

ORDINANCE NO. 1117 – 2021

**AN ORDINANCE OF THE CITY OF MIAMI SPRINGS,
FLORIDA, AMENDING CHAPTER 150, “ZONING CODE”
OF THE CITY’S CODE OF ORDINANCES BY ADDING
SECTION 150-145, “VACATION RENTALS,” WITHIN NEW
ARTICLE XIV, “ADDITIONAL REGULATIONS” TO
PROVIDE REGULATIONS FOR SUCH USES; PROVIDING
FOR CONFLICTS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR CODIFICATION; AND PROVIDING FOR
AN EFFECTIVE DATE.**

WHEREAS, the City of Miami Springs (the “City”) has adopted land development regulations, which are codified in Chapter 150 of the Code of Ordinances of Miami Springs, Florida (the “Code”), to facilitate safe and orderly growth which forms an integral part of the community; and

WHEREAS, the City Council desires to update and revise the standards in the land development regulations; and

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

WHEREAS, Chapter 2011-119, Laws of Florida, created a new classification of public lodging establishment known as “vacation rental,” which is defined in Section 509.242(1)(c), Florida Statutes, as “any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.”; and

WHEREAS, Section 509.032(7)(b), Florida Statutes, provides that local laws, ordinances, or regulations may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals; and

WHEREAS, Florida Statutes do not prevent the City from adopting ordinances specific to vacation rentals to address some of the noise, parking, trash and life-safety issues created by the proliferation of vacation rentals in residential neighborhoods; and

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

WHEREAS, the presence of vacation rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts,

including but not limited to excessive noise, excessive on-street parking, accumulation of trash, and diminished public safety; and

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

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

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

WHEREAS, the City Council finds that this Ordinance is in the best interest and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS: ¹

Section 1. Recitals. That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Amending Code. That the Code of Ordinances of Miami Springs, Florida, is hereby amended by adding a section to be numbered 150-145, which said section reads as follows:

Sec. 150-145 - Vacation rentals.

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

Enclosed shall mean any space enclosed by a roof and four complete solid, floor to roof walls, which may include glass windows. Screening shall not count as a wall.

Responsible party shall mean the owner or the person designated by the owner of the property to be called upon to answer for the maintenance of the property and for the conduct and acts of occupants of vacation rental properties.

Transient occupants shall mean any person, or guest or invitee of such person who occupies or is in actual or apparent control or possession of residential property registered or used as a vacation rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of a vacation rental, or a property used as a vacation rental, is a transient occupant.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double-strikethrough~~ and double underline.

Vacation rental shall mean any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is rented to guests more than three times in 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 regularly rented to guests, but that is not a timeshare project.

- (b) *Registration required.* It is unlawful for any person to allow another person to occupy any residential property as a vacation rental within the City, or offer such rental services within the City, unless the person has registered the vacation rental property with the City in accordance with the provisions of this section.
- (c) *Application for registration.* The application for registration of a vacation rental shall be made to the City manager or his or her designee on a form provided by the City. Submission of an incomplete registration application form shall result in rejection of the application. The application must be signed under oath or affirmation by the property owner and the Responsible Party, and shall set forth at a minimum the following:
 - (1) The address and legal description of the property offered for rental.
 - (2) Proof of ownership of the property, including the name, address and phone number of each person or entity with an ownership interest in the property.
 - (3) The gross square footage of the property and of that portion of the dwelling unit to be used for the vacation rental, including the number of rooms, bedrooms, kitchens and on-site parking spaces attributable to the vacation rental use.
 - (4) A valid and current federal employer tax identification number for the owner(s) of the property, when owned by a corporate entity.
 - (5) Proof of licensure with, or exemption from, the state department of business and professional regulation for a transient public lodging establishment.
 - (6) The name, address, e-mail address, and 24-hour phone number of the person who will act as the responsible party operating the vacation rental property. The responsible party phone number shall be answered at all times, 24 hours a day, seven days a week.
 - (7) The name and contact information for any listing services on or through which the vacation rental is to be offered for rent.
 - (8) The application shall bear the signatures of all owners, authorized agents, authorized property managers and the responsible party.
 - (9) The owner of the property and the responsible party must individually acknowledge the affirmative duty to ensure compliance with the requirements of this section, including the owner and responsible party requirements of this section.
 - (10) Acknowledgement that the application and any related approvals are specific to the property identified in the application and approval; other properties are not

jointly shared commodities and shall not be considered available for use by transient occupants of the property which is the subject of the application.

- (11) A statement that insurance coverage will be in effect at all times while the property is use as a vacation rental to cover liability for injury or harm to transient occupants or other invitees, and acknowledging that a standard homeowners' or renter's insurance policy may not necessarily provide such liability coverage while the property is used as a vacation rental.
- (d) *Responsible party required.* Whenever any property is required to be registered under this section, the owner shall act as, or retain at all times, an appointed person capable of meeting the duties and requirements provided in subsection (f). The designated responsible party must reside within 30 miles of the vacation rental property to serve as the responsible party for service of notices as are specified herein. Notices given to the responsible party shall be sufficient to satisfy any requirement for notice to the owner. An initial responsible party shall be designated and shall participate in the application for registration, and the City manager or his or her designee shall thereafter be notified of any change of responsible party within 15 days of such change.
- (e) *Fees for registration.* The City may charge reasonable fees for registration to compensate for administrative expenses which shall be set by resolution of the City council.
- (f) *Owner and responsible party requirements.* In addition to general compliance with all federal, state, county and local laws, it is the affirmative duty and responsibility of the owner and the responsible party, individually and collectively, to adhere to the following:
 - (1) Inform all guests, in writing, prior to occupancy of the property, of all applicable City ordinances concerning noise, vehicle parking, solid waste collection, and common area usage. This information shall also be made available to each transient occupant inside the property;
 - (2) Maintain the property under their control in compliance with the occupancy limits, as specified in this section, the minimum housing standards of the county, fire codes, specific requirements of the state building code and the City Code, as determined by the City manager, building official or respective designee;
 - (3) Ensure that, at all times:
 - a. All vehicles associated with the vacation rental are parked in compliance with the City Code; and
 - b. The entire property, including the front, back, and side yards, is maintained free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection; and
 - c. All transient occupants are aware that it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in section 99-03 of the City Code; and

- d. All transient occupants are aware that unauthorized occupants of any structure or conveyance of the property that have been warned by the owner or lessee to leave and refuse to do so commit the offense of trespass of a structure or conveyance and will be charged under the State of Florida and local law; and
- e. The provisions of this section are complied with and promptly address any violations of this section or any violations of law which may come to the attention of the responsible party; and
- f. He or she is available with authority to address and coordinate solutions to problems with the rental of the property at all times, 24 hours a day, seven days a week and be physically present at the property within two hours of notification to respond to emergencies, noise complaints, events that are being held without required permits, maximum occupancy violations, and other occurrences determined by the Police to require the presence of the owner or responsible party; and
- g. He or she keeps available a register of all transient occupants, which shall be open to inspection by the City; and
- h. No rental is made, or occupancy allowed by, any person on the Florida Sexual Offenders and Predators (FDLE) database or any other state sex offender database consistent with the requirements of section 130-06 "Sexual offenders and sexual predators" of the City Code.

(g) *Standards and requirements for vacation rentals.*

- (1) *Registration.* The City manager or his or her designee may issue a registration to an applicant upon proof that the owner or responsible party has:
 - a. Submitted a complete vacation rental registration application form including appropriate documentation of compliance with applicable state department of revenue and state department of business and professional regulation requirements; and
 - b. Submitted the applicable registration fee; and
 - c. Provided an affidavit, demonstrating initial and on-going compliance with vacation rental standards contained herein, plus any other applicable local, state and federal laws, regulations and standards to include, but not be limited to F.S. ch. 509, and Rules, Chapter 61C and 69A, Florida Administrative Code; and
 - d. Provided a copy of the rental/lease agreement form to be used when contracting with transient occupants which includes the minimum transient occupant information required by subsection 150-145(g)(2)b., below; and
 - e. No pending or outstanding code enforcement violations or liens against the property;
 - f. Subsequent to the issuance of a registration, a business tax receipt from the City pursuant to chapter 113 of the City Code shall be obtained.

- (2) *Vacation rental standards.* The following standards shall govern the use of any vacation rental as a permitted use:
- a. *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 10 persons, excluding children under three years of age. At all other times, maximum occupancy for vacation rentals shall not exceed the maximum overnight occupancy of the vacation rental plus four additional persons per property, up to a maximum of 14 persons, excluding children under three years of age. For purposes of this subsection, "overnight" shall mean from 11:00 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.
 - b. *Minimum vacation rental transient occupant information.* The following information shall be posted conspicuously within the property and shall be provided to each vacation rental lessee as part of their lease:
 1. The maximum occupancy permitted under the certificate of registration;
 2. A statement advising the occupant that it is unlawful to allow or make any noise or sound that exceeds the limits set forth in chapter 99, "Noise," of the City Code and that outdoor amplified sound is prohibited at a vacation rental and such violation is subject to City code enforcement, including but not limited to fines of up to ~~\$500.00~~ \$5,000.00 per violation for violations that are irreparable or irreversible in nature;
 3. A notice that all unauthorized occupants of any structure or conveyance of the property that have been warned by the vacation rental agent, owner or registered transient occupants to leave and refuse to do so commit the offense of trespass of a structure or conveyance and will be charged under the state and local law;
 4. A sketch of the location of the off-street parking spaces available to the property;
 5. The days and times of trash pickup and the solid waste handling and containment requirements of this division;
 6. A list of uses prohibited on the property which shall include use of the property as a party, event or entertainment venue;
 7. The location of the nearest hospital; and
 8. The local non-emergency police phone number.
 - c. *Use.* The following limitations apply to the use of the property:
 1. The provisions of chapter 99, "Noise" of the City Code shall apply at all times which prohibits loud, unnecessary, excessive, or unusual noise. In addition, outdoor amplified sound at a vacation rental shall not be permitted at any time.

2. No more than four unregistered guests may be present on the property at any given time and no unregistered guests may remain on the property after 11:00 p.m.
 3. The vacation rental may not be used or advertised for any commercial or non-residential use, including use of the property as a party, event or entertainment venue.
- d. *Advertising.* Any advertising of the vacation rental unit by the owner on any service shall conform to information included in the vacation rental certificate of registration and the property's approval, and shall include at a minimum, identification of the maximum occupancy permitted on the property. The owner or responsible party shall ensure that the name and contact information for any listing services on or through which the vacation rental is to be offered for rent which was provided in the application is updated with the City to reflect any changes and maintain with the City at all times a list of current listing services.
 - e. *Posting of certificate of registration.* The certificate of registration shall be posted on the back of or next to the main entrance door and shall include at a minimum the name, address and phone number of the responsible party and the maximum occupancy of the vacation rental.
 - f. *Other standards.* The occupant shall be advised that all standards contained within the Code of Ordinances and land development regulations of the City including, but not limited to: noise, parking, and property maintenance, are applicable to the vacation rental and may be enforced against the occupant.
 - g. Minimum life/safety requirements:
 1. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of Residential Swimming Pool Safety Act, F.S. ch. 515.
 2. Smoke and carbon monoxide (CO) detection and notification system. If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the vacation rental unit, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be required to be installed and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code - Residential.
 3. 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 locations.
 - (h) *Sale or transfer of dwelling unit used for vacation rentals.* Whenever a dwelling used for vacation rentals is sold or otherwise changes ownership and the new owner

desires to use the dwelling for vacation rentals, the new owner must, prior to allowing any vacation rental use submit a new vacation rental registration application.

(i) *Administration, penalties, and enforcement.*

- (1) *Annual registration of vacation rentals.* All vacation rental registrations shall be renewed annually with the City upon payment of the renewal fee and verification that there are no outstanding code violations or liens on the property. Any violations must be corrected and any fines or liens paid prior to renewal of the registration. Failure to correct outstanding violations in the timeframes provided shall result in the denial of an initial application or suspension of the vacation rental registration until such time as the violations are corrected and inspected. When reviewing an application for registration, the City Manager or designee 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 twelve months, a certificate of registration shall not be issued or renewed unless and until all pending and outstanding violations or liens are first satisfied and corrected.
- (2) *Registration not transferable.* No registration issued under this section shall be transferred or assigned or used by any person other than the person to whom it is issued, or at any location other than the location for which it is issued.
- (3) *Expiration of registration.* All registrations issued under the provisions of this section shall be valid for no more than one year, and all registrations shall expire on September 30 of each year. Fees for renewal shall be established by resolution of the City council. In the event of a failure to renew the vacation rental registration prior to the expiration date, a new application for registration of a vacation rental shall be required.
- (4) *Revocation.* In addition to, or as an alternative to, the penalties of subsection (5) below, any vacation rental registration issued pursuant to this section may be denied, revoked, or suspended by the City manager upon the adjudication of a violation of this section, any City ordinance, or state law by the responsible party, owner, or transient occupant attributable to the property for which the vacation rental registration is issued. Such denial, revocation or suspension is in addition to any other penalty or remedy available at law.
- (5) *Offenses/violations.*
 - a. *Fine.* A violation of any of the provisions of this section is punishable by a fine of ~~up to~~ \$250.00 per violation. Each day a violation occurs shall constitute a separate violation. Repeat violations shall be punishable by a fine of ~~up to~~ \$500.00 per violation. Violations that are irreparable or irreversible in nature shall be punishable by a fine not to exceed \$5,000 per violation.
 - b. *Suspension of vacation rental registration.* In addition to any fines and any other remedies described herein or provided for by law, a vacation rental registration shall be suspended for multiple violations of the maximum occupancy, parking requirements, noise ordinance, failure to advertise the maximum occupancy, or any other requirements of this section, in any

continuous 48-month period, in accordance with the following suspension timeframes:

1. Upon finding of a second violation, the vacation rental registration shall be suspended for a period of 30 calendar days.
 2. Upon finding of a third violation, the vacation rental registration shall be suspended for a period of 12 calendar months.
 3. For each additional violation, the vacation rental registration shall be suspended for an additional 12 calendar months.
- c. *Suspension restrictions.* A vacation rental may not provide transient occupancy during any period of suspension of a vacation rental registration. The suspension shall begin immediately following notice of the suspension commencing either at the end of the then current vacation rental lease period; or within 30 calendar days, whichever is earlier, or as otherwise determined by the City's Code Compliance Board.
- d. Operation during any period of suspension shall be deemed a violation pursuant to this section and shall be subject to a daily fine, up to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.

(j) *Vesting.*

- (1) Vacation rentals existing as of [INSERT EFFECTIVE DATE OF ORDINANCE], shall be considered vested vacation rentals only as related to contracts entered prior to [INSERT EFFECTIVE DATE OF ORDINANCE]. Rental/lease agreements that were entered into prior to [INSERT EFFECTIVE DATE OF ORDINANCE], as evidenced by a written and validly executed rental/lease agreement or contract provided to the City manager no later than [INSERT THREE MONTHS AFTER EFFECTIVE DATE OF ORDINANCE], shall be considered vested.
- (2) Vesting shall:
 - a. Apply only to date specific rental agreements; and
 - b. Not apply to renewals of existing rental agreements or contracts which are at the option of either of the parties.
- (3) All rental agreements entered into after [INSERT EFFECTIVE DATE OF ORDINANCE], shall comply with the provisions of this section. No vacation rental shall be occupied pursuant to a contract/lease entered into after [INSERT EFFECTIVE DATE OF ORDINANCE], until the owner has registered the property as a vacation rental.
- (4) A vested contract/lease transferred to a subsequent owner shall continue to be vested, but shall not be transferred to a different vacation rental property, provided the new owner complies with the registration requirements of this section.

Section 3. Conflicts. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, 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 sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED ON FIRST READING on the 14th day of December, 2020, on a motion made by Councilman Best and seconded by Councilwoman Mitchell.

PASSED AND ADOPTED ON SECOND READING this 25th day of January, 2021, on a motion made by Councilman Best and seconded by Councilman Fajet. Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Xavier Garcia	<u>YES</u>
Councilman Bob Best	<u>YES</u>
Councilman Walter Fajet	<u>YES</u>
Councilwoman Maria Puente Mitchell	<u>YES</u>
Mayor Billy Bain	<u>NO</u>



BILLY BAIN, MAYOR

ATTEST:



ERIKA GONZALEZ-SANTAMARIA, MMC
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

A handwritten signature in blue ink, appearing to read "Haydee Serota", written over a horizontal line.

WEISS SEROTA HELFMAN COLE + BIERMAN, P.L.
CITY ATTORNEY