

ORDINANCE NO. *11-1573*

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE IV "DISTRICT REGULATIONS" SECTION 90.41 "REGULATED USES" ADDING A NEW SECTION 90.41.1.5 ENTITLED "SHORT TERM RENTAL OF SINGLE FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, AND TOWNHOMES" REQUIRING REGISTRATION OF SHORT TERM RENTALS IN RESIDENTIAL NEIGHBORHOODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside is granted the authority, under its home rule power, to exercise any power for municipal purposes, except when expressed prohibited by law; and

WHEREAS, the maintenance of the character of residential neighborhoods is within the home rule power of the Town; and

WHEREAS, limitations on the rental of single family, two-family, multi-family, and townhouse dwellings serves a substantial governmental interest preserving the character and integrity of residential neighborhoods; and

WHEREAS, the Town of Surfside recognizes that the unregulated rental of single-family, two-family, multifamily, and townhouse dwelling units by seasonal residents uniquely impacts certain neighborhoods within the Town, therefore, it is necessary and in the interest of the public health, safety, and welfare to the monitor and provide reasonable means for citizens of the Town of Surfside to mitigate impacts created by such rental units within the Town as set forth in this Article.

WHEREAS, the Town seeks to maintain residential districts that promote the permanent residency of families; and

WHEREAS, the Town Commission hereby finds this Ordinance necessary to protect the public welfare.

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held public hearing on April 28, 2011 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, the Town Commission shall have conducted a duly noticed public hearing on these regulations as required by law on April 12, 2011 and May 10, 2011 having complied with the notice requirements required by Florida Statutes; and

WHEREAS, after due public notice, and having received input and participation by interested members of the public and staff, and having considered the Town of Surfside Planning & Zoning Board's recommendation, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan, finds the proposed change to the Code necessary and in the best interest of the community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, 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. Code Amended. The Town Code is hereby amended by adding a new Section 90.41.1.5 entitled "SHORT TERM RENTAL OF SINGLE FAMILY DWELLINGS,

TWO-FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, AND TOWNHOMES” which shall read as follows:

Sec.90.41.1.5 SHORT TERM RENTAL OF SINGLE FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, AND TOWNHOMES.

A. Definitions and Registration:

1. Intent. The Town of Surfside recognizes that the unregulated rental of single family, two-family, multi-family, and townhome dwelling units by seasonal residents uniquely impacts certain neighborhoods within the Town of Surfside. Therefore, it is necessary and in the interest of the public health, safety, and welfare to the monitor and provide reasonable means for citizens of the Town of Surfside to mitigate impacts created by such rental of such dwelling units within the Town of Surfside as set forth in this Article.

2. Definitions. For the purpose of this Section, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

“Owner” shall mean the person whom is vested ownership, dominion, or title of property.

“Responsible Party” shall mean the owner or the person designated by the owner of the property to be called upon to answer for the maintenance of the property and the conduct and acts of seasonal residents of single family, two-family, multi-family, and/or townhome dwelling units.

“Seasonal resident” shall mean guests, tourists, lessees, vacationers, or others who lease a single family, two-family, multi-family, and townhouse dwelling unit for valuable consideration for a period of time between one (1) day to no more than six (6) months.

“Short term rental” shall mean any occupancy of a single family, two-family, multi-family, and townhouse dwelling unit for a period of time between one (1) day to no more than six (6) months provided however the terms of this short term rental ordinance shall not apply to film and print productions and use of the aforementioned premises for those purposes.

3. Registration Required. It shall be unlawful for any person to allow another person to occupy any single family, two-family, multi-family, and townhouse dwelling unit as a seasonal resident within the Town of Surfside, or offer such rental services within the Town of Surfside, unless the person has been registered with the Town of Surfside in

accordance with provisions of this Section. A registration is required for each rental period for which the single family, two-family, multi-family, and/or townhouse dwelling unit is rented. No more than three (3) registrations shall be issued within a twelve (12) month period. Every person required to procure a registration under this Section shall submit a formal application to the Town Manager or designee.

4. Application for Registration. Applications for registration shall set forth and/or include at a minimum:

a.)Address, lot, block and subdivision name of single family, two-family, multi-family, and townhouse dwelling unit offered for rental;

b.)Name, address, and phone number of owner of said single family, two-family, multi-family, and/or townhouse dwelling unit;

c.)Name, address, and emergency contact phone number of responsible party for said single family, two-family, multi-family, and townhouse dwelling unit, which shall be a twenty-four-hour, seven (7) days a week contact number;

d.)That the phone number for the responsible party will be answered twenty-four (24) hours a day, seven (7) days a week by a party with authority to address or coordinate problems associated with the single family, two-family, multi-family, and townhouse dwelling unit;

e.)Acknowledgements by owner of the following:

i. That all vehicles must be parked in the driveway of the single family, two-family, multi-family, and townhouse dwelling unit and clear of all grassy areas and sidewalk sections pursuant to Town of Surfside Code of Ordinances;

ii. That it shall be unlawful to allow or make any noise or sound which exceed the limits set forth in the Town's Noise Ordinance;

iii. That no garbage container shall be located at the curb for pickup before 12:00 pm of the day prior to pickup, and garbage container shall be removed before midnight of the day of pickup;

iv. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a single family, two-family, multi-family, and townhouse dwelling unit, or, having authorized, licensed, or invited is warned by the owner or lessee, to depart the unit and refuses to do so, commits the offense of trespass in a structure or conveyance;

b) Proof of owner's current ownership of the single family, two-family, multi-family, and townhouse dwelling unit.

g) Issuance or Refusal of Registration. The Town Manager or his designee shall issue a registration to the applicant upon proof of the following:

i. The owner and/or responsible party completes the Town of Surfside registration application form; and

ii. The registration fee has been paid to the Town of Surfside; and

iii. Incomplete registration applications are unacceptable and requested registration shall not issue.

h.) Registration not transferable. No registration issued under this article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

i.) Expiration of Registration. All registration issued under the provisions of this article shall be valid for the rental period requested in the application.

j.) Complaints. Whenever a violation of this article 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 Town Manager or his designee.

B. Fees for Registration. The Town of Surfside is authorized and shall charge a fee for registration to compensate for administrative expenses. The fees for registration shall be set forth in a resolution adopted by the Commission of the Town of Surfside, and may be amended from time to time

C. Resort Tax and Enforcement

1. Payment of Resort Tax required. Owners are subject to payment of the resort taxes as establish by the laws of the Town of Surfside.

2. Violations of this section:

a) are subject to the following fines. The special master may not waiver or reduce fines set by this ordinance.

(i) First violation: \$500

(ii) Second violation within the preceding twelve (12) months: \$1500

(iii) Third violation within the preceding twelve (12) months: \$ 5000

(iv) Fourth or greater violation within the preceding twelve (12) months: \$ 7500

b) In addition to or in lieu of the foregoing, the Town may seek injunctive relief

c) Any code compliance officer may issue notices for violations of this ordinance, with enforcement of section 90.41.1.5 and alternative enforcement of section 90.41.1.5 as provided in Chapter 90 of this Code. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records and a courtesy notice to the contact person identified in subsection (4)(c) above.

D. Previously Existing Short Term Rentals.

1. For a period of six (6) months after the effective date of this ordinance, owners of certain properties shall be eligible to apply for approval of registration permitting short term rental of residential units for these properties under the requirements and provisions set

forth below. Properties that are eligible are those that can demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building, as defined by the requirements listed below.

- a. In order to demonstrate current, consistent and predominant short-term renting, the property must comply with all of the following:
 - i. have been registered with the Town for the payment of Resort Tax and made resort tax payments as of November 10, 2011; and
 - ii. have had Town of Surfside Resort Tax taxable room revenue equal to at least 50% of total room revenue over the last two-year period covered by such payments; and
 - iii. have been registered with the State of Florida as a Transient Apartment, Resort Dwelling, or Resort Condominium pursuant to Chapter 509, Florida Statutes, as of November 10, 2011.

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon passage.

PASSED and ADOPTED on first reading this 12th day of April, 2011.

PASSED and ADOPTED on second reading this 10th day of May, 2011.


Daniel Dietch, Mayor

Attest:


Debra E. Eastman, MMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**


Lynn M. Dannheisser, Town Attorney

On ^{Second} Reading Moved by: Commissioner Kopelman

On Second Reading Seconded by: Commissioner Olchyk

Vote:

Mayor Dietch	yes	<u>absent</u>	_____
Vice Mayor Graubart	yes	_____	no <input checked="" type="checkbox"/>
Commissioner Karukin	yes	<u>absent</u>	_____
Commissioner Kopelman	yes	<input checked="" type="checkbox"/>	no _____
Commissioner Olchyk	yes	<input checked="" type="checkbox"/>	no _____