

ORDINANCE NO. 2020-12

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 Ordinances 2019-05 and 2019-11 are repealed in their entirety.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

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Section 30-60-20: Short Term/Vacation/Transient Rentals:

Applicability and purpose. The purpose of this section is to provide regulations pertaining to short term/vacation/transient rentals (Collectively "Vacation Rentals") to preserve the quiet nature and atmosphere of residential areas and to ensure to Village residents the tranquility and peaceful enjoyment of their neighborhoods. These regulations shall be in addition to, and shall not supplant, other provisions in this code that may apply to such rentals; in the event of a conflict, the more restrictive provision shall control.

(A) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *Peer-to-peer or platform entity* shall mean any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupants, whether through the internet or other means.

(2) *Property owner* shall mean the person who, or entity that, owns the property being used or occupied as a vacation rental.

(3) *Responsible party* shall mean the person or entity authorized by the property owner to obtain a Certificate of Use for a vacation rental, and who will be:

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

(b) Available to respond 24 hours per day, 7 days per week to any issue that arises relating to the vacation rental. The property owner may serve as responsible party.

(4) *Transient occupant* shall mean any person

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

(5) *Vacation Rental* shall mean any dwelling unit or residence, including, but not limited to, any unit or group of units in a townhouse, condominium, cooperative, or apartment building, that is rented in whole or in part to a transient occupant for more than three (3) times a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place that may be rented to a guest for a period less than two (2) months or a maximum of sixty (60) days, consecutive for non-consecutive. For purposes of this section, the term vacation rental is synonymous with the term short-term/vacation/ transient residential rental.

(B) *Certificate of Use Required.* No property owner, responsible party, or peer-to-peer or platform entity shall offer as a vacation rental, or allow any person to rent or occupy as a vacation rental, any property in whole or in part within the Village unless a Certificate of Use has first been obtained in accordance with the provisions of this section. A property may be offered as a vacation rental immediately upon approval of an application for Certificate of Use, unless and until such time as the application is thereafter revoked for failure to pass inspection.

(1) *Application.* A complete Certificate of Use application shall be submitted online or in hard copy. A peer-to-peer or platform entity may enter into an agreement with the Village whereby the peer-to-peer or platform entity agrees to

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submit applications on behalf of responsible parties. The application must be signed under oath or affirmation, and shall include the following:

- (a) The address and legal description of the vacation rental property;
- (b) Name, address, and phone number of the property owner;
- (c) Name, address, and phone number of the responsible party;
- (d) Name and contact information for the peer-to-peer or platform entity or entities on which the vacation rental is, or will be, listed for rent;
- (e) A statement that the responsible party has the permission of the property owner and authority to offer the property as a vacation rental and act as the responsible party;
- (f) A statement as to whether the entire property, or just a part thereof (i.e., a room or rooms), will be used as a vacation rental;
- (g) A statement that insurance coverage will be in effect at all times while the property is being used as a vacation rental to cover liability for injury or harm to transient occupants or other invitees, and acknowledging that a standard homeowner's or renter's insurance policy may not necessarily provide such liability coverage while the property is used as a vacation rental;
- (h) A statement acknowledging that the responsible party has received information explaining that using the property as a vacation rental could result in loss of the Homestead Exemption, and has provided such information to the property owner;
- (i) A statement indicating how many times, and for how many days in all, the property was used as a vacation rental within the

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- 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

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

(2) *Inspection.* Prior to the issuance or renewal of a Certificate of Use, the vacation rental property shall be subject to inspection to ensure compliance with all applicable code requirements. At the time of such inspection, the responsible party shall provide all licenses, records, and other documentation sufficient to demonstrate compliance with all requirements of this section.

(3) Enforcement history.

(a) When reviewing an application to obtain or renew a Certificate of Use, the Village shall consider the violation history of the property identified in the application. If the violation history shows three or more violations of this section within the preceding 12 months, the Village shall not issue or renew the Certificate of Use unless:

(i) All outstanding violations or liens are first satisfied and corrected; and

(ii) A bond in the amount of \$10,000.00 is provided to the Village, in the form approved by the Village Attorney. The bond shall be subject to forfeiture for future violations, as set forth in this section.

(b) When the violation history shows three or more violations of this section within the preceding 12 months, the Village shall notify the peer-to-peer or platform entity, if known, of the property at which the violations have occurred, and the dates of the violations.

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

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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

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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-

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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

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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

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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-

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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

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

(14) *Compliance with applicable laws.* In addition to the foregoing, the responsible party and all transient occupants shall comply with all other applicable local, state, and federal laws, regulations, rules, and standards, including, but not limited to, the Florida Building Code, the Florida Fire Code, the Florida Life Safety Code, and those pertaining to anti-discrimination, disability, and fair housing to the extent applicable.

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

(1) *Penalties.* Any person operating a vacation rental without a Certificate of Use or in violation of the vacation rental standards or any other provisions in this section shall be subject to a penalty of \$250 for the first offense, \$500 for a second offense and a suspension of the Certificate of Use upon the third offense until the violation is corrected.

(2) *Forfeiture of bond.*

(a) Where a bond is required to obtain or renew a Certificate of Use, if the vacation rental property is cited for a violation of this section within 12 months of providing the bond, and that citation is later resolved adversely to the owner or responsible party, then the bond shall be deemed forfeited, and the Certificate of Use for that vacation rental shall be revoked and may not be re-issued for 12 months.

(b) If there are no violations for 12 months after providing the security, the Village shall

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release the bond upon written request from the responsible party. Until the responsible party obtains release, the bond shall continue to be subject to forfeiture for future violations.

(3)*Joint and several liability.* The property owner of the vacation rental property shall be liable for any violations of this section, any rule or regulation promulgated under this section, or any order of the Village made under this section. In addition, whenever two or more persons commit such a violation, each violator shall be jointly and severally liable for any fines or other damages assessed. This applies to situations where a property owner, responsible party, peer-to-peer or platform entity, or vacation occupant, or any combination thereof, are together responsible for a violation of this section. It is provided, however, that where a peer-to-peer or platform entity does not itself commit a violation of this section, it shall not be held jointly and severally liable, nor shall it be held vicariously liable for any violations committed solely by the responsible party or vacation occupants. In addition, where a peer-to-peer or platform entity complies with all provisions above, it shall not be held jointly and severally liable for providing a listing for or collecting a fee for listing any vacation rental.

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

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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	<u>YES</u>
Council Member Marsha Matson	<u>YES</u>
Council Member Patrick Fiore	<u>YES</u>
Vice-Mayor John DuBois	<u>ABSENT</u>
Mayor Karyn Cunningham	<u>YES</u>

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

Attest:	DocuSigned by: <i>Missy Arocha</i>	DocuSigned by: <i>Karyn Cunningham</i>
	<hr/>	<hr/>
	Missy Arocha Village Clerk	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:**

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5 DocuSigned by:
6 *John C. Dellagloria, Esq.*
7 000A0D709243466...
8 **John C. Dellagloria, Esq.**
9 **Village Attorney**

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11 **FINAL VOTE AT SECOND READING:**

12	Council Member David Singer	<u>YES</u>
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14	Council Member Marsha Matson	<u>YES</u>
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16	Council Member Patrick Fiore	<u>YES</u>
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18	Vice-Mayor John DuBois	<u>YES</u>
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20	Mayor Karyn Cunningham	<u>YES</u>
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