

ORDINANCE NO. 2020-12

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO VACATION RENTALS; PROVIDING FOR DEFINITIONS; CERTIFICATE OF USE; RENTAL STANDARDS; DUTIES OF RESPONSIBLE PARTIES; ADVERTISING; PARKING; INSPECTIONS; SAFETY REQUIREMENTS AND ENFORCEMENT; REPEALING ORDINANCE 2019-05 AND ORDINANCE 2019-11; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Sponsored by Vice Mayor John DuBois and Councilmember Marsha Matson)

WHEREAS, vacation rentals through on-line hosting platforms are an emerging sector providing hosts and guests a medium for home-sharing; and

WHEREAS, vacation rentals must be registered and licensed with the State of Florida department of Business Regulation to operate in the State and in the Village; and

WHEREAS, if unregistered and unregulated, this can cause a negative impact on residential neighborhoods including excessive noise, parking that overwhelms the use by residents and the accumulation of trash; and

WHEREAS, in order to implement all the necessary rules and regulations to both protect the public and comply with the State regulation of vacation rentals, the Council wishes to adopt the following.

NOW THEREFORE, THE FOLLOWING ORDINANCE IS HEREBY ENACTED BY THE VILLAGE OF PALMETTO BAY, FLORIDA:

Section 1. The above recitals are incorporated as if set forth in full.

Section 2. Ordinances 2019-05 and 2019-11 are repealed in their entirety.

Section 3. A new Section 30-60-20 is hereby adopted as follows:

1

2 **Section 30-60-20: Short Term/Vacation/Transient**

3 **Rentals:**

4 Applicability and purpose. The purpose of this sec-
5 tion is to provide regulations pertaining to short term/va-
6 cation/transient rentals (Collectively “Vacation Rentals”)
7 to preserve the quiet nature and atmosphere of residen-
8 tial areas and to ensure to Village residents the tranquility
9 and peaceful enjoyment of their neighborhoods. These
10 regulations shall be in addition to, and shall not supplant,
11 other provisions in this code that may apply to such rent-
12 als; in the event of a conflict, the more restrictive provision
13 shall control.

14

15 (A) *Definitions.* For purposes of this section, the fol-
16 lowing definitions shall apply:

17 (1) *Peer-to-peer or platform entity* shall mean any
18 person, service, business, company, market-
19 place, or other entity that, for a fee or other
20 consideration, provides property owners and
21 responsible parties a platform or means to of-
22 fer vacation rentals to transient occupants,
23 whether through the internet or other means.

24 (2) *Property owner* shall mean the person who, or
25 entity that, owns the property being used or oc-
26 cupied as a vacation rental.

27 (3) *Responsible party* shall mean the person or
28 entity authorized by the property owner to ob-
29 tain a Certificate of Use for a vacation rental,
30 and who will be:

31

32 (a) Responsible for ensuring compliance with
33 all regulations related to vacation rentals;
34 and

35 (b) Available to respond 24 hours per day, 7
36 days per week to any issue that arises re-
37 lating to the vacation rental. The property
38 owner may serve as responsible party.

39

40 (4) *Transient occupant* shall mean any person

1 who rents or occupies any dwelling unit or res-
2 idence or part thereof for less than two (2)
3 months or a maximum of sixty (60) days, consec-
4 utive or non-consecutive in a calendar year,
5 and any guest or invitee of such person.

6 (5) *Vacation Rental* shall mean any dwelling unit
7 or residence, including, but not limited to, any
8 unit or group of units in a townhouse, condo-
9 minium, cooperative, or apartment building,
10 that is rented in whole or in part to a transient
11 occupant for more than three (3) times a cal-
12 endar year for periods of less than 30 days or
13 one calendar month, whichever is less, or
14 which is advertised or held out to the public as
15 a place that may be rented to a guest for a pe-
16 riod less than two (2) months or a maximum of
17 sixty (60) days, consecutive for non-consecu-
18 tive. For purposes of this section, the term va-
19 cation rental is synonymous with the term
20 short-term/vacation/ transient residential
21 rental.

22 (B) *Certificate of Use Required.* No property owner,
23 responsible party, or peer-to-peer or platform en-
24 tity shall offer as a vacation rental, or allow any
25 person to rent or occupy as a vacation rental, any
26 property in whole or in part within the Village un-
27 less a Certificate of Use has first been obtained in
28 accordance with the provisions of this section. A
29 property may be offered as a vacation rental imme-
30 diately upon approval of an application for Certifi-
31 cate of Use, unless and until such time as the ap-
32 plication is thereafter revoked for failure to pass in-
33 spection.

34 (1) *Application.* A complete Certificate of Use ap-
35 plication shall be submitted online or in hard
36 copy. A peer-to-peer or platform entity may en-
37 ter into an agreement with the Village whereby
38 the peer-to-peer or platform entity agrees to
39

1 submit applications on behalf of responsible
2 parties. The application must be signed under
3 oath or affirmation, and shall include the follow-
4 ing:

5

6 (a) The address and legal description of the
7 vacation rental property;

8 (b) Name, address, and phone number of the
9 property owner;

10 (c) Name, address, and phone number of the
11 responsible party;

12 (d) Name and contact information for the peer-
13 to-peer or platform entity or entities on
14 which the vacation rental is, or will be,
15 listed for rent;

16 (e) A statement that the responsible party has
17 the permission of the property owner and
18 authority to offer the property as a vacation
19 rental and act as the responsible party;

20 (f) A statement as to whether the entire prop-
21 erty, or just a part thereof (i.e., a room or
22 rooms), will be used as a vacation rental;

23 (g) A statement that insurance coverage will
24 be in effect at all times while the property is
25 being used as a vacation rental to cover li-
26 ability for injury or harm to transient occu-
27 pants or other invitees, and acknowledging
28 that a standard homeowner's or renter's in-
29 surance policy may not necessarily provide
30 such liability coverage while the property is
31 used as a vacation rental;

32 (h) A statement acknowledging that the re-
33 sponsible party has received information
34 explaining that using the property as a va-
35 cation rental could result in loss of the
36 Homestead Exemption, and has provided
37 such information to the property owner;

38 (i) A statement indicating how many times,
39 and for how many days in all, the property
40 was used as a vacation rental within the

previous calendar year;

- (j) A statement acknowledging that the vacation rental must be registered with the Florida Department of Revenue, for purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
- (k) A statement acknowledging that a vacation rental license, issued by the Florida Department of Business and Professional Regulation, or successor agency, must be obtained;
- (l) A statement acknowledging that the property is, and will be at all times during which it is used as a vacation rental, maintained in compliance with the vacation rental standards set forth;
- (m) An Interior Floor Plan showing layout of rental property including sleeping areas, bathrooms and kitchen, etc.;
- (n) An Exterior Site Plan showing structures, driveway, pool, hot tub, etc.
- (o) *Supporting documentation.* The responsible party shall maintain all required licenses, records, and other documentation sufficient to demonstrate that the statements and information required above are true and accurate. All such licenses, records, and other documentation shall be provided upon request, and failure to do so may result in the denial, suspension, or revocation of the Certificate of Use.
- (p) Providing false or misleading information in an application for a Certificate of Use is grounds to deny or revoke the Certificate of Use.
- (q) A list of all registered vacation rentals shall be posted on the Village website.

(1) *Annual renewal.* The Certificate of Use shall be renewed annually. A Certificate of Use may not

1 be renewed if there are any outstanding fines
2 or liens for violations of this code.

3 (2) *Inspection.* Prior to the issuance or renewal of
4 a Certificate of Use, the vacation rental prop-
5 erty shall be subject to inspection to ensure
6 compliance with all applicable code require-
7 ments. At the time of such inspection, the re-
8 sponsible party shall provide all licenses, rec-
9 ords, and other documentation sufficient to
10 demonstrate compliance with all requirements
11 of this section.

12 (3) Enforcement history.

13 (a) When reviewing an application to obtain or
14 renew a Certificate of Use, the Village shall
15 consider the violation history of the prop-
16 erty identified in the application. If the vio-
17 lation history shows three or more viola-
18 tions of this section within the preceding 12
19 months, the Village shall not issue or re-
20 new the Certificate of Use unless:

21 (i) All outstanding violations or liens are
22 first satisfied and corrected; and
23 (ii) A bond in the amount of \$10,000.00 is
24 provided to the Village, in the form ap-
25 proved by the Village Attorney. The
26 bond shall be subject to forfeiture for fu-
27 ture violations, as set forth in this sec-
28 tion.

29 (b) When the violation history shows three or
30 more violations of this section within the
31 preceding 12 months, the Village shall no-
32 tify the peer-to-peer or platform entity, if
33 known, of the property at which the vio-
34 lations have occurred, and the dates of the
35 violations.

36 (c) When calculating whether a vacation
37 rental property has three or more violations
38 within the preceding 12 months, if one or
39 more unresolved citations that will affect

the decision to issue or renew the Certificate of Use are pending, the Village may issue or renew a Certificate of Use on a provisional basis and for a limited time, which may be extended for good cause shown.

(C) Vacation Rental Standards. The following vacation rental standards shall govern:

(1) Duties of peer-to-peer or platform entity. For each vacation rental listed or offered, a peer-to-peer or platform entity shall:

(a) Provide notice of the requirements of this section to any person or entity listing or offering a vacation rental on its service or platform;

(b) Only provide payment processing services, or otherwise facilitate payment for a vacation rental that has a valid Certificate of Use in accordance with this section. A peer-to-peer or platform entity shall not be held liable pursuant to this subsection where it:

- (i) Requires the responsible party to have applied for or obtained a Certificate of Use number as a precondition to listing or offering a vacation rental on its platform;

(ii) Provides to the Village the Certificate of Use number or application number, the listing identification number associated therewith, the address of the vacation rental property, and the responsible party's name and contact information for all listings on the platform; and

(iii) Removes any listing from the platform within 10 days of notification from the Village that a Certificate of Use number or application number associated with the listing is invalid or expired, or that the enforcement history of a vacation rental associated with the listing shows

three or more violations within the preceding 12 months.

- (c) Include language in rental documents to discourage the secondary subletting of vacation rentals;
- (d) Maintain records demonstrating that the requirements of this subsection have been satisfied, and such records shall be subject to inspection upon request, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection; and
- (e) Make available for inspection upon request all records relating to any suspected violations of state or local law associated with any vacation rental property, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection.

(2) Duties of responsible party. For each vacation rental, the responsible party shall:

- (a) Provide written notice to vacation occupants, prior to occupancy of the vacation rental, of the vacation rental standards set forth herein and other applicable laws, ordinances, or regulations concerning noise, public nuisance, vehicle parking, solid waste collection, and common area usage. This information shall also be made available to each vacation occupant inside the subject property;
- (b) Provide notice to prospective vacation occupants at the time the subject property is listed as a vacation rental of any limitations on the property pertaining to access for the disabled;
- (c) Provide notice to the homeowner's associ-

ation or condominium/cooperative association or board, if any, that the subject property will be used as a vacation rental and adhere to all policies, rules, and regulations of such association or board pertaining to vacation rentals;

- (d) Ensure compliance with all provisions of this section, including the vacation rental standards set forth herein, and promptly address and report any violations of this section or of such other law or regulation of which the responsible party knows or should know to the Village or law enforcement, as appropriate, as well as to the peer-to-peer or platform entity;
- (e) Ensure that any violations regarding the rental of the property are able to be promptly addressed and resolved 24 hours a day/7 days per week; and
- (f) Maintain a register with names and dates of stay of all guests, which shall be open to inspection.

(3) *Maximum occupancy.* Maximum overnight occupancy for vacation rentals shall be up to a maximum of two persons per bedroom, plus two additional persons per property, up to a maximum of 12 persons, excluding children under three years of age. For purposes of this Subsection, "overnight" shall mean from 10:00 p.m. until 7:00 a.m. the following day. Notwithstanding the foregoing, at no time may the occupancy of a vacation rental exceed the maximum occupant load for the property under the Florida Building Code.

(4) *Responsible party residency.* The property on which a vacation rental is operated shall be a residence in which the responsible party resides for more than six months per calendar year. Nothing in this subsection shall preclude the rental of the property at the same time that

the responsible party is residing there.

(5) *Solid waste handling and containment.* Solid waste containers sufficient to handle the maximum occupancy permitted shall be maintained in accordance with Village ordinances. All regulations regarding screening and storage of solid waste containers shall apply to vacation rentals. For purposes of this section all solid waste containers shall be placed at curbside or other designated collection area only on scheduled collection days, no later than 7:00 a.m., and shall be removed therefrom that same day once collection has occurred.

(6) *Advertising and signs.* Signs shall only be allowed to the extent permitted by the regulations in the code applicable to the relevant zoning district. Any advertisements or signs pertaining to vacation rentals that are inconsistent with the requirements, restrictions, and regulations of the Certificate of Use or these vacation rental standards shall be deemed *prima facie* evidence in any enforcement action that a vacation rental is being operated in violation of this section.

(7) Sexual offenders and sexual predators.

(a) If the vacation rental property is within one thousand feet (1,000 feet) of a school, it shall be a violation to allow any person to occupy the property with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction. The responsible party shall be required to obtain confirmation of a nationwide search from the Miami-Dade County Police Department or other law enforcement agency that the prospective transient occupant or occupants is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense. The responsible party may call the Miami-Dade

County Answer Center (311) to obtain assistance or referrals to determine whether a prospective transient occupant is a sexual offender or predator and to determine whether a residence is 1,000 feet from a particular school.

(b) If the vacation rental property is within 1000 feet of a school, it shall be a violation of this section for a sexual offender or sexual predator to occupy the property.

(8) Posting of Certificate of Use, and Other Documents: Whenever a property is being used as a vacation rental, the Certificate of Use required by this section shall be available in a conspicuous location that is clearly visible to guests within the vacation rental and shall include, at a minimum, the name, address, and phone number of the responsible party and the maximum occupancy of the vacation rental. Additionally, there shall be a posting of the times of garbage pickup, the location of the nearest hospital, a property evacuation map, and the non-emergency Police phone number.

(9) *Parking and vehicles.* All parking must comply with the requirements of the district in which it is located, and all other applicable sections of this code. In addition, all vehicles associated with the vacation rental, whether in the possession or control of the property owner, responsible party, or transient occupant, shall only be parked within a driveway or in a designated parking area on the subject property; or, where there is no such driveway or designated parking area, vehicles shall only be parked on the street or swale directly in front of the subject property. Transient occupants shall not be permitted to park more than two vehicles at any one time on the subject property or on the street or swale during the rental period. An ex-

terior plan showing parking areas must be provided.

- (10) **Noise.** All transient occupants shall abide by this code, which prohibits unreasonably loud, excessive, unnecessary, or unusual noise. In addition, outdoor amplified sound at a vacation rental shall not be permitted at any time.
- (11) **Public nuisance.** The responsible party and all transient occupants shall abide by all applicable state and local public nuisance laws and ordinances, including, but not limited to, sections 823.05 and 823.10 of the Florida Statutes, which prohibits any place or premises from being used as the site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior that adversely affects the public health, safety, morals, and welfare.
- (12) **Pets.** If the responsible party permits vacation occupants to have pets at the vacation rental, such pets shall be at all times secured within the property lines or on a leash but shall not be tethered. Continual nuisance barking by pets is prohibited. The keeping of pets shall be subject to the regulations of this code regarding animals.
- (13) **Swimming pool safety features.** If there is a swimming pool onsite, the responsible party shall ensure that the swimming pool has in place at least one of the pool safety features listed in Section 515.27, Florida Statutes, (i.e., pool safety barrier, pool safety cover, pool alarm, or door latch/alarm) prior to use of the property as a vacation rental by any person under the age of six. The responsible party shall be deemed to have complied with this provision if the pool safety feature is put in place at the

1 time that the property is turned over to any va-
2 cation occupant occupying the vacation rental.
3 This provision shall not apply to a vacation
4 rental with a community swimming pool onsite,
5 such as in a condominium, as determined by
6 the Village. There shall be an annual inspection
7 by a licensed technician and a log kept and
8 available to the Village of these inspections

9 (14) *Compliance with applicable laws.* In addition to
10 the foregoing, the responsible party and all
11 transient occupants shall comply with all other
12 applicable local, state, and federal laws, regu-
13 lations, rules, and standards, including, but not
14 limited to, the Florida Building Code, the Florida
15 Fire Code, the Florida Life Safety Code, and
16 those pertaining to anti-discrimination, disabil-
17 ity, and fair housing to the extent applicable.

18 (D) *Enforcement.* The requirements of this section may
19 be enforced in accordance with the following:

20 (1) *Penalties.* Any person operating a vacation
21 rental without a Certificate of Use or in violation
22 of the vacation rental standards or any other
23 provisions in this section shall be subject to a
24 penalty of \$250 for the first offense, \$500 for a
25 second offense and a suspension of the Certif-
26 icate of Use upon the third offense until the vi-
27 olation is corrected.

28 (2) *Forfeiture of bond.*

29 (a) Where a bond is required to obtain or re-
30 new a Certificate of Use, if the vacation
31 rental property is cited for a violation of this
32 section within 12 months of providing the
33 bond, and that citation is later resolved ad-
34 versely to the owner or responsible party,
35 then the bond shall be deemed forfeited,
36 and the Certificate of Use for that vacation
37 rental shall be revoked and may not be re-
38 issued for 12 months.

39 (b) If there are no violations for 12 months af-
40 ter providing the security, the Village shall

1 release the bond upon written request from
2 the responsible party. Until the responsible
3 party obtains release, the bond shall con-
4 tinue to be subject to forfeiture for future
5 violations.

6 (3) *Joint and several liability.* The property owner
7 of the vacation rental property shall be liable for
8 any violations of this section, any rule or regu-
9 lation promulgated under this section, or any
10 order of the Village made under this section. In
11 addition, whenever two or more persons com-
12 mit such a violation, each violator shall be
13 jointly and severally liable for any fines or other
14 damages assessed. This applies to situations
15 where a property owner, responsible party,
16 peer-to-peer or platform entity, or vacation oc-
17 cupant, or any combination thereof, are to-
18 gether responsible for a violation of this sec-
19 tion. It is provided, however, that where a peer-
20 to-peer or platform entity does not itself commit
21 a violation of this section, it shall not be held
22 jointly and severally liable, nor shall it be held
23 vicariously liable for any violations committed
24 solely by the responsible party or vacation oc-
25 cupants. In addition, where a peer-to-peer or
26 platform entity complies with all provisions
27 above, it shall not be held jointly and severally
28 liable for providing a listing for or collecting a
29 fee for listing any vacation rental.

30
31 **Section 4. Severability.** The provisions of this
32 Ordinance are declared to be severable, and if any
33 sentence, section, clause or phrase of this Ordinance
34 shall, for any reason, be held to be invalid or
35 unconstitutional, such decision shall not affect the validity
36 of the remaining sentences, sections, clauses or phrases
37 of the Ordinance, but they shall remain in effect it being
38 the legislative intent that this Ordinance shall stand
39 notwithstanding the invalidity of any part.

Section 5. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon enactment of Second Reading.

PASSED on **FIRST READING** this 27th day of July 2020.

VOTE AT FIRST READING:

Council Member David Singer YES

Council Member Marsha Matson YES

Council Member Patrick Fiore YES

Vice-Mayor John DuBois ABSENT

Mayor Karyn Cunningham YES

PASSED and **ADOPTED** on **SECOND READING** this 23rd day of September 2020.

Attest: *Missy Arocha*

— DocuSigned by:

Missy Arocha

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Missy Arocha Village Clerk

— DocuSigned by:

Karyn Cunningham

2020 RELEASE UNDER E.O. 14176

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Karyn Cunningham
Mayor

1 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE**
2 **AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA**
3 **ONLY:**

4 *DocuSigned by:*

5 *John C. Dellagloria, Esq.*

6 000A0D709243456...

7 **John C. Dellagloria, Esq.**
8 **Village Attorney**

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10 **FINAL VOTE AT SECOND READING:**

11 Council Member David Singer YES

12 Council Member Marsha Matson YES

13 Council Member Patrick Fiore YES

14 Vice-Mayor John DuBois YES

15 Mayor Karyn Cunningham YES