

## ORDINANCE 18-01

### **AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REGULATING SHORT-TERM RENTALS AND RELATED ACTIVITIES, AS DEFINED, AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH INCLUDING REQUIRED REGISTRATION OF SHORT-TERM RENTALS WITHIN THE TOWN, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

WHEREAS: The Town of Fort Myers Beach, Florida recognizes that renting private dwelling units within the Town for periods of less than 180 days shall be subject to reasonable regulations as proposed herein, in addition to those regulations in Land Development Code (LDC) Division 32-A, to maintain, the health safety and welfare of the citizens of the Town, and,

WHEREAS: The Town of Fort Myers Beach recognizes that the unregulated short-term rental of dwelling units uniquely impacts certain neighborhoods within the Town of Fort Myers Beach, Florida; and,

Whereas: it is necessary and in the interest of the public health, safety and welfare to monitor and provide reasonable means for citizens of the Town to mitigate impacts created by such short-term rentals of dwellings units within the Town, the following amendments to Chapter 10 of the Code of Ordinances are hereby adopted.

NOW, THEREFORE, BE IT ORDAINED, by the Town of Fort Myers Beach, Florida that:

1. The above recitals are adopted as the legislative and administrative findings of the Town Council.
2. The following shall be added to Chapter 10 as "Article VIII. Short-Term Vacation Rentals" of the Town Code of Ordinances.

Sec. 10-198. Registry of Short-Term Vacation Rentals.

Within 90 days of the effective date hereof, all dwellings and dwelling units required to be licensed under any provision of Chapter 509 *Florida Statutes* (2017) (as it may be amended from time to time) utilized for vacation rentals and not yet registered as a pre-existing weekly rental under Sec. 34-2392 *et. seq.*, shall be registered with the Town by the property owner or the property owners' authorized representative on forms provided by the Town or by electronic means devised by the Town. Any registration fees shall be paid by the registrant at the time of registration. Registration fees shall be set by resolution of the Town. Property owners or authorized agents shall register with the Town within 90 days of conducting short-term rental business. Pre-existing rental units shall continue registration as provided in Sec. 34-2392 *et. seq.*

Upon completion of registration, all registrants shall receive from the Town a unique registration number. This registration number shall be included in all forms of public advertising of the units.

All applications for registration shall include:

- (1) Street address of the unit being registered;
- (2) Name, address, telephone number and any email address of the owner.
- (3) Name, address and contact telephone/cellphone number of either the owner, the authorized representative, or other responsible party who shall be available 24 hours a day/ 7 days a week. This party must have authority to immediately address and take affirmative action within one (1) hour of notice from the Town to correct code-of-conduct violations associated with the registered unit.
- (4) Registrants must acknowledge, on the registration form regardless of format, their understanding and agreement to comply with the Town's short-term rental regulations; and, that the registrant understands and agrees to comply with all applicable local, state and federal laws, regulations and standards, to include, but not be limited to Chapter 509, *Florida Statutes*, Rules Chapter 61C and 69A Florida Administrative Code; the Fort Myers Beach Fire Control District; the Lee County Tax Collector; the Florida Department of Revenue; and, the Florida Department of Business and Professional Regulation Vacation Rental Dwelling License issued pursuant to Chapter 509, *Florida Statutes*. It shall be unlawful for any registrant to give false or misleading information in connection with registration application.
- (5) No registration number issued hereto shall be transferred, assigned, or used by any person, owner, or agent of the owner, other than the person to whom the number was issued; or, at any location other than the one for which it was issued. Registration creates no vested rights of any kind.
- (6) Registrations shall be renewed annually. Registration fees shall be set by resolution of the Town Council.
- (7) Opt-Out Provision. Condominium associations may opt out and self-perform an enforcement program for Code of Conduct violations under LDC Sec. 34-2393 not unlike the methods and procedures at LDC Sec. 2394 upon making application to the Town Manager or designee and paying the required fee for each building for which exemption is sought.
  - (a) Opting out condominium associations who fail to comply with the requirements of LDC Sec. 34-2394 shall immediately lose the option to opt out.

Sec. 10-199. Enforcement and Penalties.

- (1) Enforcement of these provisions are in addition to any other enforcement mechanism provided in the Code of Ordinances and any such fines or penalties applicable under Town ordinance or state law.

(a) The Town Manager or designee is authorized to pursue any one or combination of the enforcement mechanisms provided in the code (*e.g.* LDC Chap. 1, Sec. 1-5; or LDC Chap. 2, Art. 2, Div. 2) for any violation of this chapter.

(b) Persons who may be charged with a violation of this chapter include property owners, operators, rental agents, guests, and any other person using the structure wherein the violation has been committed.

Sec. 10-200-10-220. Reserved.

3. SEVERABILITY. If any provision, section, sub-section, paragraph, clause or portion of this ordinance or the application thereof to any person or circumstance, is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining provisions or portions thereof.

4. CODIFICATION AND SCRIVENER'S ERRORS. The Town Council intends that this ordinance be made a part of the Fort Myers Beach Code of Ordinances; that section of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section", "article", or some other appropriate word or phrase to accomplish codification; and, regardless of whether this ordinance is ever codified, the ordinance may be renumbered or re-lettered and typographical errors that do not affect the intent may be corrected with authorization of the Town Manager or Town Manager's designee, without the need for a public hearing.

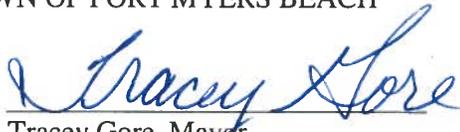
5. EFFECTIVE DATE. This ordinance becomes effective immediately upon its adoption.

THE FOREGOING ORDINANCE was moved for adoption by the Town Council after a second reading upon a motion by Council Member Butcher with second by Council Member Shamp; and, thereupon put to a roll call vote, the result of which are as follows:

Tracey Gore, Mayor	aye
Joanne Shamp, Vice-Mayor	aye
Dennis Boback, Council Member	nay
Bruce Butcher, Council Member	aye
Anita Cereceda, Council Member	nay

THE ORDINANCE WAS DULY PASSED AND ADOPTED this 7<sup>th</sup> day of May, 2018.

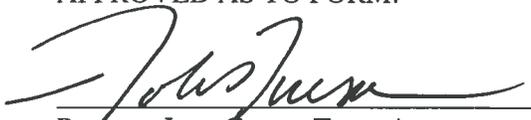
TOWN OF FORT MYERS BEACH

By:   
Tracey Gore, Mayor

ATTEST:

  
Michelle D. Mayher, Town Clerk

APPROVED AS TO FORM:

  
Peterson Law Group, Town Attorney