

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA, AMENENDING SUPPLEMENTAL REGULATIONS OF CHAPTER 152 – ZONING, OF THE CODE OF ORDINANCES OF NORTH BAY VILLAGE; CREATING SECTION 152.112 ENTITLED “VACATION RENTAL LICENSE PROGRAM” TO INCLUDE BUT NOT BE LIMITED TO PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR A VACATION RENTAL LICENSE; PROVIDING FOR A VACATION RENTAL REPRESENTATIVE; PROVIDING FOR LOCAL PHONE SERVICE REQUIREMENT; PROVIDING FOR PARKING STANDARDS; PROVIDING FOR SOLID WASTE HANDLING AND CONTAINMENT; PROVIDING FOR THE POSTING OF VACATION RENTAL INFORMATION; PROVIDING FOR PENALTIES AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the 2011 Florida’s legislature enacted House Bill 883 (Florida Chapter 2011-119, Laws of Florida) (hereafter “HB 883”) which preempted the local regulation of specific land use commonly called short-term vacation rentals (transient rentals less than thirty (30) days in duration and commonly located in residential areas); and

**WHEREAS**, the 2014 Florida Legislature enacted Senate Bill 356 (Florida Chapter 2014-71, Laws of Florida) (hereafter “SB 356”) which rescinded the previous preemption on local regulation of short-term vacation rentals, but provided that a local law, ordinance, or regulation adopted after June 1, 2011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 communities to mitigate the effects of short-term vacation rentals in an attempt to make them safer, more compatible with existing neighborhoods, and accountable for their proper operation; and

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

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions).

**WHEREAS**, the presence of short-term vacation rentals within single-family dwelling units in established residential neighborhoods can also create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; 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 majority of complaints the Village has received to date have been from single- and two-family neighborhoods regarding short-term vacation rentals; and

**WHEREAS**, the Village seeks that short-term vacation rentals are safe, fit in with the character of the neighborhood, provide positive impacts on the community, increase property values, and achieve greater neighborhood compatibility; and

**WHEREAS**, these standards are deemed necessary by the North Bay Village Commission to preserve property values and to protect the health, safety, and general welfare of permanent residents, lot/parcel owners, investors, and transient occupants and visitors alike; and

**WHEREAS**, the application of these minimum standards to short-term vacation rental properties ensures that transient occupants are provided the same minimum protections as is required by the current statutes and codes for single- and two-family residences;

**NOW, THEREFORE, BE IT ENACTED BY THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1: Recitals Adopted.** Each of the above stated recitals is true and correct and incorporated herein by this reference.

**Section 2: Village Code Amended.** Chapter 152 – Zoning, of the North Bay Village Code of Ordinances is hereby amended as follows:

- A. Creation of new Section 152.112 entitled “Vacation Rental License Program” to read as follows:

\* \* \*

**VACATION RENTAL LICENSE PROGRAM**

**GENERAL PROVISIONS**

**§152.112.01 PURPOSE.**

The purpose of this subchapter, Section 152.112, is to promote public health, safety, welfare and convenience through regulations and standards for short-term vacation rental properties by providing:

- (A) for a vacation rental license;
- (B) for safety and operational requirements;
- (C) for parking standards;
- (D) for solid waste handling and containment;
- (E) for licensure requiring posting of vacation rental information;
- (F) for administration, penalties and enforcement.

#### **§152.112.02 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**VILLAGE.** North Bay Village, Florida, as geographically described in its Charter.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living or sleeping purposes, excluding kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.

**OCCUPANT.** Any person who occupies, either during the day or overnight, a Vacation Rental.

**TRANSIENT PUBLIC LODGING ESTABLISHMENT.** 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.** Any individually or collectively owned single family house or dwelling unit that is also a transient public lodging establishment, and is located in an area zoned RS-1 and RS-2.

**VACATION RENTAL REPRESENTATIVE.** A Vacation Rental property owner, or his/her authorized designee, as identified in the application for a Village Vacation Rental license.

## VACATION RENTAL LICENSE

### § 152.112.010 LICENSE REQUIRED.

After July 1, 2016, an active Vacation Rental license shall be required to operate a Vacation Rental within the Village. After July 1, 2016, only Vacation Rentals holding an active Vacation Rental license issued by North Bay Village may operate within the Village. A separate Vacation Rental license shall be required for each Vacation Rental, as defined in Section 152.112.02.

### § 152.112.011 APPLICATION FOR VACATION RENTAL LICENSE.

(A) A property owner seeking initial issuance of a Vacation Rental license, or the renewal, or modification of a Vacation Rental license, shall submit to the Village a completed Vacation Rental license application in a form promulgated by the Village, together with an application fee in an amount set by resolution of the Village Commission.

(B) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental license shall demonstrate compliance with the standards and requirements set forth in this subchapter through the following submittals:

(1) A completed Vacation Rental license application form, which must identify; the property owner, address of the Vacation Rental, Vacation Rental Representative, and as well as the phone number of the Vacation Rental Representative.

(2) Payment of applicable fees.

(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.

(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 Miami-Dade County Tax Collector for the purposes of collecting and remitting tourist and convention development taxes and any other taxes required by law to be remitted to the Miami-Dade County Tax Collector.

(6) A copy of the current Local Business Tax Receipt.

(7) Interior building sketch by floor. A building sketch (may be hand drawn) by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this subchapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, swimming pools, fire extinguishers and exit signage/lighting.

(8) A sketch showing the number and the location of all on-site parking spaces for the Vacation Rental.

(9) Acknowledgement that each guest room shall be equipped with an approved listed single-station smoke detector meeting the minimum requirements of the NFPA.

(10) A section indicating whether the Vacation Rental will have 10 or fewer occupants or more than 10 occupants.

(11) A copy of the generic form vacation rental/lease agreement to be used when contracting with transient Occupants and guests.

(C) Incomplete applications will not be accepted, but will be returned with any fees submitted to the property owner with a notation of what items are missing.

(D) Vacation Rental license applications shall be sworn to under penalty of perjury and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

#### **§ 152.112.012 MODIFICATION OF VACATION RENTAL LICENSE.**

An application for modification of a Vacation Rental license shall be required in the event that any of the following changes to the Vacation Rental are proposed:

(A) An increase in the gross square footage.

(B) An increase in the number of bedrooms.

(C) An increase in the maximum occupancy.

(D) An increase in the number of parking spaces, or a change in the location of parking spaces.

(E) An increase in the number of bathrooms.

(F) Any other material modifications that would increase the intensity of use.

#### **§ 152.112.013 DURATION OF VACATION RENTAL LICENSE.**

The Vacation Rental license shall expire each September 30, and may be annually renewed thereafter if the property is in compliance with this subchapter. Vacation Rental licenses acquired before September 30, 2016 will be valid until September 30, 2017.

**§ 152.112.014 RENEWAL OF VACATION RENTAL LICENSE.**

A property owner must apply annually for a renewal of the Vacation Rental license no later than 60 days prior to the expiration date of the previous Vacation Rental license.

**§ 152.112.015 LICENSES NON-TRANSFERABLE, NON-ASSIGNABLE.**

Vacation Rental licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental license as to that Vacation Rental shall be null and void upon the sale or transfer.

**VACATION RENTAL REPRESENTATIVE**

**§ 152.112.020 DUTIES OF VACATION RENTAL REPRESENTATIVE.**

Every Vacation Rental Representative shall:

(A) Be available by landline or mobile telephone answered by the Vacation Rental Representative at the listed phone number 24-hours a day, 7 days a week to handle any problems arising from the Vacation Rental; and

(B) Be willing and able to be physically present at the Vacation Rental within 60 minutes following notification from a Vacation Rental Occupant, law enforcement officer, emergency personnel, or the Village for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and

(C) Conduct an on-site inspection of the Vacation Rental at the end of each rental period to assure continued compliance with the requirements of this subchapter.

**STANDARDS AND REQUIREMENTS FOR VACATION RENTALS**

**§ 152.112.030 GENERAL**

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

**§ 152.112.031 LOCAL PHONE SERVICE REQUIRED.**

Local phone service. At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

**§ 152.112.032 PARKING STANDARDS.**

Occupants and visitors to the Vacation Rental shall comply with all relevant parking codes as found in the Village Code of Ordinances.

**§ 152.112.033 SOLID WASTE HANDLING AND CONTAINMENT.**

Requirements for garbage storage and collection shall be as follows:

(A) Notice of the location of the trash storage containers and rules for collection shall be posted inside the Vacation Rental.

**§ 152.112.034 MAXIMUM OCCUPANCY.**

Requirements for space shall be as follows:

(A) Each Vacation Rental shall have a minimum gross floor area of not less than 150 square feet for the first occupant and not less than 100 square feet for each additional occupant.

(B) Every room in a Vacation Rental occupied for sleeping purposes shall:

(1) Have a gross floor area of not less than 70 square feet; and when occupied by more than one occupant, it shall have a gross floor area of not less than 50 square feet for each occupant. The maximum number of occupants for each room used for sleeping purposes shall be four.

(2) Have a minimum width of 8 feet.

(C) Gross area shall be calculated on the basis of total habitable room area, and those exclusions appearing in the definition of "habitable room" shall not be considered in calculation of such floor areas.

(D) Every habitable room in a Vacation Rental shall have a ceiling height of not less than 7 feet for at least half the floor area of the room. Any portion of a habitable room having a ceiling height of 5 feet or less shall not be included in calculating the total floor area of such room.

**§ 152.112.035 POSTING OF VACATION RENTAL INFORMATION.**

(A) In each Vacation Rental, located outside on the back or next to the main entrance door there shall be posted as a single page the following information:

(1) The name, address and phone number of the Vacation Rental Representative;

(2) The maximum occupancy of the Vacation Rental;

(3) A statement advising the Occupant that any sound which crosses a property line at a volume which is unreasonably loud is unlawful within the Village; as per the Village Noise Ordinance.

(4) 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; and

(7) The local non-emergency police phone number.

(B) A copy of the building evacuation map – Minimum 8-1/2" by 11" shall be provided to the renter upon the start of each vacation rental.

### **ADMINISTRATION, PENALTIES, AND ENFORCEMENT**

#### **§ 152.112.055 ADMINISTRATION OF VACATION RENTAL LICENSE PROGRAM.**

The ultimate responsibility for the administration of this subchapter is vested in the Village Manager, or his/her authorized designee, who is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental licenses for proposed and existing Vacation Rentals as set forth in this subchapter.

#### **§ 152.112.056 APPEALS.**

Any decision of the Village Manager, or his/her authorized designee, relating to the granting, denial, renewal, modification, or suspension of a Vacation Rental license under this subchapter shall be rendered in writing, and reviewed by the Village Commission if a notice by the applicant is filed with the Village Clerk within 10 days after the action to be reviewed. The Village Clerk shall place the matter on the agenda of an upcoming meeting of the Village Commission, at which the matter will be reviewed. The decision of the Village Commission shall be final. Such final decision may be reviewed as permitted under Florida law.

#### **§ 152.112.057 NOTICE.**

Any notice required under this subchapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Representative set forth on documents filed with the Village under this

subchapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Representative.

**§ 152.112.058 PENALTIES AND ENFORCEMENT.**

(A) Any violation of this subchapter may be punished by citation, as specifically described in Chapter 153 – Code Enforcement of the Code of Ordinances of North Bay Village, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental license as provided hereinafter, for the third offense. Each day a violation exists shall constitute a separate and distinct violation.

(B) Other enforcement methods and penalties. Notwithstanding anything otherwise provided herein, violations of this subchapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the Village as provided in the Village Code of Ordinances. Nothing contained herein shall prevent the Village from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(C) Suspension of license.

(1) In addition to any fines and any other remedies described herein or provided for by law, the Village Manager shall suspend a Vacation Rental license upon a third violation of this subchapter in any continuous 12 month period. Such suspension of a Vacation Rental license shall be for a period of 1 year, and shall begin following notice, commencing either at the end of the current Vacation Rental lease period, or after 30 calendar days, whichever is less.

(2) For violations of the Florida Building Code, or Florida Fire Prevention Code, a Vacation Rental license shall be subject to temporary suspension starting immediately 3 working days after citation for such violation if it is not corrected, re-inspected, and found in compliance.

(D) Revocation of license.

(1) The Village Manager may refuse to issue or renew a license or may revoke a Vacation Rental license issued under this subchapter if the property owner has willfully withheld or falsified any information required for a Vacation Rental license.

(2) The Village Manager shall revoke a Vacation Rental license issued under this subchapter upon the fifth adjudication of either a noise violation where such noise emanated from the Vacation Rental or receipt of a parking violation where such

parking violation occurred on the Vacation Rental property within any continuous 12 month period, or any combination thereof.

(3) The property owner shall not be entitled to any refund of the annual fee paid for a license for any portion of the unexpired term of a license, because of revocation or suspension of the Vacation Rental license.

(E) For all purposes under this subchapter, service of notice on the Vacation Rental Representative shall be deemed service of notice on the property owner and Occupant.

(F) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental license.

### **VESTING**

#### **§ 152.112.070 RENTAL AGREEMENT VESTING.**

It is recognized that there are likely existing rental/lease agreements for Vacation Rentals as the time of passage of this ordinance which may not be in compliance with the regulations herein. Rental agreements that were entered into prior to the date of adoption, shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit.

\* \* \*

**Section 3: Repeal.** Each of the above stated recitals is true and correct and incorporated herein by this reference.

**Section 4: Severability.** The provisions of this Ordinance are declared to be non-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 render this Ordinance void in its entirety.

**Section 5: Inclusion in the Code.** It is the intention of the Village Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of North Bay Village; 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..

**Section 6: Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by \_\_\_\_\_, who moved for its approval on first reading. This motion was seconded by \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

**THE VOTES WERE AS FOLLOW:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Jorge Gonzalez \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Adreana Jackson \_\_\_\_\_  
Commissioner Eddie Lim \_\_\_\_\_

**APPROVED ON FIRST READING** during a regular session of the North Bay Village Commission Meeting this \_\_\_\_ day of \_\_\_\_\_ 2016.

The foregoing Ordinance was offered by \_\_\_\_\_, who moved for its enactment. This motion was seconded by \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

**FINAL VOTE ON ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Jorge Gonzalez \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Adreana Jackson \_\_\_\_\_  
Commissioner Eddie Lim \_\_\_\_\_

**PASSED AND ENACTED** by the Commission of North Bay Village this \_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Connie Leon-Kreps  
Mayor

ATTEST:

\_\_\_\_\_  
Yvonne Hamilton, Village Clerk

APPROVED AS TO FORM FOR THE USE OF  
NORTH BAY VILLAGE ONLY:

\_\_\_\_\_  
Village Attorney  
Robert L. Switkes & Associates, P.A.