

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

First Reading Date: November 2, 2022

Second Reading Date: November 14, 2022

Presenter's Name and Title: Eric Silva, Director, on behalf of the Building, Planning and Zoning Department

Prepared By: Eric Silva, Building, Planning and Zoning Director

Temp. Ord. Number: 1794

Item Description: FIRST READING of Temp. Ord. No. 1794, RELATING TO SECTION 405.11.2 BED & BREAKFAST SHORT-TERM RENTALS. VACATION RENTALS PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; AND PROVIDING FOR AN EFFECTIVE DATE. *(Building, Planning and Zoning Director Eric Silva)*

Consent ☐ Resolution ☐ Ordinance ☒ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk: none

Public Notice – As required by the Sec. _____ of the City Code and/or Sec. 166.041, Florida Statutes, public notice for this item was provided as follows: on 6/24/2022 in a legal display ad in the Sun-Sentinel; by the posting the property on _____ and/or by sending mailed notice to property owners within _____ feet of the property on _____ (fill in all that apply)

Special Voting Requirement – As required by Sec. _____ of the City Code and/or Sec. _____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☐ No ☒

REMARKS: No Fiscal Impact


Content:

- **Agenda Item Memo from the City Manager to City Commission**
- **Ordinance TO 1794**
 - **Attachment 1: Standards for Review for LDC Amendment Staff Report**



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: Dr. Roy L. Virgin, City Manager 

BY: Eric Silva, Building, Planning and Zoning Director

DATE: October 27, 2022

RE: FIRST READING of Temp. Ord. No. 1794, Amendments to Land Development Code Section 405.11.2 Bed & Breakfast, Short-Term Rentals and Vacation Rentals

RECOMMENDATION: The City Manager recommends approval of Temp. Ord. No. 1794, amending the various sections of the City's Land Development Code ("LDC") relating to Bed & Breakfasts, Short-Term Rentals, and Vacation Rentals.

ISSUE: City Commission approval is required for any amendments to the Land Development Code and City Code of Ordinances.

BACKGROUND: This Ordinance proposes amendments to *Section 405.11.2 Bed & Breakfast, Short-Term Rentals and Vacation Rentals* of the Land Development Code. Due to an increase in activity related to vacation rentals amendments to *Section 405.11.2* of the LDC are being proposed to provide additional safety measures and protect the quality of life for the public.

Similar to other businesses, vacation rentals are required to obtain a zoning certificate of use and business tax receipt. The zoning certificate of use process requires that the rental unit pass zoning, electrical, plumbing, mechanical, structural and fire inspections. *Section 405.11.2* of the LDC also requires that the owner register with the police department and a local responsible party available 24 hours a day.

The Proposed amendments to *Section 405.11.2* include:

- Confirmation of vacation rental registration with State agencies;

- Posting of easily accessible rental lessee information (noise ordinance, parking areas, trash pickup days, nearest hospital, police department phone number, and evacuation map) in the rental unit;
- Annual registration with the police department;
- Execution of a trespass affidavit to allow police officers on the property to warn and direct any person to leave the premises;
- Penalties, offenses, and revocations specific to vacation rentals; and
- Owners are encouraged to use a noise sensing device to monitor noise levels.

The City's Local Planning Agency, the Planning & Zoning Board, heard this item on July 5, 2022, and recommended against the amendment. The Board's two main concerns were related to restricting bedrooms to two occupants and the noise level for notifications to the vacation rental owner. After the Planning & Zoning Board Meeting, staff removed the restriction on occupants and increased the noise level for notifications. Second reading of this ordinance is scheduled for November 14, 2022.

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**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

ORDINANCE NO. _____

AN ORDINACNE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AMENDING THE LAND DEVELOPMENT CODE, SECTION 405.11.2 BED & BREAKFAST, SHORT-TERM RENTALS, AND VACATION RENTALS; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING THAT OFFICIALS ARE AUTHORIZED TO TAKE ACTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has a need to revise Land Development Code, Section 405.11.2 Bed & Breakfast, Short Term Rentals, and Vacation Rentals to protect public safety; and

WHEREAS, the City previously adopted regulations for Bed & Breakfast, Short Term Rentals, and Vacation Rentals which require a zoning certificate of use, business tax receipt and registration with the Police Department; and

WHEREAS, Chapter 509, Florida Statutes establishes a regulatory framework for lodging establishments, including vacation rentals and transient public lodging establishments; and

WHEREAS, Chapter 509, defines vacation rentals as “transient public lodging establishments” that consist of 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 one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests; and

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WHEREAS, the proposed revisions will provide measures to protect renters and preserve the peace and tranquility of residential neighborhoods; and

WHEREAS, pursuant to Section 163.3202, Florida Statutes (F.S.) and Section 102 of the Land Development Code ("LDC"), the authority and the LDC's purpose is to implement and further the City's Comprehensive Plan by establishing regulations, procedures, and standards for review and approval of all development and use of land in the City in addition to and in more detail than the policies in the Comprehensive Plan; and

WHEREAS, the LDC is adopted in order to foster and preserve the public health, safety, comfort, and welfare, and to aid in the harmonious, orderly and progressive development of the City; and

WHEREAS, pursuant to Section 163.3174, F.S., and Section 302.7(2) of the LDC, the Planning and Zoning Board, sitting as the Local Planning Agency, recommended against the proposed changes; and

WHEREAS, the proposed Ordinance is particularly consistent with Objectives 3 and 8 and Policies 3.8 and 8.3.d of the Future Land Use Element, which state:

Objective 3 Assure that future land uses are compatible.

Policy 3.8 Include in the Land Development Code, regulations which address the potentially adverse impacts of industry, including noise, vibration, air pollution, glare, heat, solid wastes, hazardous wastes, fire and explosion.

Objective 8 Continue to enforce development review standards.

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Policy 8.3 The City may grant an application for a development permit consistent with the City's Land Use Plan when it has determined that the following requirements are met:

d. Police protection service will be adequate to protect people and property in the proposed development.

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to amend Section 405.11.2 of the Land Development Code to add the following provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AS FOLLOWS:

Section 1: Recitals. The foregoing "**WHEREAS**" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2: That Section 405.11.2 of the Land Development Code of the City of Miramar, Florida, is hereby amended to read as follows:

405.11.2 Bed & Breakfast Short-Term Rentals. Vacation Rentals, shall be subject to the following rules and standards:

(a) bed and breakfast units must be owner-occupied; a local responsible party must be registered with the city's police department for bed and breakfast, short-term rentals, and vacation rentals, and be available on call 24 hours per day, seven days per week. As part of the registration process, a trespass affidavit shall be notarized and submitted to the police department;

(b) requires a city-issued zoning certificate of use, a business tax receipt and proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax is also required. In addition, Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment.

(c) units must be properly inspected to meet Florida Building Code (FBC) requirements. Fair Housing laws, and minimum construction, design, health, and maintenance standards;

(d) property owners and occupants must abide by any HOA or CA rules or contracts;

(e) units must have commercial general liability insurance coverage. Coverage shall include, as a minimum: (i) premises operations, (ii) personal injury liability, (iii) property damage, and (iv) expanded definition of property damage. The minimum limits acceptable shall be not less than \$2,000,000 per occurrence for bodily injury or death of one or more persons and not less than \$300,000 per occurrence for property damage in the aggregate. The use of an excess/umbrella liability policy to achieve the limits required by this paragraph will be acceptable as long as the terms and conditions of the excess/umbrella policy are no less restrictive than the underlying commercial general liability policy. No primary policy shall have a deductible of more than \$25,000, and the excess/umbrella policy shall provide insurance for any loss or damage over the maximum limits of the primary policy. Insurance shall not be claims made insurance. Insurance shall be rated as A or better with a financial quality rating of at least VI or better according to *Best's Rating Guide*. All insurance policies shall be issued by insurance companies licensed to do business by the Florida Insurance Commissioner. Copies of the policies must be presented upon demand to the city to assure compliance with this section;

(f) units must have a working smoke and carbon monoxide detector;

(g) signs advertising the business are not permitted on or off the property;

(h) sufficient parking must be available on the property of the individual unit; guests or their guests may not park vehicles on neighboring properties; on clubhouse or common areas; or on the streets;

(i) rentals/renters/guests must be in compliance with all city parking, noise and property maintenance regulations;

(j) may be subject to local hotel taxes and permit fees;

(k) minimum rental lessee information. The rental lessee shall be provided with a summary of the information required in this Section with instructions on how to access the full text and shall post the following conspicuously with the establishment:

1. A statement advising the occupant of the City's noise ordinance provided for in Chapter 10 of the Code of Ordinances;
2. A sketch or photograph of the location of the off-street parking spaces;
3. The days and times of trash pickup;
4. The location of the nearest hospital;
5. The City's non-emergency police phone number; and
6. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map (minimum size 8.5 x 11).

(l) noise monitoring by owner. In order to avoid noise disturbances in the neighborhood, owners are encouraged to use a noise sensing device to monitor noise levels. Registration fees shall be waived for all vacation rentals with a permanent noise monitoring device;

(m) A vacation rental shall be registered annually with the police department on or before the thirtieth (30th) day of September.

(n) Penalties, Offenses, and Revocation.

1. Any vacation rental zoning certificate of use issued pursuant to this Section may be denied, revoked, or suspended. Such denial, revocation or suspension is in addition to any penalty provided herein.

2. Offenses/violations.

a. Non-compliance with any provisions of this Section shall constitute a violation of this Section.

b. Separate violations. Each day a violation exists shall constitute a separate and distinct violation.

3. Remedies/enforcement.

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a. Code enforcement activities will be in accordance with the Land Development Code. However, any such fines imposed pursuant to this Section shall not be subject to reduction by the Special Magistrate or Administrative Panel.

b. 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 provided by law, as well as referral to other enforcing agencies.

Suspension of vacation rental zoning certificate of use. In addition to any fines and any other remedies described herein or provided for by law, City Manager or designee may suspend a vacation rental zoning certificate of use in accordance with the following:

a. Suspension time frames.

i. Upon a second violation of this Section the vacation rental zoning certificate of use shall be suspended for a period of thirty (30) calendar days.

ii. Upon a third violation of this Section the vacation rental certificate of use shall be suspended for a period of one hundred eighty (180) calendar days.

iii. Upon a fourth violation of this Section the vacation rental certificate of use shall be suspended for a period of three hundred sixty-five (365) calendar days.

iv. For each additional violation of this Section the vacation rental certificate of use shall be suspended for an additional thirty (30) calendar days. For example, the fifth violation shall be for three hundred ninety (395) calendar days; the sixth violation shall be for four hundred fifteen (415) calendar days, and so on.

v. A vacation rental certificate of use shall be subject to temporary suspension beginning five (5) working days after a citation is issued for a violation of the Florida Building Code, or Florida Fire Prevention Code. Such suspension shall remain in place until the vacation rental is reinspected and it is determined that the violation no longer exists by the City.

b. Suspension restrictions. A vacation rental may not provide transient occupancy during any period of suspension of a vacation rental certificate of use.

i. The suspension shall begin immediately following notice, commencing either:

ii. at the end of the current vacation rental lease period; or

iii. within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the special magistrate.

iv. Operation during any period of suspension shall be deemed a violation pursuant to this Section and shall be subject to daily fine, up to one thousand dollars (\$1,000.00) or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.

v. An application for a renewal may be submitted during the period of suspension; however, no certificate of use may be issued for the vacation rental until the period of suspension has expired. Once suspended, a vacation rental certificate of use for the same address shall not be issued to any of the individuals, collection of individuals, or owners of any companies or subsidiaries which owned the property at the time the suspension begins for the remainder of the license year (which begins October 1) or for a minimum of six months, whichever is longer.

c. Appeal. All appeals of suspensions shall be to the Special Magistrate in accordance with the Land Development Code of the City of Miramar.

5. Complaints. Whenever a violation of this Section occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Code Compliance Division of the police department. Code Compliance staff shall promptly record such complaint, investigate, and take action thereon in accordance with this Section and the Land Development Code.

6. Enforcement. The provisions of this Section shall be enforced as provided in the Land Development Code.

Section 3: Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this Ordinance.

Section 4: Interpretation. It is the intention of the City Commission, and it is hereby ordained, that the provisions and revisions of this Ordinance shall become and be made a part of the Code of the City of Miramar; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word. That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text.

Section 5: Officials Authorized to Take Action. The appropriate City officials are authorized to do all things necessary and expedient to carry out the intent and purpose of this Ordinance.

Section 6: Effective Date. This Ordinance shall become effective 60 days after the adoption date.

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PASSED FIRST READING: _____

PASSED AND ADOPTED ON SECOND READING: _____

Mayor, Wayne M. Messam

Vice Mayor, Yvette Colbourne

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this ORDINANCE as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, P.L.L.C

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Vice Mayor Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted



**City of Miramar
Building, Planning and Zoning Department
Development Review Report**

I) Application Summary / Background

These are proposed amendments to the Land Development Code (“LDC”) to amend *Section 405.11.2 Bed & Breakfast, Short-Term Rentals, and Vacation Rentals*.

Applicant: City of Miramar

II) Standards for Reviewing Proposed Text Amendments:

The City's Land Development Code provides that consideration of proposed text amendments includes a review of the following standards (*Section 302.7*).

- (a) *The proposed amendment is legally required.*

Staff's Evaluation:

A new ordinance is legally required to change the land development code. Chapter 509, Florida Statutes establishes a regulatory framework for lodging establishments, including vacation rentals and transient public lodging establishments. Chapter 509, defines vacation rentals as “transient public lodging establishments” that consist of 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 one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

In addition, this amendment will implement new regulations related to public safety and quality of life.

- (b) *The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive Plan.*

Staff's Evaluation:

The proposed amendment is consistent with overall goals, policies, and objectives

of the Comprehensive Plan.

With respect to the Future Land Use Element:

Objective 3 Assure that future land uses are compatible.

Policy 3.8 Include in the Land Development Code, regulations which address the potentially adverse impacts of industry, including noise, vibration, air pollution, glare, heat, solid wastes, hazardous wastes, fire and explosion.

Objective 8 Continue to enforce development review standards.

Policy 8.3 The City may grant an application for a development permit consistent with the City's Land Use Plan when it has determined that the following requirements are met:

d. Police protection service will be adequate to protect people and property in the proposed development.

(c) *The proposed amendment is consistent with the authority and purpose of this Code.*

Staff's Evaluation:

Pursuant to Land Development Code Section 102, the purpose of this LDC is to implement further the Comprehensive Plan ("the Plan") of the City by establishing regulations for all development and use of land in the City in addition to and in more detail than those in the Plan. Further, this LDC is adopted in order to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the City. It is the intent of this LDC that the land use patterns in the City of Miramar be effective, in terms of providing the proper balance of commercial and residential property; and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and the consideration of the long-term interests of the citizens of the City.

- (d) *The proposed amendment furthers the orderly development of the City.*

Staff's Evaluation:

Developing a more user-friendly and understandable land development code, while establishing parameters for uses that are not previously mentioned or included in the city's standards, is a basic tool for addressing an issue that is meaningful to residents, and directly supports the goal of orderly development of the City.

- (e) *The proposed amendment promotes sustainability and efficiency of the city and whether the proposed amendment promotes the public health, safety, welfare, and aesthetics; and*

Staff's Evaluation:

The LDC is a living document and should be updated from time to time to reflect case law, societal changes and new technology. The proposed amendment provides for public health, safety, welfare and aesthetics through the following changes:

- Confirmation of vacation rental registration with State agencies;
- Posting of easily accessible rental lessee information (noise ordinance, parking areas, trash pick up days, nearest hospital, police department phone number and evacuation map) in the rental unit;
- Installation of a noise sensing device capable of notifying the owner's responsible party;
- Annual registration with the police department; and
- Penalties, offenses and revocations specific to vacation rentals.

- (f) *The proposed amendment improves the administration or execution of the development process.*

Staff's Evaluation: The amendment will accomplish this by providing staff with more administrative enforcement tools. Also, it satisfies a need not previously addressed in the Code.

IV) Planning & Zoning Board

The City's Local Planning Agency, the Planning & Zoning Board, heard this item on July 5, 2022 and recommended against the amendment. The Board's two main concerns were related to restricting bedrooms to two occupants and the noise level for notifications to the vacation rental owner. After the Planning & Zoning Board Meeting, staff removed the restriction on occupants and increased the noise level for notifications. Second reading of this ordinance is scheduled for September 22, 2022.

V) Staff Recommendation

Staff finds that the proposed amendments to the Land Development Code, amending *Section 405.11.2 Bed & Breakfast, Short-Term Rentals, and Vacation Rentals*, meet the criteria of the review standards of existing Land Development Code Section 302.7 for consideration of code text amendments and recommends approval by the City Commission.