



To: Honorable Mayor and Village Council

Date: April 4, 2016

From: Edward Silva, Village Manager



Re: Vacation Rentals for
1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, CREATING SECTION 30-60.32, ENTITLED "VACATION RENTALS"; ESTABLISHING REGULATIONS FOR CERTAIN TRANSITORY USAGES OF RESIDENTIAL HOMES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS:

The internet has introduced changes to the way many segments of our economy works. Services can now be marketed and sold on-line giving every individual greater access to entrepreneurialism. This opportunity has opened up new markets that largely were either non-existent, or at best, not easily accessed. Commonly referred to as the 'sharing economy', this new market has given way to allowing individuals to make available their personal assets to achieve monetary gain. Today, the trend involves the transient rental of residential dwelling units. Homes originally approved and constructed for long term living arrangements, generally for periods of time greater than six months, are now becoming short-term accommodations for travelers. Referred to as "Vacation Rentals", properties developed and regulated as private residences, are operating as short-term stay facilities within traditional residential neighborhoods.

One of the principal objectives of the Village of Palmetto Bay is to ensure the health, safety, and welfare of its residents and visitors. Vacation rentals, in some regard, operate in an asymmetrical manner to most municipal codes. Because of their newness, few municipalities have development regulations to properly address the health and safety operational standards consistent with the objective stated above. They operate in homes that enjoy permit approvals as private residences, but operate in a transient manner akin to motels, hotels, lodges and inns. As a result, they fall in-between the regulatory cracks. The situation becomes incumbent upon the Village to consider appropriate standards for Vacation Rentals within its jurisdiction.

PROPOSED ORDINANCE:

Florida Statute 509.032(7)(b) preempts local ordinances from prohibiting vacation rentals or from regulating the duration or frequency of rental of Vacation Rentals at residential properties including single-family, two-family, and three family housing types. However, it does not appear that the statute prevents other reasonable provisions that may lend to ensuring the objective of

health, safety and welfare are met. The proposed ordinance addresses the Village's health, safety and welfare when residential properties are used as Vacation Rentals.

Among other things, the proposed ordinance requires Vacation Rentals to attain a Certificate of Use and pay all applicable taxes. The Certificate of Use review and inspection seeks to verify the use properly complies with occupancy and operational standards, and that fire safety features are met such as provisions for fire escape and fire suppression implements. Similar to home office uses, the Certificate of Use is to be renewed annually.

ANALYSIS:

The following is a review of the request pursuant to the criteria found at Section 30-30.7(b) of the Land Development Code. The Background and the proposed ordinance sections of this report are hereby incorporated by reference into this Analysis.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: In reviewing the Village's Comprehensive Plan, the following Goals, Objectives, and Policies (GOP) below were identified within the Village's Comprehensive Plan as relating to this proposed ordinance. Each GOP is provided with a brief analysis. The finding of those analyses is provided at the end of this criterion.

GOAL 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: The proposed provisions provide reasonable use and occupancy standards for Vacation Rentals that operate largely within residential neighborhoods. The proposed provisions are drafted to avoid conflict with Florida Statute 509.032(7)(b).

Policy 1.2.1 Continue to update the Village Land Development Code so that it is consistent with this Future Land Use Element and other applicable elements of the adopted Comprehensive Plan, and provides Village businesses, residents, and developers with a clear and concise set of zoning and other regulations for implementing Palmetto Bay's future vision.

Analysis: The proposed ordinance provides occupancy and operation standards for uses currently not regulated, yet which operate in residential neighborhoods. The provisions are clear and provide for predictable regulatory implementation of such uses.

Finding: Consistent (for all of Criteria 1).

Criteria (2) Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: See Background and Proposed Ordinance sections, and Criteria 1 and 3. In absence of the proposed ordinance, Vacation rentals will be allowed to continue operations without a predictable set of procedural, operational and safety standards. It is in the public interest that Vacation Rentals be appropriately regulated in order to mitigate any unintended or adverse impacts. As a result, the proposed provisions bring such uses into greater alignment with Chapter 30.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: See Background and Proposed Ordinance sections. Vacation Rentals are relatively new use types that have grown in popularity with the growth of the internet. As such, many municipalities are now beginning to review their land development codes in order to provide appropriate occupancy and operational standards to ensure the health, safety, and welfare of its residents and visitors are met. The Village does not have any regulations which address the changed development conditions arising from the arrival of Vacation Rentals. The change in conditions justifies and supports the proposed ordinance.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: See Background and Proposed Ordinance sections and Criteria 1. The proposed ordinance directly addresses incompatible land uses. Although it may not always be desirable to have Vacation Rentals within traditional residential neighborhoods, Florida Statutes preempts municipalities from prohibiting them. However, the Florida Statutes do not appear to prevent the municipal adoption of other provisions that work to ensure the health, safety and welfare of residents and visitors. The proposed ordinance does just that and in so doing, seeks to mitigate incompatibility of use and unintended impact.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not appear to negatively impact the above systems. The proposed ordinance provides reasonable regulations for Vacation Rentals, which are anticipated to reduce demands on transportation systems, public facilities and services. Without the proposed regulations, occupancy would remain unchecked, potentially increasing demands.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

Analysis: See Criteria 5.

Finding: Consistent

Criteria (7) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: See Background and Proposed Ordinance sections, and Criteria 1, 2 and 4. It is not entirely clear whether the proliferation of Vacation Rentals will adversely impact property values. However, the proposed ordinance provides reasonable regulations intended to prevent potentially adverse impacts of Vacation Rentals in residential areas. Because the Florida Statutes preempt municipalities from prohibiting them within residential neighborhoods, the proposed ordinance intends to prevent adverse effects to property values and the general welfare.

Finding: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis: See Background and Proposed Ordinance sections, and Criteria 1, 2 and 4. The proposed ordinance establishes predictability rules regarding Vacation Rentals. Occupancy, operations, and safety standards are addressed within the proposed ordinance. The result should lend itself to an orderly application and operation of such uses.

Finding: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: See Background and Proposed Ordinance sections, and Criteria 1, 2, 3, 4 and 7. In absence of the proposed ordinance, Vacation rentals will be allowed to continue operations without a predicable set of procedural, operational and safety standards. It is in the public interest that Vacation Rentals be

appropriately regulated in order to mitigate any unintended impact. As a result, the proposed provisions bring such uses into greater alignment with Chapter 30.

Finding: Consistent.

Criteria (10) Other matters which the Local Planning Agency or the Village Council in its legislative discretion may deem appropriate.

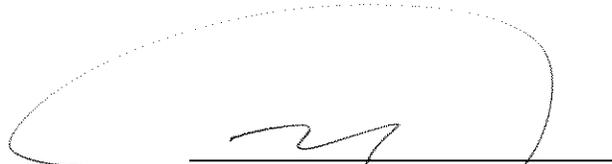
Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT:

Operation of the certificate of use program is based on cost recovery. There may be a very marginal increase in business tax receipts.

RECOMMENDATION:

Approval is recommended.



Darby P. Delsalle, AICP
Planning and Zoning Department

ORDINANCE NO. _____

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4 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF
5 THE VILLAGE OF PALMETTO BAY, FLORIDA, CREATING
6 SECTION 30-60.32, ENTITLED "VACATION RENTALS";
7 ESTABLISHING REGULATIONS FOR CERTAIN TRANSITORY
8 USAGES OF RESIDENTIAL HOMES; PROVIDING FOR
9 ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY,
10 AND AN EFFECTIVE DATE.
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13 WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay are
14 concerned with the health, safety, and welfare of its residents and visitors; and
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16 WHEREAS, the vast majority of the Village is developed with detached single family
17 homes and includes some two-family, three-family, and four family housing; and
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19 WHEREAS, Florida Statute 509.032(7)(b) preempts local ordinances from prohibiting
20 vacation rentals or regulating the duration or frequency of rental of vacation rentals at residential
21 properties; and
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23 WHEREAS, the statute does not, however, prevent local government from regulating
24 vacation rentals, provided those regulations do not prohibit vacation rentals or restrict the
25 duration or frequency of vacation rentals, or local adoption of standards that may serve the
26 health, safety and welfare of the Village's residents and visitors which do not conflict with the
27 statute; and
28

29 WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay now desire to
30 create Section 30-60.32 to provide appropriate development and operational standards for
31 vacation rentals on properties constructed as single-family, two-family, three-family, and four
32 family housing types.; and
33

34 WHEREAS, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been
35 designated as the Local Planning Agency for the Village; and
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37 WHEREAS, on _____, 2016, the Local Planning Agency approved the
38 proposed ordinance.
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40 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE
41 VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
42

43 Section 1. Compliance with Code Section 30-30.7(b). The Mayor and Village
44 Council find the amendment to be consistent with Code Section 30-30.7(b) of the Code of
45 Ordinances.
46

1 **Section 2.** Section 30-60.32 of the Villages Land Development Code is created to
2 read as follows:

3
4 DIVISION 30-60. GENERAL REGULATIONS

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6 * * *

7
8 **Sec. 30-60.32 Vacation Rentals**

9 (a) Purpose. The Village Council finds that certain transitory uses of residential property tend
10 to affect the residential character of the community and are injurious to the health of the
11 community. Therefore, it is necessary and in the interest of the public health, safety, and
12 welfare to monitor and provide reasonable means for citizens of the of the Village of
13 Palmetto Bay to mitigate impacts created by such transitory uses of residential property
14 within the Village of Palmetto Bay. It is unlawful for any owner of any property within
15 the geographic bounds of the Village of Palmetto Bay, Florida, to rent or operate a
16 vacation rental of residential property contrary to the procedures and regulations
17 established in this Section or applicable state statute, except as provided in this section.

18
19 (b) Definitions. For the purpose of this Section, the following terms, phrases, words,
20 abbreviations and their derivations shall have the meaning given herein. When not
21 inconsistent with the context, words used in the present tense include the future tense,
22 words in the plural number include the singular number, and words in the singular
23 number include the plural number. The word "shall" is always mandatory and not merely
24 directory. Words not defined shall be given their meaning as provided in Section 30-40 of
25 the Village's Code of Ordinances.

26
27 Garbage as defined in Section as defined in section 30-40.

28
29 Residential as defined in section 30-40.

30
31 Responsible Party shall mean the owner or the person designated by the owner of the
32 property to be called upon to answer for the maintenance of the property and the
33 conduct and acts of occupants of residential properties.

34
35 Bedroom means any room intended for and furnished with sleeping accommodations, that
36 includes an interior door to the common areas of the dwelling unit, and includes a closet.
37 Bedroom does not mean any common areas of the dwelling including but not limited
38 living rooms, family rooms, kitchens, or dens.

39
40 Transient Occupants means any person, or guest or invitee of such person, who occupies or
41 is in actual or apparent control or possession of residential property registered as a
42 Vacation Rental. It shall be a rebuttable presumption that any person who holds
43 themselves out as being an occupant or guest of an occupant of the Vacation Rental is a
44 Transient Occupant.

1 Vacation Rental shall mean any unit or group of units in a condominium or cooperative or
2 any individually or collectively owned single-family, two-family, three-family, or four-
3 family house or single family dwelling, or duplex dwelling, or multi-family dwelling, that is
4 rented to Transient Occupants more than three (3) times in a calendar year for periods of
5 less than thirty (30) days or one (1) calendar month, whichever is less, or which is
6 advertised or represented to the public as a place regularly rented to Transient Occupants,
7 but that is not a timeshare project.

8
9 (c) Registration Required.

10 (1) It is unlawful for any person to allow another person to occupy any residential
11 property as a Vacation Rental within the Village of Palmetto Bay, or offer such
12 rental services within the Village of Palmetto Bay, unless the person has registered
13 the Vacation Rental property with the Village of Palmetto Bay and the Vacation
14 Rental property has been issued a certificate of use in accordance with the
15 provisions of this section.

16 (2) A person may allow another person to occupy any residential property as
17 Vacation Rental without the issuance of a certificate of use if:

18 a. The residential property has an effective and valid license as a Vacation
19 Rental classification of public lodging establishment issued by the Florida
20 Department of Business and Professional Regulations prior to April 4,
21 2016; and

22 b. The residential property is not in violation of any section of the Code of
23 Ordinances of the Village of Palmetto Bay; and

24 c. An application for registration of the residential property as a Vacation
25 Rental has be filed pursuant to this section and all applicable fees have
26 been paid; and

27 d. That said occupancy was scheduled prior to April 4, 2016, as evidenced by
28 a written and validly executed rental agreement or contract provided to
29 the Village Manager no later than July 5, 2016.

30
31 (d) Application for registration. Application for registration of a Vacation Rental shall be made
32 to the Village Manager or his or her designee and shall set forth at a minimum:

33 (1) The legal description of the property offered for rental (i.e., address, lot, block
34 and subdivision name);

35 (2) Name, address, and phone number of owner of said property;

36 (3) Name, address, and emergency contact phone number of Responsible Party for
37 said property, which shall be a twenty-four (24) hour, seven (7) days a week
38 contact number;

39 (4) That the phone number for the Responsible Party will be answered twenty-four
40 (24) hours a day, seven (7) days a week by the Responsible Party;

41 (5) Acknowledgements by owner of the following:

42 a. That all vehicles associated with the Vacation Rental must be parked
43 within the subject property in compliance with the Code of Ordinances of
44 the Village of Palmetto Bay;

45 b. That it shall be unlawful to allow or make any noise or sound that exceeds
46 the limits set forth in 30-60.29, Noises;

- 1 c. That the owner shall comply with all applicable village, county, state and
2 federal laws, rules, regulations, ordinances and statutes;
3 d. That no solid waste container shall be located at the curb for pickup
4 before 6:00 p.m. of the day prior to pick up, and solid waste container
5 shall be removed the day of pickup before midnight;
6 e. That whoever, without being authorized, licensed, or invited, willfully
7 enters or remains in any structure or conveyance of a property, or having
8 been authorized, licensed, or invited, is warned by the owner or lessee, to
9 depart the property and refuses to do so, commits the offense of trespass
10 in a structure or conveyance;
11 f. That other properties are not jointly shared commodities and should not
12 be considered available for use by Transient Occupants of the property
13 subject of the application;
14 (6) Proof of owner's current ownership of the property;
15 (7) Proof of registration with the Florida Department of Revenue for sales tax
16 collection and Miami-Dade County for Tourist and Convention Development
17 Taxes on Transient Rentals;
18 (8) Proof of licensure with the Florida Department of Business and Professional
19 Regulation for a transient public lodging establishment; and
20 (9) Proof of compliance with all of the provisions of section 30-60.32.

21
22 Submission of an incomplete registration application form shall result in rejection of the
23 application.

- 24
25 (e) Responsible Party required. Whenever any property is required to be registered under section
26 30-60.32, the owner shall appoint a natural person who resides within twenty-five (25)
27 miles of the Vacation Rental property, the distance measured using airline measurement
28 from the closest property lines of the Vacation Rental and the Responsible Party's
29 residence, to serve as the Responsible Party for service of notices as are specified herein,
30 and notices given to the Responsible Party shall be sufficient to satisfy any requirement of
31 notice to the owner. An initial Responsible Party shall be designated and name submitted
32 with the application for registration, and the Village Manager or his designee shall
33 thereafter be notified of any change of Responsible Party within fifteen (15) days of such
34 change. Further, it is the affirmative duty of the Responsible Party to:
35 1. Inform all guests, in writing, prior to occupancy of the property of applicable
36 Village of Palmetto Bay ordinances concerning noise, vehicle parking, garbage,
37 and common area usage with a copy of the applicable Village of Palmetto Bay
38 ordinances printed in the English language and posted prominently near the main
39 entrance of the establishment;
40 2. Maintain all properties under their control in compliance with the occupancy
41 limits, as specified in the Florida Building Code and the Code of Ordinances of
42 the Village of Palmetto Bay, Florida, as determined by the building official or his
43 designee;
44 3. See that the provisions of this section 30-60.32 are complied with and promptly
45 address any violations of therein or any violations of law which may come to the
46 attention of the Responsible Party;

- 1 4. Be available with authority to address and coordinate solutions to problems with
2 the rental of the property twenty-four (24) hours a day, seven (7) days a week;
3 5. Be situated close enough to the property as to be able to, and shall, respond to
4 emergency calls within one (1) hour of notification;
5 6. Keep available a register of all guests, which shall be open to inspection by
6 authorized personnel of the Village of Palmetto Bay at all times; and
7 7. Maintain the entire property free of garbage and litter, provided however, that this
8 subsection shall not prohibit the storage of garbage and litter in authorized
9 receptacles for collection.

10
11 (f) *False information.* It shall be unlawful for any person to give any false or misleading
12 information in connection with the application for registration required by section 30-
13 60.32.

14
15 (g) *Minimum Requirements for Issuance of a Certificate of Use.* The Village Manager or his designee
16 shall issue a Certificate of Use to the applicant upon proof of the following:

- 17 (1) The owner or Responsible Party completes the Village of Palmetto Bay's
18 certificate of use application form;
19 (2) The certificate of use fee has been paid to the Village of Palmetto Bay;
20 (3) Payment of a business tax receipt from the Village of Palmetto Bay;
21 (4) A business tax receipt from Miami-Dade County;
22 (5) A Florida Department of Revenue certificate of registration for purposes of
23 collecting and remitting tourist development taxes, sales surtaxes and transient
24 rental taxes;
25 (6) A Florida Department of Business and Professional Regulation license as a
26 transient public lodging establishment;
27 (7) An affidavit, demonstrating maintaining initial and on-going compliance with
28 Vacation Rental Standards contained herein, plus any other applicable local, state
29 and federal laws, regulations and standards to include, but not be limited to
30 Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A, Florida
31 Administrative Code; and
32 (8) A copy of the form Vacation Rental/lease agreement to be used when contracting
33 with Transient Occupants and guests.

34
35 (h) *Vacation Rental Standards.* The following standards shall govern the use of any Vacation
36 Rental as a permitted use:

- 37 (1) Minimum life/safety requirements:
38 a. Swimming pool, spa and hot tub safety. A swimming pool, spa, or hot tub
39 shall comply with the current standards of the Residential Swimming Pool
40 Safety Act, Chapter 515, Florida Statutes and include fencing around
41 pool, secondary protective cover, and a main suction drain as required
42 with commercial swimming pools.
43 b. Bedrooms. All bedrooms shall meet the single- and two-family dwelling
44 minimum requirements of the Florida Building Code.
45 c. Smoke and carbon monoxide (CO) detection and notification system. If
46 an interconnected and hard-wired smoke and carbon monoxide (CO)

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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.

d. Fire extinguisher. A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor 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.

e. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the Village of Palmetto Bay.

(2) Maximum occupancy. The occupancy of a Vacation Rental shall not exceed two (2) persons per bedroom, meeting the requirements for a bedroom, or, if the Vacation Rental is a studio apartment, a maximum of two (2) persons.

(3) Solid waste handling and containment. Based on the maximum transient occupancy permitted, Miami-Dade County solid waste containers shall be as required in Chapter 15 of Miami-Dade's Code of Ordinances. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval and be incorporated into the Certificate. For purposes of this section, a solid waste container shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pickup, and the solid waste container shall be removed from curbside before midnight of the day of pickup.

(4) Minimum Vacation Rental/lease agreement wording. The Vacation Rental lease agreement shall contain the minimum information as provided for in section 30-60.32

(5) Minimum Vacation Rental lessee information. The Vacation Rental lessee shall be provided with a copy of the information required in section 30-60.32 and shall post the following conspicuously within the establishment:

a. A statement advising the Occupant that the Occupant must comply with the Village's noise ordinance, set forth in section 30-60.29.

b. A sketch of the location of the off-street parking spaces;

c. The days and times of trash pickup;

d. The location of the nearest hospital; and

e. The Miami-Dade County's non-emergency police phone number.

f. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map - Minimum 8-1/2" by 11". In the case of a studio apartment, this shall be posted next to the front door of the studio apartment.

(6) Designation of a Vacation Rental Responsible Party capable of meeting the duties provided in section 30-60.32.

(7) Advertising. Any advertising of the Vacation Rental unit shall conform to information included in the Vacation Rental Certificate of Use and the property's approval, particularly as this pertains to maximum occupancy.

1 (8) Posting of Certificate of Use. The Certificate of Use shall be posted on the back
2 of or next to the main entrance door and shall include at a minimum the name, address
3 and phone number of the Responsible Party and the maximum occupancy of the
4 Vacation Rental.

5 (9) All vehicles associated with the Vacation Rental must be parked within a driveway
6 in compliance with the Code of Ordinances of the Village of Palmetto Bay.

7 (10) Other standards. Any other standards contained with the Code of Ordinances
8 and the Land Development Regulations of the Village of Palmetto Bay to include, but
9 not be limited to: noise, setbacks, stormwater and similar provisions.

10
11 (i) *Initial and Routine Compliance Inspections of Vacation Rentals.*

12 (1) An inspection of the Vacation Rental property for compliance with this section is
13 required prior to issuance of an initial Vacation Rental Certificate of Use. If
14 violations are found, all violations must be corrected and the Vacation Rental
15 property must be re-inspected prior to issuance of the initial Vacation Rental
16 Certificate of Use as provided herein.

17 (2) Once issued, a Vacation Rental property must be properly maintained in
18 accordance with the Vacation Rental Standards herein and will be re-inspected
19 annually. For an inspection, all violations must be corrected and re-inspected
20 within thirty (30) calendar days. Failure to correct such inspection deficiencies in
21 the timeframes provided shall result in the suspension of the Vacation Rental
22 certificate of use until such time as the violations are corrected and re-inspected.

23 (3) The inspections shall be made by appointment with the Vacation Rental
24 Responsible Party. If the inspector has made an appointment with the
25 Responsible Party to complete an inspection, and the Responsible Party fails to
26 admit the officer at the scheduled time, the owner shall be charged a "no show"
27 fee consistent equal half the cost of the certificate of use application fee, which
28 must be paid prior to issuance of the certificate of use

29 (4) If the inspector(s) is denied admittance by the Vacation Rental Responsible Party
30 or if the inspector fails in at least two (2) attempts to complete an initial or
31 subsequent inspection of the Vacation Rental property, the inspector(s) shall
32 provide notice of failure of inspection to the owner to the address shown on the
33 existing Vacation Rental certificate of use or the application for Vacation Rental.

34 a. For an initial inspection, if the notice of failure of inspection results in the
35 certificate of use not being issued; the Vacation Rental is not permitted to operate
36 without a valid certificate of use.

37 b. For a subsequent inspection, the notice of failure of inspection is considered a
38 violation and is subject to enforcement remedies as provided herein.

39
40 (j) *Registration not transferable.* No registration issued under section 30-60.32 shall be
41 transferred or assigned or used by any person other than the one to whom it is issued, or
42 at any location other than the one for which it is issued.

43
44 (k) *Expiration of registration.* All certificates of use issued under the provisions of section 30-
45 60.32 shall be valid for no more than one year from the date of issuance. Any application

1 for renewal submitted after the expiration of the issued certificate of use shall be treated
2 as a new application.

3
4 (1) *Revocation.*

5 (1) Any certificate of use issued pursuant to section 30-60.32 shall be denied,
6 revoked, or suspended by the Village Manager upon the adjudication of a
7 violation of Section 30-60.32, any Village of Palmetto Bay Ordinance, or state law
8 by the Responsible Party, property owner or Transient Occupant attributable to
9 the property for which the certificate of use is issued. Such denial, revocation or
10 suspension is in addition to any penalty provided herein.

11 (2) *Offenses/violations.*

12 a. Non-compliance with any provision of section 30-60.32 shall constitute a
13 violation of this Article.

14 b. Separate violations. Each day a violation exists shall constitute a separate
15 and distinct violation, except that occupancy violations shall be governed
16 by subsection by the Florida Building Code.

17 (3) *Remedies/enforcement.*

18 a. Violations of Sec. 30-60-32 shall be subject to penalties as part of a
19 progressive enforcement program. To accomplish a safe and effective
20 Vacation Rental program it is key that Vacation Rental Responsible
21 Parties are responsive and responsible in the management of the property
22 for compliance with this section. Code compliance activities will be in
23 accordance with the Village of Palmetto Bay's Code of Ordinances.

24 b. Unless otherwise provided, every violation of Sec. 30-60-32 shall be
25 considered a Class IV Category, Other violations of equivalent gravity,
26 violation under Ch. 2, Art. VII.

27 b. Additional remedies. Nothing contained herein shall prevent the Village
28 of Palmetto Bay from seeking all other available remedies which may
29 include, but not be limited to, suspension or revocation of a Vacation
30 Rental certificate of use, injunctive relief, liens and other civil and criminal
31 penalties as provided by law, as well as referral to other enforcing
32 agencies.

33 (4) Suspension of Vacation Rental certificate of use. In addition to any fines and any
34 other remedies described herein or provided for by law, a special master may
35 suspend a Vacation Rental certificate of compliance in accordance with the
36 following:

37 a. *Suspension time frames.*

38 1. Upon a third violation of section 30-60.32 the Vacation Rental
39 certificate shall be suspended for a period of seven (7) calendar
40 days.

41 2. Upon a fourth violation of this Article the Vacation Rental
42 certificate of use shall be suspended for a period of thirty (30)
43 calendar days.

44 3. For each additional violation of this Article the Vacation Rental
45 certificate of use shall be suspended for an additional thirty (30)
46 calendar days up to a maximum period of twelve (12) months. For

1 example, the fifth violation shall be for sixty (60) calendar days;
2 the sixth violation shall be for ninety (90) calendar days, and so
3 on.

4 b. Suspension restrictions. A Vacation Rental may not provide transient
5 occupancy during any period of suspension of a Vacation Rental
6 certificate of use.

7 1. The suspension shall begin immediately following notice,
8 commencing either:

9 i. at the end of the current Vacation Rental/lease period; or

10 ii. within thirty (30) calendar days, whichever date
11 commences earlier, or as otherwise determined by the
12 special master.

13 2. Notwithstanding anything to the contrary in this Sec. 30-60.32,
14 Operation during any period of suspension shall be deemed a
15 Class VI violation under Ch. 2, Art. VII, and shall be subject to
16 the fines set forth therein, or to the maximum amount as
17 otherwise provided in Florida Statutes for repeat violations, for
18 each day that the Vacation Rental operates during a period of
19 violation.

20 c. Number of violations. For purposes of this section only, violations shall
21 be considered per the rental period or per every seven (7) days, whichever
22 is less and for only those violations in which a code enforcement citation
23 or criminal charge was issued. Violations could potentially occur multiple
24 times over the same rental period.

25
26 (m) Complaints. Whenever a violation of this Article occurs, or is alleged to have occurred, any
27 person may file a written complaint. Such complaint, stating fully the causes and basis
28 thereof, shall be filed with the Village Manager or his designee. The Village Manager or
29 his designee shall promptly record such complaint, investigate, and take action thereon in
30 accordance with this the Code of Ordinances of the Village of Palmetto Bay, Florida.

31
32 (n) Enforcement. The provisions of this Article shall be enforced as provided in Article VII
33 Code Compliance Procedures, of the Code of Ordinances of the Village of Palmetto Bay,
34 Florida.

35
36 **Section 3. Codification.** It is the intention of the Village Council and it is hereby
37 ordained the provisions of this Ordinance shall become and be made part of the Code of
38 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
39 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
40 changed to "Section" or other appropriate word.

41
42 **Section 4. Conflicting Provisions.** The provisions of the Code of Ordinances of
43 the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
44 provisions of this ordinance are hereby repealed.

1 **Section 5. Severability.** The provisions of this Ordinance are declared to be
2 severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be
3 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining
4 sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect. It is the
5 legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

6
7 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
8 enactment.

9
10
11 **PASSED and ENACTED** this _____ day of April, 2016.

12
13 First Reading: _____

14
15 Second Reading: _____

16
17
18 Attest: _____
19 Meighan Alexander
20 Village Clerk

Eugene Flinn
Mayor

21
22
23 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
24 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

25
26
27
28 _____
29 Dexter W. Lehtinen
30 Village Attorney

31
32
33
34 FINAL VOTE AT ADOPTION:
35
36 Council Member Karyn Cunningham _____
37
38 Council Member Tim Schaffer _____
39
40 Council Member Larissa Siegel Lara _____
41
42 Vice-Mayor John DuBois _____
43
44 Mayor Eugene Flinn _____