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ORDINANCE 19-13

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE TO CREATE SECTION 103-14.7 TO PROVIDE FOR THE REGULATION OF SHORT-TERM RENTALS; AMENDING THE LAND DEVELOPMENT CODE TO CREATE SECTION 103-14.8 TO REQUIRE A CONDITIONAL USE PERMIT FOR THE OPERATION OF A BED AND BREAKFAST; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, Article VII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provides municipalities with the authority to exercise any power for municipal purposes except where prohibited by law, and to adopt ordinances in furtherance thereof; and

WHEREAS, Section 509.032(7), Florida Statutes provides that a local law, ordinance, or regulation may not prohibit Vacation Rentals, or regulate the duration or frequency of Vacation Rentals. However, this preemption does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011; and

WHEREAS, rental of residential dwelling units to transient visitors (Vacation Rentals and conditional use bed and breakfasts) can result in incompatible adverse impacts on neighborhoods including, but not limited to, increased noise, garbage, litter, traffic and crime, changes to the private residential character of the neighborhood, the uncertainty and instability of the identity of occupants of neighboring properties, and a decline in the shared sense of community; and

WHEREAS, the City finds that Vacation Rentals and conditional use bed and breakfasts increase demands on water and wastewater and on the City's code enforcement, Sheriff's office, fire and emergency services and city staff, beyond those demands created by residential dwelling units, thereby requiring the City of Dunedin to increase spending and collection of ad valorem tax revenues to fund these services; and

WHEREAS, short-term Vacation Rental use and longer-term residential use are generally incompatible, due to the rapid turnover associated with short-term Vacation Rental use and its disruptive effect on the peaceful use and enjoyment of residential areas; and

WHEREAS, the primary reasonable investment-backed expectation of owners of residential dwelling units in the City of Dunedin is the use of that unit

as a residence, and not as a Vacation Rental or conditional use bed and breakfast; and

WHEREAS, short term rental periods to transient occupants is a use that is more commercial in nature, that is best accommodated by hotels, motels and timeshares; and

WHEREAS, the City of Dunedin finds that regulation of "illegal" Vacation Rentals will contribute to the stability of existing residential neighborhoods; and

WHEREAS, regulation of Vacation Rentals and conditional use bed and breakfasts_is necessary in order to protect the public health, safety, and welfare the City, its residents and its visitors, and the City therefore seeks to adopt certain regulations; and

WHEREAS, the city further finds that the adoption of this ordinance is in the best interest and welfare of the residents of the City of Dunedin.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA:

Section 1. That Section 103-14.7 of Chapter 103 - Zoning of the Land Development Code of the City of Dunedin is hereby created to read as follows:

103-14.7 – SHORT TERM VACATION RENTALS

103-14.7.1 – Intent.

The City of Dunedin, Florida finds that certain transitory uses of residential property tend to affect the residential character of the community and are injurious to the health of the community. Therefore, it is necessary and in the interest of public health, safety and welfare to monitor and provide reasonable means for citizens of the City of Dunedin to mitigate impacts created by such transitory uses of residential property within the City of Dunedin. It is unlawful for any owner of any of any property within the geographic bounds of the City of Dunedin to rent or operate a Vacation Rental of residential property contrary to the procedures and regulations established in this Section or applicable state statute.

103-14.7.2 – Registration Required.

It is unlawful for any person to allow another person to occupy any residential property as a Vacation Rental within the City of Dunedin, or offer such rental services within the City of Dunedin, unless the person has registered the Vacation Rental property with the City of Dunedin and the Vacation Rental property has been issued a Certificate of Compliance in accordance with the provisions of this Section.

103-14.7.3 – False information.

It shall be unlawful for any person to give any false or misleading information in connection with the application for registration required by this Section.

103-14.7.4 – Application for Registration.

Application for registration of a Vacation Rental shall be made to the Planning & Development and shall set forth at a minimum:

(a) The address of the property.

(b) The zoning district of the property.

(c) Name, address and phone number of the property owner.

(d) Name, address and emergency contact phone number of Responsible Party for the property, which shall be a twenty-four (24) hour, seven (7) days a week contact number.

(e) That the phone number for Responsible Party will be answered twenty-four (24) hours a day, seven (7) days a week by the responsible party;

(f) Owner acknowledgement of Section 103-14.7.5 – Vacation Rental Standards.

(g) Proof of Registration with the Florida Department of Revenue for sales tax collection and Pinellas County Tourist Development Tax.

(h) Proof of Licensure with the Florida Department of Business and Professional Regulation for a Vacation Rental.

(i) Business Tax Receipt from City of Dunedin.

(j) Proof of General Liability insurance.

(k) Proof of Passing an initial Business Tax Receipt fire inspection.

(l) The owner's sworn acknowledgement that he or she has received a copy of this section, has reviewed it and understands its requirements; and

Submission of an incomplete registration application form shall result in rejection of the application.

103-14.7.5 – Vacation Rental Standards.

(a) Vacation Rental units may NOT be rented or occupied by a convicted sexual offender or sexual predator.

(b) There shall be one off street parking space for each bedroom. Recreational vehicles and accessory trailers shall not be permitted in driveways or other designated parking areas. No recreational

vehicles or any other motor vehicle may be used for sleeping. On street parking shall not be permitted.

(c) That all vehicles associated with the Vacation Rental must be parked in compliance with the Code of Ordinances of the City of Dunedin.

(d) That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Section 107-41 – Noise.

(e) That the owner shall comply with all applicable city, county, state and federal laws, rules, regulations, ordinances and statutes.

(f) That no solid waste container shall be located at the curb for pickup before 6:00 p.m. the day prior to pick up, and solid waste container shall be removed before midnight of the day of pickup.

(g) That, whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance or a property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance.

103-14.7.6 – Fees for Annual Registration.

The fees for annual registration shall be provided for in Appendix C - Fees of the City's Land Development Code.

103-14.7.7 – Responsible Party Required.

Whenever any property is required to be registered under this Section, the owner shall appoint a natural person who resides within twenty-five (25) miles of the Vacation Rental property to serve as the Responsible Party for service of notices, are specified herein and notices given to the Responsible Party shall be sufficient to satisfy any requirement of notice to the owner. An initial Responsible Party shall be designated and name submitted with the application for registration and the City Clerk or his or her designee shall thereafter be notified of any change of Responsible party within fifteen (15) days of such change. Further, it is the affirmative duty of the Responsible party to:

(a) Maintain all properties under their control in compliance with the occupancy limits, as specified in the Florida Building Code and the Code of Ordinances of the City of Dunedin, Florida as determined by the building official or his designee;

(b) See that the provisions of this Section are complied with and promptly address any violations of this Section or any violations of law which may come to the attention of the Responsible Party;

(c) Be situated close enough to the property as to be able to, and shall, respond to emergency calls within two (2) hours of notification; and

(d) Maintain the entire property free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection.

103-14.7.8 – Responsible Party.

(a) Duties of the Responsible Party:

(1) Be available at the listed phone number twenty-four (24) hours a day, seven (7) days a week to handle problems arising from the Vacation Rentals use; and

(2) Be able and willing to come to the Vacation Rental dwelling unit within two (2) hours following notification from the City/Code Enforcement of issues related to the vacation rental; and

(3) Receive service of any notice of violation of this section; and

(4) Monitor the Vacation Rental dwelling unit at least weekly to assure continued compliance with the requirements of this section.

(b) An owner may change his or her designation of a Responsible Party temporarily or permanently; however, there shall be only one (1) Responsible Party for each Vacation Rental property at any given time. To change the Responsible Party, the owner shall notify the City in writing of the name, contact information and certification as required under "Responsible Party" for the new Responsible Party.

103-14.9 – No Limitation of Remedies.

Nothing in this section shall limit the City from enforcement of its code, state or federal law by any other legal remedy available to the City. Nothing in this section shall be construed to limit or supplant the power of the inspector(s), code enforcement inspector or Code Enforcement Board under the City's ordinances, rules and regulations and the authority granted under state law, to take the necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance as defined under state law or the City Ordinances, codes or regulations or to abate a nuisance by any other lawful means or proceedings.

103-14.7.10 – Sale or Transfer of Dwelling Unit Used for Vacation Rentals.

Whenever a dwelling unit used for Vacation Rentals is sold or otherwise changes ownership and new owner desires to use the unit for Vacation Rentals, a new registration is required. Vacation Rental Registrations are not transferrable from one owner to another.

103-14.7.11 – Expiration of registration.

(a) All registrations issued under the provisions of this Section shall be valid for no more than one year, and all registration shall expire on September 30th of each year.

(b) Half-Year Receipts - Any person who was not liable for a local business tax receipt before April 1 during any business tax year may be issued a local business tax receipt for the second half of the business tax year, commencing from April 1, upon payment of one-half (½) of the amount fixed as the price of an annual local business tax receipt.

103-14.7.12 – Revocation.

(a) Any certificate of compliance issued pursuant to this Section may be denied, revoked, or suspended by the City Manager upon the adjudication of a violation of this Section, any City of Dunedin Ordinance, or state law by the Responsible Party, property owner or Transient Occupant attributable to the property for which the certificate of compliance is issued. Such denial, revocation or suspension is in addition to any penalty provided herein.

(b) Offenses/violations.

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

(2) Separate violations. Each day a violation exists shall constitute a separate and distinct violation.

(c) Remedies/enforcement.

(1) Violations of this Section 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 action to accomplish a safe and effective Vacation Rental program it is key that Vacation Rental Responsible Parties are responsive and responsible for the management of the property for compliance with this section.

(2) Additional remedies. Nothing contained herein shall prevent the City of Dunedin from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a Vacation Rental Registration injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

(d) Suspension of Vacation Rental Certificate of Compliance. In addition to any fines and any other remedies described herein or provided for by law, the Code Enforcement Board may suspend a Vacation Rental Registration in accordance with the following:

(1) Suspension time frames.

A. Upon a second violation of this Section, the Vacation Rental certificate shall be suspended for a period of ninety (90) calendar days.

B. Upon a third violation of this Section, the Vacation Rental Registration shall be revoked.

(2) Suspension restrictions. A Vacation Rental may not provide transient occupancy during any period of suspension of a Vacation Rental Registration.

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

(i) at the end of the current Vacation Rental lease period; or

(ii) within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the Code Enforcement Board.

B. Operation during any period of suspension shall be deemed a violation pursuant to this Section and shall be subject to daily fine, up to $250.00 for initial violation and $500.00 for repeat violation, for each day that the Vacation Rental operates during a period of violation.

(e) Number of violations. For purposes of this section only, violations shall be considered per the rental period or per every seven (7) days, whichever is less and for only those violations in which a code enforcement citation or criminal charge was issued. Violations could potentially occur over multiple times over the same rental period.

103-14.7.13 – Appeals.

A revocation of Responsible Party status by the City Manager may be appealed to the City's Board of Adjustment and Appeal.

(a) Applicability. A person may file an appeal of a revocation or suspension of his or her Responsible Party status.

(b) Filing of Appeal. The appeal shall be filed within thirty (30) days of receiving notice of the revocation or suspension by certified mail.

103-14.7.14 – Minimum life and safety requirements.

(a) Residential Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.

(b) Smoke and carbon monoxide (CO) detection and notification system required.

(c) Fire extinguisher required on each floor/level of the unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

Section 2. That Section 103-14.8 of Chapter 103 - Zoning of the Land Development Code of the City of Dunedin is hereby created to read as follows:

103-14.8 - CONDITIONAL USE BED AND BREAKFASTS

103-14.8.1 – Intent.

The City of Dunedin, Florida finds that certain transitory uses of residential property tend to affect the residential character of the community and are injurious to the health of the community. Therefore, it is necessary and in the interest of public health, safety and welfare to monitor and provide reasonable means for citizens of the City of Dunedin to mitigate impacts created by such transitory uses of residential property within the City of Dunedin. It is unlawful for any owner of any property within the multi-family zoning districts of the City of Dunedin to operate a bed and breakfast without obtaining a conditional use permit from the City's Board of Adjustment and Appeal.

103-14.8.2 – Conditional Use Permit Required.

See Chapter 104 – Procedures, Section 104-21 Conditional Use Permits.

103-14.8.3 – No limitation of remedies.

Nothing in this section shall limit the City from enforcement of its code, state or federal law by any other legal remedy available to the City. Nothing in this section shall be construed to limit or supplant the power of the inspector(s), code enforcement inspector or Code Enforcement Board under the City's ordinances, rules and regulations and the authority granted under state law, to take the necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance as defined under state law or the City Ordinances, codes or regulations or to abate a nuisance by any other lawful means or proceedings.

103-14.8.4 – Minimum life and safety requirements.

(a) Residential Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.

(b) Smoke and carbon monoxide (CO) detection and notification system required.

(c) Fire extinguisher required on each floor/level of the unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

103-14.8.5 – Parking standard.

There shall be one off street parking space for each bedroom. Recreational vehicles and accessory trailers shall not be permitted in driveways or other designated parking areas. No recreational vehicles or any other motor vehicle may be used for sleeping. On street parking with the right-of-way shall not be permitted.

103-14.8.6 – Conditional use bed and breakfast standards.

(a) A bed and breakfast may be allowed if there is no appearance of commercial activity except that which is permitted by this section.

(b) The exterior appearance of all structures on a bed and breakfast site shall maintain that of a single-family residence.

(c) Bed and breakfast establishments shall make breakfast service available to overnight paying guests only. Bed and breakfast establishments shall not advertise breakfast service as a restaurant.

(d) The site shall not be let by the public or paying guests for the hosting of receptions or special events. Private parties or similar uses shall be prohibited.

(e) Quiet hours: 10:00 pm to 7:30 am Sunday through Thursday. 11:00 pm to 7:30 am Friday and Saturday.

(f) Conditional use bed and breakfasts rooms may NOT be rented or occupied by a convicted sexual predator or sexual offender.

103-14.8.7 – Conditional use bed and breakfast amenities.

The applicant for a Conditional Use Permit shall make a presentation to the Board of Adjustment and Appeal that addresses the following categories of amenities. The presentation should also highlight concierge services offered to guests.

Food-related Amenities (required)

1. Food service plan that addresses breakfast and other snacks/drinks offered to guests.
2. State of Florida food service license to serve breakfast to guests (if applicable).
3. Coffee making machine
4. Refrigerator
5. Microwave
6. Local restaurant menus

Indoor Amenities (provide at least 8 of 10)

(a) Bath Room(s)
(b) Beds (queen or king sized)
(c) Ceiling fan(s)
(d) Chairs
(e) Guidebook (local maps)
(f) Hair dryer
(g) Accessible amenities for people disabilities.
(h) Individual climate control
(i) Television (large flat screen)
(j) Wireless internet access (complimentary)

Outdoor Amenities (required)

(a) Photographic depiction of private decks, patios, porches, and/or pools available to guests.

Section 3. That Appendix A of the Land Development Code of the City of Dunedin is hereby amended to include the following definitions:

Bed and Breakfast means an owner-occupied family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast, and which is recognized as a bed and breakfast in the community in which it is situated or by the hospitality industry.

Bed and Breakfast, Multi-family Zoning Conditional Use means an owner-occupied family home structure, with no more than 6 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast, and which is recognized as a bed and breakfast in the community in which it is situated or by the hospitality industry.

Residential Property as defined in Appendix A – Definitions of the Land Development Code.

Responsible Party shall mean the owner or person designated by the owner of the property to be called upon to answer for maintenance of the property and the conduct and acts of occupants of residential properties.

Transient Occupants mean any person or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as a Vacation Rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the Vacation Rental is a Transient Occupant.

Vacation Rental shall mean any individually or collectively owned single family, two family, three family house, condominium or townhome dwelling unit that is rented to Transient Occupants for periods of time less than 90 days.

Section 4. That Appendix C of the Land Development Code of the City of Dunedin is hereby amended to include the following fee:

Short Term Vacation Rental Annual Registration $200.00

Section 5. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 6. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 7. That this Ordinance shall take effect immediately upon its adoption on September 5, 2019.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 5th day of September, 2019.

Julie Ward Bujalski
Mayor

ATTEST:

Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: August 22, 2019

READ SECOND TIME AND ADOPTED: September 5, 2019