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ORDINANCE NO. 2022- 42

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, RELATING TO RENTAL HOUSING, BY AMENDING CHAPTER 113, "BUSINESS TAX RECEIPTS," BY AMENDING SECTION 113.41, "RENTAL HOUSING," TO EXPAND INSPECTION REQUIREMENTS OF RENTAL UNIT OWNERS UPON A SALE OR CHANGE IN OWNERSHIP; AMENDING CHAPTER 153, "RENTAL HOUSING CODE," OF THE CITY OF POMPANO BEACH BY AMENDING SECTION 153.08, "SHORT TERM RENTAL PERMIT REQUIRED," TO REVISE PERMIT REGISTRATION REQUIREMENTS AND REVIEW PROCEDURES, CLARIFY PREREQUISITES FOR REVOCATION AND ALIGN VIOLATION AND ENFORCEMENT PROCEDURES CONSISTENT WITH CHAPTER 37, OF THE CITY'S CODE; AND BY AMENDING SECTION 153.26, "MINIMUM STANDARDS FOR SHORT TERM RENTAL," TO EXPAND REQUIRED LEGAL DISCLOSURES TO RENTAL OCCUPANTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the city, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission has been held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 113.41, "Rental Housing," of Chapter 113, "Business Tax Receipts," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

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§ 113.41 RENTAL HOUSING.

(A) The owner of every rental structure, structures containing a rental unit or units, or individually owned units, which are utilized as a dwelling for residential living purposes must obtain a business tax receipt for each rented structure or unit~~,~~ including, but not limited to, single-family homes and condominium units, when the structure or any portion ~~thereof~~ is rented and not owner-occupied. All such rental structures and rental units shall comply with all minimum standards in Chapter 153: Rental Housing Code.

(B) All rental units and structures utilized as residential dwellings shall comply with all designated permitted lawful uses for the zoning district in which the rental unit or structure is located as set forth in Chapter 155: Zoning Code, and the use of ~~said~~ such property for rental purposes shall not alter any ~~such~~ permitted uses.

(C) (1) All ~~residential dwelling~~ rental units and structures ~~and rental units~~ shall be subject to inspection by the city's Code Inspectors for compliance with all applicable Zoning, Building, Housing and Fire Code requirements, and for compliance with all requirements for rental housing in Chapter 153.

(2) Whenever a property containing a rental unit or structure used as a residential dwelling is sold or otherwise changes ownership, the new owner must:

(a) Apply for a new business tax receipt; and

(b) ~~For any rental single-family home, s~~Schedule and obtain an inspection of the ~~home~~ rental structures and unit(s) by the city's Code Inspectors, to ensure compliance with all applicable Zoning, Building, Rental Housing and Fire Codes, and that all uses of the property are lawful and permitted. This inspection shall be required within 60 days of application as part of the application process for issuance of the new business tax receipt. Failure to obtain and pass such inspection shall be grounds for revocation of any business tax receipt issued. No fees paid for any business tax receipt shall be refunded upon ~~any~~ such revocation.

SECTION 2. That Section 153.08, "Short Term Rental Permit Required," of Chapter 153, "Rental Housing Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 153.08 SHORT TERM RENTAL PERMIT REQUIRED.

(A) Every owner operating a short term rental, as defined in § 153.05, City Code of Ordinances, within the city shall first obtain a short term rental permit ("permit") from the Development Services Director. It shall be unlawful for any

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owner to operate a short term rental in a Residential Zoning District unless a short term rental permit ~~("permit")~~ has first been obtained from the Development Services Director.

. . .

(C) *Annual renewal of permit required*. The permit shall ~~apply from~~ have a term of one year, commencing October 1 of each year and ~~shall expire~~ expiring on September 30~~.~~, and must be renewed by the owner prior to expiration in order to avoid interruption of permitted short term rental activity. The owner must pay the requisite renewal fee. Renewal may be subject to an annual inspection, where there is a history or current activity of code noncompliance. If, in connection with the scheduling of an inspection, the property owner fails to reply to three attempts by the city to contact the property owner, the permit shall not be renewed. Those permits not renewed when due and payable are delinquent and subject to a delinquency penalty equal to 25 percent of the renewal permit fee for the unit. The delinquency penalty shall be imposed on January 1 following the delinquency date. During the period of delinquency, the short term rental permit is deemed inactive and no rental activity may occur. A short term rental that does not have its permit renewed within a year of its term will be ineligible for renewal and must re-apply. ~~The short term rental permit shall be renewed annually. Failure of the property owner to renew and maintain the annual permit shall constitute a violation. Evidence of payment of the Broward County Tourist Development Tax shall be required for annual renewal.~~

(D) *Short term rental application requirements*. An applicant for a short term rental permit or permit renewal shall submit the following:

(1) ~~Submittal of a~~ A short term rental permit or permit renewal application;

(2) ~~Payment of n~~Nonrefundable application fee;

(a) Initial application fee:

1. Single family and duplex: $675.00

2. Triplex and quadplex: $750.00

(b) Renewal application fee: $375.00.

. . .

(8) Proof of registration with the Florida Department of Revenue for sales tax collection and with Broward County for ~~T~~tourist ~~D~~development ~~T~~tax collection, if required; ~~and~~

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(9) ~~Proof of~~ Acknowledgment that there are no pending Code violations, prior recurring nuisance activity or unsatisfied liens for property violations recorded against the short term rental property or any other property located in Pompano Beach owned by the same property owner or company of which he or she is a principal or corporate officer~~.~~;

(10) Name, address and 24-hour telephone number(s) of the owner, the operator, and the Local Designated Representative, who is required to be responsive and responsible in the management of the property for compliance with this section; and

(E) Failure to submit all requested information shall constitute an incomplete application. The Development Services Director shall, within 30 calendar days, determine whether the application is complete or incomplete.

(1) A complete application is one that:

(a) Contains all information and materials established by the Development Services Director as required for submittal of the particular type of application;

(b) Is in the form established by the Development Services Director as required for submittal of the particular type of application;

(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Code; and

(d) Is accompanied by the fee established for the particular type of application.

(2) On determining that the application is incomplete, the Development Services Director shall notify the applicant of the deficiencies within 30 calendar days. The applicant may correct the deficiencies and resubmit the application for completeness determination within 30 calendar days. If the applicant fails to resubmit an application within 30 calendar days after being first notified of deficiencies, the application shall be considered withdrawn. A non-refundable $100 administration fee will be applied to withdrawn applications, but all other fees will be refunded. The Development Services Director shall not process an application for further review until it is determined to be complete.

(~~E~~F) *Compliance ~~I~~inspection required.*

(1) Inspections shall be scheduled upon completion of the application process. Inspectors from the city's ~~Landscape Division,~~ Code Compliance Division, Building Inspections Division and Fire Department are ~~hereby~~ authorized to inspect all short term rental ~~housings~~ units and structures to ~~insure~~ ensure compliance with the City of Pompano Beach Code of Ordinances, the

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Florida Building Code and the Florida Fire Prevention Code. The inspectors may be accompanied by law enforcement officers for purposes of safety, when required. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the ~~initial~~ short term rental permit ~~as provided herein~~.

(a) Appointments. The inspections shall be made by appointment with the ~~24-hour contact person~~ Local Designated Representative. If, in connection with the scheduling of an inspection, the property owner fails to reply to three attempts by the city to contact the property owner, the city shall provide "Notice of Failure of Inspection" to the property owner, operator or Local Designated Representative, where applicable.

(b) Applicants shall be subject to the no show and admittance denial fees per § 153.11.

(c) Admittance denied. If the inspector~~(s)~~ is denied admittance by the ~~24-hour contact person~~ Local Designated Representative, or if the inspector is unable in at least three attempts to complete an initial or subsequent inspection, the inspector(s) shall provide "Notice of Failure of Inspection" to the property owner, operator or Local Designated Representative.

(d) The "Notice of Failure of Inspection" is considered a violation of this Code and is subject to enforcement remedies as provided ~~herein~~ in this Chapter.

(e) If instances of noncompliance with the applicable standards and requirements are found, all such instances of noncompliance shall be corrected, and the property shall not be rented until it is re-inspected and a permit is issued.

. . .

(~~F~~G) *Permit application approval or denial; Appeal.*

(1) The Development Services Department shall issue the short term rental permit after the property owner has demonstrated compliance with the requirements of the Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code, and all violations discovered during the required inspection have been corrected.

(2) Once the permit is issued, a short term rental must be properly maintained in accordance with the City of Pompano Beach Code of Ordinances, and the owner, the operator and the Local Designated Representative, who are required to be responsive and responsible in the management of the property, are required to comply with the standards and requirements set forth in this chapter and all other applicable regulations including the Florida Building Code, ~~and~~ the Florida Fire Prevention Code and the land development code.

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(3) Failure to demonstrate compliance with the requirements of the City of Pompano Beach Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code or evidence of present or recurring nuisance activity as defined in § 153.05 or § 132.38(C)(4) or Chapters 823 and 893, Florida Statutes, or the property owner or Local Designated Representative has been found by the Special Magistrate, pursuant to Chapter 37, City Code of Ordinances, to have two or more code violations related to the short term rental within a ninety (90) day period will result in a denial of the application. A written notice of denial shall be provided to the Applicant by U.S. Mail or electronically by the Development Services Director within 30 calendar days and shall specify the factual reasons for denial and include a citation to the applicable portion of the City Code or other legal authority authorizing the denial. Notwithstanding, the applicant may reapply when the deficiencies are cured.

~~(G)~~ (4) *Appeal*. The denial of the issuance of the short term rental permit under this section may be appealed to the city's Zoning Board of Appeals as an appeal of a decision of the Development Services Director in accordance with the provisions in § 155.2424, Appeal. Notwithstanding, applicants that are denied issuance of a short term rental permit premised on present or recurring nuisance activity, as defined in Subsection (3) above, may request a hearing consistent with § 37.12(B)(2).

~~(H) *Grace period*. Owners who were operating a short term rental housing prior to the adoption of this section, as evidenced by a written and validly executed rental agreement or contract, licensure with the Florida Department of Business and Professional Regulations, proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax, or other competent evidence of operation shall have one year from the date of adoption of this section to obtain a short term rental permit.~~

(~~I~~H) *Permit revocation*.

(1) ~~After issuance of the permit required by this section, such permit shall be revoked~~ The Development Services Director may revoke a short term rental permit issued under this chapter, if at any time it is discovered that:

(~~1~~a) There was a false statement or concealment of a material fact in the short term rental permit application ~~for a short term rental permit required by this section~~ or;

(~~2~~b) ~~The property owner has violated the off-street parking provisions of this Rental Housing Code on two or more occasions in a 30-day period or on five occasions in a 12 month period as determined by the city's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction;~~ The structure or unit and its owner are the subject of a final order or judgment lawfully directing the termination of the structure or units use as a short term rental; or

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~~(3) A noise disturbance per § 97.60 where such noise emanated from the short term rental property on two or more occasions in a 30-day period or on five occasions in a 12 month period as determined by the city's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or~~

~~(4) The property owner has violated the collection regulations or the refuse containers provisions of this Code and § 96.12 on two or more occasions in a 30-day period or on five occasions in a 12 month period as determined by the city's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or~~

~~(5) The property owner has violated any provisions of the city's Code of Ordinances on ten or more occasions in a 12 month period as determined by the city's Special Magistrate for Code Compliance pursuant to Chapter 37 of the Pompano Beach Code of Ordinances, or by a court of competent jurisdiction; or~~

(~~6~~c) The property owner fails to ~~submit required proof of~~ make payment of Broward County Tourist Development Tax or provide proof of such payment(s), ~~if~~ when required~~.~~, and where such failure remains uncured; or

(d) The property owner fails to maintain licensure with the Florida Department of Business and Professional Regulations or provide proof of such licensure, when required, and where such failure remains uncured; or

(e) The property owner fails to maintain registration with the Florida Department of Revenue for sales tax collection and provide proof of such registration, when required, and where such failure remains uncured; or

(f) The property owner fails to maintain registration with Broward County for tourist development tax collection and provide proof of such registration, when required, and where such failure remains uncured; or

(g) Failure to comply with the requirements of the City of Pompano Beach Code of Ordinances, the Florida Building Code and the Florida Fire Prevention Code, and where such failure remains uncured; or

(h) Evidence of present or recurring nuisance activity as defined in §153.05 or §132.38(C)(4) or Chapters 823 and 893, Florida Statutes, and where such activity remains uncured; or

(i) The property owner or Local Designated Representative has been found by the Special Magistrate, pursuant to Chapter 37, City Code of Ordinances, to have two or more code violations related to the short term rental including, but not limited to, off-street parking, unlawful noise and garbage, within a ninety (90) day period.

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(2) Appeal. Upon revocation, the property owner may appeal the decision to the city's Zoning Board of Appeals. In the instance where revocation is premised on subsection (1)(b), (g) - (i), the property owner may appeal to the Special Magistrate pursuant to Chapter 37, City Code. The property owner must file a written notice of appeal with the Department of Development Services within 10 days of receiving notice of the revocation from the Department. Where the written notice of appeal is timely filed with the Department, the revocation will be held in abeyance until adjudicated by the Zoning Board of Appeals or Special Magistrate. If the revocation is upheld, the property owner shall not be entitled to any refund of the annual fee paid for a permit for any portion of the unexpired term.

(~~J~~I) Violations; enforcement.

(1) ~~Violations of this section shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective short term rental permit program it is key that property owners and 24-hour contact person are responsive and responsible in the management of the property for compliance with this section. Violations, notices, and fines will be enforced in accordance with the procedures in Chapter 37 Pompano Beach Code of Ordinances and heard before the city's Special Magistrate for Code Enforcement~~. Failure to comply with any provision of this Chapter by any property owner of a rental structure or unit shall constitute a violation. Any law enforcement officer or Code Inspector shall be authorized to investigate all alleged violations. Upon the determination that a violation of this chapter exists, a law enforcement officer or Code Inspector shall:

(a) Issue a warning notice of the violation to the property owner and the principal operator of the subject rental structure or unit business at the location if different from the property owner. Violators shall have 30 calendar days after receipt of the notice to comply with the requirements of this section and to provide proof of compliance. A Code Inspector does not have to provide the violator with a warning notice or a reasonable time to correct the violation prior to issuing a citation violation notice if a repeat violation is found, or if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if the violator is engaged in violations of an itinerant or transient nature.

(b) Initiate prosecution should the violation continue after the 30-day warning period. Law enforcement officers may issue a Notice to Appear to a principal owner of the subject business for prosecution in the County Court, punishable under § 10.99. In addition, Code Enforcement Inspectors may cite the property owner for the violation to be heard before the Special Magistrate for Code Enforcement. If the property owner and principal operator are the same, the city may elect prosecution of the violation in either forum, but not both.

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~~(2) *Daily fine for operation of short term rental without first obtaining a permit*. Operation of a short term rental without first obtaining a short term rental permit or after a short term rental permit has been revoked shall be deemed a violation pursuant to this section and shall be subject to daily fine, up to $1,000 or to the maximum amount as otherwise provided in Florida Statues for repeat violations, for each day that the short term rental operates during a period of violation.~~

~~(3) *Additional remedies*. Nothing contained herein shall prevent the city from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a short term rental permit, prosecution in County Court, the penalties set forth in § 10.99, "General Penalty", of this Code, and injunction issued by the court upon a suit brought by the city.~~

(2) In the event a notice of violation is issued, all violations shall be corrected and re-inspected within 30 calendar days after the issuance of the notice of violation, with the exception of life safety violations, which will deem the property unsafe and not lawful for further occupancy until corrected and inspected. Failure to correct such violations within the timeframes provided shall result in the imposition of a fine consistent with Chapter 37, City Code until such time that the violations are corrected, re-inspected, and found in compliance.

(3) Any violation of this chapter may be punished by citation, as specifically described in Chapter 37 of the Code of Ordinances and shall be subject to a fine consistent with Chapter 37, City Code, for the first offense and any subsequent offenses, plus revocation of the permit, as provided in this Chapter.

(4) Other enforcement methods and penalties. Nothing contained in this chapter shall prevent the city from seeking all other available remedies that may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(5) Violators who fail to comply with the requirements of this section may not obtain nor renew a business tax receipt with the city unless all violations of this section are brought into compliance.

(6) For all purposes under this chapter, service of notice on the Local Designated Representative shall be deemed service of notice on the property owner and occupant.

(7) No occupant shall occupy a short term rental and no advertisement for the short term rental shall occur during any period of revocation.

SECTION 3. That Section 153.26, “Minimum Standards for Short Term Rentals,” of Chapter 153, "Rental Housing Code," of the Code of Ordinances of the City of Pompano Beach is amended to read as follows:

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§ 153.26 MINIMUM STANDARDS FOR SHORT TERM RENTAL.

The following minimum standards are in addition to those required in Chapter 153. The property owner of a short term rental shall be responsible to maintain the short term rental in compliance with these additional minimum standards:

(A) *Off-Street parking*. In addition to the standards regarding driveways in §153.19(C), the following standards shall apply:

. . .

(D) *Twenty-four hour contact person.* In addition to the responsibilities required for a 24-hour contact person as provided for in § 153.33(F), the additional responsibilities of the 24-hour contact person for a short term rental housing are required:

. . .

(E) In each short term rental, the following information shall be posted or prominently displayed or otherwise provided to all occupants:

(1) The name, address and phone number of the Local Designated Representative;

(2) The maximum occupancy of the short-term rental as prescribed in Section 153.23, Minimum Standards for Interior of Buildings;

(3) A statement advising the occupant that any sound that crosses a property line at an unreasonably loud volume is unlawful within the city and may constitute a noise disturbance as defined in Chapter 97 of the City Code of Ordinances;

(4) A sketch of the location of the off-street parking spaces;

(5) The days and times of trash pickup;

(6) The location of the nearest hospital;

(7) The local non-emergency police phone number; and

(8) If applicable, a statement that the short term rental is located within 1,000 feet of a school, designated public school bus stop, day care center, park, playground, or other private or public recreational facility where children regularly congregate and shall not be rented to nor occupied by any person who has been convicted of a violation of F.S. §§ 794.011, 800.04, 827.071 or 847.0145, or convicted of a similar felony sexual offense in any other state, Federal Court or

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military tribunal in the United States, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age.

(F) A copy of the building evacuation plan, with a minimum size of 8½" by 11", shall be provided to the renter upon the start of each short term rental.

(G) In each short term rental, there shall be posted notice that (i) unreasonably loud noise is prohibited, and that (ii) occupants must fully comply with the city's noise ordinance.

(~~E~~H) ~~*Limit on special events per § 132.27*~~*, S~~*special events on private property~~*; permit required*. Short term rental ~~housings~~ units shall be limited to one special event per fiscal year (October 1 through September 30) as defined in §132.27 and shall be required to obtain a permit in accordance with §132.27(D). Special events include, but are not limited to, party rentals and other property usage that would substantially inhibit the usual flow of vehicular or pedestrian traffic. Short term rentals are prohibited from giving or hosting outdoor musical performances.

~~(F) Prohibition on outdoor musical performance. Short term rentals are prohibited from giving or hosting outdoor musical performances.~~

(I) The short term rental shall not be advertised for any commercial or non-residential use. Any advertising of the short term rental unit by the owner, representative or any service shall conform to information included in the short term rental application and shall include at a minimum, identification of the maximum occupancy permitted on the property. The owner or representative shall ensure that the name and contact information for any listing services on or through which the short term rental is to be offered for rent, which was provided in the application, is updated with the city to reflect any changes to ensure that the city has a current list of all sites on which the short term rental is listed for rent. Advertisements for the short term rental must display the Florida Department of Business and Professional Regulation Transient Lodging license number and the city's short term rental permit number. Any advertising of a property for purposes of a short term rental shall be deemed sufficient evidence of the use of that property as a short term rental for purposes of enforcing all sections of this chapter. It shall be the property owner's responsibility to cancel any advertisements if the property is no longer being used as a rental.

(J) The short term rental may be equipped with a noise level detection device ("Device") to alert the property owner, operator, the Local Designated Representative and the tenants to unlawful noise emanating from the short term rental. All data produced by the Device will be retained for a period of 180 days and made available to the city upon its request.

SECTION 4. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this

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Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective immediately upon passage.

PASSED FIRST READING this 22nd day of March, 2022.

PASSED SECOND READING this 12th day of April, 2022.

DocuSigned by:
Rex Hardin
502CB780EB3F480...

REX HARDIN, MAYOR

ATTEST:

DocuSigned by:
Asceleta Hammond
62AB0835850F4A1...

ASCELETA HAMMOND, CITY CLERK

DocuSigned by:



JES/jrm
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