

ORDINANCE NO. 2019-07

AN ORDINANCE OF THE TOWN OF PALM SHORES, FLORIDA REPEALING IN ITS ENTIRETY SECTION 157.508 OF THE TOWN LAND USAGE CODE; REPLACING SUCH REPEALED SECTION WITH NEW SECTIONS 157.508 THROUGH SECTION 157.508.22; RELATING TO "VACATION RENTALS," PROVIDING A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTALS; MAKING FINDINGS OF FACTS; PROVIDING FOR ENFORCEMENT; REQUIRING VACATION RENTAL REGISTRATION; PROVIDING REQUIREMENTS FOR REGISTRATIONS; SPECIFYING DUTIES OF VACATION RENTAL OWNERS AND ALLOWING AGENTS; PROVIDING MAXIMUM OCCUPANCY AND GRANDFATHERING OF OCCUPANCY; PROVIDING REQUIREMENTS FOR VACATION RENTALS; REQUIRING RENTAL AGREEMENT PROVISIONS AND POSTINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, FLORIDA:

**SECTION 1.** Section 157.508 of the Code of Ordinances of the Town of Palm Shores is hereby repealed.

**SECTION 2.** New Sections 157.508 through 157.508.22 are hereby created which such new sections shall read as follows:

**"VACATION RENTAL CODE**

**Division A. GENERAL PROVISIONS**

**Section. 157.508. Vacation Rentals, Authority, Scope and Purpose.**

This Code is enacted under the home rule power of the Town of Palm Shores in the interest of the health, peace, safety and general welfare. This Code may be referred to as the "Town of Palm Shores Vacation Rental Code".

Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments" which are rented, or advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less; and "nontransient public lodging establishments" which are rented, or advertised or held out for rental to guests for periods of at least 30 days or 1 calendar month, whichever is less.

Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments, called "vacation rental" which is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-

family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

It is the intent of this Code to regulate vacation rentals as defined by Florida Statutes, which are located in residential zoning districts of the Town of Palm Shores, which collectively are referred to herein as "Vacation Rentals".

In 2011, the Florida Legislature passed House Bill 883, (Section 2011-119, Laws of Florida), amending Florida Statutes, Section 509.032(b) to provide that "[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."

In 2014, the Florida Legislature passed Senate Bill 356 (Section 2014-71, Laws of Florida), amending that same statute to read "[a] local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011."

The official statement of legislative intent of Senate Bill 356 as reflected in the House of Representatives' Final Bill Analysis, dated June 19, 2014, states that the "Effect of the Bill" is as follows:

"The bill permits local governments to create regulation that distinguishes vacation rentals from other residential property. In the past, local government regulations have included noise, parking, registration, and signage requirements for vacation rentals.

"The bill does not allow local governments to create regulations that would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. These types of regulation remain preempted to the state.

"The grandfather provision in existing law exempting any local law, ordinance, or regulation adopted on or before June 1, 2011, is maintained. Any local law, ordinance, or regulation passed before that date that prohibits or restricts vacation rentals based on the duration or frequency may continue to be enforced."

This ode does not prohibit Vacation Rentals, or the duration or frequency of Vacation Rentals, nor is it the intention of the Town of Palm Shores to do so, but rather this Code is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare.

### **Section 157.508.1. Findings of Facts**

Based on information presented to the town by residents of the Town of Palm Shores and owners and operators of Vacation Rentals, the practical first-hand experience and observations of Town Council Members, common sense deductions of Town Council



Members based on long term experiences in the Town, information learned by Town Council Members from various residents, information from the U.S. Census, as well as evidence and testimony presented at public hearings before the Town Council, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the Town Council finds:

(1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.

(2) In contrast, transient occupants of Vacation Rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.

(3) Vacation Rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, extreme size and/or greater occupancy.

(4) Vacation Rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.

(5) Vacation Rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.

(6) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of Vacation Rentals.

(7) According to the U.S. Census, (2010) the Town of Palm Shores has an average household size of 2.27 persons.

(8) According to the U.S. Census, (2010) the Town of Palm Shores has an average family size of 2.91 persons.

(9) According to the U.S. Census, (2010) the Town of Palm Shores has an average household size of owner-occupied units of 2.35 persons.

(10) According to the U.S. Census, (2010) the Town of Palm Shores has an average household size of renter-occupied units of 1.92 persons.

(11) Vacation Rentals situated in residential zoning district can and do create a great disparity in occupancy.

(12) The Town finds that such rentals increase the demands upon code enforcement, police, fire and emergency services beyond those created by non-vacation rental residential dwelling units.

(13) Vacation rental use and longer term residential use and ownership are generally incompatible, due to rapid turnover associated with short term vacation residential use and its disruptive effect on the peaceful use and enjoyment of residential areas.

(14) The primary reasonable investment-backed expectation of owners of residential dwelling units in the Town is the use that is a residence and not a vacation rental.

(15) Vacation rentals is a use that is more in nature, that is best accommodated by hotels, motels and timeshares; and,

(16) The regulation of vacation rentals will contribute to the stability of existing residential neighborhood.

(17) The regulation of vacation rentals will protect visitors to the Town by assuring that fire and safety inspections are periodically conducted, that they receive necessary information about the dwelling which they have rented, and notifying them of the owner of the dwellings obligation to provide for their safety and welfare.

(18) The regulation of vacation rentals is necessary in order to protect the public health, safety and welfare of the City, its residents and its visitors.

## **Section 157.508.2. Definitions**

The following terms as used in this Code are defined as set forth hereinafter:

“Bedroom” means any room in a Vacation Rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, or any main living area. If a room has been added, altered, or converted without any required building permit having been granted, such room shall not be deemed a bedroom. If a previously approved bedroom exists as of the effective date of this code and does not have a separate closet that is an integral part of the permanent construction of the structure, but rather utilizes an armoire or other furniture piece for clothing storage, the requirement for a closet to qualify as a bedroom is waived.

“Town Code” shall mean the Town of Palm Shores Code of Ordinances, Zoning Code, Land Usage Code, Comprehensive Plan and Future Land Use Map and applicable Resolutions.



“Living Area”. The area under roof designated primarily for habitation and specifically excluding garages. As used in this Code, the total living area shall be computed as follows: The exterior dimensions of all enclosed spaces within the framework of the building unit (length and width), multiplied and totaled, as follows:

- (1) Any room or area accessible from any other room or area within the framework shall constitute living area.
- (2) A room or area must be totally enclosed by walls and covered by roofing.
- (3) A room or area must be protected from the elements.
- (4) A utility room within the framework of the main building and accessible within the main living area constitutes living area.

“Occupant” means any person who occupies a Vacation Rental overnight.

“Owner occupied” means the Vacation Rental is then occupied by person(s), at the Vacation Rental Owner’s consent, who do not pay rent for the occupancy of the Vacation Rental, when such persons are members of the family of the Vacation Rental Owner.

“Peer-to-Peer 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 occupant whether through the internet or other means.

“Responsible Party” shall mean the owner, or the person designated by the owner of the Vacation Rental to be called upon to answer for the maintenance of the Vacation Rental and the conduct and acts of Vacation Occupants of residential properties.

“Transient public lodging establishments” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

“Vacation Rental” is collectively a vacation rental as defined under Florida Statutes, and any transient public lodging establishment which is located in the residential zoning districts of the Town of Palm Shores.

“Vacation Rental Owner” is the fee simple owner of the Vacation Rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the Vacation Rental Owner is not an individual, the Vacation Rental Owner shall designate a responsible natural person to perform the functions and duties of a Vacation Rental Owner herein. The duties and functions of a Vacation Rental Owner may, at the option of the Vacation Rental Owner, be performed by an agent of the Vacation Rental Owner, so long as the Vacation Rental Owner notifies the Town in writing, on a form provided by the Town, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the Vacation Rental Owner. The Vacation

Rental Owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by resolution by the Town Council. The Vacation Rental Owner shall be held responsible for all actions of such designated agent with respect to the applicable Vacation Rental.

#### **Section 157.508.2. Enforcement.**

Violations of this Code shall be enforced as code violations in accordance with the provisions of Florida Statutes, Chapter 162, and the Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the Town Council.

#### **Section 157.508.3. Appeals.**

Any decision of the Mayor or his or her authorized designee relating to this ordinance shall be rendered in writing in appealable form, and reviewed by the Town Special Magistrate if a notice by the Vacation Rental Owner or agent is filed with the Town Clerk within ten (10) days after the action to be reviewed. The Town Clerk or designee shall place the matter on the agenda of the next available meeting of the Special Magistrate, but no later than 35 days after the notice by the Vacation Rental Owner or agent is filed, at which the matter will be reviewed. The decision of the Special Magistrate shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

#### **Section 157.508.4. Construction of Code.**

This Code shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of the residential zoning districts of the Town of Palm Shores, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Palm Shores' residents.

### **Division B. VACATION RENTAL REGISTRATION**

#### **157.508.5. Registration required.**

As of January 1, 2020, a Vacation Rental registration shall be required to operate a Vacation Rental within the Town of Palm Shores in the residential zoning districts, utilizing forms promulgated by the Town, electronically or in hard copy. The Town may extend the date that such registration is required by notice on the Town's website should the Town not publish forms and fees for registration by January 1, 2020. Prior to the issuance of a Vacation Rental registration, the Responsible Party has the affirmative duty to ensure that



the dwelling unit and property in or on which the Vacation Rental is or will be located, is in full compliance with the appropriate portions of Town Code, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Codes. A separate Vacation Rental registration shall be required for each Vacation Rental. The operation of a Vacation Rental without registration after the date registration is required shall be a violation of this ordinance, except in the instance of providing accommodations to fulfil a pre-existing contract.

**157.508.6. Vacation Rental registration.**

- (a) A Vacation Rental Owner, Agent, or Responsible Party, as applicable, registering a Vacation Rental with the Town shall submit to the Town a completed registration form, utilizing a form promulgated by the Town, together with all applicable registration and inspection fees in the amount set by resolution of the Town Council.
- (b) A registration application shall include the following:
  - (1) Full address of the Vacation Rental property being registered, along with proof of ownership;
  - (2) Name, address, phone number, and e-mail, of the property owner;
  - (3) Name, address, e-mail, and emergency contact phone number of Responsible Party for the Vacation Rental, which shall be a twenty-four (24) hour, seven (7) days a week contact number;
  - (4) The Vacation Rental's current and active license number as a transient public lodging establishment with the Florida Department of Business and Professional Regulation (DBPR), if the registrant has such license;
  - (5) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue and Brevard County for sales and Tourist Development Tax collection, respectively, if the registrant has such certificates or accounts; unless a peer-to-peer platform entity through which the vacation rental is booked will be remitting all such taxes associated with the Vacation Rental on the Responsible Party's behalf;
  - (6) Business tax receipt from the Town of Palm Shores, if applicable;
  - (7) Statement attesting to the number of bedrooms and paved off-street parking spaces available on the property with affirmation that "No On-Street Parking" will be allowed;
  - (8) Exterior site sketch. An exterior sketch of the Vacation Rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the

Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.

- (9) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.
  - (10) Acknowledgement signed by the owner, or designated Responsible Party, understanding and agreeing to initial and ongoing compliance with the City's vacation rental regulations and standards contained herein and all other applicable local, state, and federal laws, regulations, and standards; and
  - (11) The landline telephone number on the main level and in the common area at the rental with the ability to call 911 as required by Division C of this Code.
- (c) If a registration form is incomplete, the registrant will be notified of the deficiency, and be allowed fifteen (15) days to provide any missing information.

#### **157.508.7. Modification/Change of Ownership of Vacation Rental Registration.**

An amendment of a Vacation Rental Registration Application and Affidavit of Compliance shall be required, with payment of the appropriate fee set by resolution, in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the number of bedrooms in the Vacation Rental.
- (2) An increase or decrease in the number of parking spaces or a change in the location of parking spaces for the Vacation Rental.
- (3) A change in the designated Responsible Party.

A change of ownership shall require a new application and all required documents including appropriate fees set by resolution.

#### **157.508.8. Duration of Vacation Rental Registration.**

A Vacation Rental Registration shall be valid for one (1) year after the date of registration.

#### **157.508.9. Renewal of Vacation Rental Registration.**

A Vacation Rental Owner must renew its registration annually prior to the expiration date of the previous Vacation Rental Registration and is subject to an annual inspection and applicable fees.

#### **157.508.10. Inspection of Vacation Rentals.**



- (a) Inspection of a Vacation Rental to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes which governed at the time of completion of the subject construction, shall be required subsequent to the initial registration of the Vacation Rental, and annually after each renewal. If instances of noncompliance are found, all such instances of noncompliance shall be handled as other violations of the Florida Building Code and Florida Fire and Life Safety Codes are otherwise handled in the City. These requirements will not be imposed so as to affect contracts that pre-exist the effective date of this Ordinance. This inspection fee shall be set by Resolution of the Town Council.
- (b) Annual inspections to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes, and the posting of notice requirements required herein shall be made by the Town or designated contractor through appointment with the Vacation Rental Owner, agent, or Responsible Party, as applicable. The annual inspection fee shall be set by Resolution of the Town Council. If a Town inspector or designated contractor has made an appointment with Vacation Rental Owner or agent, as applicable, for an inspection, and the Town inspector or designated contractor is unable to complete the inspection as a result of an action or inaction of the Vacation Rental Owner or agent, or an occupant of the Vacation Rental, the Vacation Rental Owner shall be charged a "re-inspection" fee in an amount set by resolution of the Town Council to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection. In addition, failure of a Vacation Rental Owner agent, or Responsible Party, as applicable, to make the Vacation Rental available for an inspection within twenty (20) days after notification by the Town in writing that the Town is ready to conduct the annual inspection, shall be a violation of this Code punishable by a fine as set by resolution by the Town Council. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

#### **157.508.11. Sale of Vacation Rental Property**

When the ownership of the Vacation Rental is sold or otherwise transferred, the new owner shall file a new registration with the Town within thirty (30) days from the date of the sale or transfer. Failing such application for registration, any Certificate of Compliance as to that Vacation Rental Property shall be null and void on the thirty-first (31<sup>st</sup>) day after such sale or transfer.

#### **157.508.12. Vested Rights/Waiver/Estoppel**

A Vacation Rental Registration shall not be construed to establish any vested rights or entitle the registered Vacation Rental to any rights under the theory of estoppel. A Vacation Rental Registration shall not be construed as a waiver of any other requirements contained within the Town of Palm Shores Town Code and is not an approval of any other code requirement outside this Code. The registration of a Vacation Rental is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Town of Palm Shores Town Code.

**157.508.13. False Information.**

It shall be unlawful for any person to give any false or misleading information in connection with any application for registration, modification, or renewal of a vacation rental as required by this article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application.

**157.508.13. Effective Date for Existing Vacation Rentals**

The provisions of Sections 157.508 through Section 157.508.22 will not become effective for existing Vacation Rental properties until January 1, 2020. If the registration forms to implement the required registration provisions of this Code are not available by January 1, 2020, the Town may extend the requirement to register Vacation Rental properties by notice on the Town's website.

**157.508.14. Duties of Vacation Rental Owner or Responsible Party.**

- (a) Every Vacation Rental Owner, or Responsible Party, as applicable, shall be available by phone at the listed phone number 24-hours a day, seven days a week to respond to police, fire or other emergency personnel requests. Otherwise, response to contact by the Town's regulatory personnel shall be required only Monday through Thursday 9 am to 4 pm and Friday 9 am to 3 pm, except holidays. Failure of the Vacation Rental Owner, or Responsible Party, as applicable, to fulfill this duty, shall be a violation of this ordinance which shall be punished by fine.
- (b) Responsible Party. All vacation rental units, if not managed by the Vacation Rental Owner, shall have a designated Responsible Party.
  - (1) The Responsible Party shall be available 24 hours per day, seven days a week, for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. This Party must have authority to immediately address and take affirmative action, within one (1) hour of notice from the Town, on violations concerning life-safety, noise, and parking violations. A record shall be kept by the Town of the complaint and the Responsible Party's response, as applicable.
  - (2) An owner may change his or her designation of a Responsible Party temporarily, up to thirty cumulative days during any consecutive twelve



month period, or permanently; however, there shall only be one designated Responsible Party for each vacation rental property at any given time.

- (3) It shall be the sole responsibility of the property owner to appoint a reliable Responsible Party and to inform the manager of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this Code. Service of notice on the Responsible Party shall be deemed service of notice on the property owner, tenant and violator.
- (c) A Vacation Rental Owner or Responsible Party is responsible for ensuring sexual offenders/predators as defined in s. 775.21, s.943.0435, s. 944.607, or s. 985.4815 register at the Brevard County Sheriff's Office, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.
- A Vacation Rental Owner and/or Responsible Party shall comply with Florida law, pertaining to the distance separation of homes with a sexual offender/predator residing within the Vacation Rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.
- Failure to comply with this Code shall result in the revocation of the Business Tax Receipt, if applicable, and Vacation Rental Registration for the Vacation Rental and other enforcement provisions outlined in the Town's Code
- (d) The Vacation Rental Owner or Responsible Party shall inquire at check-in if any guest of at the Vacation Rental is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815. If any guest of a Vacation Rental public lodging is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815, the operator shall immediately notify the Town and the Brevard County Sheriff's Office.
- (e) The Owner or Responsible Party shall provide the Town and post in a conspicuous place in the premises, the name, address and day/evening telephone numbers of the Responsible Party and be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. Any change in the responsible party shall require written notification to the Town on forms provided by the Town and in a manner promulgated by the Town upon payment of the applicable fees.
- (f) Complaints to the Responsible Party concerning violations by occupants of vacation rental units to this Code shall be responded to within a reasonable time but in no instance greater than three hours. A record shall be kept of the complaint and the manager's response for a period of at least three months after the incident, which shall be available for inspection by the Town during business hours.

- (g) An owner may change his or her designation of a Responsible Party; however, there shall only be one Responsible Party for each vacation rental property at any given time. To change the designated agent or responsible party, the owner shall notify the Town in writing of the name, contact information and other information required in this subsection for the new vacation rental manager, along with a signed affidavit from the new agent or responsible party acknowledging and agreeing to serve in this capacity and perform the duties of this Code. Any notice of violation or legal process which has been delivered or served upon the previous vacation rental manager, prior to the Town's receipt of notice of change of the vacation rental manager, shall be deemed effective service.
- (h) It shall be the sole responsibility of the property owner to appoint a reliable Responsible Party and to inform the Responsible Party of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this Code. No property owner shall designate as a Responsible Party any person who does not expressly comply with the provisions of this Code. The property owner or the Responsible Party shall be deemed to be the "violation" of this Code as the term is used in F.S. § 162.06. Service of notice on the Responsible Party shall be deemed service of notice on the property owner, tenant and violator. Copies of all notices shall also be provided to the property owner.

## **Division C. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS**

### **Section. 157.508.15. Generally**

The standards and requirements set forth in this Article shall apply to the rental, use, and occupancy of Vacation Rentals in the Town of Palm Shores.

### **Section. 157.508.16. Minimum safety and operational requirements.**

Vacation Rentals in the Town of Palm Shores shall meet the applicable standards under the Florida Statutes, the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and the Florida Fire Code and Life Safety Code, and each Vacation Rental shall have at least one landline telephone on the main level and in the common area at the rental with the ability to call 911. The landline telephone number shall be registered at all times with Brevard County Emergency Management for the purpose of receiving emergency alerts for items including, but not limited to, mandatory evacuations for hurricanes and requests to limit utility usage. Additionally, the landline telephone number shall be registered at all times with the Town of Melbourne Utilities Department, the water provider within the Town of Palm Shores, for the purposes of receiving boil water alerts and rescinding alerts.



**Section. 157.508.17. Maximum occupancy based on site capacity / limitations / grandfathering.**

- (a) The maximum occupancy of a Vacation Rental shall be stated in the Vacation Rental registration form, and shall be limited to two occupants (as defined herein) per bedroom (as defined herein) plus two occupants with a maximum capacity of 12 persons.
- (b) The maximum occupancy restriction as set forth above shall not apply when the property is Owner occupied by the Vacation Rental Owner.
- (c) Notwithstanding the above, a Vacation Rental that was used as a Vacation Rental as of the effective date of this ordinance, may apply for the status of grandfathered for a period of ten (10) years, as to occupancy limitations, and may cap its occupancy based upon the following criteria and procedures. Vacation Rentals that have an occupancy of twelve (12) or less as determined according to Sec. 157.508.14 (a) above will not require grandfathering to maintain that occupancy.
  - (1) A grandfathered Vacation Rental shall have its maximum occupancy based upon two persons per bedroom (each bedroom must meet the definition of bedroom herein) at the time of application for grandfather status. A change in the number of bedrooms at the Vacation Rental shall cause such Vacation Rental to lose its grandfathered status.
  - (2) The Vacation Rental Owner, or agent, as applicable, ("Grandfathering Applicant"), shall complete a Grandfathering Application as prescribed by the Town, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the number of bedrooms as herein defined in the Vacation Rental.
  - (3) The Grandfathering Application and supporting proof shall be submitted to the Town for review by Town staff, and such staff shall make a written determination as to the maximum occupancy of such grandfathered Vacation Rental.
  - (4) If the Town staff fails to confirm the requested occupancy level, the Town of Palm Shores shall notify the Grandfather Applicant of that fact, and the occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfather Applicant before the Special Magistrate to provide the Grandfather Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the Special Magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the Town staff upon initial review.
  - (5) An application for grandfathering shall be submitted, if at all, but no later than the time of registration of the Vacation Rental, but not later than January 1, 2020, along with fees established by the Town Council by resolution. If the Town extends the date that registration is required, the deadline for the application for grandfathering shall also be extended to the same extended date. If a Vacation

Rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such Vacation Rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.

- (6) If it is reasonably determined by the Town staff that any information supplied to the Town of Palm Shores in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine. If there is such a determination by Town staff, the Town of Palm Shores shall notify the Grandfather Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfather Applicant before the Special Magistrate to provide the Grandfather Applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the Special Magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the Town staff shall be final.
- (7) If a Vacation Rental registration does not exist as to a Vacation Rental for a period in excess of thirteen (13) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that Vacation Rental.

**Section. 157.508.18. Parking, solid waste disposal, legal compliance, evacuations, miscellaneous provisions.**

- (1) All vehicles associated with the Vacation Rental, including visitors not residing at the Vacation Rental, must be parked in compliance with the Town of Palm Shores Code of Ordinances. All vehicles associated with the vacation rental must be parked within a driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking. Parking shall be paved and shall not be located off the Vacation Rental property, including common areas.

Parking of boats, watercraft, recreational vehicles, campers, and trailers at Vacation Rentals shall be to the rear of the front building line of the property.

- (2) Solid waste disposal (household garbage, recycling, and yard trash) at Vacation Rentals shall be in compliance with the Solid Waste Franchise Agreement adopted by the City.
- (3) Vacation rental occupants are required to comply with all local, state and federal laws at all times, including those related to illegal activities, local nuisance ordinances, and emergency management.
- (4) Vacation rental occupants are required to participate in all mandatory



evacuations due to hurricanes, tropical storms or other threats to resident safety, as required by state and local laws.

- (5) A vacation rental shall not be eligible for a special activity permit.
- (6) No temporary storage containers may be stored on the vacation rental premises. The term "temporary storage container" shall mean any container, structure, box, cylinder, or crate made of any material not permanently affixed to real property, that is enclosed or capable of being enclosed on all sides, top and bottom, that is stored, placed, located or put on any real property within the Town for the purpose of storing personal property, construction material, trash, refuse, garbage, debris, or other material or matter. Provided, however, with prior authorization from the Building Department a temporary storage container may be authorized during valid construction permit activity for this location.
- (7) No accessory structure, vehicle, recreational vehicle, trailer, camper, or similar apparatus shall be utilized or rented as a Vacation Rental.

**Section. 157.508.19. Required Local Information Provided in a Vacation Rental.**

- (a) In each Vacation Rental, there shall be provided, in a prominent location on the inside of the Vacation Rental, the following written information:
  - (1) The official street address and landline telephone phone number of the Vacation Rental.
  - (2) The name, address and phone number of the Vacation Rental Owner or Responsible Party as applicable.
  - (3) The maximum occupancy of the Vacation Rental.
  - (4) A copy of a document to be supplied by the Town which includes excerpts from Town of Palm Shores ordinance provisions of general application relevant to Vacation Rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, and Town of Palm Shores Noise Ordinance, as specified by resolution of the City, as a lease addendum. The Town will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request, and the Town will post such document on its website.
  - (5) The maximum number of vehicles that will be allowed to park at the Vacation Rental, along with a sketch of the location of the paved off-street parking and a notice that visitors to the Vacation Rental, not residing at the rental are also prohibited from on-street parking.
  - (6) The days and times of trash and recycling pickup.

- (7) Phone number and address of Holmes Regional Medical Center Melbourne and Health First Viera Hospital and directions from the Vacation Rental to the hospital.
- (8) Emergency and nonemergency phone numbers for Brevard County Sheriff's Office and Brevard County Fire and Rescue.
- (9) Emergency evacuation instructions.
- (10) Rip Currents are prevalent in the Atlantic Ocean here in Brevard County. Information from the National Weather Service, available via from <http://weather.gov/mlb> shall be provided to occupants important information on the dangers of Rip Currents that occur in the Atlantic Ocean shall be prominently displayed
- (11) Notice of the need for respect for the peace and quiet of neighborhood Residents, especially during town wide quiet hours identified in the Town Code of Ordinances Section 91.060, et seq. A statement that all Occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times.
- (12) In addition, there shall be posted, next to the interior door of each bedroom, and the exterior doors exiting the Vacation Rental a legible copy of a building evacuation map – Minimum 8-1/2" by 11".

**Section. 157.508.20. Minimum life/safety requirements.**

- (1) Swimming pool, spa, and hot tub safety. A swimming pool, spa, or hot tub shall comply with the current standards of Florida Statutes Section 515 Residential Swimming Pool Safety Act.
- (2) Smoke and carbon monoxide (CO) detection and notification system. There shall be a smoke and carbon monoxide detection system, installed and maintained in compliance with the requirements of Florida Building Code Residential, Sections R314 Smoke Alarms R315 Carbon Monoxide Alarms.
- (3) Fire extinguisher. On each floor there shall be available a portable, multi-purpose dry chemical 2A:10B: C fire extinguisher, which shall be installed and maintained in compliance with NFPA 10.
- (4) Battery powered emergency lighting. Battery powered emergency lighting, which illuminates automatically for at least one (1) hour when electricity is interrupted, is required at each building exit.

**Division D. EXEMPTIONS**



**Section. 157.508.21. Exemption for pre-existing rental agreements**

Notwithstanding any other provision of this ordinance, rental agreements with prospective Occupants for Vacations Rentals that were pre-existing as of the enactment of this portion of this Code, (hereinafter "Pre-existing Agreements") are exempt from the provisions of this ordinance.

If a Vacation Rental is cited for a violation of this Code, (that would not be a violation if it were not for this Code), when the Vacation Rental is occupied under the terms of a Pre-existing Agreement, the Vacation Rental Owner may defend such violation based on the fact that the Vacation Rental was exempt from this Code due to it being occupied pursuant to a Pre-existing Agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the Vacation Rental Owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a Pre-existing Agreement;
2. Copy of e-mail or other communication evidencing a binding Pre-existing agreement;
3. Information from the Occupant confirming that there was a binding agreement in a time-frame to make the agreement a Pre-existing Agreement under this Section ; or
4. Written Vacation Rental Agreement dated prior to September 24, 2019.

If it is reasonably determined by the Town staff, and confirmed by the Town's Special Magistrate, that any information supplied to the Town of Palm Shores in support of an application for exemption or in support of a defense based upon Pre-existing Agreement was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine.

**Section. 157.508.22. Exemption for Owner Occupied Vacation Rentals**

The provisions of this Code shall not apply to owner occupied Vacation Rentals or property which is homestead under the Florida Constitution and Florida law from forced sale under any process of law. Any person desiring to qualify for the exemption herein shall file an affidavit in substantially the following form:

**"Affidavit of Exemption"**

**State of \_\_\_\_\_**  
**County \_\_\_\_\_**

**Before me the undersigned authority personally appeared \_\_\_\_\_**  
**(hereinafter the "Owner") who upon oath deposes and states:**

1. I am over the age of 18 and competent to make this Affidavit.
2. I own the following real property in the Town of Palm Shores, Brevard County, and State of Florida:

(Legal description and Street Address)

3. Check one or both as applicable:

( ) I currently occupy the property described in paragraph 2 above and have resided on this property continuously and uninterruptedly from \_\_\_\_\_ to \_\_\_\_\_ the date of this Affidavit.

Or

( ) I have applied for and received the homestead tax exemption as to the above-described property, that \_\_\_\_\_ is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

4. The purpose of this Affidavit is to qualify for exemption from the Town of Palm Shores Vacation Rental Ordinance.

Sworn and subscribed before me by \_\_\_\_\_ this day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Notary"

**SECTION 3 Severability/Interpretation Clause.** In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

**SECTION 4. Codification.** The provisions of this Ordinance shall be codified as, and become and be made a part of the Code of Ordinances of the Town of Palm Shores. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

**SECTION 5.** That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

**SECTION 6. Effective Date.** Except as may be otherwise provided for in Division B this Ordinance shall be effective upon adoption by the Town Council.



This Ordinance shall be effective upon adoption by the Town Council; however, the provisions of Sections **157.508 through Section 157.508.22 will not become effective for existing Vacation Rental properties until January 1, 2019**. If the registration forms to implement the required registration provisions of this Code are not available by January 1, 2020, the Town may extend the requirement to register Vacation Rental properties by notice on the Town's website.

This ordinance was approved on its first reading this 22<sup>nd</sup> day of October, 2019 and adopted on its second and final reading this 19<sup>th</sup> day of November, 2019

TOWN OF PALM SHORES  
BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Carol McCormack  
Mayor



ATTEST:

  
\_\_\_\_\_  
Patricia Burke, MPA, MMC  
Town Clerk