

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2018-01**

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, INCORPORATING RECITALS AS FINDINGS OF FACT; AMENDING CHAPTER 110 OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD ARTICLE IX – "SHORT TERM VACATION RENTALS"; ADDING SECTION 110-840 ESTABLISHING APPLICABILITY; ADDING SECTION 110-841 ESTABLISHING DEFINITIONS; ADDING SECTION 110-842 ESTABLISHING MINIMUM REGISTRATION REQUIREMENTS FOR SHORT TERM VACATION RENTALS; ADDING SECTION 110-843 ESTABLISHING STANDARDS FOR THE OPERATION OF SHORT TERM RENTALS; ADDING SECTION 110-844 ESTABLISHING THE REQUIREMENTS AND DUTIES OF DESIGNATED RESPONSIBLE PARTIES; ADDING SECTION 110-845 ESTABLISHING MINIMUM REQUIREMENTS FOR RENTAL USE AGREEMENTS; ADDING SECTION 110-846 CONCERNING REQUIRED POSTINGS ON SHORT TERM VACATION RENTALS; ADDING SECTION 110-847 ESTABLISHING VIOLATIONS; ADDING SECTION 110-848 ESTABLISHING THE REMEDIES, PENALTIES AND ENFORCEMENT MECHANISMS FOR VIOLATIONS OF THIS ARTICLE; PROVIDING FOR CODIFICATION AND REVISION OF SCRIVENER'S ERRORS; PROVIDING FOR FULL FORCE AND EFFECT OF ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, prior to 2011 Florida's local governments freely regulated local land use issues and decisions under the Home Rule authority granted them by the Florida Constitution; and

WHEREAS, the 2011 Florida Legislature enacted House Bill 883 (Florida Chapter 2011-119, Laws of Florida) ("HB 883") which preempted the local regulation of a specific land use commonly called short term vacation rentals; and

WHEREAS, HB 883 prevented local communities from enacting new regulations necessary to address any consequential or negative impacts caused by short-term vacation rentals; and

WHEREAS, following the enactment of HB 883 the City of Indian Rocks Beach (the "City") adopted Ordinance 2011-03, modifying its ordinances concerning the regulation of short term vacation rentals; and

WHEREAS, a little more than a year later the City adopted Ordinance 2012-08, further amending its restrictions regarding short term rentals; and

WHEREAS, the 2014 Florida Legislature enacted Senate Bill 356 (Florida Chapter 2014-71, Laws of Florida) ("SB 356") which rescinded HB 883's preemption on local regulation of short term vacation rentals, but provided that local laws, ordinances or regulations adopted after June 1, 2011 may not prohibit short term vacation rentals or regulate the duration or frequency of rental of vacation rentals; and

WHEREAS, SB 356 returned some local control back to municipalities to mitigate the effects of short term vacation rentals in an attempt to make them safer, more compatible with existing neighborhood regulations, and accountable for their proper operation; and

WHEREAS, SB 356 does not allow local governments to prohibit short term vacation rentals in any community or zoning district; and

WHEREAS, single-family residential neighborhoods and their required infrastructure are generally designed to accommodate typical single-family residential homes with two (2) or (3) persons per household, on average; and

WHEREAS, local governments apply design standards tailored for their roads, driveways, emergency services planning, public shelters, solid waste collection, utilities, buffers, and are also tailored in assessing their infrastructure impacts; and

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

WHEREAS, the occupants of short-term vacation rentals located within established neighborhoods can disturb the quiet enjoyment of the neighborhood; and

WHEREAS, traditional lodging establishments (hotels, motels and bed and breakfasts) are typically restricted to commercial and other non-residentially zoned areas where intensity of uses is separated from less busy and quieter residential uses; and

WHEREAS, many multi-unit condominium short-term vacation rentals have on-site property managers and employees or other contracted vendors that oversee the maintenance, upkeep, security and/or operation of the property on a frequent basis, unlike those short term rentals operating in single family homes; and

WHEREAS, the majority of the complaints or issues the Town of Indian Rocks Beach encounters concerning the operation of short term rentals pertain to the single and two-family neighborhoods east of Gulf Boulevard; and

WHEREAS, many local jurisdictions in the State of Florida, and across the nation have standards in place to minimize the negative impacts caused by short-term vacation rentals; and

WHEREAS, the City of Indian Rocks Beach desires short-term vacation rentals that are safe, fit in with the character of the community, provide positive impacts for tourism, increase property values, and achieve greater neighborhood compatibility; and

WHEREAS, these regulations are deemed necessary by the City of Indian Rocks Beach Commission to preserve the City's aesthetic and property values while also protecting the health, safety and general welfare of permanent residents, lot/parcel owners, investors and transient occupants and visitors alike; and

WHEREAS, these regulations are being promulgated by the City of Indian Rocks Beach Commission to supplement, but not to replace, any existing federal or state law or regulation, or other controls within establishes residential neighborhoods served by a homeowner or condominium association; and

WHEREAS, these regulations do not regulate duration or frequency of rentals, but are intended to address the frequent change of many transient occupants housed within a dwelling within an established residential neighborhood; and

WHEREAS, the application of minimum life/safety requirements to short-term vacation rentals, along with other minimum standards and requirements concerning issues such as the designation of responsible parties ensures that transient occupants are provided with a similar level of protection as is required by the current statutes and codes for residences utilized as hotels, motels and other similar lodging establishments;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA, that:

SECTION 1. RECITALS AND FINDINGS

- A. The above Recitals are incorporated herein as Findings of Fact.
- B. The City of Indian Rocks Beach Commission further finds as follows:
 - a. The proposed amendment will provide for the orderly development of the City of Indian Rock Beach and complies with applicable Comprehensive Plan goals, objectives and policies; and
 - b. The proposed amendment will serve to protect the health and safety of residents and transient visitors alike.

SECTION 2. That Part II, Code of Ordinances, Subpart B – Land Development Regulations, Chapter 110 – Zoning, is hereby amended by adding Article IX, to read as follows:

Article IX – Short Term Vacation Rentals

DIVISION 1 – GENERALLY

§ 110-840 – Applicability. This section shall apply to all structures used for the purposes of short term vacation rentals as permissible commercial businesses when operating within the single family (“S”), medium density (“RM 2”), and medium density duplex residential (“RM 1”) districts.

§ 110-841 - Definitions. The following terms as used on this Article are defined as set forth hereinafter:

Bedroom: The term “bedroom” shall have the same meaning as in § 381.0065 (2) (b), Florida Statutes. Throughout this chapter, the term “sleeping room” shall mean the same thing as a “bedroom.”

Designated Responsible Party: The Owner, or any person eighteen (18) years of age or older designated by the owner, tasked with responding to requests for inspections, complaints, and other problems relating to or emanating from the short-term vacation rental of the transient public lodging establishment. There shall only be one designated responsible party for each short-term vacation rental. An Owner may retain a private property management company to serve as the Designated Responsible Party.

Owner: The term “owner,” shall mean the person or entity holding legal title to the short term vacation rental property, as reflected in the Pinellas County Tax Collector’s records.

Short-term vacation rental: A structure which is also a “transient public lodging establishment,” within the single family (“S”), medium density (“RM 2”), and medium density duplex residential (“RM 1”) districts. As used in this chapter, the term short term vacation rental shall mean the same thing as a “vacation rental.”

Transient occupants. Any person or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered or used as a short term vacation rental. There shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of a short term vacation rental is a transient occupant, as defined here.

Transient public lodging establishment. A structure, which is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or more or one (1) calendar month, whichever is less, and which is advertised or held out to the public as a place rented to guests within the single family (“S”), medium density (“RM 2”), and medium density duplex residential (“RM 1”) districts. A “transient public lodging establishment” shall be considered a non-residential, commercial business, whether operated for profit or as a not for profit and be subject to the additional requirements of this chapter if the transient public lodging establishment is additionally considered to operate as short term vacation rental as defined herein.

DIVISION II - REQUIREMENTS

§ 110-842 – Short-Term Vacation Rental Minimum Requirements.

Short term vacation rentals shall be permitted in all residential zoning districts provided they are in compliance with this section. No person shall rent or lease all or any portion of a dwelling unit as a short-term vacation rental, as defined in this Article, without initially and then on a continuing basis:

1. Obtaining a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental taxes, if applicable.; and

2. Obtaining a Florida Department of Business and Professional Regulation license as a transient public lodging establishment, if applicable; and
3. After first securing a certificate from the Department of Revenue, and a license from the Florida Department of Business and Professional Regulation, if applicable, an applicant may then obtain a business tax receipt from the City of Indian Rocks Beach pursuant to Chapter 58 of the City's Code of Ordinances.

Upon initial adoption of this Section, Owners of short term vacation rentals shall have 45 days to submit documentary evidence to the City of Indian Rocks Beach evidencing their individual efforts to register with the Florida Department of Revenue in compliance with this Section. In the event items 1 or 2 above are not applicable to the Property, the Property Owner shall provide a written statement and any supporting documentation setting forth the reason the requirement does not apply. The City Manager or his/her designee shall make a final determination as to the applicability of these minimum requirements for a short term vacation rental.

§ 110-843 – Short-Term Vacation Rental Standards

1. **Minimum life/safety requirements.** All short term vacation rentals shall comply with all applicable safety requirements, including but not limited to the Residential Swimming Pool Safety Act, Florida's Building Code, and Florida's Fire Prevention Code.
2. **Inspections**
 - a. An individual or entity desiring to operate a short term vacation rental shall sign a sworn statement, under penalty of perjury, that he or she believes the subject property is in compliance with all applicable City codes. Execution of this sworn statement is a pre-requisite to receipt of the business tax receipt and final approval to operate a valid short-term vacation rental.
 - b. Inspection of a vacation rental to verify compliance with the City's Code of Ordinances and other applicable safety codes, which governed at the time of completion of the subject construction, may be required subsequent to registration with the City and annually after each renewal. If instances of noncompliance are found, all such instances of noncompliance shall be handled as other violations of the City's Code of Ordinances, 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 chapter.
 - c. Annual inspections may 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 totaling \$75.00. 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 20 days after notification by the city in writing that the city is ready to conduct an inspection, shall be a violation of this chapter punishable by a fine as provided for in section 1-15 of this Code. Such violation shall continue until the inspection is accomplished. Each day that such violation continues may be deemed a separate violation.

3. Advertising Requirement

All advertising for vacation rental units shall identify the City-issued business tax receipt number associated with the advertised rental property. The vacation business tax receipt number shall be included on all advertising, including, but not limited to print and internet-based advertising. Advertisements that do not contain this information or that contain inaccurate information shall be deemed a violation of this section and subject to the penalties set forth in Section 110-848.

4. Other standards.

Any other standards contained in the City's Code of Ordinances and Land Development Code, including but not limited to the City's codes governing noise, garbage, and parking shall apply to short term vacation rentals as well. This shall include but not be limited to regulations concerning noise, parking, setbacks, storm water and other similar provisions.

§ 110-844 Responsible Party

1. **Posted Contact Information.** The business tax receipt number for the short term vacation rental and phone number of the Designated Responsible Party, as defined in this Article, shall be posted on the front exterior of the dwelling in a place accessible to the public. The sign must be non-illuminated and be one square foot in size on each side. The sign's background color shall be white, and the font shall be in black Times New Roman or Arial font, and in no smaller than 48 point typeface. The Sign must be constructed of weather resistant wood or plastic. This requirement shall not apply in instances where the Owner occupies a portion or division of the short term vacation rental as his or her primary residence.
2. **Duties.** The duties of the short term vacation rental responsible party, whether that person be the property owner or an agent thereof, are to:
 - a. be available at the posted landline or mobile telephone number twenty-four (24) hours a day, seven (7) days a week and capable of directly responding, or directing a designated agent to directly respond to and resolve any issues or concerns raised by City staff or law enforcement officials arising from the short-term vacation rental use when the short term rental is occupied. In the event there are no tenants or occupants in the structure a designated responsible party must be available within a commercially reasonable response time;
 - b. be authorized to receive service of any legal notice on behalf of the owner of the property for violations of this section; and

- c. Maintain a record of all rental/lease agreements for the short term vacation rental property.
- d. Otherwise monitor the short-term vacation rental unit at least once a week to assure continued compliance with the requirements of this section.

§ 110-845 Short Term Vacation Rental/Lease Agreement Minimum Provisions.

1. There shall be a written, or online lease, rental, tenant or other recorded usage agreement memorializing each tenancy in a vacation rental, between the owner or designated responsible party of the short term vacation rental property and any lessees or tenants. These agreements shall contain, among other things, the tenant's agreement to the regulations contained in this Article.
2. The rental, lease, or recorded usage agreement must contain the following information at a minimum:
 - a. The name of the primary responsible lessor who will be occupying the unit.
 - b. The dates on which the renters or lessees will be occupying the unit.
 - c. The City reserves the right to request and receive a copy of any Lease Agreement for the short term vacation rental from the Owner or designated responsible party.

§ 110-846 Required Posting.

It shall be required that the following information be posted in a visually unobstructed area within each short term vacation rental unit:

1. The name and phone number of the designated short-term vacation rental responsible party required by this Article;
2. Notice that all occupants of short term vacation rental units must comply with Chapter 26 of the City's Code of Ordinances, governing parking, noise, nuisances, litter and abandoned property;
3. The scheduled days of trash pickup and recycling; and
4. The location of the nearest hospital.
5. A statement that all occupants must promptly evacuate the short term vacation rental upon posting of any evacuation order issued by state or local authorities.

§ 110-847 Offenses/Violations.

1. Non-compliance with any provisions of this Article shall constitute a violation of this Article.
2. Each day a violation exists shall constitute a separate and distinct violation.

§ 110-848 Remedies/Enforcement.

1. Violations of this Article shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective short term vacation rental program it is key that short-term vacation rental designated responsible parties are responsive and responsible in the management of the property for compliance with this section. Any code enforcement activities will be pursued in accordance with Florida Statutes Chapter 162 and the City's Code of Ordinances.
2. Warnings. Warnings shall be issued to the owner of the property or their designated responsible party and include a correction/compliance period. Such warnings may include notice to other agencies for follow-up. Agencies that may be notified include but are not limited to the Department of Business and Professional Regulation, the Florida Department of Revenue, the Pinellas County Tax Collector, the Pinellas County Property Appraiser, or Florida's Fish and Wildlife Conservation Commission as applicable. Non-compliance with a correction/compliance period shall result in the issuance of a citation.
3. Fines. Fines per violation shall increase, on a graduated basis based on the recurrence of individual violations
 - a. The first (1st) offense shall result in a fine of \$150;
 - b. The second (2nd) offense shall result in a fine of \$300; and
 - c. The third (3rd) offense, and any further repeat violations, shall result in a fine of \$500.

The City may prosecute any code enforcement violations pursuant to its full and complete authority as set forth in Chapter 162 of Florida Statutes and its own Code of Ordinances. The City may also rely on an appropriate enforcing agency at the state or local level.

4. Additional Remedies. Nothing contained herein shall prevent the City from seeking all other available remedies which may include but not be limited to injunctive relief, liens, and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of the City of Indian Rocks Beach, Pinellas County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or relettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.

SECTION 4. FULL FORCE AND EFFECT OF EXISTING PROVISIONS

In all other respects, the provisions of the City's Code of Ordinances not hereby amended or modified shall remain in full force and effect.

SECTION 5. SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.


SECTION 6. EFFECTIVE DATE

This ordinance shall take effect immediately upon its passage.

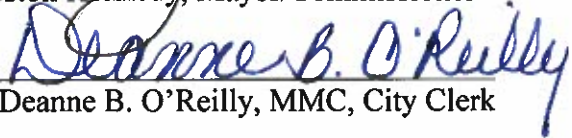
PASSED ON FIRST READING on the 13th day of August 2018, by the City Commission of the City of Indian Rocks Beach

PUBLISHED this 31st day of August 2018, in the Tampa Bay Times newspaper

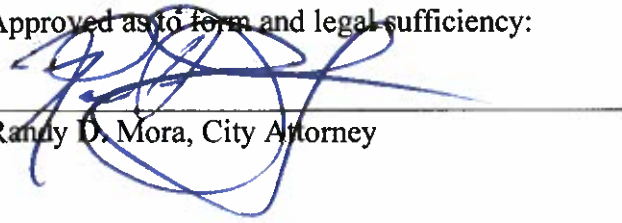
ADOPTED ON SECOND AND FINAL READING on the 11th day of September 2018, by the City Commission of the City of Indian Rocks Beach, Florida.



Joanne Moston Kennedy, Mayor/Commissioner

ATTEST: 
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form and legal sufficiency:



Randy D. Mora, City Attorney

