

ORDINANCE NO. 2021-14

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING APPENDIX C (CHAPTER 45), "ZONING," OF THE VILLAGE CODE OF ORDINANCES BY ADOPTING A NEW SECTION 45-40, "VACATION RENTALS," PROVIDING FOR APPLICABILITY; PROVIDING FOR REGISTRATION AND INSPECTION; PROVIDING FOR VACATION RENTAL STANDARDS; PROVIDING FOR VIOLATIONS, ENFORCEMENT AND REMEDIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, prior to 2011, Florida's municipalities were free to regulate local land use issues under the Home Rule Authority granted them by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, in 2011, the Florida Legislature, through the enactment of Chapter 2011-119, Laws of Florida, preempted the local regulation of a specific land use known as vacation rentals, thereby preventing municipalities from enacting new regulations necessary to address any consequential or negative impacts caused by vacation rentals; and

WHEREAS, in 2014, the Florida Legislature, through the enactment of Chapter 2014-71, Laws of Florida, rescinded the complete preemption of the regulation of vacation rentals, but specifically mandated that local laws, ordinances or regulations could not prohibit vacation rentals or regulate the duration or frequency of vacation rentals; and

WHEREAS, Chapter 2014-71, Laws of Florida, returned some local control back to municipalities to mitigate the effects of vacation rentals in an attempt to make them safer and more compatible with existing neighborhood regulations and to hold operators of such properties accountable for their proper operation; and

WHEREAS, the occupants of vacation rentals, due to the transient nature of such occupancy, are unfamiliar with local hurricane evacuation plans, the location of fire extinguishers, exit routes, pool and home safety features, and other similar safety measures that would ordinarily be provided to guests in traditional lodging establishments, i.e., hotels and motels; and

WHEREAS, if left unregulated, the occupants of vacation rentals located within established neighborhoods can disturb the quiet enjoyment of the neighborhood and create numerous secondary impacts, including noise, traffic, parking and a greater demand on public services; and

WHEREAS, traditional lodging establishments are typically restricted to commercial and other non-residentially zoned areas where intensity of use is separated from less busy and quieter residential uses; and

WHEREAS, like many other municipalities throughout the State of Florida, the Village of North Palm Beach wishes to impose standards both to provide for the safety and welfare of occupants of vacation rentals and to minimize any negative impacts caused by vacation rentals in residential areas, especially established single-family neighborhoods; and

WHEREAS, the Village of North Palm Beach desires vacation rentals that are safe, conform to the character of the community, provide positive impacts for tourism, do not detract from property values and achieve greater neighborhood compatibility; and

WHEREAS, the Village's enactment of regulations applicable to vacation rentals is necessary to preserve the integrity of residential areas and neighborhoods and corresponding property values, while also protecting the health, safety and welfare of residents, property owners, investors and transient occupants of the Village; and

WHEREAS, the Village's regulations are intended to supplement, not replace, any existing federal or state law or regulation or any existing controls within established residential units served by homeowner or condominium associations; and

WHEREAS, the Village's regulations neither prohibit vacation rentals nor restrict the duration or frequency of vacation rentals; rather they are intended to address life safety and compatibility concerns and the secondary effects of vacation rentals located within residential areas and neighborhoods; and

WHEREAS, as required by Section 21-12 of the Village Code of Ordinances, the Village's Planning Commission conducted a duly advertised public hearing on this Ordinance and provided its recommendation to the Village Council; and

WHEREAS, the Village Council determines that the adoption of this Ordinance benefits the public health, safety and welfare of the residents and citizens of the Village, as well as visitors to the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing "Whereas" clauses are hereby ratified and incorporated herein.

Section 2. The Village Council hereby amends Article III, "District Regulations," of Appendix C (Chapter 45), "Zoning," of the Village Code of Ordinances by adopting a new Section 45-40 to read as follows:

Sec. 45-40. Vacation rentals.

(a) *Applicability.* The regulations set forth in this section shall apply to any building or structure utilized as a vacation rental within any Village zoning district. A vacation rental is a dwelling unit that is also a transient public lodging establishment, but is not a time share project. A transient public lodging establishment, as defined by section 509.013(4)(a), Florida Statutes, as amended, is any unit which is rented out 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, or which is advertised or held out to the public as a place regularly rented to guests for periods less than thirty (30) days or one (1) calendar month, whichever is less.

(b) *Registration and inspection*

- (1) *Registration required.* It shall be unlawful for any person or entity to operate a vacation rental within the corporate limits of the Village without first registering the vacation rental with the community development department in accordance with the requirements of this division. All existing vacation rentals shall be required to be registered by October 1, 2021.
- (2) *Initial registration.* Every vacation rental owner or operator shall first register with the Village by submitting to the community development department a properly completed and notarized registration form, as prescribed by the Village, together with a registration fee in an amount established by resolution of the Village Council. A separate registration form shall be required for each vacation rental. The registration form shall be accompanied by the following:
 - a. A copy of the business tax receipt issued by the Village;
 - b. A copy of the Florida Department of Business and Professional Regulation license as a transient public lodging establishment/vacation rental;
 - c. A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purpose of collecting and remitting sales taxes, transient rental taxes and any other taxes required by law to be remitted, as applicable, or proof that payment is arranged through a third party such as an on-line platform;
 - d. Proof of the establishment of an account with the Palm Beach County Tax Collector for the payment of tourist development taxes or that payment is arranged through a third party such as an on-line platform;
 - e. Copies of the postings required by subsection (c)(5) below;
 - f. A copy of a sample lease agreement; and
 - g. A completed vacation rental responsible party designation, in the format prescribed by the Village, which includes the information required by subsection (c)(4) below.
- (3) *Registration renewal.* After a vacation rental is initially registered, the registration shall be renewed by October 1st of each year through the execution of a renewal affidavit, in the format prescribed by the Village, and the payment of the renewal fee established by resolution of the Village Council.

- (4) *Registration updates.* Any changes to the information or submittals included with the initial registration must be reported to the Village within thirty (30) days of the occurrence of such changes.
 - (5) *Incomplete registration/renewal.* If the registration form or renewal form submitted pursuant to this section is incomplete, the registrant shall be informed of such deficiency and shall have ten (10) days to correct the deficiency.
 - (6) *Outstanding code violations.* The Village shall not process any vacation rental registration or renewal if the property has unresolved code violations or code enforcement liens.
 - (7) *Inspection.* Inspection by the Village to verify compliance with the requirements of the division may be required subsequent to initial registration with the Village and annually after each renewal. Non-compliance with the requirements of this division discovered during any inspection shall be treated as a violation of the Village Code and be processed in accordance with subsection (d) below. Failure to allow the Village to inspect the vacation rental within twenty (20) days after the Village notifies the owner or responsible party that the Village is ready to conduct an inspection shall constitute a separate violation of the Village Code and be processed in accordance subsection (d) below.
 - (8) *Evidence of vacation rental operation.* Advertising, listing or posting a property on the internet, utilizing any mass communication medium or in any publication as being available for use as a vacation rental creates a rebuttable presumption that the owner or operator is utilizing the property as a vacation rental. Nothing set forth herein precludes the Village from presenting other forms of evidence of vacation rental operation.
 - (9) *False information.* It shall be unlawful for any person to give any false or misleading information in connection with the requirements and obligations set forth in this section.
- (c) *Vacation rental standards.* No person or entity shall operate a vacation rental within the Village unless such vacation rental complies with the following standards:
- (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, as set forth in 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, then one such 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 dwelling 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. *Battery powered emergency lighting of primary exit.* Battery powered emergency lighting which provides illumination automatically in the event of any interruption of normal lighting shall be provided for a period of not less than one hour to illuminate the primary exit.
 - 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.* Each vacation rental dwelling unit shall comply with the occupancy limitations set forth in the Property Maintenance Code referenced in section 15-27 of this Code, provided, however, that in no event shall maximum occupancy of such dwelling unit exceed two persons per bedroom plus two additional persons.
- (3) *Lease requirements.* There shall be a written or online lease, rental, tenant or other recorded agreement memorializing each vacation rental tenancy between the owner or responsible party and the occupant(s). The agreement shall, at a minimum, contain the following information:
- a. The maximum number of occupants for the unit as specified in subsection (2) above;
 - b. The number of parking spaces associated with the vacation rental unit, if applicable, and the location of such spaces;
 - c. The names and ages of all persons who will be occupying the unit;

- d. The dates of such occupancy; and
- e. A statement that all occupants must evacuate from the vacation rental following any evacuation order issued by local, state or federal authorities.

The Village reserves the right to request and receive a copy of any vacation rental lease or rental agreement from the owner or responsible party at any time.

- (4) *Parking.* All occupants of and visitors to a vacation rental must abide by all applicable parking regulations and park only in designated and/or approved areas.

- a. If the vacation rental is a single-family home or duplex, occupants and visitors may only park vehicles on driveways, in garages or carports, on approved, stabilized parking areas (consisting of space that is covered and graded by semi-permeable or impervious materials such as asphalt, concrete, pavers, gravel or similar material), or on the street or swale area immediately adjacent to the vacation rental property. Occupants and visitors may not park on the street or swale area that abuts an adjacent dwelling.
- b. The number of automobiles that may be parked at a vacation rental outside of a carport or garage shall be limited to one automobile per bedroom, plus one, not to exceed a total of five (5) automobiles.

- (5) *Vacation rental responsible party.* Each vacation rental must designate a responsible party to respond to routine inspections as well as non-routine complaints and any other problems related to the operation of the vacation rental. The property owner may serve in this capacity or shall otherwise designate another person eighteen (18) years or older to perform the following duties:

- a. Be available by telephone at the listed phone number twenty-four (24) hours per day, seven (7) days per week and be capable of handling any issues relating to the operation of the vacation rental;
- b. If required, be willing and able to come to the vacation rental within two (2) hours following notification from an occupant, the owner, or the Village to address any issues relating to the operation of the vacation rental;
- c. Maintain a record of all lease or rental agreements for the vacation rental;

- d. Receive service of any legal notice on behalf of the owners for violation of the requirements set forth in this division; and
 - e. Otherwise monitor the vacation rental to ensure compliance with the requirements set forth in this division.
- (6) *Minimum vacation rental information required postings.* The vacation rental shall be posted with the following information, either on the back of or next to the main entrance door or on the refrigerator:
- a. The name, address and telephone number of the vacation rental responsible party;
 - b. A notification that all garbage or trash must be placed in a garbage or trash can or other approved garbage receptacle and that all recyclables must be placed in approved recyclable containers;
 - c. The location of the nearest hospital;
 - d. The location of designated parking spaces/areas, if applicable; and
 - e. For units located within multi-family buildings more than two (2) stories in height, a building evacuation map (at least 8½ inches by 11 inches) shall be posted on or next to the interior portion of the front door.
- (7) *Other regulations.* Vacation rentals must comply with all other regulations, standards and requirements set forth in the Village Code of Ordinances, including, but not limited to, the requirements of Chapter 4 (Animals and Fowl), Chapter 6 (Buildings and Building Regulations), Chapter 14 (Health and Sanitation), Chapter 15 (Housing), Chapter 18 (Motor Vehicles and Traffic), Chapter 19 (Offenses and Miscellaneous Provisions) and Appendix C (Chapter 45) (Zoning).
- (d) *Violations; remedies; enforcement.*
- (1) *Violations.* Non-compliance with any provision of this division shall constitute a violation of the Village Code of Ordinances and each day the violation exists shall constitute a separate and distinct violation.
 - (2) *Remedies and enforcement.* Any violations of this division may be enforced pursuant to Section 1-8 of the Village Code of Ordinances, through the code enforcement process set forth in Chapter 2, Article

VI of the Village Code of Ordinances, or through any other manner authorized by law, including, but not limited to, injunctive relief.

- (3) *No waiver.* A valid vacation rental registration shall not be construed as a waiver of any of the requirements contained within the Village Code of Ordinances or the Village's Comprehensive Development Plan nor shall such registration be construed as approval of a use or activity that would otherwise be illegal under Florida law or prohibited by the Florida Building Code or the Florida Fire Prevention and Life Safety Code.

Section 3. The provisions of this Ordinance shall become and be made a part of the Code of the Village of North Palm Beach, Florida.

Section 4. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of the Ordinance.

Section 5. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall become effective immediately upon adoption

PLACED ON FIRST READING THIS 26TH DAY OF AUGUST, 2021.

PLACED ON SECOND, FINAL READING AND PASSED THIS 8TH DAY OF SEPTEMBER, 2021




MAYOR


VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


VILLAGE ATTORNEY