

Introduced by: Council Member Hoffman

1st Reading: 08/05/19

2nd Reading: 09/16/19

ORDINANCE NO. 2019-8118

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA AMENDING CHAPTER 34. LAND DEVELOPMENT CODE, ARTICLE VIII. SITE DEVELOPMENT STANDARDS, DIVISION 2. SUPPLEMENTAL STANDARDS, CREATING A NEW SECTION 34-411 SHORT TERM VACATION RENTALS, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES; AMENDING CHAPTER 34. LAND DEVELOPMENT CODE, ARTICLE IV. DEFINITIONS PROVIDING DEFINITIONS; AMENDING CHAPTER 34. LAND DEVELOPMENT CODE, ARTICLE VII. ZONING DISTRICTS, DIVISION 2. ZONING DISTRICTS, SECTION 34-336. RESIDENTIAL, SINGLE-FAMILY: RS-1, SECTION 34-337. RESIDENTIAL SINGLE-FAMILY: RS-2, SECTION 34-338. RESIDENTIAL, SINGLE-FAMILY: RS-3, SECTION 34-339. RESIDENTIAL MULTIPLE-FAMILY: RM-1, SECTION 34-340. RESIDENTIAL, MULTIPLE-FAMILY: RM-2, SECTION 34-341. COMMERCIAL PROFESSIONAL OFFICE: CPO, SECTION 34-342. COMMERCIAL LIMITED: C-1, SECTION 34-343. COMMERCIAL GENERAL: C-2, SECTION 34-345. CENTRAL BUSINESS DISTRICT: CBD; PROVIDING THAT SHORT TERM VACATION RENTALS ARE A PERMITTED USE; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE:

WHEREAS, the City of Jacksonville Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and

WHEREAS, prior to 2011 Florida's cities and counties regulated local land use issues and decisions under the Home Rule authority granted them by the Florida Constitution; and

WHEREAS, in 2011 the Florida Legislature enacted House Bill 883 (Chapter 2011-119, Laws of Florida) which preempted the local regulation, restriction or prohibition of vacation rentals based solely on their classification, use or occupancy; and

WHEREAS, the preemption to the state provided little oversight of vacation rentals such as staffing for mandatory or randomized inspections of vacation rentals and applied relaxed standards for vacation rentals when compared to hotels, motels, and bed and breakfast establishments; and

WHEREAS, in 2014 the Florida Legislature enacted Senate Bill 356 (Chapter 2014-71, Laws of Florida) which rescinded portions of the previous preemption but provided that local governments may not prohibit or regulate the frequency or duration of short term vacation rentals; and

WHEREAS, Chapter 2014-71, Laws of Florida returned some local control back to communities to mitigate the effects of short term vacation rentals to make them safer, more compatible with existing neighborhood uses, and accountable for proper operation; and

WHEREAS, short term vacation rentals cannot be prohibited and are therefore a permitted use in all zoning districts where residential uses are a permitted or conditional use; and

WHEREAS, single-family, two-family, and townhouse neighborhoods and their required infrastructure are generally designed to accommodate typical residential homes; and

WHEREAS, local governments apply design standards tailored for residential neighborhoods for their roads, driveways, emergency services planning, public shelters, emergency evacuation plans, solid waste collection, utilities, buffers, other infrastructure impacts along with the corresponding fair and proportionate impact/connection fees; and

WHEREAS, short term vacation rentals located in residential neighborhoods without regulation or standards for mitigation may create disproportional impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, permanent residents of single-family, two-family, and townhouse dwelling units inherently understand and know their physical surroundings, to include any safety gaps and potential risks to life and safety due to daily familiarity; and

WHEREAS, due to the transient nature of the occupancy short term vacation rental, occupants are unfamiliar with local hurricane evacuation plans, the location of fire extinguishers, residence exit routes, pool and home safety features and similar life safety measures as would readily be provided to guests in traditional lodging establishments; and

WHEREAS, short term vacation rentals may be created in single-family, two-family, or townhouses built prior to current building codes that require minimum life safety improvements, such as smoke detectors, carbon monoxide detectors, pool alarms, pool safety drains, and other such life safety equipment; and

WHEREAS, transient public lodging establishments such as vacation rentals are required to comply with the Florida Building Code and the Florida Fire Prevention code regarding life safety equipment, inspections, and enforcement programs; and

WHEREAS, short term vacation rentals located within established neighborhoods may disturb the quiet enjoyment of the neighborhood, lower property values, and burden the design layout of typical residential neighborhoods; and

WHEREAS, short term vacation rentals located within established single-family, two-family, and townhouse neighborhoods may create compatibility impacts, including but not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, traditional lodging establishments (hotels, motels, and bed & breakfast inns) are restricted to commercial and other non-residential zoning districts where the intensity of use is separated from the quiet residential uses; and

WHEREAS, traditional lodging establishments must meet stricter development standards, undergo annual or bi-annual inspections, and meet more stringent operational and business requirements; and

WHEREAS, traditionally lodging establishments typically must make roadway improvements and/or pay higher transportation, water, sewer, and other impact fees to offset the infrastructure demands created by their use; and

WHEREAS, Chapter 720 Florida Statutes provides for the formation and operation of homeowners' associations, independent of government authority; and

WHEREAS, such homeowners' associations may or may not exist in all single- and two-family residential neighborhoods; and

WHEREAS, such homeowners' associations typically employ property managers and employees or contracted vendors to monitor maintenance, upkeep, security and/or operation of the property on a frequent basis; and

WHEREAS, homeowners' associations are governed by covenants, restrictions and bylaws of the governing associations; and

WHEREAS, such homeowners' associations which allow short term vacation rentals are not regulated locally at this time, but may be in the future if deemed necessary in the interest of the public health, safety, and welfare; and

WHEREAS, multi-unit condominium buildings which allow short term vacation rental units are subject to Florida Statutes Chapter 718 and typically to covenants, restrictions, and bylaws thereof; and

WHEREAS, multi-unit condominium buildings are typically constructed to more stringent building code, fire code, and other life safety code standards including sprinkler systems, interconnected fire alarm systems, fire alarm panels, emergency lighting, exit signs, fire extinguishers, and fire wall separation between occupancies; and

WHEREAS, multi-unit condominium buildings are routinely inspected for fire and life safety code compliance including fire sprinkler systems, interconnected fire alarm systems, fire alarm panels, fire pumps, emergency lighting, exit signs, backflow prevention, elevator operation, and communications; and

WHEREAS, many multi-unit condominium buildings have on-site property managers and employees or contracted vendors to provide maintenance, upkeep, security and/or operation of the property on a frequent basis; and

WHEREAS, multi-unit condominium buildings which allow short term vacation rentals are not regulated locally at this time, but may be in the future if deemed necessary in the interest of the public health, safety, and welfare; and

WHEREAS, whenever one (1) or more property owner permanently resides at the short term vacation rental located within the same structure the number of renters is minimized and the owner is present to directly manage the property; and

WHEREAS, an on-site owner permanently residing in a short term vacation rental is likely to manage the short term vacation rental more restrictively because there is a direct, vested interest in its use and maintenance; and

WHEREAS, owner-occupied short term vacation rentals are not regulated locally at this time, but may be in the future if deemed necessary in the interest of the public health, safety, and welfare; and

WHEREAS, permanent residents within residential neighborhoods often establish long-term friendships, social norms, and a sense of community which often leads to mutual respect among property owners; and

WHEREAS, a permanent residence is typically the largest investment a family will make in their lifetime, with the homestead held sacred in popular culture as the heart and center of the family unit; and

WHEREAS, permanent residents within established residential neighborhoods deserve the right to tranquility and peaceful enjoyment of their home without intrusion by an excessive number of transient occupants; and

WHEREAS, the City of Jacksonville Beach promotes tourism, including appreciation and enjoyment of its pristine beaches, fishing pier, boardwalk, historic sites, and entertainment options; and

WHEREAS, many local governments in the State of Florida, and across the nation, have instituted standards to minimize the potential negative impacts of short term vacation rentals on the permanent residents; and

WHEREAS, the City of Jacksonville Beach has experienced a significant increase in the construction of new, oversized structures and the repurposing of existing residential homes for the primary purpose of serving as short term vacation rentals for up to as many as seventeen (17) individuals; and

WHEREAS, although family size per residence varies, the most recent data from the 2010 U.S. Census indicates the City of Jacksonville Beach average family size is 2.74 persons; and

WHEREAS, the 2010 U.S. Census data further indicates the average household size in the City of Jacksonville Beach is 2.11 persons; and

WHEREAS, the operation of short term vacation rentals in established neighborhoods in the City of Jacksonville Beach may create a large disparity in short term vacation rental impacts with more than six (6) times the average occupancy of established owner-occupied residences making the higher occupancy of the short term vacation rental homes incompatible with established neighborhood; and

WHEREAS, utility usage by short term vacation rentals may exceed the usage levels anticipated at the time of initial permitting as a single-family, two-family, or townhouse residence, creating a disparity between the impact and connection fees paid and the system impacts caused by their increased demand; and

WHEREAS, the State of Florida through its existing regulatory framework provides for licensing, maintenance, and inspection of hotels and motels; however no similar regulatory framework exists for vacation rentals; and

WHEREAS, current vacation rental industry practice is to set maximum limits upon the number of transient occupants within a short term vacation rental unit, but lack provisions for verification and enforcement; and

WHEREAS, current vacation rental industry practice is to charge a flat rental fee for the term of the lease, regardless of transient occupancy count, which may incentivize lessees of oversized structures used as short term vacation rentals to increase the transient occupant count to spread out the cost burden for the rental term among as many payers as possible; and

WHEREAS, the City of Jacksonville Beach desires to encourage short term vacation rentals that are safe, compatible with the character of the neighborhood, provide positive impacts for tourism, increase property values, and achieve greater neighborhood compatibility; and

WHEREAS, the City of Jacksonville Beach seeks to balance respect for private property rights and incompatibility concerns between the investors in short term vacation rentals and the families investment in permanent single-family, two-family, or townhouse residences in established residential neighborhoods through the use of reasonable rules, regulations, and development standards; and

WHEREAS, these regulations are deemed necessary to preserve property values and to protect the health, safety, and general welfare of permanent residents, property owners, investors, transient occupants, and visitors alike; and

WHEREAS, these regulations are being promulgated to supplement, but not replace, any existing federal or state law, regulation, or other controls within established residential neighborhoods served by a homeowners' association or condominium associations; and

WHEREAS, the City of Jacksonville Beach seeks to regulate vacation rental use of single-family, two-family, and townhouses subject to initial inspection requirements, ongoing compliance with these regulations, issuance of and annual renewal of local business tax receipt for short term vacation rental use; and

WHEREAS, these regulations do not prohibit or regulate duration or frequency of vacation rentals, but are intended to address the frequent change of transient occupants housed within single-family, two-family, and townhouse dwellings within established residential neighborhoods; and

WHEREAS, the application of minimum life safety requirements to short term vacation rentals, as required by state law for transient public lodging establishments, ensures that transient occupants are provided the same minimum level of protection as is required by current statutes, regulations, and codes for hotels, motels, and dormitories; and

WHEREAS, a maximum occupancy of sixteen (16) persons within any short term vacation rental in any zoning district is appropriate because any occupancy of greater than sixteen (16) persons falls within a commercial classification of hotel or dormitory for the purposes of the National Fire Protection Association (NFPA) 101 Life Safety Code; and

WHEREAS, for purposes of compliance with the National Fire Protection Association (NFPA) 101 Life Safety Code, occupancies of sixteen (16) or fewer persons may be provided in single-family, two-family, or townhouse short term vacation rentals without consideration as a hotel or dormitory and provisions of related life safety requirements; and

WHEREAS, the minimum residential safety standards, as adopted by the Florida Legislature as the Residential Swimming Pool Safety Act include provision of swimming pool, spa, and hot tub barriers or alarms so as to reduce the likelihood of child and elder drowning; and

WHEREAS, bedrooms as so designated within short term vacation rentals shall be considered the equivalent of bedrooms as defined by Florida Statute 381.0065, as may be amended from time to time; and

WHEREAS, because of the high occupancy and transient nature of occupants within many short term vacation rentals, fire safety becomes important; and

WHEREAS, Section 509.215, Florida Statutes, provides the fire safety requirements for transient public lodging establishments such as vacation rentals; and

WHEREAS, short term vacation rentals, as defined herein, must comply with the Florida Fire Prevention Code, Florida Building Code, Florida Administrative Code Chapters 61C and 69A, and Section 509.215, Florida Statutes; and

WHEREAS, site specific short term vacation rental standards, such as, minimum parking standards, solid waste handling and containment, and the enforcement of quiet hours, serve to maintain the decorum that exists among owners in established residential neighborhoods and are better assured by having these same standards conveyed to transient occupants through the duration of their rental; and

WHEREAS, transient public lodging establishments and vacation rentals are subject to additional regulatory requirements beyond those normally required of single-family, two-family, and townhouse residences, including business licensing by the State of Florida Department of Business and Professional Regulation's Division of Hotels and Restaurants, obtaining county and local business tax receipts, and collecting and remitting various sales taxes to state and local government; and

WHEREAS, a short term vacation rental is a commercial lodging activity; and

WHEREAS, some short term vacation rentals are being used exclusively as rentals by investors and/or home owners; and

WHEREAS, the establishment of minimum business practices, such as the provision of both lease-specific and property-specific information to lessees, and the designation of a local short term vacation rental responsible party, ensures that the private property rights of the short term vacation rental owner are balanced with the needs of the residents of the City of Jacksonville Beach to protect visitors and tourists and to preserve the general welfare through its limited regulatory power; and

WHEREAS, the City of Jacksonville Beach, through its existing regulatory framework, will issue registration certificates to short term vacation rentals conforming to those standards, which will in turn provide a level playing field amongst all providers of short term vacation rental units; and

WHEREAS, it is the intent of the City of Jacksonville Beach to provide for the establishment of an enforcement mechanism for those short term vacation rentals which do not adhere to the standards on an initial or continuing basis, with the overall goal of the short term vacation rental program being compliance with established standards and not punitive in scope; and

WHEREAS, the City of Jacksonville Beach Planning Commission held a duly noticed public hearing on **July 22, 2019** and recommended approval of this ordinance; and

WHEREAS, the City Council of the City of Jacksonville Beach held a duly noticed public hearing on **August 5, 2019** and approved this ordinance on first reading; and

WHEREAS, the City Council of the City of Jacksonville Beach finds the proposed ordinance will serve to protect the health and safety of residents, adjacent residential uses, and the general neighborhood.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. Recitals. The above recitals are ratified and confirmed as being true and correct and are made a part of this Ordinance and adopted as legislative findings.

SECTION 2. Amendment of City Code. That Chapter 34, Article IV. Definitions is hereby amended to add definitions, in proper alphabetical order as follows¹:

Section 34-41. General

Bedroom shall be as defined in Florida Statutes s. 381.0065, as may be amended, and means:

1. A room that can be used for sleeping and that:
 - a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;
 - b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;
 - c. Is located along an exterior wall;
 - d. Has a closet and a door or an entrance where a door could be reasonably installed; and
 - e. Has an emergency means of escape and rescue opening to the outside in accordance with the Florida Building Code.
2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.
3. “Bedroom” does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

Collective Registration means a Short Term Vacation Rental Registration Certificate issued by the City of Jacksonville Beach to a licensed agent who represents a collective group of Short Term Vacation Rental units found on separate locations. A collective registration may not be issued for more than 75 Short Term Vacation Rental units per Registration Certificate.

¹ (~~strikethrough~~ text indicates deletions, underline text indicates additions).

Licensed Agent means the operator of a management company that has been licensed by the dwelling or unit owner, through a rental agreement or contract between the two parties, to hold out the dwelling or unit for rent on a transient basis. A licensed agent is not required to hold a license from the Division of Real Estate.

Short term vacation rental means

1. Any individually or collectively owned single-family, two-family, or townhouse dwelling unit that is also a Transient Public Lodging Establishment as defined below.
2. Single-family, two-family, or townhouse dwellings subject to deed restrictions and covenants of a home-owners association, condominium units, timeshare projects, and owner-occupied dwelling units renting fifty percent (50%) or less shall not be subject to the regulations of this ordinance.

Transient occupancy means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

Transient public lodging establishment means any individually or collectively owned single-family, two-family, or townhouse dwelling unit which is rented to guests more than three times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests, as defined in Florida Statutes 509.013(4)(a), as may be amended.

SECTION 3. That Chapter 34, Article VIII, Division 2 of the City of Jacksonville Beach Code of Ordinances and Land Development Code is hereby amended by adding new Section 34-411 to read as follows:

Section 34-411 – Short Term Vacation Rentals.

- (a) Applicability. This section shall apply to short term vacation rentals as defined in section 34-41.
- (b) Short term vacation rental minimum requirements. Short term vacation rentals shall be permitted in all zoning districts where residential use is a permitted or conditional use provided they are in compliance with this section. No person shall rent or lease all or any portion of a dwelling unit as a short term vacation rental as defined in section 34-41 without initially and on a continuing basis:
 - (1) Obtaining a short term vacation rental registration certificate from the City of Jacksonville Beach pursuant to this section;
 - (2) Providing proof of a county business tax receipt from the Consolidated City of Jacksonville pursuant to its ordinances, as may be amended;
 - (3) Providing proof of a local business tax receipt from the City of Jacksonville Beach pursuant to Chapter 15 of the Code of Ordinances, as may be amended;

- (4) Providing proof of a Florida Department of Revenue certificate of registration for purposes of collecting and remitting sales surtaxes, transient rental taxes, and other taxes as may be required by law;
 - (5) Providing proof of a Florida Department of Business and Professional Regulation license as a transient public lodging establishment; and
 - (6) Providing proof of the Short Term Vacation Rentals current and active account with Duval County Tax Collector for the purpose of collecting and remitting tourist development taxes and other taxes as may be required by law.
 - (7) As demonstrated through an affidavit:
 - a. Maintaining initial and ongoing compliance with Short Term Vacation Rental Standards contained herein;
 - b. Maintaining compliance with the Florida Fire Prevention Code, Florida Building Code, and Section 509.215, Florida Statutes; and
 - c. Maintaining compliance with any local, state, and federal laws, regulations, and standards as may be applicable or amended including Florida Administrative Code Chapters 61C and 69A, as may be amended.
- (c) Short Term Vacation Rental Standards. The following Standards shall govern the use of any short term vacation rental as a permitted use:
- (1) Maximum Occupancy. Maximum occupancy shall be limited to two (2) persons per bedroom plus two. Under no condition shall maximum occupancy exceed sixteen (16) occupants per short term vacation rental unit. For the purpose of calculating maximum occupancy, only individuals over the age of twenty-four (24) months shall be included.
 - (2) Parking Standards. Minimum off-street parking shall be equal to the maximum occupancy as defined in Section 34-411(c)(1) divided by four (4). Where four (4) equates to one (1) parking space per four (4) transient occupants. All fractions shall be rounded to the next higher whole number. At no time shall parking block a sidewalk. Off-street parking standards shall be as defined in Article VIII., Division 1 Parking and Loading Standards of the City of Jacksonville Beach Land Development Code. All Short Term Vacation Rental properties with legal non-conforming parking shall be grandfathered for two (2) parking spaces. Grass parking is only permitted on Short Term Vacation Rental properties with legal non-conforming parking where paved parking is not available. Garage spaces shall count if the space is open and available and the transient occupants are given vehicular access to the garage.
 - (3) Solid Waste handling and containment. Short Term Vacation Rentals shall supply the approved solid waste collection container pursuant to the City's franchise agreement. All customers receiving residential and small commercial solid waste collection service pursuant to the city's solid waste franchise contract shall place garbage, rubbish, or, refuse receptacles and all other items at the curbside, unless the franchisee has agreed to provide a special service collection at another location. The container shall be placed at curbside on the day of solid waste pickup and removed

from curbside no later than sunrise the following day. Appropriate screening and storage requirements for trash storage containers shall apply per any development approval or local neighborhood standard, whichever is more restrictive.

- (4) Minimum short term vacation rental lease agreement wording. The short term vacation rental lease agreement shall contain the minimum information as provided for in subsection 34-411(h).
 - (5) Minimum short term vacation rental information required postings. The short term vacation rental shall be provided with posted material as required pursuant to subsection 34-411(i).
 - (6) Designation of a Short Term Vacation Rental Responsible Party capable of meeting the duties required pursuant to subsection 34-411(g) shall be required.
 - (7) Advertising. Any advertising of the short term vacation rental unit shall conform to information included in the Short Term Vacation Rental Registration Certificate and property's approval, particularly as it pertains to maximum occupancy. A statement stating that "it is unlawful for a sexual offender or sexual predator to occupy this residence in violation of section 775.215, Florida Statutes precluding such residency within 1,000 feet of any school, child care facility, park, or playground."
 - (8) Other standards. Any other standards contained within the City of Jacksonville Beach Land Development Code to include, but not limited to, noise limits, setbacks, stormwater, and similar provision shall be applicable.
- (d) Short Term Vacation Rental Registration Certificate. To verify compliance with these Short Term Vacation Rental Standards, any property owner who wishes to use his or her dwelling unit as a short term vacation rental must first apply for and receive a Short Term Vacation Rental Registration Certificate from the City of Jacksonville Beach. The following requirements further apply:
- (1) The Short Term Vacation Rental Registration Certificate shall be renewed annually for as long as the unit is used as a short term vacation rental.
 - (2) Short Term Vacation Rental Registration Certificates may be issued as a single or collective registration certificate.
 - (3) An annual single or collective Short Term Vacation Rental Registration Certificate fee shall be paid in an amount as determined by Resolution of the City Council of the City of Jacksonville Beach.
 - (4) Short Term Vacation Rental Registration Certificate fees shall be implemented to cover the costs of administration of the Short Term Vacation Rental Registration Certificate, Inspection, and enforcement programs.
 - (5) Failure to comply with any of the requirements of this section shall be grounds for revocation or suspension of the Short Term Vacation Rental Registration Certificate in accordance with the requirements contained herein.

(e) Application for a Short Term Vacation Rental Registration Certificate. Each property owner seeking initial issuance, annual renewal, transfer of ownership, or modification of a Short Term Vacation Rental Registration Certificate shall submit a City of Jacksonville Beach Short Term Vacation Rental Application in a form specified by the City, along with an application fee in an amount as determined by Resolution of the City Council of the City of Jacksonville Beach.

(1) A complete application for initial, transfer of ownership, or modification of a Short Term Vacation Rental Registration Certificate shall demonstrate compliance with the Short Term Vacation Rental Standards above through the following submittals:

a. A completed application with all required documentation of Section 34-411(b) and all applicable fees.

b. Copies of the required short term rental postings shall be provided.

c. A blank sample of the required short term vacation rental lease agreement and lessee information demonstrating compliance with all required lease terms shall be provided.

d. A sketch or picture showing the required off-street parking location.

e. Any other required information necessary to demonstrate compliance with the Short Term Vacation Rental Standards contained herein or as may be amended.

(2) Registration Certificate renewals or transfers. A Short Term Vacation Rental Registration Certificate holder must apply annually for a renewal of the Registration Certificate by October 1 of each year. If no changes have occurred since the issuance of the most recent Short Term Vacation Rental Registration Certificate, no additional submittals are required to accompany the renewal or transfer of a Short Term Vacation Rental Registration Certificate Application.

(3) Modification of Short Term Vacation Rental Registration Certificate. An application for modification of a Short Term Vacation Rental Registration Certificate is necessary where any of the following apply:

a. The gross square footage of the Short Term Vacation Rental unit has increased;
or

b. The number of bedrooms is proposed to increase; or

c. The occupancy is otherwise proposed to increase.

d. If an inspection of a modification to a Short Term Vacation Rental Registration Certificate is required, the modification in usage or occupancy may not occur until after successful inspection; however, pending such successful inspection the current Registration Certificate shall remain valid.

(f) Initial and routine compliance inspections of Short Term Vacation Rentals.

- (1) An inspection of the Short Term Vacation Rental unit for compliance with this section is required prior to issuance of an initial Short Term Vacation Rental Registration Certificate.
 - a. The local fire official or designee shall be allowed entry and perform all inspections as permitted or required under this section or by Section 10-3.04 and Section 10-3.05, City of Jacksonville Beach Code of Ordinances.
 - b. If violations are found, all violations must be corrected and the Short Term Vacation Rental unit must be re-inspected prior to issuance of the initial Short Term Vacation Rental Registration Certificate.
 - c. An exception to the correction of violations as required in this subsection is made for any Short Term Vacation Rental seeking vested rights pursuant to subsection 34-411(m) to the extent that a vesting determination specifically provides such exemption.
- (2) Once issued, a Short Term Vacation Rental unit must be properly maintained in accordance with the Short Term Vacation Rental Standards as defined in the section and may be re-inspected at the time of transfer of ownership, modification, or upon receipt of complaint related to non-compliance with the Florida Fire Prevention Code, Florida Building Code, and Section 509.215, Florida Statutes.
 - a. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days.
 - b. Failure to correct inspection deficiencies in the timeframe provided shall result in the suspension of the Short Term Vacation Rental Registration Certificate until such time as the violation(s) is/are corrected and re-inspected.
- (3) The inspections shall be made by appointment with the Short Term Vacation Rental Responsible Party.
 - a. If the inspector(s) has made an appointment with the Short Term Vacation Rental Responsible Party to complete an inspection and the Short Term Vacation Rental Responsible Party fails to admit the inspector(s) at the scheduled time, the owner shall be charged a “no show” fee in an amount as determined by Resolution of the City Council of the City of Jacksonville Beach to cover the inspection expense incurred.
- (4) If the inspector(s) is denied admittance by the Short Term Vacation Rental Responsible Party or if the Short Term Vacation Rental unit is not passed in at least three (3) attempts to complete an initial or subsequent inspection, the inspector(s) shall provide notice of failure of inspection to the owner address as listed on the most recent Short Term Vacation Rental Registration Certificate or as listed on the Duval County Property Appraiser database.

- a. For an initial inspection, the notice of failure of inspection results in the Registration Certificate not being issued.
- b. For a subsequent inspection, the notice of failure of inspection is considered a violation pursuant to subsection 34-411(f)(2) above and is subject to enforcement as provided herein.

(g) Short Term Vacation Rental Responsible Party.

- (1) The purpose of the Short Term Vacation Rental Responsible Party is to respond to routine inspections, non-routine complaints, and any other more immediate problems related to the Short Term Vacation Rental of the property.
- (2) The property owner or licensed agent may serve in this capacity or shall otherwise designate a Short Term Vacation Rental Responsible Party to act on their behalf.
- (3) Any person eighteen (18) years of age or older may be designated by the owner or licensed agent provided they can perform the duties listed in subsection 34-411(g)(4) below.
- (4) The duties of the Short Term Vacation Rental Responsible Party, whether the property owner or licensed agent, are as follows:
 - a. Be available by landline or mobile telephone at the listed phone number twenty-four (24) hours a day, seven (7) days a week and capable of handling any issues arising from the Short Term Vacation Rental use;
 - b. If necessary, be willing and able to come to the Short Term Vacation Rental unit within two (2) hours following notification from an occupant, the owner, or an official of the City of Jacksonville Beach to address issues related to the Short Term Vacation Rental.
 - c. Be authorized to receive service of any legal notice on behalf of the owner for violations of this section;
 - d. Be able to produce copies of the executed rental or lease agreement for current transient occupants, as needed by local authorities; and
 - e. Otherwise monitor the Short Term Vacation Rental unit at least once weekly to assure continued compliance with the requirements of this section.
- (5) A property owner may change his or her designation of a Short Term Vacation Rental Responsible Party temporarily or permanently. However, there shall be only one (1) Short Term Vacation Rental Responsible Party for each Short Term Vacation Rental at any given time. To change the designated Short Term Vacation Rental Responsible Party, the property owner shall notify the City of Jacksonville Beach in writing on a form provided by the City for that purpose before any change in the designated Short Term Vacation Rental Responsible Party.

(h) Short Term Vacation Rental Lease Agreement minimum provisions. The rental or lease agreement must contain the following minimum information:

- (1) Maximum occupancy of the Short Term Vacation Rental unit as permitted on the Short Term Vacation Rental Registration Certificate;
- (2) The total number of vehicles allowed for the Short Term Vacation Rental unit not to exceed the number of off-street parking spaces available as designated on the Short Term Vacation Rental Registration Certificate; and
- (3) A statement that all transient occupants must evacuate from the Short Term Vacation Rental upon posting of any evacuation order issued by local, state, or federal authorities.
- (4) An executed copy of each lease agreement shall be maintained by the designated Responsible Party and made available for review by City fire, police, building or code enforcement officials upon request.
- (5) A statement stating that “it is unlawful for a sexual offender or sexual predator to occupy this residence in violation of section 775.215, Florida Statutes precluding such residency within 1,000 feet of any school, child care facility, park, or playground.”

(i) Required Short Term Vacation Rental Postings:

- (1) On the back of or next to the main entrance door or on the refrigerator there shall be provided as a single page document the following information:
 - a. The name, address, and phone number of the Short Term Vacation Rental Responsible Party;
 - b. The maximum occupancy of the unit;
 - c. Notice that quiet hours are to be observed between 10:00 p.m. and 7:00 a.m. daily or in compliance with any and all City regulations;
 - d. The maximum number of vehicles that can be parked at the unit along with the location of the off-street parking spaces;
 - e. The days of solid waste pick-up and recycling;
 - f. Notice of sea turtle nesting season restrictions and sea turtle lighting usage as applicable;
 - g. The emergency numbers for local police and fire; and
 - h. The location of the nearest hospital.

(j) Offenses and Violations.

- (1) Non-compliance with any provision of this section or its subsections shall constitute a violation of the City of Jacksonville Beach Code of Ordinances.
- (2) Separate Violations. Each day a violation exists shall constitute a separate and distinct violation, except that occupancy violations shall be governed by subsection 34-411(l).

(k) Remedies/enforcement. 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 vacation rental program it is vital that a Short Term Vacation Rental Responsible Party is responsive and responsible in the management of the property for compliance with this section. Code enforcement activities will be in accordance with Florida Statutes Chapter 162 and the City of Jacksonville Beach Code of Ordinances.

- (1) Warnings. Warnings shall be issued for first time violations and a reasonable time to correct the violation will be given. Such warnings may include notice to other agencies for follow up by such agencies, such as the Department of Business and Professional Regulation, the Department of Revenue, the Duval County Tax Collector, and the Duval County Property Appraiser, as applicable. Non-compliance with a correction compliance period shall result in the issuance of notice of violation.
- (2) Fines. Fines per violation shall be as provided in Section 162.09, Florida Statutes, as may be amended, for per day, repeat, and irreparable or irreversible in nature violations.
- (3) Enforcement Proceedings. Prosecution of code violations shall utilize Part 1 of Florida Statutes Chapter 162. The City Code Enforcement Special Magistrate shall be authorized to hold hearings, assess fines, and order other relief as provided in City of Jacksonville Beach Code of Ordinances, Chapter 2, Article VI.
- (4) Additional Remedies. Nothing contained herein shall prevent the City of Jacksonville Beach from seeking all other available remedies which may include, but is not limited to, injunctive relief, liens, and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

(l) Vesting. Existing, legally-established short term vacation rentals as defined in 34-411(a) as of January 1, 2019 may become vested in the ways described below, provided they are otherwise in compliance with all other requirements contained herein.

To qualify for vesting, an existing short term vacation rental shall have until January 30, 2020 to make full and complete application for a Short Term Vacation Rental Registration Certificate and until April 30, 2020 to receive a Short Term Vacation Rental Registration Certificate in compliance with this Section of the Code of Ordinances of the City of Jacksonville Beach.

- (1) Rental agreement vesting. It is recognized that there may exist rental or lease agreement(s) for short term vacation rentals upon the effective date of this ordinance which may not be in compliance with the terms of this Section. Rental agreements entered into prior to the effective date of this ordinance shall be considered vested. All

such fully executed rental agreements shall be attached to the initial application for Short Term Vacation Rental Registration Certificate. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the Short Term Vacation Rental Registration Certificate application process and providing copies of such rental or lease agreement(s).

- (2) Temporary vesting of certain safety requirements. Some existing short term vacation rentals may not meet the minimum life safety requirements as required in the Florida Fire Prevention Code, Florida Building Code, and Section 509.215, Florida Statutes. Correcting these measures may take some time to secure a licensed contractor, obtain the necessary permits, and complete the work. All short term vacation rentals shall have six (6) months from the effective date of this ordinance, or April 30, 2020, whichever is later, to comply with the physical changes required. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the Short Term Vacation Rental Registration Certificate application process.
- (3) All vesting determinations and appeals.
 - a. All vesting determinations shall be made administratively by the Planning and Development Director.
 - b. An applicant may appeal an administrative determination by filing a petition with the City Manager within ten (10) business days of such determination.
 - c. The City Manager shall address the appeal within thirty (30) calendar days of receipt of a petition and consider only the Short Term Vacation Rental Application, the documents provided in support of vesting, the written petition of the applicant, and determination of staff.
 - d. The City Manager shall reverse the decision of the Planning and Development Director only if there is substantial competent evidence to support reversal.
 - e. The decision of the City Manager shall constitute final administrative action.
- (4) A vested use shall not transfer to a subsequent owner. A vested use is not transferrable to another short term vacation rental. Subsequent owners must make application and comply with the requirements of this Section.
- (5) If a vested use ceases for a period of six (6) months, then the vesting shall be considered to have lapsed and the short term vacation rental will be subject to all Short Term Vacation Rental Requirements as if a new application.

SECTION 4. Amending Section 34-336. – Residential, single-family: RS-1, subsection (b)
Permitted uses to read as follows:

...

(3) Short term vacation rentals.

...

SECTION 5. Amending Section 34-337. – Residential, single-family: RS-2, subsection (b)
Permitted uses to read as follows:

...

(3) Short term vacation rentals.

...

SECTION 6. Amending Section 34-338. – Residential, single-family: RS-3, subsection (b)
Permitted uses to read as follows:

...

(5) Short term vacation rentals.

...

SECTION 7. Amending Section 34-339. – Residential, multiple-family: RM-1, subsection (b)
Permitted uses to read as follows:

...

(7) Short term vacation rentals.

...

SECTION 8. Amending Section 34-340. – Residential, multiple-family: RM-2, subsection (b)
Permitted uses to read as follows:

...

(7) Short term vacation rentals.

...

SECTION 9. Amending Section 34-341. – Commercial professional office: CPO, subsection (b)
Permitted uses to read as follows:

...

(10) Short term vacation rentals.

...

SECTION 10. Amending Section 34-342. – Commercial limited: C-1, subsection (b) *Permitted uses* to read as follows:

...

(27) Short term vacation rentals.

...

SECTION 11. Amending Section 34-343. – Commercial general: C-2, subsection (b) *Permitted uses* to read as follows:

...

(33) Short term vacation rentals.

...

SECTION 12. Amending Section 34-345. – Central business district: CBD, subsection (b)
Permitted uses to read as follows:

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...

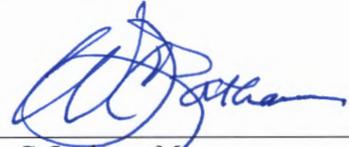
(26) Short term vacation rentals.

SECTION 13. SEVERABILITY. It is hereby declared to be the intention of the City Council for the City of Jacksonville Beach that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable. If any phrase, clause, sentence, paragraph or section of this Code shall be declared to be unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

SECTION 14. CONFLICTING ORDINANCES. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent of conflict or inconsistency herewith.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect on November 1, 2019 in accordance with applicable law.

AUTHENTICATED THIS 20th DAY OF September A.D., 2019.



William C. Latham, Mayor



Laurie Scott, City Clerk