

Sec. 33-28. - Vacation Rentals.

(A) *Applicability and purpose.*

- (1) This section shall apply in the unincorporated areas of Miami-Dade County.
- (2) The purpose of this section is to provide additional regulations pertaining to vacation rentals to preserve the quiet nature and atmosphere of residential areas and to ensure to the County's residents the tranquility and peaceful enjoyment of their neighborhoods. These regulations shall be in addition to, and shall not supplant, other provisions in this code and the CDMP that may apply to vacation rentals; and in the event of a conflict, the more restrictive provision shall control. Nothing in this section shall be deemed to create an enforceable right or private right of action against the County.

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

- (1) *Peer-to-peer or platform entity* shall mean any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupants, whether through the internet or other means.
- (2) *Property owner* shall mean the person who, or entity that, owns the property being used or occupied as a vacation rental.
- (3) *Responsible party* shall mean the person or entity authorized by the property owner to obtain a Certificate of Use for a vacation rental, and who will be:
 - (a) Responsible for ensuring compliance with all regulations related to vacation rentals; and
 - (b) Available to respond 24 hours per day, 7 days per week to any issue that arises relating to the vacation rental.

The property owner may serve as responsible party.

- (4) *Transient occupant* shall mean any person who rents or occupies any dwelling unit or residence or part thereof for less than 30 days or one calendar month, whichever is less, and any guest or invitee of such person.
- (5) *Vacation rental* shall mean any dwelling unit or residence, including, but not limited to, any unit or group of units in a condominium, cooperative, or apartment building, that is rented in whole or in part to a transient occupant for a period of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place that may be rented to a transient occupant, but shall not include a hotel, motel, or bed and breakfast as defined in this code and referenced in the CDMP. For purposes of this section, the term vacation rental is synonymous with the term short-term residential rental.

(C) *Certificate of Use Required.* No property owner or responsible party shall offer as a vacation rental, or allow any person to rent or occupy as a vacation rental, any property in whole or in part within the unincorporated area of Miami-Dade County, unless a Certificate of Use has first been obtained in accordance with the provisions of this section. A property may be offered as a vacation rental immediately upon submission of an application for Certificate of Use, unless and until such time as the application is thereafter rejected or revoked for failure to pass inspection. A peer-to-peer or platform entity shall be subject to the duties and requirements set forth in paragraph (1) of subsection (D) below.

- (1) *Application.* A complete Certificate of Use application shall be submitted to the Department online or in hard copy. A peer-to-peer or platform entity may enter into an agreement with the County whereby the peer-to-peer or platform entity agrees to submit applications on behalf of responsible parties. The application must be signed under oath or affirmation, and shall include the following:
 - (a) The address and legal description of the vacation rental property;
 - (b) Name, address, and phone number of the property owner;

- (c) Name, address, and phone number of the responsible party;
 - (d) Name and contact information for the peer-to-peer or platform entity or entities on which the vacation rental is, or will be, listed for rent;
 - (e) Statement that the responsible party is, or will be, remitting all applicable local Miami-Dade County business and tourist taxes; or that a peer-to-peer or platform entity through which vacation rentals are booked will be remitting all such taxes associated with the vacation rental on the responsible party's behalf;
 - (f) Statement that the responsible party has the permission of the property owner and authority to offer the property as a vacation rental and act as the responsible party;
 - (g) Statement as to whether the entire property, or just a part thereof (i.e., a room or rooms), will be used as a vacation rental; and
 - (h) Statement that insurance coverage will be in effect at all times while the property is being used as a vacation rental to cover liability for injury or harm to transient occupants or other invitees, and acknowledging that a standard homeowner's or renter's insurance policy may not necessarily provide such liability coverage while the property is used as a vacation rental;
 - (i) Statement acknowledging that the responsible party has received information explaining that using the property as a vacation rental could result in loss of the Homestead Exemption, and has provided such information to the property owner;
 - (j) Statement indicating how many times, and for how many days in all, the property was used as a vacation rental within the previous calendar year;
 - (k) Statement acknowledging that the vacation rental must be registered with the Florida Department of Revenue, or successor agency, for purposes of collecting and remitting applicable state taxes and all such state taxes have been, or will be, paid;
 - (l) Statement acknowledging that a vacation rental license, issued by the Florida Department of Business and Professional Regulation, or successor agency, must be obtained; and
 - (m) Statement acknowledging that the property is, and will be at all times during which it is used as a vacation rental, maintained in compliance with the vacation rental standards set forth in subsection (D) below.
- (2) *Supporting documentation.* The responsible party shall maintain all required licenses, records, and other documentation sufficient to demonstrate that the statements and information required by subsection (1) above are true and accurate. All such licenses, records, and other documentation shall be provided upon request, and failure to do so may result in the denial, suspension, or revocation of the Certificate of Use.
- (3) *Providing false information.* Providing false or misleading information in an application for a Certificate of Use is grounds to deny or revoke the Certificate of Use. A determination that false or misleading information was provided in an application is appealable to a hearing examiner in accordance with the procedures set forth in chapter 8CC or section 1-5, or both.
- (4) *Annual renewal.* The Certificate of Use shall be renewed annually. A Certificate of Use may not be renewed if there are any outstanding fines or liens for violations of this code.
- (5) *Inspection.* Upon the issuance or renewal of a Certificate of Use, the vacation rental property shall be subject to inspection to ensure compliance with all applicable code requirements. At the time of such inspection, the responsible party shall provide all licenses, records, and other documentation sufficient to demonstrate compliance with all requirements of this section.
- (6) *Enforcement history.*
- (a) When reviewing an application to obtain or renew a Certificate of Use, the Department shall consider the violation history of the property identified in the application. If the violation history shows three or more violations of this section within the preceding 12 months, the Department shall not issue or renew the Certificate of Use unless:

- (i) All outstanding violations or liens are first satisfied and corrected; and
 - (ii) A bond in the amount of \$10,000.00 is provided to the Department, in the form approved by the Director. The bond shall be subject to forfeiture for future violations, as set forth in this section.
 - (b) When the violation history shows three or more violations of this section within the preceding 12 months, the Department shall notify the peer-to-peer or platform entity, if known, of the property at which the violations have occurred, and the dates of the violations.
 - (c) When calculating whether a vacation rental property has three or more violations within the preceding 12 months, if one or more unresolved citations that will affect the decision to issue or renew the Certificate of Use are pending, the Director may issue or renew a Certificate of Use on a provisional basis and for a limited time, which may be extended by the Director for good cause shown.
- (D) *Vacation Rental Standards.* The following vacation rental standards shall govern vacation rentals in unincorporated Miami-Dade County:
- (1) *Duties of peer-to-peer or platform entity.* For each vacation rental listed or offered, a peer-to-peer or platform entity shall:
 - (a) Provide notice of the requirements of this section to any person or entity listing or offering a vacation rental on its service or platform by including a summary of such requirements, in a format acceptable to the Department, on its service or platform;
 - (b) Only provide payment processing services, or otherwise facilitate payment for a vacation rental that has a valid Certificate of Use in accordance with this section. A peer-to-peer or platform entity shall not be held liable pursuant to this subsection where it:
 - (i) As part of its vacation rental listing registration process, informs the responsible party that a Certificate of Use must be obtained before offering a vacation rental in the County; includes a link to the County webpage where a Certificate of Use may be applied for and obtained; requires the responsible party to confirm that such party has been advised of the County's regulations, including the Certificate of Use requirement; and provides a dedicated field to enable the responsible party to input the Certificate of Use number before such party completes registration and lists a vacation rental on the service or platform;
 - (ii) Provides the Department, on a monthly basis, a report disclosing for each vacation rental listing the information entered by the responsible party in the Certificate of Use dedicated field, or whether the responsible party left that field blank; the total number of vacation rental listings on the service or platform during the prior month; and the total number of nights that vacation rentals listed on the service or platform were rented during the prior month; and
 - (iii) Enters into an agreement with the Department that provides a means for:
 - (1) Addressing listings for properties that are offered, rented, or occupied as vacation rentals without a valid, unexpired Certificate of Use to ensure that any such listings do not operate as vacation rentals unless and until a Certificate of Use is obtained, and listings for properties with three or more fully adjudicated violations committed within a consecutive 12-month period to ensure that any such listings do not operate as vacation rentals unless and until the requirements of paragraph (6) of subsection (C) and paragraph (2) of subsection (E) have been complied with; and
 - (2) Facilitating responsible party compliance with the Certificate of Use requirement pursuant to paragraph (1)(b)(i) of subsection (D) above.
 - (c) Include language in rental documents, such as part of generally applicable terms of service that are affirmatively agreed to by the responsible party, to discourage the secondary subletting of vacation rentals;

- (d) Comply with administrative subpoenas or other appropriate legal process from the County seeking information relating to persons or entities listing or offering vacation rentals on its service or platform;
 - (e) Maintain records demonstrating that the requirements of this subsection have been satisfied, and such records shall be subject to inspection by the Department upon request pursuant to the issuance of an administrative subpoena or other appropriate legal process, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County; and
 - (f) Make available to the County for inspection upon request pursuant to the issuance of an administrative subpoena or other appropriate legal process all records relating to any suspected violations of state or local law associated with any vacation rental property in unincorporated Miami-Dade County, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County;
- (2) *Duties of responsible party.* For each vacation rental, the responsible party shall:
- (a) Provide written notice to transient occupants, prior to occupancy of the vacation rental, of the vacation rental standards set forth herein and other applicable laws, ordinances, or regulations concerning noise, public nuisance, vehicle parking, solid waste collection, and common area usage. This information shall also be made available to each transient occupant inside the subject property;
 - (b) Provide notice to prospective transient occupants at the time the subject property is listed as a vacation rental of any limitations on the property pertaining to access for the disabled;
 - (c) Provide notice to the homeowner's association or condominium/cooperative association or board, if any, that the subject property will be used as a vacation rental and adhere to all policies, rules, and regulations of such association or board pertaining to vacation rentals;
 - (d) Ensure compliance with all provisions of this section, including the vacation rental standards set forth herein, and promptly address and report any violations of this section or of such other law or regulation of which the responsible party knows or should know to the Department or law enforcement, as appropriate, as well as to the peer-to-peer or platform entity;
 - (e) Ensure that any violations regarding the rental of the property are able to be promptly addressed and resolved 24 hours a day/7 days per week; and
 - (f) Maintain a register with names and dates of stay of all guests, including but not limited to all transient occupants and their invitees, which shall be open to inspection by the County.
- (3) *Maximum occupancy.* Maximum overnight occupancy for vacation rentals shall be up to a maximum of two persons per bedroom, plus two additional persons per property, up to a maximum of 12 persons, excluding children under three years of age. At all other times, maximum occupancy for vacation rentals shall not exceed the maximum overnight occupancy of the vacation rental plus four additional persons per property, up to a maximum of 16 persons, excluding children under three years of age. For purposes of this subsection, "overnight" shall mean from 10:00 p.m. until 7:00 a.m. the following day. Notwithstanding the foregoing, at no time may the occupancy of a vacation rental exceed the maximum occupant load for the property under the Florida Building Code.
- (4) *Responsible party residency.* In any area designated on the CDMP as Estate or Low Density residential, the property on which a vacation rental is operated shall be a residence in which the responsible party resides for more than six months per calendar year. Nothing in this subsection shall preclude the rental of the property at the same time that the responsible party is residing there. The requirement of responsible party residency set forth in this subsection shall not apply

to a vacation rental located in any area designated Low-Medium, Medium, Medium-High, or High Density residential on the CDMP.

- (5) *Solid waste handling and containment.* Solid waste containers sufficient to handle the maximum occupancy permitted shall be maintained in accordance with chapter 15. All regulations regarding screening and storage of solid waste containers shall apply to vacation rentals. For purposes of this section, and as required in section 15-5, all solid waste containers shall be placed at curbside or other designated collection area only on scheduled collection days, no later than 7:00 a.m., and shall be removed therefrom that same day once collection has occurred.
- (6) *Advertising and signs.* Signs shall only be allowed to the extent permitted by the regulations in the code applicable to the relevant zoning district. Any advertisements or signs pertaining to vacation rentals that are inconsistent with the requirements, restrictions, and regulations of the Certificate of Use or these vacation rental standards shall be deemed prima facie evidence in any enforcement action that a vacation rental is being operated in violation of this section.
- (7) *Sexual offenders and sexual predators.*
 - (a) If the vacation rental property is within 2,500 feet of a school, pursuant to section 21-283 it shall be a violation to allow any person to occupy the property with knowledge that such person is a registered sexual offender or registered sexual predator in any jurisdiction. The responsible party shall be required to obtain confirmation of a nationwide search from the Miami-Dade County Police Department or other law enforcement agency that the prospective transient occupant or occupants is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense, as defined in section 21-280. The responsible party may call the Miami-Dade County Answer Center (311) to obtain assistance or referrals to determine whether a prospective transient occupant is a sexual offender or predator and to determine whether a residence is 2,500 feet from a particular school.
 - (b) If the vacation rental property is within 2,500 feet of a school, pursuant to section 21-281 it shall be a violation of this section for a sexual offender or sexual predator to occupy the property for a period of four or more days in any month.
- (8) *Posting of Certificate of Use.* Whenever a property is being used as a vacation rental, the Certificate of Use required by this section shall be available in a conspicuous location that is clearly visible to guests within the vacation rental and shall include, at a minimum, the name, address, and phone number of the responsible party and the maximum occupancy of the vacation rental.
- (9) *Parking and vehicles.* All parking must comply with article VII of this chapter, and all other applicable sections of this code. In addition, all vehicles associated with the vacation rental, whether in the possession or control of the property owner, responsible party, or transient occupant, shall only be parked within a driveway or in a designated parking area on the subject property; or, where there is no such driveway or designated parking area, vehicles shall only be parked on the street or swale directly in front of the subject property. Transient occupants shall not be permitted to park more than two vehicles at any one time on the subject property or on the street or swale during the rental period.
- (10) *Noise.* All transient occupants shall abide by section 21-28 of this code, which prohibits unreasonably loud, excessive, unnecessary, or unusual noise. In addition, outdoor amplified sound at a vacation rental shall not be permitted at any time.
- (11) *Public nuisance.* The responsible party and all transient occupants shall abide by all applicable state and local public nuisance laws and ordinances, including, but not limited to, sections 823.05 and 823.10 of the Florida Statutes and article XIII A of this code, which prohibits any place or premises from being used as the site for the unlawful sale or delivery of controlled substances, prostitution, youth and street gang activity, gambling, illegal sale or consumption of alcoholic beverages, or lewd or lascivious behavior that adversely affects the public health, safety, morals, and welfare.

- (12) *Pets.* If the responsible party permits transient occupants to have pets at the vacation rental, such pets shall be at all times secured within the property lines or on a leash, but shall not be tethered. Continual nuisance barking by pets is prohibited. The keeping of pets shall be subject to the regulations of this chapter and chapter 5 of this code regarding animals.
 - (13) *Swimming pool safety features.* If there is a swimming pool onsite, the responsible party shall ensure that the swimming pool has in place at least one of the pool safety features listed in Section 515.27, Florida Statutes, (i.e., pool safety barrier, pool safety cover, pool alarm, or door latch/alarm) prior to use of the property as a vacation rental by any person under the age of six. The responsible party shall be deemed to have complied with this provision if the pool safety feature is put in place at the time that the property is turned over to any transient occupant occupying the vacation rental. This provision shall not apply to a vacation rental with a community swimming pool onsite, such as in a condominium, as determined by the Director. Compliance with this provision shall be in addition to compliance with section 33-12 of this code pertaining to swimming pool fences.
 - (14) *Compliance with applicable laws.* In addition to the foregoing, the responsible party and all transient occupants shall comply with all other applicable local, state, and federal laws, regulations, rules, and standards, including, but not limited to, those pertaining to anti-discrimination, disability, and fair housing to the extent applicable.
- (E) *Enforcement.* The requirements of this section may be enforced in accordance with the following:
- (1) *Penalties.* Any person operating a vacation rental without a Certificate of Use or in violation of the vacation rental standards or any other provisions in this section shall be subject to the penalties set forth in section 8CC-10 and section 1-5, or both, of this code and to all other enforcement measures authorized in this code or by other applicable law.
 - (2) *Forfeiture of bond.*
 - (a) Where a bond is required to obtain or renew a Certificate of Use, if the vacation rental property is cited for a violation of this section within 12 months of providing the bond, and that citation is later resolved adversely to the owner or responsible party, then the bond shall be deemed forfeited, and the Certificate of Use for that vacation rental shall be revoked and may not be reissued for 12 months.
 - (b) If there are no violations for 12 months after providing the security, the Department shall release the bond upon written request from the responsible party. Until the responsible party obtains release, the bond shall continue to be subject to forfeiture for future violations.
 - (3) *Joint and several liability.* The property owner of the vacation rental property shall be liable for any violations of this section, any rule or regulation promulgated under this section, or any order of the Director made under this section. In addition, whenever two or more persons commit such a violation, each violator shall be jointly and severally liable for any fines or other damages assessed. This applies to situations where a property owner, responsible party, peer-to-peer or platform entity, or transient occupant, or any combination thereof, are together responsible for a violation of this section. It is provided, however, that where a peer-to-peer or platform entity does not itself commit a violation of this section, it shall not be held jointly and severally liable, nor shall it be held vicariously liable for any violations committed solely by the responsible party or transient occupants. In addition, where a peer-to-peer or platform entity complies with subsection (D)(1)(b)(i), (ii), and (iii), it shall not be held jointly and severally liable for providing a listing for, or collecting a fee for listing, any vacation rental.
 - (4) *Affordable Housing Trust Fund.* Five percent of all monies collected as penalties or fines based on violations of this section shall be deposited into the Affordable Housing Trust Fund of Miami-Dade County, established in chapter 17, article VIII of this code.

(Ord. No. 17-78, § 2, 10-17-17; Ord. No. 20-8, § 1, 1-22-20)