ORDINANCE NO. O-2018-XXX

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, AMENDING CHAPTER 7 OF THE CITY'S CODE OF ORDINANCES ENTITLED "LICENSES AND BUSINESS REGULATIONS" BYCREATING ARTICLE XII TO BE ENTITLED "VACATION RENTALS" CREATING SECTION 7-152; CREATING SECTION 7-152 PROVIDING A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTALS; MAKING FINDINGS OF FACTS; PROVIDING FOR ENFORCEMENT; CREATING SECTION 7-153 REQUIRING VACATION RENTAL REGISTRATION; PROVIDING REQUIREMENTS FOR REGISTRATIONS; REQUIRING INSPECTION; SPECIFYING DUTIES OF VACATION RENTAL OWNERS AND ALLOWING AGENTS; CREATING SECTION 7-154 TO PROVIDE FOR MAXIMUM OCCUPANCY AND GRANDFATHERING OF OCCUPANCY; REQUIRING RENTAL AGREEMENT PROVISIONS AND POSTINGS; CREATING SECTION 7-155 PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 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 "non-transient 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.

WHEREAS, 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.

WHEREAS, It is the intent of this Chapter to regulate vacation rentals as defined by Florida Statutes, as well as other transient public lodging establishments that do not have on-site management, which are located in the single family residential dwelling zoning district of the City of Oakland Park, which is referred to herein as "Vacation Rentals".

WHEREAS, In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 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."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, AS FOLLOWS:

SECTION 1. The above referenced "Whereas" clauses are true and correct and made a part hereof.

SECTION 2. Chapter7 of the City's Code of Ordinances entitled "Licenses and Business Regulations" is amended to create Article XII to be entitled "Vacation Rentals" to read as follows:

SECTION 7-52. VACATION RENTALS

1. Authority, Scope and Purpose. This section is enacted under the home rule power of the City of Oakland Park in the interest of the health, peace, safety and general welfare.

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

(a). Findings of Facts

Based on information gleaned from the practical first-hand experience and observations of City Commissioners, common sense deductions of City Commissioners based on long term experiences in the City of Oakland Park, information learned by City Commissioners from various residents, information from the U.S. Census 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 City Commission 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 a residential neighborhood 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 a residential neighborhood can disturb the quiet nature and atmosphere of the residential neighborhood, 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) According to the 2010 U.S. Census, the City of Oakland Park has an average household size of _2.35persons.

(7) According to the 2010 U.S. Census, the City of Oakland Park has an average family size of _3.10 persons.

(8) Vacation Rentals situated in a single-family residential neighborhood can and do create a great disparity in occupancy.

(9) The presence of on-site management militates against the negative impacts of Vacation Rentals.

(b). Definitions

The following terms as used in this section 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 en suite 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 in an one (1) existing vacation rental 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.

"Occupant" means any person who occupies a Vacation Rental overnight.

"On-site management" means an office located at the site of a transient public lodging establishment that has, no less than eight (8) hours per day, seven (7) days a week, a person or persons physically present on site for purposes of supplying management, rental, and/or maintenance services for that particular transient public lodging establishment, and, when the office is closed, has a person who is available upon one hour's phone notice to return to the transient public lodging establishment to supply management or maintenance services.

"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. Family shall be defined as any number of individuals related by blood, marriage or legal adoption, and not more than four persons not so related, living together as a single housekeeping unit. Foster children are considered part of a family.

"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 that does not have on-site management, which is located in the single family residential dwelling zoning districts of the City of Oakland Park.

"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, each and every person who owns 20% or more of the equitable interest in the Vacation Rental shall also be deemed a Vacation Rental Owner. 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 City in writing, on a form provided by the City, 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 City Commission. The Vacation Rental Owner shall be held

responsible for all actions of such designated agent with respect to the applicable Vacation Rental.

(c). Enforcement.

Violations of the provisions of the Code of Ordinances relative to Vacation Rentals shall be enforced in accordance with the provisions of Chapter 2 Article VI of the Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the City Commission.

(d). Appeals.

Any decision of the Special Master shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

(e). Construction of section.

This section shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of Oakland Park, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Oakland Park's residents of their residential property.

Section 3. Chapter 7 of the City's Code of Ordinances entitled "Licenses and Business Regulations" is amended to create Article XII to be entitled "Vacation Rentals", subsection 7-153, to read as follows:

SECTION 7-53. VACATION RENTAL REGISTRATION

1. Registration required.

Prior to the initiation of operating as a Vacation Rental and prior to January 1st for each subsequent year, a Vacation Rental Owner, either personally or through an agent, shall register with the City of Oakland Park utilizing forms promulgated by the City. The City may extend the date that such registration is required by notice on the City's website. A separate 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 as provided hereinafter. Every day of such operation without registration shall constitute a separate violation.

(a) A Vacation Rental Owner or agent, as applicable, registering a Vacation Rental with the City shall submit to the City a completed registration form, utilizing a form promulgated by the City, together with a registration fee in the amount set by resolution of the City Commission.

(b) A registration form shall include the following submittals:

(1) A completed Vacation Rental Registration form.

(2) Payment of applicable fee.

(3) A copy of the Vacation Rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation, if the registrant is required to have such license.

(4) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue.

(5) Evidence of the Vacation Rental's current and active account with the Broward County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Broward County Tax Collector.

(6) *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.

(7) *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.

(c) If a registration form is incomplete, the registrant will be notified of the deficiency, and be allowed ten (10) days to provide any missing information or fees.

2. Modification of Vacation Rental Registration.

An amendment of a Vacation Rental Registration shall be required in the event that any of the following changes to the Vacation Rental are proposed:

a) An increase in the number of bedrooms in the Vacation Rental.

b) An increase in the maximum occupancy of the Vacation Rental.

c) An increase or decrease in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.

d) A change in ownership of the Vacation Rental.

3. Duration of Vacation Rental Registration.

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

4. 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.

5. 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.

(b) Annual inspections shall be made by the City through appointment with the Vacation Rental Owner or agent, as applicable. If a City inspector has made an appointment with Vacation Rental Owner or agent, as applicable, for an inspection, and the City inspector 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 City Commission 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 or agent, as applicable, to make the Vacation Rental available for an inspection within twenty (20) days after notification by the City in writing that the City is ready to conduct the annual inspection, shall be a violation of the Code of Ordinances punishable by a fine as may be determined by the Special Master. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

6. Transfer of Vacation Rental Registration

Vacation Rental Registrations are transferable only when the ownership of the Vacation Rental is sold or otherwise transferred, and the new owner has filed a modification of the registration with the City within thirty (30) days from the date of the sale or transfer. Failing such modification of the registration, any outstanding Vacation Rental Registration as to that Vacation Rental shall be null and void on the thirty-first (31st) day after such sale or transfer.

7. 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 City of Oakland ParkCity Code or Comprehensive Plan, and is not an approval of any other code requirement outside this section. 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 Oakland ParkCity Code or Comprehensive Plan.

8. Duties of Vacation Rental Owner.

Every Vacation Rental Owner or agent, as applicable, shall be available by landline or mobile telephone answered by the Vacation Rental Owner or agent 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 City's regulatory personnel shall be required only Monday through Saturday, 9am to 5pm. Failure of the Vacation Rental Owner or agent, as applicable, to fulfil this duty, shall be a violation of this ordinance which shall be punished by fine as set by resolution of the City Commission.

Section 4. Chapter 7 of the City's Code of Ordinances entitled "Licenses and Business Regulations" is amended to create Article XII to be entitled "Vacation Rentals", subsection 7-154, to read as follows:

SECTION 7-54 . STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

The standards and requirements set forth in this section shall apply to the rental, use, and occupancy of Vacation Rentals in the City of Oakland Park.

1. Minimum safety and operational requirements.

Vacation Rentals in the City of Oakland Park shall meet the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code, and each Vacation Rental shall have at least one landline telephone with the ability to call 911.

2. 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 the lesser of:

(1) Two persons per bedroom that contains one hundred (100) square feet or more, (counting only those rooms that meet the definition of bedroom herein), plus one person per bedroom that contains no less than seventy (70) square feet, but less than one hundred (100) square feet, (counting only those rooms that meet the definition of bedroom herein), plus two persons.

(2) A total of eight (8) occupants per Vacation Rental. In the event there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at eight (8) occupants per lot or structure, whichever is less.

(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 five (5) years, as to occupancy limitations, and may cap its occupancy based upon the following criteria and procedures. Vacation Rentals that have an occupancy of eight (8) or less as determined according to this section will not require grandfathering to maintain that occupancy. Vacation rentals requesting to be grandfathered shall provide proof of public lodging license from the State of Florida as of the effecive date of this Ordinance. Such license may not be transferred from one place or individual to another.

(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 City, 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 and proof of public lodging license from the State of Florida or to effective date of this Ordinance.

(3) The Grandfathering Application and supporting proof shall be submitted to City for review by City staff, and such staff shall make a written determination as to the proof of State license the maximum occupancy of such grandfathered Vacation Rental.

(4) If the City staff fails to confirm the requested occupancy level or State license, the City of Oakland Park shall notify the Grandfathering 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 Grandfathering Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested and proof of license. 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 City staff upon initial review.

(5) An application for grandfathering shall be submitted, if at all, by no later than the time of registration of the Vacation Rental, but not later than three (3) months after adoption of the subject ordinance. If the City 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 City staff that any information supplied to the City of Oakland Park 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 as set by the City Commission by resolution. If there is such a determination by City staff, the City of Oakland Park shall notify the Grandfathering Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the Special Magistrate to provide the Grandfathering 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 City 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.

3. Vacation Rental agreements – minimum provisions.

Vacation Rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

(a) Maximum occupancy of the Vacation Rental that is consistent with the Vacation Rental Registration.

(b) The maximum number of vehicles that will be allowed to park at the Vacation Rental. Such number of vehicles shall not exceed the number of parking spaces located at the Vacation Rental as shown in the sketch submitted with the Vacation Rental registration, plus any other legal parking spaces that the Vacation Rental Owner can show are available to

the Vacation Rental.

(c) A statement that a sketch of the permitted off-street parking locations where Occupants may park according to the Vacation Rental Registration sketch and any other legal parking spaces available to the Vacation Rental will be posted at the Vacation Rental.

(d) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.

(e) A copy of a document to be supplied by the City which includes excerpts from City of Oakland Park ordinance provisions of general application relevant to Vacation Rentals to include solid waste pick-up regulations as specified by resolution of the City, as a lease addendum. The City will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request, and the City will post such document on its website.

4. Required providing of Vacation Rental and local information - posting.

(a) In each Vacation Rental, there shall be provided, in a prominent location, the following written information:

(1) The name, address and phone number of the Vacation Rental Owner or agent, as applicable.

(2) The maximum occupancy of the Vacation Rental.

(3) A copy of a document to be supplied by the City which includes excerpts from City of Oakland Park ordinance provisions of general application relevant to Vacation Rentals to include solid waste pick-up regulations as specified by resolution of the City, as a lease addendum. The City will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request, and the City will post such document on its website.

(4) The maximum number of vehicles that can be parked at the Vacation Rental, along with a sketch of the location of the off-street parking spaces.

(5) The days and times of trash pickup.

(6) The location of the nearest hospital.

(b) There shall be posted, next to the interior door of each bedroom a legible copy of a building evacuation map – Minimum 8-1/2" by 11".

Section 5. Chapter 7 of the City's Code of Ordinances entitled "Licenses and Business Regulations" is amended to create Article XII to be entitled "Vacation Rentals", subsection 7-155, to read as follows:

SECTION 7-55. EXEMPTIONS

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 Ordinance, (hereinafter "Pre-existing Agreements") are exempt from the provisions of this ordinance.

If a Vacation Rental is cited for a violation of the provisions herein, (that would not be a violation if it were not for this section), 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 the Code of Ordinances 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 as Pre-existing Agreement under this section.

If it is reasonably determined by the City staff, and confirmed by the City's Special Magistrate that any information supplied to the City of Oakland Park 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 as set by the City Commission by resolution.

SECTION 6. If any clause, section or other part of this Ordinance shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 7. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflicts.

SECTION 8. It is the intention of the City Commission of the City of Oakland Park, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Oakland Park, Florida, and the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish such intention.

SECTION 9. This Ordinance shall be effective upon its passage and adoption by the City Commission of the City of Oakland Park.

PASSED BY THE CITY COMMISSION OF THE CITY OF OAKLAND PARK, FLORIDA, ON FIRST READING, THIS 7TH , DAY OF MARCH, 2018.

S. GUEVREKIAN	YES
M. SPARKS	YES
M. CARN	YES
J. ADORNATO	YES
T. LONERGAN	YES