

ORDINANCE NO.: 23-18

AN ORDINANCE OF BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, AMENDING CHAPTER 14 OF THE BAY COUNTY CODE OF ORDINANCES TO CREATE ARTICLE VII, SECTION 14-141 ESTABLISHING CERTAIN REQUIREMENTS FOR SHORT-TERM VACATION RENTALS; PROVIDING FOR INSPECTIONS OF SHORT-TERM VACATION RENTALS CONSISTENT WITH CHAPTER 633 AND RULES ADOPTED BY THE STATE FIRE MARSHALL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR LIBERAL INTEPRETATION; PROVIDING FOR MODIFICATIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bay County is responsible for adopting regulations designed to promote the public health, safety and general welfare of its residents and visitors;

WHEREAS, Senate Bill 356 (2014) (Chapter 2014-71, Laws of Florida) restored some local control back to local governments to mitigate the effects of short-term vacation rentals in an attempt to make them safer, more compatible with existing neighborhood regulations, and accountable for their proper operation;

WHEREAS, Bay County is the authority having jurisdiction for the purpose of enforcing the uniform fire safety rules for vacation rentals adopted by the Florida State Fire Marshall;

WHEREAS, local authorities are required to conduct all fire safety inspections required by law;

WHEREAS, transient public lodging establishments are a high-hazard occupancy as defined in Sec. 633.218, F.S., and should be inspected annually;

WHEREAS, short term vacation rental occupants, due to the transient nature of their occupancy, are unfamiliar with local hurricane evacuation plans, the location of fire extinguishers, and other similar safety measures that would be readily be provided to guests in traditional lodging establishments;

WHEREAS, short term vacation rental owners may live elsewhere and not experience the quality of life problems and negative impacts associated with larger, unregulated short-term vacation rental units on residential neighborhoods;

WHEREAS, these regulations are deemed necessary by the Board of County Commissioners to protect the health, safety and general welfare of permanent residents, lot/parcel owners, investors, and transient occupants and visitors alike;

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

WHEREAS, site-specific short-term rental standards, like solid waste handling and containment, and compliance with ordinances such as noise, serve to maintain the decorum that exists among owners in established neighborhoods and are better assured by having these same standards conveyed to transient occupants during the duration of their rental;

WHEREAS, a vacation rental is a commercial lodging activity and is subject to licensing by the State; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA, that:

SECTION 1. Section 14-141 of the Bay County Code of Ordinances is hereby adopted as follows:

Section 14-141. Short-Term Vacation Rental Requirements.

(a) Definitions. For the purpose of this Section, a “short-term vacation rental” means a transient public lodging establishment as defined in s. 509.013, F.S., which is a single family, two-family, three-family, or four-family house or dwelling, recreational vehicle, or mobile home.

(b) Certificate Requirement. It is unlawful for any person to allow another person to occupy any residential property that is a single-family, 2-4 family dwelling, recreational vehicle, or mobile home, as a short-term vacation rental within unincorporated Bay County, or offer such property for rent as a short-term vacation rental within unincorporated Bay County, unless the person has issued a Short-Term Vacation Rental Certificate in accordance with the provisions of this section. Any property owner who owns a short-term vacation rental must first apply for and receive a Short-Term Vacation Rental Certificate from Bay County and shall renew the certificate annually for as long as the unit is used as a short-term vacation rental. Each short-term vacation rental requires a separate certificate. Complete renewal applications are due by October 1 of each year. Failure to comply with any of the requirements of this section shall be subject to the remedies and enforcement provided in subsection (h).

(c) Application for Certificate. Applications for a Certificate shall be in form promulgated by Bay County. In order to receive a certificate, the owner must provide the following:

1. An affidavit of compliance in form promulgated by Bay County which certifies:

a. That the applicant has received a copy of, and understands and will comply with the requirements set forth in subsection (g) below.

b. That the applicant acknowledges and agrees that the County shall have the right to inspect the premises to ensure compliance with the requirements in subsection (g) below.

c. That the applicant acknowledges and agrees to comply with the standards contained in subsection (g) below, and all other applicable state and federal laws, regulations or standards governing Short Term Vacation Rental, including but not limited to Chapter 509, F.S., and Rule Chapter 61C and 69A, Florida Administrative Code, as they may be amended from time to time.

d. The name and contact person of the short-term rental responsible party as described in subsection (f).

2. Evidence that the property is licensed as a vacation rental with the Florida Division of Hotels and Restaurants;

3. Evidence that the property is registered for Tourist Development Tax with the Bay County Clerk of Court.

4. Evidence that any pool located on the property is properly licensed and inspected.

5. An annual certificate fee shall be paid for each dwelling unit certified as a short-term vacation rental, in an amount to be determined by resolution of the board of county commissioners, to cover the cost of administration and enforcement of the certificate program.

(d) Operating Standard. Once the certificate is issued, a short-term vacation rental must be operated and maintained in accordance with the requirements of subsection (g) below, and must be recertified annually or, in the event of a change or ownership, recertified at the time of transfer.

(e) Inspections. Interior inspections of short-term vacation rentals shall be performed in the discretion of Bay County Fire Services.

1. If an inspection documents violation, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in enforcement as provided in Subsection (h) until such time as the violation(s) is/are corrected and re-inspected.

2. Follow up inspections or re-inspections shall be made by appointment with the short-term vacation rental responsible party, and shall be subject to a fee determined by resolution of the Board of County Commissioners. If the inspector has made an appointment with the responsible party to complete an inspection and the responsible

party fails to admit the officer at the scheduled time the owner shall be charged a "no show" fee in an amount to be determined by resolution of the Board of County Commissioners to cover the inspection expense incurred by the County and/or any entity authorized under F.S 633.118 to enforce the laws and rules of the State Fire Marshal.

3. If an inspector is denied admittance by the short-term vacation rental responsible party or if an inspector fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address provided in the existing Short-Term Vacation Rental Certificate or the application for Short-Term Vacation Rental Certificate.

4. Inspections may be conducted by any person authorized under Florida Statute to enforce the laws and rules of the State Fire Marshal for issues pertaining to life safety requirements. Such persons are defined in Section 633.118, F.S as follows: The chiefs of county, municipal, and special-district fire service providers; other fire service provider personnel designated by their respective chiefs; and personnel designated by local governments having no organized fire service providers are authorized to enforce this chapter and all rules prescribed by the State Fire Marshal within their respective jurisdictions. Such personnel acting under the authority of this section shall be agents of their respective jurisdictions, not agents of the State Fire Marshal.

(f) Short-term vacation rental responsible party.

1. The purpose of the responsible party is to respond to inspections as described in subsection (e) above as well as non-routine complaints and other more immediate problems related to the short-term vacation rental of the property.

2. The property owner may serve in this capacity or shall otherwise designate a locally available short-term vacation rental responsible party to act on their behalf. Any person eighteen (18) years of age or older may be designated by the owner provided they can perform the duties listed in subparagraph 3 below.

3. In addition to serving as the local emergency contact, the duties of the short-term vacation rental responsible party are to:

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 one (1) hour following notification from an occupant, the owner, or the County to address issues related to the short-term vacation rental;

c. Authorized to receive service of any legal notice on behalf of the owner for violations of this section; and

d. Otherwise monitor the short-term vacation rental unit at least once weekly to assure continued compliance with the requirements of this Section, including parking and trash requirements.

e. A property owner may change his or her designation of a short-term vacation rental responsible party temporarily or permanently; however, there shall only be one (1) short-term vacation rental responsible party for each short-term vacation rental at any given time. If the responsible party is an individual, he or she is required to arrange for an alternate during times of unavailability. To change the designated responsible party, the property owner shall notify the County in writing via a completed form provided by the County.

(g) Short-term vacation rental requirements. The property owner of any property used as a short-term vacation rental shall comply with the following requirements:

1. Required posting of the following short-term vacation rental unit information on the back of or next to the main entrance door or on the refrigerator the following information shall be provided:

a. The address of the short-term vacation rental unit in case of emergency.

b. The name and phone number of the short-term vacation rental responsible party.

c. The maximum occupancy of the unit defined as one person per 150 square feet of gross floor area as follows OR lower agreed upon maximum occupancy established during the certificate process:

"Maximum Occupancy is (X) by order of the State Fire Marshal. In accordance with Florida Administrative Code 69A-43.018 the maximum occupancy load permitted for one- and two-family dwellings licensed as public lodging establishments shall be computed at 150 square feet gross floor area per person."

d. Notice regarding the County's Noise Ordinance (Chapter 17, Article V — Noise, Bay County Code of Ordinances) and potential civil infraction fines up to \$500.00 and/or potential criminal offense.

e. The days of trash pickup along with instructions requiring all trash to be kept in provided containers.

f. If the short-term vacation rental unit is located within the Beaches Special Treatment Zone, notice of sea turtle nesting season restrictions, sea turtle lighting usage, and Leave No Trace ordinance requirements.

g. The location of the nearest hospital with an emergency room and including a statement to call 911 in case of emergency; and

h. Information describing beach safety specifically the flag notification system and penalties for violation.

i. A legible copy of the building evacuation map, minimum eight and one-half inches by 11 inches.

2. If the short-term vacation rental unit includes three (3) or more occupied floors, on the third floor above ground level and higher floors there shall be posted, next to the interior door of each bedroom, a legible copy of the building evacuation map—Minimum 8 1/2" by 11" in size.

3. A building sign meeting the following requirements:

a. The sign must be prominently placed on the wall or property of the short-term vacation rental unit so that the required content of the sign shall be legible as viewed from the public right-of-way; however, signage shall not be placed in the public right-of-way.

b. Such signs shall not be larger than eighteen (18) by twelve (12) inches.

c. The sign must indicate the name, and twenty-four (24) hours per day, seven (7) days a week emergency contact phone number or the locally available responsible party clearly identified as such and easily distinguishable from any rental related phone number if different.

d. The sign must indicate the units Short Term Vacation Rental Certificate Number.

4. Fire safety requirements. The property owner shall comply with all fire safety requirements of state law, including those described in Rule 69A-43, Florida Administrative Code.

5. Posting of Certificate Number. The property owner shall ensure that the Short-Term Vacation Rental Certificate Number is displayed for each listing that appears on a hosting platform or any other advertisement for the Short-Term Vacation Rental. A hosting platform means an internet-enabled application, mobile application or any other digital platform that is used to connect guests with transient residential rental providers for the purpose of renting a transient residential rental, and includes without limitation AirBNB, vrbo, Booking.com, Expedia, Vacasa, and Homestay.com.

(h) 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 key that short-term vacation rental responsible parties are 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 Chapter 7 of this Code.

1. Warnings. Warnings shall be issued for first-time violations and have a correction/compliance period associated with it. These warnings may include notice to the Department of Business and Professional Regulation, the Department of Revenue, the Bay County Clerk of Court and the Bay County Property Appraiser, as applicable. Non-compliance with a correction compliance period shall result in the issuance of a citation.

2. The County may utilize Part 1 of Florida Chapter 162 to prosecute these violations. Alternatively, the County may utilize Part 2 of Florida Chapter 162 and pursue violations by way of a civil citation system as provided in its Code of Ordinances. The civil citation fines per violation shall be set by Resolution of the Board of County Commissioners for first (1st), second (2nd), third (3rd) and further repeat violations. Regardless of whether the County utilizes Part 1 or 2, the County may also utilize an appropriate enforcing agency at the state or local level. Each day a violation exists shall constitute a separate violation.

3. Additional remedies. Nothing contained herein shall prevent Bay County from seeking all other available remedies which may include, but not be limited to, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies. A vacation rental which does not comply with state fire safety requirements shall be presumed to be unfit and unsafe and not fit for human occupancy until corrected.

SECTION 2. CONFLICT WITH OTHER ORDINANCES OR CODES.

All Ordinances or parts of Ordinances of the Code of Ordinances of Bay County, Florida, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. SEVERABILITY. If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction, the other provisions of this ordinance shall remain in full force and effect.

SECTION 4. SCRIVENER'S ERRORS. It is the intention of the Board of County Commissioners of Bay County, Florida and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Bay County, Florida and to that end, the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section" or "article" or other appropriate designation. Additionally, corrections of typographical errors which do not affect the intent of this Ordinance may be authorized by the County Attorney without public hearing, by filing a corrected or re-codified copy with the Clerk of Courts.

SECTION 5. ORDINANCE TO BE LIBERALLY CONSTRUED. This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

SECTION 6. MODIFICATIONS. It is the intent of the Board of County Commissioners of Bay County, Florida, that the provisions of this ordinance may be modified as a result of considerations that may arise during a public hearing. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board.

SECTION 7. INCLUSION IN THE BAY COUNTY CODE. The provisions of this Ordinance shall be included and incorporated in the Bay County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Bay County Code, once established.

SECTION 8. FILING OF ORDINANCE. In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 9. EFFECTIVE DATE. This Ordinance shall become effective immediately upon filing with the Florida Department of State.

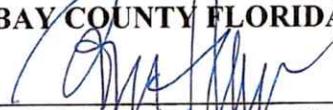
DULY ADOPTED in regular session this 1 day of August, 2023.

ATTEST:



Bill Kinsaul, Clerk

**BOARD OF COUNTY COMMISSIONERS
BAY COUNTY FLORIDA**



TOMMY HAMMI, CHAIRMAN

APPROVED AS TO FORM:



County Attorney's Office

