

ORDINANCE NO. 2021-003

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE," ARTICLE III, "ZONING REGULATIONS," DIVISION 1, "GENERALLY," SECTION 13-295, "DEFINITIONS" TO INCLUDE DEFINITIONS OF "TRANSIENT OCCUPANT" AND "VACATION RENTAL" AND AMENDING DIVISION 2, "ZONING CLASSIFICATIONS AND GENERAL REQUIREMENTS," BY CREATING A NEW SECTION 13-322, "VACATION RENTALS," PROVIDING FOR AUTHORITY AND FINDINGS OF FACT, PROVIDING FOR REGISTRATION OF VACATION RENTALS, IMPOSING REGULATIONS ON VACATION RENTALS, PROVIDING APPLICATION REQUIREMENTS, DEVELOPMENT CONDITIONS, LIFE SAFETY REQUIREMENTS, ENFORCEMENT, PENALTIES AND PROCEDURES FOR DENIAL AND REVOCATION OF REGISTRATION CERTIFICATES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to adopt registration requirements and regulations relating to vacation rentals as allowed by Florida law in order to maintain the integrity of the residential neighborhoods in the City of Coconut Creek; and

WHEREAS, Chapter 2011-119, Laws of Florida, created a new classification of public lodging establishment known as vacation rentals that is defined in Section 509.242(1)(c), Florida Statutes (2020), 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 (2020), 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, Florida Statutes do not prevent the City from adopting ordinances specific to vacation rentals to address some of the noise, parking, trash, and life-safety issues created by the proliferation of vacation rentals in residential neighborhoods; and

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

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

WHEREAS, other classifications of transient public lodging establishments are subject to stricter development standards, undergo annual inspections, and have more stringent operational and business requirements than vacation rentals; 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; and

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

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that this proposed ordinance is consistent with and furthers the goals, objectives, and policies of the City's Comprehensive Plan; and

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WHEREAS, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on December 9, 2020, and voted to recommend that the changes be approved; and

WHEREAS, after reviewing the Local Planning Agency's recommendations, the recommendations of City staff, and comments from the public, the City Commission finds that the proposed amendments to its Code of Ordinances and Land Development Regulations are in compliance and consistent with Florida law and its adopted Comprehensive Plan; and

WHEREAS, the City Commission has determined, upon examination of the issue, that the transient use of residential dwellings in the City has a negative effect on the residential character of the community and that it is necessary and in the interest of the public health, safety, and welfare to monitor and provide reasonable means for the City to mitigate impacts created by such transitory uses of residential property within the City.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, "Land Development Code," Article III, "Zoning Regulations," Division 2, "Zoning Classifications and General Requirements," Section 13-295, "Definitions," to include definitions of "Transient Occupant" and "Vacation Rentals" to read as follows:

Sec. 13-295. - Definitions.

Transient occupant means any person, guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as a vacation rental. It shall be a

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rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the vacation rental is a transient occupant.

Vacation rental means 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 rented to guests more than three (3) times in a calendar year but for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests, but that is not a timeshare project.

Section 3: Amendment. That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, "Land Development Code," Article III, "Zoning Regulations," Division 2, "Zoning Classifications and General Requirements," to create Section 13-322, "Vacation Rentals," to read as follows:

Sec. 13-322. – Vacation Rentals

(a) Authority, scope and purpose.

- (1) This chapter is enacted under the home rule power of the City of Coconut Creek in the interest of the health, peace, safety and general welfare.
- (2) Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments," which are rented, advertised or held out for rental to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less; and "non-transient public lodging establishments," which are rented, or advertised or held out for rental to guests for periods of at least thirty (30) days or one (1) calendar month, whichever is less.
- (3) Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments called "vacation rental", which is 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.

- (4) It is the intent of this section to regulate life safety requirements for vacation rentals as defined by Florida Statutes that are located in residential dwelling zoning districts of the City of Coconut Creek.
- (5) In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending Section 509.032(7)(b), Florida Statutes to provide that "[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."
- (6) In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read "[a] local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."
- (7) This ordinance does not prohibit vacation rentals, or regulate the duration or frequency of vacation rentals, nor is it the intention of the City of Coconut Creek to do so, but rather this section is intended to address life safety and compatibility concerns and the secondary effects of vacation rentals in residential neighborhoods in the interests of the health, peace, safety, and general welfare.

(b) Findings of fact.

- (1) 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.
- (2) In contrast, transient occupants of vacation rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the vacation rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.
- (3) Certain vacation rentals are presently located within the residential zoning districts of the City of Coconut Creek.
- (4) Vacation rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic

problems, excessive use and impact on public services and public works, extreme size and/or greater occupancy.

- (5) Vacation rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods and the quiet enjoyment of its residents.
- (6) Vacation rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.
- (7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of vacation rentals.

(c) Registration certificate required.

- (1) No person shall operate a vacation rental, or permit a vacation rental to be operated on property owned or leased by said person, without first registering the property as a vacation rental as required herein. A current registration certificate for the property shall be the sole evidence of registration.
- (2) These regulations, do not repeal, abrogate, annul or in any way, impair or interfere with private restrictions placed upon property by a covenant, deed restriction or private agreement, nor have the effect of permitting vacation rentals or other short term rentals where a covenant, deed restriction or private agreement prohibits such uses.
- (3) The city manager or his/her designee shall provide a registration application and may implement specific processes consistent with this section in order to provide for the issuance of the registration certificate and renewals.
- (4) All registrations issued under the section shall be valid for no more than one year, and all registrations shall expire on September 30th of each year.

(d) Vacation rental standards. Vacation rentals shall be permitted in all residential zoning districts provided they are in compliance with this section and the applicable zoning district regulations and provided the property is the subject of a current registration certificate as provided for herein. No person shall rent or lease all or any portion of a dwelling unit as a vacation rental (as defined in section 13-295 of this land development code) without complying with the following standards governing the use of any vacation rental as a permitted use:

- (1) Minimum life/safety requirements.
 - a. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.
 - b. Smoke and carbon monoxide (CO) detection and notification system. If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the vacation rental unit, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be required to be installed 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.
 - c. 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/level of the unit. 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.
 - d. Hard-wired emergency lighting of primary means of egress. Hard-wired emergency lighting shall be installed that provides illumination automatically in the event of any interruption of normal lighting for a period of not less than one and one-half (1.5) hours to illuminate the means of egress.
 - e. Emergency egress and maintenance. Halls, entrances and stairways within a vacation rental shall be clean and ventilated. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.
- (2) Maximum occupancy. All vacation rental units shall be occupied by no more than one family as such is defined section 13-295 of the land development code.
- (3) Minimum vacation rental information required postings. The vacation rental shall be provided with posted material as required by the city as prescribed herein.
- (4) Responsible party. A responsible party, capable of meeting the duties provided herein, shall be designated for each vacation rental.

- (5) Use limitations. The vacation rental may not be used or advertised for any commercial or non-residential use, including use of the property as a filming, party, event or entertainment venue.
- (6) Other standards. The vacation rental property, structure, occupancy, and operation shall comply with all other applicable standards contained within the City Code of Ordinances.
- (7) Registration certificate. It shall be unlawful for any person to operate a vacation rental within the corporate limits of the city without obtaining a registration certificate pursuant to this section.

(e) Application and issuance or denial of a registration certificate.

- (1) Application. Prior to the issuance of a registration certificate, the applicant must provide all of the following to the Sustainable Development Department in addition to a completed application form signed by the property owner:
 - a. Identification and contact information for the owner(s) of record of the property for which a certificate is sought.
 - b. Detailed exterior site plan identifying property lines, parking spaces, pools, spas, hot tubs, storage areas of garbage cans, screening of garbage cans, fences, etc.
 - c. Detailed interior floor plan identifying all bedrooms, exits and location of fire extinguishers, smoke and carbon monoxide (CO) detectors.
 - d. A current business tax receipt from the City of Coconut Creek pursuant to the City Code of Ordinances.
 - e. A copy of the vacation rental's current registration with the Broward County Tourist Development Tax Section for purposes of collecting and remitting tourist development taxes.
 - f. A copy of the Florida Department of Business and Professional Regulation license as a transient public lodging establishment/vacation rental.
 - g. 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, or proof of exemption from such registration requirements.

- h. Copies of required postings with pictures showing the posting on the vacation rental premises in a visible location.
 - i. A copy of the standard rental/lease agreement to be used when contracting with transient occupants.
 - j. Identification and contact information for a designated responsible party.
 - k. The owner and responsible party's agreement to use his or her best efforts to assure that the vacation rental use of the dwelling will not disrupt the residential character of the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their residences;
 - l. A registration fee in the amount established by the city commission.
- (2) Approval. A registration certificate will be issued or renewed annually upon submission of the materials above and meeting the compliance inspection requirements of subsection (g) below, provided a revocation notice has not been issued for the property pursuant to subsection (m) below within the previous twelve (12) months. A registration certificate is specific to the property that is the subject of the application and may not be transferred to a different property.
- (3) Denial. A registration certificate will be denied, or will not be renewed, if any of the materials required above are not provided, if violations of the minimum life/safety requirements set forth in this section are found during the compliance inspection and are not cured within the time frame provided by the inspector, or if the registration certificate for the property has been revoked pursuant to subsection (m) below within the previous twelve (12) months.
- (f) Registration certificate renewal. A certificate of registration shall only remain current for a period of one (1) year; thereafter it shall be deemed void unless a new certificate is obtained through the same procedures as were applicable to the original certificate.
- (g) Compliance inspections of vacation rentals.
- (1) An inspection of the dwelling unit for compliance with the minimum life/safety requirements set forth in this section is required as a condition of registration and annual registration renewal.
 - (2) If violations are found, all violations must be corrected and the dwelling unit must be re-inspected within 30 calendar days or as otherwise provided in writing by the inspector. Failure to correct such violations or inspection

deficiencies in the timeframes provided shall result in the denial of the registration or renewal application or suspension of the vacation rental certificate until such time as the violations are corrected and re-inspected.

- (3) If an inspector is denied admittance by the property owner, or if the inspector fails in at least three attempts to complete an initial or renewal inspection of the dwelling because there was no adult person present to admit him or her, the inspector shall provide notice of failure of inspection to the property owner by certified mail to the address shown on the existing rental certificate, or the application for rental certificate. Within ten days after receipt or refusal of such notice, the property owner shall arrange for the inspector's access to the dwelling for the completion of the required inspection. If the property owner fails to arrange for access or access is denied the registration or renewal application shall be denied.
- (4) The initial inspection and, if necessary, a single re-inspection to inspect corrected violations, shall be included in the registration or renewal application fee. The City Commission shall establish a separate re-inspection fee payment of which shall be required prior to inspection if more than one re-inspection is required due to violations or if the inspector is denied entry or no adult is present to admit him or her to conduct the inspection.
- (5) The City shall have the authority to make or cause to be made inspections to determine the condition of property in the interest of safeguarding the health and safety of the occupants of such premises and of the general public and is hereby authorized to enter, examine, and survey with the consent of the owner, operator or occupant all buildings or premises. The property shall be made available for inspection by the City upon forty-eight (48) hours' notice.

(h) Owner and responsible party requirements.

- (1) The purpose of the responsible party is to respond to routine inspections as well as non-routine complaints and other more immediate problems related to vacation rental of the property.
- (2) The property owner may serve as the responsible party or shall otherwise designate a responsible party to act on their behalf however, it is the affirmative duty and responsibility of the owner and the responsible party, individually and collectively, to adhere to the requirements of this section. Any person eighteen (18) years of age or older may be designated as the responsible party by the owner provided they can perform the duties listed herein.
- (3) The duties of the owner and responsible party, whether the property owner or a designated responsible party, are to:

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- a. Inform all guests, in writing, prior to occupancy of the property, of all applicable city ordinances concerning noise, vehicle parking, garbage, and common area usage.
- b. Maintain the property under their control in compliance with the occupancy limits, as specified in this section, the registration certificate, the minimum life/safety standards of this section and the City Code of Ordinances, as determined by the city manager, or designee.
- c. Inspect the property on a monthly basis to ensure that the property is in compliance with this section. Upon the request of the City, the inspection reports shall be made available to the Director of Sustainable Development, or his or her designee.
- d. Ensure that, at all times:
 1. All vehicles associated with the vacation rental are parked in compliance with the City Code of Ordinances;
 2. The entire property, including the front, back, and side yards, is maintained free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection;
 3. All transient occupants are aware that it shall be unlawful to allow or make any noise or sound of a nature or volume in violation of chapter 14, Article II, "Noise" of the City Code of Ordinances;
 4. All transient occupants are aware that unauthorized occupants of any structure or conveyance of the property that have been warned by the owner, responsible party, or lessee to leave and refuse to do so commit the offense of trespass of a structure or conveyance and will be charged under the laws of the State of Florida and local law;
 5. The provisions of this division are complied with and promptly address any violations of this division or any violations of law which may come to the attention of the responsible party.
 6. Be available by landline or mobile telephone at the listed phone number twenty-four (24) hours a day, seven (7) days a week; said person shall have authority from the owner to respond to any issues arising from the vacation rental use related to compliance with this ordinance or any other requirements of the City Code of Ordinances;

7. If necessary, be willing and able to come to the vacation rental unit within two (2) hours following notification from an occupant, the owner, or the city to address issues related to the vacation rental including but not limited to emergencies, noise complaints, unauthorized events, maximum occupancy violations, and other occurrences determined by the city to require the presence of the owner or responsible party;
 8. Be authorized to receive service of any legal notice on behalf of the owner for violations of this section; and
 9. Otherwise monitor the vacation rental unit and conduct inspections as necessary to assure continued compliance with the requirements of this section.
- (4) A property owner may change his or her designation of a responsible party temporarily or permanently; however, there shall only be one (1) responsible party for each vacation rental at any given time. To change the designated responsible party, the property owner shall notify the city in writing via a completed form provided by the city.
- (i) Required posting in each Vacation Rental. The following vacation rental unit information shall be posted as provided below.
- (1) On the back of or next to the main entrance door, or on the refrigerator, there shall be provided as a single page the following information:
 - a. The name, address and phone number of the designated responsible party for the vacation rental;
 - b. The days of trash pickup and recycling;
 - c. A copy of this ordinance or directions on where a copy of this ordinance may be accessed on the internet or physically within the unit.
 - (2) If the vacation rental unit includes three (3) or more occupied floors, or if the vacation rental unit is located on or above the third floor of a building, on the third floor above ground level and on each and every higher floor there shall be posted, next to the interior door of each bedroom, a legible copy of the building evacuation map - Minimum eight and one-half (8½) inches by eleven (11) inches in size.
- (j) Violations. Any of the following shall be considered violations of this section:

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- (1) Noncompliance with any provisions of this section or any life, health or safety regulations in the City Code of Ordinances.
- (2) A material misrepresentation in the application for the registration certificate or registration renewal.

Each day a violation exists shall constitute a separate and distinct violation.

(k) Penalties.

- (1) Any violation of the provisions of this section may be enforced either pursuant to section 1-8 of the City Code of Ordinances or as set forth in the code enforcement provisions and procedures of this Code.
- (2) Additional remedies. Nothing contained herein shall prevent the city from seeking all other available remedies for violation of this section, which may include, but not be limited to, daily fines through the enforcement procedure, injunctive relief, liens, registration certificate revocation and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

(l) Effective date. The requirements set forth in this ordinance shall be effective as of February 1, 2021.

(m) Revocation of registration certificate. Any registration certificate issued under this section shall be deemed revoked if, pursuant to the enforcement procedure, the subject property is found in violation of this section on two (2) separate occasions during any twelve-month period and the violation is not cured within the time frame specified by the code enforcement special magistrate. The city manager or his/her designee shall notify the registrant in writing of the revocation. In such case, no registration certificate shall be reinstated or issued for a period of twelve (12) months after issuance of the revocation notice.

(n) Vesting.

- (1) Vacation rentals existing as of February 1, 2021 shall be considered vested vacation rentals only as related to contracts entered prior to February 1, 2021. Rental/lease agreements that were entered into prior to February 1, 2021 as evidenced by a written and validly executed rental agreement or contract provided to the city manager no later than May 1, 2021 shall be considered vested.
- (2) Vesting shall:
 - a. Apply only to date specific rentals; and

- b. Not apply to renewals of existing rental agreements or contracts which are at the option of either of the parties.
 - (3) All rental agreements entered into after February 1, 2021 shall comply with the provisions of this division. No vacation rental shall be occupied pursuant to a contract/lease entered into after February 1, 2021 until the owner has obtained the required registration certificate.
 - (4) A vested contract/lease transferred to a subsequent owner shall continue to be vested provided the new owner complies with the inspection and licensing requirements of this section.
 - (5) A vested contract/lease shall not be transferred to a different property, unless the new location has obtained a registration certificate.
- o) Appeals. Final, written decisions of the city manager's or his/her designee's that causes the revocation or denial of a registration certificate or denial of renewal of a registration certificate are subject to appeal. An appeal must be filed in accordance with the procedures set forth in section 13-34, "Appeals."

Section 4: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 6: Codification. That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 14TH DAY OF JANUARY, 2021.

PASSED SECOND READING THIS 28TH DAY OF JANUARY, 2021.

Louis Sarbone, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>

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