

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: 2011-060

1. **Requested Motion:** Motion to introduce 11-05, Residential Rental Registration Ordinance and set a Public Hearing date for June 20, 2011 at 6:30 PM **Meeting Date:** 6/6/11

Why the action is necessary: State law provides that prior to adoption of an ordinance, it must be read by title at a public meeting at least once prior to the date when it is adopted.

What the action accomplishes: Introduces the ordinance by reading the title and sets a public hearing date for the ordinance.

2. **Agenda:**

Consent
 Administrative

3. **Requirement/Purpose:**

Resolution
 Ordinance
 Other

4. **Submitter of Information:**

Council
 Town Staff
 Town Attorney

5. **Background:** Council has requested the drafting of an ordinance to regulate short term rentals. The ordinance as proposed will require all residential properties that are leased or rented to members of the public for periods of six (6) months or less to register with the Town, pay an annual registration fee, and abide by certain posting and other requirements that are contained in the ordinance. Revenues realized from the annual registration fee will be utilized to fund inspection and enforcement efforts with respect to such rentals.

6. **Alternative Action:** Decline to introduce the proposed ordinance and set a public hearing date.

7. **Management Recommendations:** Introduce the ordinance and set a public hearing date.

8. **Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

9. **Council Action:**

Approved Denied Deferred Other

ORDINANCE NO. 11-05

AN ORDINANCE CREATING CHAPTER 10, ARTICLE VII, IN THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES, TO BE ENTITLED "REGISTRATION OF RESIDENTIAL RENTAL PROPERTY;" PROVIDING FOR PURPOSE AND INTENT; APPLICABILITY; REGISTRATION OF RESIDENTIAL DWELLING UNITS REQUIRED; AGENCY; GENERAL PROVISIONS; REGISTRATION APPLICATIONS AND RENEWALS; POSTING AND NOTIFICATION REQUIREMENTS; TRANSFERABILITY; VIOLATIONS AND PENALTIES; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council finds that there are many residential rental properties within the Town that are not being properly maintained; and

WHEREAS, inadequate maintenance directly affects the health, life, safety and welfare of the citizens of the Town of Fort Myers Beach and impacts the health and vitality of the surrounding neighborhood and the Town as a whole; and

WHEREAS, the Town of Fort Myers Beach supports and promotes the use of proactive code enforcement and cooperation with property owners and residents to ensure the safety and welfare of the entire community; and

WHEREAS, the regular collection and maintenance of accurate, up-to-date information about residential rental properties and the identification of responsible persons for the property who are easily accessible will assist the Town to ensure compliance with applicable property maintenance and other Town codes; and

WHEREAS, experience arising from the code enforcement activities of the Town has shown that it is oftentimes more difficult to gain compliance with respect to rented residential properties; and

WHEREAS, the Town Council has determined that it is advisable to provide for a registration system that will require a designated local representative for all residential rental properties.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Chapter 10, Article VII, in the Town of Fort Myers Beach Code of Ordinances is hereby created as follows:

ARTICLE VII. REGISTRATION OF RESIDENTIAL RENTAL PROPERTY

Sec. 10-180. Purpose and Intent.

The purpose and intent of this article is to collect current and accurate information identifying existing residential rental properties and to encourage the appropriate management of those

properties in order to protect the general health, safety and welfare of the residents of and visitors to the Town of Fort Myers Beach.

Sec. 10-181. Applicability.

The provisions of this Article shall apply to any residential dwelling unit located in the Town that is, at any time, rented or leased to members of the public for a period of six (6) months or less. For purposes of this Article, the term “residential dwelling unit” shall not include hotels, motels, resorts, or bed and breakfast units. The requirements of this Article shall be in addition to, and not in place of, any applicable requirements contained in Section 34-2391 through 2394 of the Town of Fort Myers Beach Land Development Code.

Sec. 10-182. Registration of Residential Dwelling Units Required.

All owners of residential dwelling units that are subject to the provisions of this Article shall, prior to offering said dwelling unit for lease or rent to members of the public, register the unit with the Town. A separate registration shall be required for each dwelling unit that is offered for lease or rent.

Sec. 10-183. Agency.

The owner of a dwelling unit subject to this Article may retain an agent, representative or local contact person in order to comply with the provisions of this Article, provided, however, that the registration, however, must be in the name of the owner of the residential dwelling unit. The owner of the residential dwelling unit is responsible for compliance with the provisions of this chapter and the failure of an agent, representative, or local contact person to comply with this article shall be deemed non-compliance by the owner.

Sec. 10-184. General Provisions.

All owners of residential dwelling units registered as provided herein and who leases or rents the property to members of the public on or after [insert date] shall comply with the following:

(a) All trash and debris on the property must be placed in trash containers with tight fitting lids. An adequate number of covered trash containers shall be provided for each dwelling unit.

(b) A local contact person shall be designated and must be available by telephone twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year for the purpose of responding promptly to any complaints regarding the conduct of the occupants of the dwelling unit. The name and phone number of the contact person shall be registered with the Lee County Sheriff's Department by the Town.

(c) Each registered residential dwelling unit shall contain no more than one (1) kitchen.

(d) The owner or rental agent shall maintain a tenant and vehicle registration which shall include the name and address of each unit's tenant(s), and the make, year and tag number of the tenant's vehicle(s). This information shall be readily available and provided upon request from any officer of the Town responsible for the enforcement of this article.

(e) The occupancy of an individual dwelling unit shall not exceed the maximum occupancy permitted under the Florida Fire Prevention Code and the Florida Building Code. Total occupancy shall not exceed two (2) persons age twelve(12) and over plus two (2)children under the age of twelve (12) per bedroom.

(f) There must be a written lease or rental agreement between the owner and the tenant and it shall contain the following provisions:

(1) A requirement that the tenant and all occupants of the dwelling unit comply with the provisions of this article.

(2) A provision stating that any violation of the posted occupancy and use restrictions may result in immediate termination of the rental agreement, eviction from the unit by the owner or property manager and the imposition of fines by the Town.

(g) All residential dwelling units offered for rental shall be registered, licensed and meet all applicable state requirements contained in Chapter 212, Florida Statutes (Florida Tax and Revenue

Act); Chapter 509 (Public Lodging Establishments); Chapter 69A-43 Florida Administrative Code (Uniform Fire Safety Standards for Transient Public Lodging Establishments); and Chapter 69A-60, Florida Administrative Code (Florida Fire Prevention Code), as may be amended.

(h) Complaints concerning violation of the rental regulations contained in this article by rental occupants shall be responded to by the owner or the owner's agent within one (1) hour. The person who filed the complaint shall be contacted by the owner or the owner's agent by telephone or in person and informed as to what actions have been taken by the owner or the owner's agent to rectify the complaint. A written record of the complaint and the response shall be kept by the owner or agent for a period of not less than three (3) months after the incident and shall be available for inspection by the Town of Fort Myers Beach Code Compliance officers during business hours.

Sec. 10-185. Registration Applications and Renewals.

(a) An application to register a Residential Dwelling Unit shall be completed on forms provided by the Town prior to any use of a residential dwelling unit for rental or lease.

(b) An application to register a Residential Dwelling Unit shall be accompanied by an initial registration fee in an amount established by resolution by the Town Council. Thereafter, the owner shall pay an annual registration renewal fee in an amount established by resolution by the Town Council. All registrations shall expire at midnight on September 30th of each year.

(c) Any change in ownership of the property requires a registration transfer application, accompanied by a transfer fee in an amount established by resolution by the Town Council.

(d) Registrations that are not timely renewed are delinquent and subject to a delinquency penalty of ten percent (10%) for the first month of delinquency, plus a five percent (5%) penalty for each subsequent month of delinquency until paid, provided, however, that the total delinquency penalty may not exceed twenty-five percent (25%) of the license fee for the unit. During the period of delinquency, the registration is deemed expired and any rental of the property during the expired period shall be a violation of this Article. A rental unit whose registration is not renewed within one

(1) year of expiration shall not be eligible for renewal and must make a new application and pay a new registration application fee.

(e) A registration application may be denied if the application is incomplete, contains material misrepresentations or if one or more of the requirements contained in Section 10-184 have not been met. If the registration is denied, the applicant may request a review and reinspection by the Town. If, after review and reinspection, the registration application is still denied, the applicant may appeal the denial to the Town Council.

(f) A rental registration may be revoked by the Town for cause, after the owner has been provided with written notice of an intent to revoke and an opportunity to be heard by the Town Council.

Sec. 10-186. Posting and Notification Requirements.

(a) Each residential rental dwelling unit shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door. The notice shall contain, at a minimum, the following information:

(1) The name of the managing agency, agent, rental manager, local contact or owner of the unit, and a telephone number where the listed person can be reached on a twenty-four (24) hour basis;

(2) The maximum number of occupants permitted to stay in the unit;

(3) The maximum number of vehicles permitted to be parked on the property;

(4) The number and location of on-site parking spaces and any parking regulations prohibiting on street parking;

(5) The trash pick up day and notification that trash and refuse shall not be left or stored on the exterior of the property except from 6:00 P.M. the day prior to trash pick up to 6:00 P.M. on the day designated for trash pick up;

(6) Notification that an occupant may be cited, fined, and/or immediately evicted by the owner or rental manager, pursuant to state law, in addition to any other remedies available at law, for creating a disturbance or for violating other provisions of this article.

(7) Notification that failure to conform to the parking and occupancy requirements is a violation of this article and could subject the violator to fines.

(8) A photocopy of the residential rental registration.

(b) In addition to the foregoing, there shall also be posted on the exterior of the building the name of the managing agency, agent, rental manager, local contact or owner of the unit and the telephone number where the listed person can be reached on a twenty-four (24) hour basis.

Sec. 10-187. Transferability.

(a) A residential rental registration may not be assigned or transferred, pledged, sold, or otherwise transferred by the owner to any other person, business, or entity. The registration shall remain in the owner's name until such time that the owner ceases to use the property for lease or rental or sells the property.

(b) If a new owner desires to continue to use the property for lease or rental, an application, accompanied by a registration transfer fee, must be made to the Town within thirty (30) days of the date the property is transferred to the new owner and thirty (30) days before the first rental of the property by the new owner.

(c) Notwithstanding the foregoing, if an owner or applicant can produce a written lease or rental agreement that obligates the owner to rent the property during the period of transfer and can provide proof that the agreement was in existence at the time of sale of the property, then the foregoing restrictions on transfer shall be waived for the period of time the lease or rental agreement is in effect.

Sec. 10-188. Violations and Penalties.

(a) It shall be a violation of this article to enter into any lease that is designed or structured to subvert the regulatory goals of this article.

(b) It shall be unlawful for any person, owner, tenant, broker, real estate agent, or other agent or representative of the owner to offer or advertise for lease or rent a residential dwelling unit when the unit does not have a valid and current registration issued pursuant to this article. It shall further be unlawful to offer or advertise for lease or rent a residential dwelling unit for occupancy or uses not permitted under this article. Evidence of offering property for rental shall include:

(1) registration or licensing for short-term rental or transient rental use by the state under Florida Statute Chapters 212 or 509;

(2) advertising or offering a dwelling unit for rent;

(3) employment or use of an agent or other third person to take reservations or to offer the unit for lease or rent.

(c) Any violation of this article by any person, owner, tenant, agent, broker, real estate agent or other representative of an owner shall be punishable by a fine of up to \$500.00 per day, per unit, per violation and/or a sentence of up to thirty (30) days in jail. Alternatively, violations of this Article may also be brought before the Town's Code Enforcement Special Magistrate. Each day that a violation continues or occurs shall constitute a separate offense.

(d) In addition to any other remedy available to the Town, the Town may also seek injunctive relief from a court of competent jurisdiction to restrain any violation of this Article.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 3. Effective Date. This ordinance shall take effect immediately upon adoption by the Town Council.

The foregoing Ordinance was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a vote, the result was as follows:

Larry Kiker, Mayor
Tom Babcock
Alan Mandel

Bob Raymond, Vice Mayor
Jo List

DULY PASSED AND ADOPTED THIS ____ DAY OF _____ 2011, BY THE

TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

ATTEST:

By: _____
Larry Kiker, Mayor

By: _____
Michelle D. Mayher, Town Clerk

Approved as to form and legal sufficiency:

By: _____
FOWLER WHITE BOGGS, Town Attorney