Ordinance No. 96-67 which created Chapter 153, Rental Housing Code, with the intent to protect the public, health, safety and welfare of the people by establishing minimum standards governing the condition, occupancy

and maintenance of rental dwellings, rental units, rooming houses and premises; establishing minimum standards governing utilities, supplied facilities, and other physical components and conditions essential to make rental dwellings, rental units, rooming houses and premises safe, sanitary and fit for human habitation; fixing certain responsibilities and duties of the owners, operators, agents and occupants; and authorizing and establishing certain minimum procedures for the inspection of rental dwellings, rental units, rooming houses and premises; and

WHEREAS, Broward County Code of Ordinances Sec. 31½ -16(1) levies and imposes a tourist development tax throughout Broward County, Florida, at a rate of two percent (2%) of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreation vehicle park, tourist or trailer camp, or condominium for a term of six (6) months or less; and

WHEREAS, consistent with Broward County Code of Ordinances Sec. 31½ -16(1) tourist accommodations are those living quarters and accommodations which are available for rent or lease for a term of six (6) months or less; and

WHEREAS, the City of Pompano Beach finds a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, implementing its comprehensive plan and establishing and enforcing minimum life safety standards; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of its proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission has been held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 153.05, “Definitions,” of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 153.05 DEFINITIONS.

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

ACCESSORY BUILDING or ACCESSORY STRUCTURE. See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

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~~***BOARDING HOUSE.*** See § 155.003(B).~~

...

DORMITORY. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

DWELLING. See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

DWELLING UNIT. See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

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FAMILY. See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

...

HOTEL OR MOTEL. See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).

HOTEL OR MOTEL UNIT. Any habitable room or group of habitable rooms, located within a hotel or motel and forming a single habitable unit with facilities used or intended to be used for living and sleeping and which is used for temporary occupancy or part thereof.

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~~**MOTEL.** See **HOTEL.**~~

~~**MOTEL UNIT.** See **HOTEL UNIT.**~~

...

~~**MULTIPLE-FAMILY MULTIFAMILY DWELLING.** Any structure or building containing two or more dwelling units. See Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).~~

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OVERNIGHT. Between the hours of 10:00 p.m. and 8:00 a.m.

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~~**PERMANENT OCCUPANCY.** When the rental unit is the sole residence of the occupant(s) Occupancy of a rental unit for a period of more than six months.~~

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REFUSE. All putrescible and nonputrescible solid wastes including garbage, rubbish, ashes and dead animals.

REFUSE CONTAINER OR GARBAGE RECEPTACLE. A watertight container that is constructed of metal or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions.

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~~**ROOMING OR BOARDING HOUSE.** See § ~~155.003(B)~~ Part 5 (Terms and Uses Defined) of Article 9 (Definitions and Interpretations) of Chapter 155 (Zoning Code).~~

ROOMING OR BOARDING UNIT. Any room or group of rooms, forming a single habitable unit, used or intended to be used for living and sleeping for permanent occupancy with no provision for cooking or part thereof.

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RUBBISH. All combustible and noncombustible waste materials except garbage, including but not limited to, inoperative toys, bicycles, motorcycles, automobiles, mechanical equipment, machines and other unused or discarded objects and equipment.

SHORT TERM RENTAL. A dwelling unit that rents, leases, or lets for consideration any living quarters or accommodations for a term of six months or less in a calendar year. This term does not include condominiums, condo hotel, hotel, motel, timeshare property, or bed and breakfast.

SHORT TERM RENTAL PERMIT. An annual permit required to operate a Single Family, Duplex, Triplex, or Quadplex as a Short Term Rental

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SECTION 2 That Section 153.08, “Short Term Rental Permit Required,” of the City of Pompano Beach Code of Ordinances is hereby created to read as follows:

§ 153.08 SHORT TERM RENTAL PERMIT REQUIRED.

(A) It shall be unlawful for any owner to operate a Short Term Rental in a Residential Zoning District unless a Short Term Rental Permit (“Permit”) has first been obtained from the Development Services Director.

(B) *Permit not transferable.* The Short Term Rental Permit, when issued, shall pertain only to the individual property owner for use at one specific property. Separate permits shall be required for a property owner to operate a Short Term Rental at any other location; and a new permit shall be required if ownership of the property is transferred.

(C) *Annual renewal of permit required.* The Permit shall apply from October 1 of each year and shall expire on September 30. The Short Term Rental Permit shall be renewed annually. Failure of the property owner to renew and maintain the annual permit shall constitute a violation. Evidence of payment of the Broward County Tourist Development Tax shall be required for annual renewal.

(D) *Short Term Rental Application Requirements.* An applicant for a Short Term Rental Permit shall submit the following:

- (1) Submittal of a Short Term Rental Permit application;
- (2) Payment of nonrefundable application fee;

- (a) Initial Application Fee:
 - i. Single Family and Duplex: \$675.00
 - ii. Triplex and Quadplex: \$750.00
- (b) Renewal Application Fee: \$375.00.

(3) Detailed exterior site plot plan identifying property lines, parking spaces, pool, spas, hot tubs, storage area of garbage receptacles, screening of garbage receptacles, and fences;

(4) Detailed interior floor plan identifying all bedrooms, exits, and locations of fire extinguishers;

(5) A copy of the standard rental/lease agreement to be used when contracting with occupants;

(6) A business tax receipt from Broward County;

(7) A Florida Department of Business and Professional Regulation license as a transient public lodging establishment, if required;

(8) Proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax, if required; and

(9) Proof of no pending Code violations or unsatisfied liens for property violations recorded against the Short Term Rental property or any other property located in Pompano Beach owned by the same property owner or company of which he or she is a principal or corporate officer.

(E) *Inspection required.*

(1) Inspectors from the city's Landscape Division, Code Compliance Division, Building Inspections Division and Fire Department are hereby authorized to inspect all Short Term Rental Housings to insure compliance with the City of Pompano Beach Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code. The inspectors may be accompanied by Law Enforcement officers for purposes of safety, when required. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial Short Term Rental Permit as provided herein.

(a) Appointments. The inspections shall be made by appointment with the 24-hour contact person.

(b) Applicants shall be subject to the No Show and Admittance Denial fees per §153.11.

(c) Admittance Denied. If the inspector(s) is denied admittance by the 24-hour contact person, or if the inspector is unable in at least three attempts to complete an initial or subsequent inspection, the inspector(s) shall provide “Notice of Failure of Inspection” to the property owner.

(d) The “Notice of Failure of Inspection” is considered a violation of this Code and is subject to enforcement remedies as provided herein.

(2) The Development Services Director reserves the authority to require an inspection for permit renewal applications.

(E) *Permit approval or denial.*

(1) The Development Services Department shall issue the Short Term Rental Permit after the property owner has demonstrated compliance with the requirements of the Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code, and all violations discovered during the required inspection have been corrected.

(2) Once issued, a Short Term Rental must be properly maintained in accordance with the City of Pompano Beach Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code.

(3) Failure to demonstrate compliance with the requirements of the City of Pompano Beach Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code will result in a denial of the application.

(F) *Appeal.* The denial of the issuance of the Short Term Rental Permit under this section may be appealed to the city’s Zoning Board of Appeals as an appeal of a decision of the Development Services Director in accordance with the provisions in §155.2424, Appeal.

(G) *Grace period.* Owners who were operating a Short Term Rental Housing prior to the adoption of this section, as evidenced by a written and validly executed rental agreement or contract, licensure with the Florida Department of Business and Professional Regulations, proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax, or other competent evidence of operation shall have one year from the date of adoption of this Ordinance to obtain a Short Term Rental Permit.

(H) *Permit revocation.* After issuance of the permit required by this section, such permit shall be revoked if at any time it is discovered that:

(1) There was a false statement or concealment of a material fact in the application for a Short Term Rental Permit required by this section;

(2) The property owner has violated the off-street parking provisions of this Rental Housing Code on two or more occasions in a 30-day period or on five occasions in a twelve month period as determined by the City's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or

(3) A Noise Disturbance per §97.60 where such noise emanated from the Short Term Rental property on two or more occasions in a 30-day period or on five occasions in a twelve month period as determined by the City's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or

(4) The property owner has violated the collection regulations or the refuse containers provisions of this code and § 96.12 on two or more occasions in a 30-day period or on five occasions in a twelve month period as determined by the City's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or

(5) The property owner has violated any provisions of the City's Code of Ordinances on ten or more occasions in a twelve month period as determined by the City's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a Court of competent jurisdiction; or

(6) The property owner fails to submit required proof of payment of Broward County Tourist Development Tax, if required.

(I) *Violations; enforcement.*

(1) Violations of this section shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective Short Term Rental Permit Program it is key that property owners and 24-hour contact person are responsive and responsible in the management of the property for compliance with this section. Violations, notices, and fines will be enforced in accordance with the procedures in Chapter 37 Pompano Beach Code of Ordinances and heard before the City's Special Magistrate for Code Enforcement.

(2) *Daily fine for operation of short term rental without first obtaining a Permit.* Operation of a Short Term Rental without first obtaining a Short Term Rental Permit or after a Short Term Rental Permit has been revoked shall be deemed a violation pursuant to this section and shall be subject to daily fine, up to One thousand dollars (\$1,000.00) or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.

(3) *Additional remedies.* Nothing contained herein shall prevent the City from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a Short Term Rental Permit, prosecution in County Court, the penalties set forth in § 10.99, "General Penalty", of this Code, and injunction issued by the court upon a suit brought by the city.

SECTION 3. That Section 153.11, "Inspections," of the City of Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 153.11 INSPECTIONS.

(A) ~~The~~ An inspector from the city's Code Enforcement Inspectors Compliance Division, Building Inspections Division, and Fire Department are hereby authorized to inspect all dwellings governed by this chapter to insure compliance with all minimum housing code requirements. When ~~a Code Enforcement~~ an Inspector is required to enter onto private premises to make an inspection, he shall do so with the consent of the owner, operator, lessee or occupant. In the event that consent to enter the premises is withheld, the ~~Code Enforcement~~ Inspector may make application to the proper court for an order requiring access to the premises.

(B) Inspections of all buildings or structures shall be made during reasonable hours. If the ~~Code Enforcement~~ Compliance Officer, Building Inspections Division Inspector, and/or Fire Department Inspector, has probable cause to believe an immediate threat exists to the health, welfare or safety of persons in or about any building or structure governed by this chapter, he may direct that an inspection be made at that time.

(C) *No Show and Admittance Denied Fees.*

(1) *No Show Fee.* If the City has made an appointment with the 24-hour contact person to complete an inspection, and the 24-hour contact person fails to admit the inspector at the scheduled time, the property owner shall be charged a "no show" fee of \$50.00.

(2) Admittance Denied Fee. If the inspector(s) is denied admittance by the 24-hour contact person the property owner shall be charged an “admittance denial” fee of \$50.00.

SECTION 4. That Section 153.26, “Minimum Standards for Short Term Rentals,” of the City of Pompano Beach Code of Ordinances is hereby created to read as follows:

§ 153.26 MINIMUM STANDARDS FOR SHORT TERM RENTAL.

The following minimum standards are in addition to those required in Chapter 153. The property owner of a Short Term Rental shall be responsible to maintain the Short Term Rental in compliance with these additional minimum standards:

(A) *Off-Street parking.* In addition to the standards regarding driveways in §153.19(C), the following standards shall apply:

(1) The overnight parking of more than one automobile per bedroom is prohibited.

(2) At all times all automobiles shall be parked in an approved off-street parking space or driveway. The parking of automobiles in a swale, landscaped area, or within the public right-of-way is prohibited.

(3) The overnight parking of commercial and recreational vehicles is prohibited.

(B) *Refuse containers.* In addition to the standards regarding refuse containers and garbage service in §153.19(A)(4) and (5) and garbage collection in § 96.12(A)(1), the following standards shall apply:

(1) A minimum of one 32 gallon refuse container per bedroom shall be provided.

(2) Refuse containers shall be stored in a location that is behind the front or street side building line and is not visible from public rights-of-way or abutting property owners. Any form of chain link fence, even if containing slats, is not an acceptable screening device.

(3) All trash and debris on the property must be kept in covered refuse containers.

(C) *Occupancy standards.* In addition to the standards regarding occupancy in §153.33(E), the following standards shall apply:

(1) Occupancy shall be limited to that permitted in the underlying Zoning District.

(2) In no case shall occupancy be greater than two persons per bedroom.

(D) *Twenty-four hour contact person.* In addition to the responsibilities required for a 24-hour contact person as provided for in § 153.33(F), the additional responsibilities of the 24-hour contact person for a Short Term Rental Housing are required:

(1) Be available and have the authority to address or coordinate problems associated with the property 24 hours a day, 7 days a week;

(2) Be situated within 25 miles of the short term rental;

(3) Maintain the entire property free of garbage and refuse. Provided however, that this provision shall not prohibit the storage of garbage and litter in authorized receptacles for collection;

(4) See that the provisions of this section are complied with and promptly address any violations of this section or any violations of law, which may come to the attention of the 24-hour contact person; and

(5) Inform all occupants prior to occupancy of the property of the regulations regarding parking, garbage and refuse, noise, and outdoor musical performances.

(E) *Limit on special events per §132.27, special events on private property; permit required.* Short Term Rental Housings shall be limited to one special event per fiscal year (October 1 through September 30). Special Events include, but are not limited to, party rentals and other property usage that would substantially inhibit the usual flow of vehicular or pedestrian traffic.

(F) *Prohibition on outdoor musical performance.* Short Term Rentals are prohibited from giving or hosting outdoor musical performances.

SECTION 5. That Section 153.33, “Responsibilities of Owners,” of the City of

Pompano Beach Code of Ordinances is hereby amended to read as follows:

§ 153.33 RESPONSIBILITIES OF OWNERS.

...

(B) Owners and/or operators of single-family, multi-family dwellings, boarding houses, rooming houses and all other structures and premises governed by this section shall be responsible for the requirements, standards, and responsibilities as set forth in this section and all applicable building, zoning, housing and health codes, unless the content clearly indicates otherwise.

...

(H) Prior to leasing any residential structure or dwelling unit, the owner of the rental structure or unit shall obtain a business tax receipt for such rental structure or unit, as provided in Section 113.41 of this Code, and shall obtain any other required zoning approvals.

(I) Pursuant to the provisions contained in §132.37, Property Owners are prohibited from renting real property to sexual offenders and sexual predators, and are subject to the penalties for violations as provided therein.

SECTION 6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance shall become effective immediately upon passage.

PASSED FIRST READING this _____ day of _____, 2017.

PASSED SECOND READING this _____ day of _____, 2017.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB/cls:jrm
5/16/17 – 12/7/15
l:ord/ch153/2017-161