

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Planning Board

TO: Chairperson and Members
Planning Board

DATE: February 27, 2018

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **DISCUSSION: Short Term Rental Occupancies**

HISTORY

On October 11, 2017, as part of the review of an Ordinance pertaining to occupancy limitation for hotel units and hostels, the Land Use and Development Committee (LUDC) recommended that short term rental occupancies be reviewed as part of a separate referral by the City Commission to the Planning Board.

On December 13, 2017, the City Commission referred this discussion item to the Planning Board.

DISCUSSION

Recently the City Code was amended to put in place occupancy limits for hotel units located in residential zoning districts in accordance with the following:

Section 142-1105(c)(3) *Hotels located in the C-PS2, R-PS3, R-PS4, RM-1, RM-2 and RM-3 zoning districts shall not exceed the following occupancy limits per individual unit:*

- a. *For units less than 335 square feet, occupancy shall be limited to four (4) persons.*
- b. *For units between 335 and 485 square feet, occupancy shall be limited to six (6) persons.*
- c. *For units larger than 485 square feet, occupancy shall be limited to eight (8) persons.*
- d. *No hotel unit may be occupied by more than eight (8) persons.*

The code was also recently amended to include a definition for hostel and occupancy limits in the residential zoning districts where they are allowed (RM-2 and RM-3) in accordance with the

following:

Section 142-1105(b)(2) *Hostels shall be permitted in the RM-2 and RM-3 zoning districts, provided the occupancy of a hostel shall not exceed the following limits per individual unit:*

- a. *For units less than 335 square feet, occupancy shall be limited to four (4) persons.*
- b. *For units between 335 and 485 square feet, occupancy shall be limited to six (6) persons.*
- c. *For units larger than 485 square feet, occupancy shall be limited to eight (8) persons.*
- d. *No hostel unit may be occupied by more than eight (8) persons*

For reference, Hostels are only permitted in the following zoning districts:

RM-2 (Except for properties located in the Palm View Neighborhood and West Avenue Corridor)

RM-3 (Except for properties located in the West Avenue Corridor)

CD-2

CD-3

MXE

CPS-3

CPS-4

TC-1

TC-2

With the exceptions noted in Section 142-111 (attached), short term rental of apartment units are prohibited in RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, R0-3 or TH for periods of less than six months and one day.

Short term rental of apartment units are generally allowed in zoning districts which include a hotel use as a main permitted use (in accordance with the requirements of Section 142-111). However, if an apartment unit is part of a condominium association, and that association does not allow the short term rental of an apartment unit, such rental will not be authorized by the City.

In light of the recent code amendments with occupancy limits put in place for hotels and hostels in the residential zoning districts where they are allowed (RM-2 and RM-3, except as noted above), the City Commission requested that the Planning Board discuss the potential to also include occupancy limits for the short term rental of apartment units. Absent any limitations in the Land Development Regulations, occupancies are limited by the Building Code and Life-Safety requirements.

Staff would recommend the following be considered as part of the discussion:

- Applicable Zoning Districts. The occupancy limits in place for hotels and hostels only applies to RM-2 and RM-3 districts (where allowed). It may be reasonable to place any limitations on short term rental occupancies to the same zoning districts.

- Unit Sizes. Unlike hotel units and hostel rooms, apartment unit sizes are typically much larger with one or more bedrooms, and generally are larger than 800 SF, which is the minimum average unit size for the construction of new apartment units in most areas of the City. Some short term rental apartments could be several thousand square feet.

- Current limits of Condo-Docs. It is also customary that, just as rental restrictions may be in place for residential condominiums, condominium documents typically already place limits on occupancies.

- Enforcement. Also unlike a hotel, an apartment unit is not under the control or management of a single company that that can more easily manage and enforce occupancy restrictions.

- Application requirements. Currently a floor plan is not part of the review process for the short term rental of an apartment unit. If occupancy limits are put in place, a floor plan will have to be submitted, which should be something that was approved by the City with a previous building permit to ensure that the area of the unit and the unit layout including the number of bedrooms is accurate.

RECOMMENDATION

The staff recommends that the Planning Board discuss the item and provide appropriate recommendations to the City Commission.

TRM/MAB

Sec. 142-1105. - Suites hotel, apartment hotel, hostel, and hotel.

- (a) Suite hotel units and suite hotels, as defined in section 114-1 of the land development regulations, shall conform with the following regulations:
- (1) When a hotel unit contains cooking facilities it shall be considered as a suite hotel unit. Suite hotel units may have full cooking facilities, provided the unit is at least 550 square feet in size.
 - (2) Notwithstanding the foregoing, suite hotels located within a local historic district, local historic site, or national register district may have full cooking facilities in units with a minimum of 400 square feet.
 - (3) A minimum of ten percent of the total gross area shall be maintained as common area, however this requirement shall not apply to historic district suites hotels. This provision shall not be waived or affected through the variance procedure.
 - (4) The building shall contain a registration desk and a lobby. Any transient guest or occupant for a suite hotel unit must register at the registration desk. Those transient guest(s) or occupant(s) are prohibited from accessing the suite hotel unit without registration.
 - (5) The building shall have central air conditioning or flush-mounted wall units; however no air conditioning equipment may face a street, bay or ocean.
 - (6) Should the facility convert from a suites hotel to a multifamily residential building, the minimum average unit size and all other zoning requirements for the underlying district shall be met.
 - (7) No suite hotel unit may be occupied by more than eight persons. Notwithstanding the foregoing, a suite hotel owner or operator may at its discretion further restrict the maximum occupancy of a suite hotel unit from the maximum occupancy set forth in this section 142-1105.
 - (8) Suite hotels shall be prohibited in all zoning districts and overlay districts that do not list suite hotels as a permitted or conditional use.
- (b) Hostels, as defined in section 114-1 of the land development regulations, shall conform with the following regulations:
- (1) Hostels shall comply with the minimum unit size requirements for hotels in the underlying zoning district, unless otherwise provided.
 - (2) Hostels shall be permitted in the RM-2 and RM-3 zoning districts, provided the occupancy of a hostel shall not exceed the following limits per individual unit:
 - a. For units less than 335 square feet, occupancy shall be limited to four persons.
 - b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.
 - c. For units larger than 485 square feet, occupancy shall be limited to eight persons.
 - d. No hostel unit may be occupied by more than eight persons.
 - e. Notwithstanding the foregoing, a hostel owner or operator may at its discretion further restrict the maximum occupancy of a hostel unit from the maximum occupancy set forth in this section 142-1105.
 - (3) Hostels shall be prohibited in all zoning districts and overlay districts that do not list hostels as a permitted or conditional use.
- (c) Hotels and hotel units, as defined in section 114-1, shall conform with the following regulations:
- (1) Hotel units shall comply with the minimum unit size requirements in the underlying zoning district.
 - (2) Cooking facilities in hotel units shall be limited to one microwave oven, one sink and one five-cubic-foot refrigerator.
 - (3) Hotels located in the C-PS2, R-PS3, R-PS4, RM-1, RM-2 and RM-3 zoning districts, as well as the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, shall not exceed the following occupancy limits per individual unit:

- a. For units less than 335 square feet, occupancy shall be limited to four persons.
 - b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.
 - c. For units larger than 485 square feet, occupancy shall be limited to eight persons.
 - d. No hotel unit may be occupied by more than eight persons.
 - e. Notwithstanding the foregoing, a hotel owner or operator may at its discretion further restrict the maximum occupancy of a hotel unit from the maximum occupancy set forth in this section 142-1105.
- (4) Hotels shall be prohibited in all zoning districts and overlay districts that do not list hotel as a permitted or conditional use.
- (5) The building shall contain a registration desk and a lobby for any transient guest or occupant for a suite hotel unit or hotel unit. All transient guest(s) or occupant(s) of a suite hotel unit or hotel unit must register at the registration desk and are prohibited from accessing the suite hotel unit or hotel unit without registration.
- (d) Apartment hotels, as defined in section 114-1, shall conform with the following regulations:
- (1) All units shall comply with the minimum unit size requirements in the underlying zoning district. In the R-PS2 district, the minimum unit size for hotel units shall be 335 square feet.
 - (2) Cooking facilities in hotel units shall be limited to one microwave oven, one sink, and one five-cubic-foot refrigerator.
 - (3) Hotel and suite hotel units located in the C-PS2, R-PS2, R-PS3, R-PS4, RM-2, and RM-3 zoning districts, as well as the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, shall not exceed the following occupancy limits per individual unit:
 - a. For units less than 335 square feet, occupancy shall be limited to four persons.
 - b. For units between 335 and 485 square feet, occupancy shall be limited to six persons.
 - c. For units larger than 485 square feet, occupancy shall be limited to eight persons.
 - d. No hotel or suite hotel unit may be occupied by more than eight persons.
 - e. Notwithstanding the foregoing, an apartment hotel owner or operator may at its discretion further restrict the maximum occupancy of a hotel unit or suite hotel unit from the maximum occupancy set forth in this section 142-1105.
 - (4) Apartment hotels shall be prohibited in all zoning districts and overlay districts that do not list apartment hotel as a permitted or conditional use.
 - (5) The building shall contain a registration desk and a lobby for any transient guest or occupant for a suite hotel unit, hotel unit, or the short-term rental of an apartment unit. All transient guest(s) or occupant(s) of a suite hotel unit, hotel unit, or the short-term rental of an apartment unit must register at the registration desk and are prohibited from accessing the suite hotel unit, hotel unit or the apartment unit without registration.

(Ord. No. 89-2665, § 6-22(D), eff. 10-1-89; Ord. No. 99-3176, § 2, 3-3-99; Ord. No. 2015-3971, § 1, eff. 10-14-15; Ord. No. 2017-4146, § 2, 10-18-17)

Sec. 142-1111. - Short-term rental of apartment units or townhomes.

(a) *Limitations and prohibitions.*

- (1) Unless a specific exemption applies below, the rental of apartment or townhome residential properties in districts zoned RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, R0-3 or TH for periods of less than six months and one day.
- (2) Any advertising or-advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.

"Advertising" or "advertisement" shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

(3) None of the districts identified below shall be utilized as a hotel.

(b) *Previously existing short-term rentals in specified districts.* For a period of six months after June 19, 2010, owners of certain properties located in the following districts shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units for these properties under the requirements and provisions set forth below.

(1) *Eligibility:* Properties within the RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts. Those properties 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) For apartment buildings of four or more units, or for four or more apartment units in one or more buildings under the same City of Miami Beach Resort Tax ("resort tax") account. 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 city for the payment of resort tax and made resort tax payments as of March 10, 2010; and
- (ii) Have had resort tax taxable room revenue equal to at least 50 percent 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 or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.

For properties containing more than one apartment building, eligibility may apply to an individual building satisfying subsections (b)(1)(A)(i)—(iii) above.

(B) For apartment and townhouse buildings of three or less units, or for three or less apartment units in one or more buildings under the same state license. In order to demonstrate current, consistent and predominant short-term renting, the property must:

- (i) Have been registered with the State of Florida as a resort dwelling or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.

(2) *Time periods for the districts identified in subsection (b)(1) to apply for short-term rental approvals.*

(A) Owners demonstrating compliance with subsection (b)(1) above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(f), within a time period of six months from June 19, 2010, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(B) Within three months of June 19, 2010, eligible owners shall apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code shall be demonstrated by October 1, 2011, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire

marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.

- (D) Applications under this section may be accepted until 60 days after April 11, 2012, upon determination to the planning director that a government licensing error prevented timely filing of the application.
- (3) *Eligibility within the Collins Waterfront Local Historic District.* Owners of property located in the Collins Waterfront Local Historic District shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units under the requirements and provisions set forth below:
- (A) Only those properties located south of West 24th Terrace shall be eligible for short-term rentals.
- (B) Only buildings classified as "contributing" in the city's historic properties database shall be eligible for short-term rentals. The building and property shall be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these Land Development Regulations.
- (C) The property must have registered with the State of Florida as a transient or condominium pursuant to Chapter 509, Florida Statutes, as of the effective date of this ordinance.
- (D) The property must have registered with the city for the payment of resort tax and made resort tax payments as of as of the effective date of this ordinance.
- (E) Residential apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhouses. A property owner of an apartment building, townhome or condominium must provide written notification to those long-term tenants (prospective or current tenants with leases of six months and one day or longer), providing affirmative notice that short-term rentals are expressly permitted throughout the building or at the premises.
- (F) Any property seeking to have short-term rental will need to demonstrate that there is on-site management, 24 hours per day, seven days a week.
- (G) The short-term rental use requires at least a seven-night reservation.
- (4) *Time period to apply for short-term rental approvals for those properties located in the Collins Waterfront Architectural District.*
- (A) Owners demonstrating compliance with subsection (b)(3), above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(e) within the time period of April 1, 2017 through September 30, 2017, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.
- (B) Within the application time period of this ordinance, eligible owners shall have obtained all the necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.
- (C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code, shall be demonstrated by the effective date of this ordinance, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent the building or fire departments from undertaking enforcement action prior to such date.
- (5) In the event a building approved for short-term rentals in accordance with subsections (b)(3) and (4), above, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.
- (c) *Regulations.* For those properties eligible for short-term rental use as per (b) shall be permitted, provided that the following mandatory requirements are followed:

- (1) *Approvals required: applications.* Owners, lessees, or any person with interest in the property seeking to engage rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval of short-term rentals shall be on a form provided for that purpose, and contain the contact information for the person applying. The application shall also, in accordance with subsection (3) below, identify the minimum lease term for which short-term rental approval is being requested, and contain all other items of required information as the planning director may determine. The application shall be accompanied by the documents described in subsection (9) below, if applicable.

The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of \$600.00.
 - (2) *Time period.* All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.
 - (3) *Contact person.* All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within the districts identified in subsection (b). Each agreement, license, or lease, or scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein, is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.
 - (4) *Entire unit.* Only entire apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.
 - (5) *Rules and procedures.* The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.
 - (6) *Signs.* No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.
 - (7) *Effect of violations on licensure.* Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special master's determination of a violation, within the 12 months preceding the date of filing of the application.
 - (8) *Resort taxes.* Owners are subject to resort taxes for rentals under this section, as required by city law.
 - (9) *Association rules.* Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (c)(1) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.
 - (10) *Variations.* No variations may be granted from the requirements of this section.
- (d) *Eligibility within North Beach.* Properties that have buildings classified as "contributing" in the North Shore National Register Historic District and are zoned RM-1 may be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units. Eligibility set forth herein, is limited to those

properties fronting Harding Avenue, including buildings and properties located east of Harding Avenue and west of the alley, from the city line on the north, to 73rd Street on the south, and may be eligible for short-term rentals, provided, the following conditions, requirements, and provisions are satisfied:

- (1) Short-term rentals, for those buildings classified as "contributing" in the North Shore National Register Historic District, must be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these land development regulations, prior to the issuance of a business tax receipt permitting short-term rentals at the property.
- (2) Apartment buildings, townhomes or condominiums under the same City of Miami Beach Resort Tax ("resort tax") account must demonstrate current and consistent short-term renting, and the property must comply with all of the following:
 - (A) Have registered with the city for the payment of resort tax, or made resort tax payments; and
 - (B) Have registered with the State of Florida as a transient apartment or resort condominium pursuant to F.S. ch. 509.
- (3) Property owners demonstrating compliance with subsection (d) above, must apply for a certificate of use permitting short-term rental, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.
- (4) Eligible property owners must apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.
- (5) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code must be demonstrated proper to the issuance of the certificate of use, or rights to engage in short-term rental under this subsection shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.
- (6) The short-term rental use requires at least a seven-night reservation.
- (7) In the event a building approved for short-term rentals in accordance with this subsection, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.
- (8) Regulations. For those properties eligible for short-term rental use as per (d) may be permitted to engage in short-term rentals, provided that the following mandatory requirements are followed:
 - (A) Approvals required: applications. Property owners seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be on a form provided for that purpose, and contain the contact information for the person identified below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information, as the planning director may determine. The application shall be accompanied by the letter or documents described below, if applicable.
 - (B) The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of \$1,000.00.
 - (C) Time period. All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.
 - (D) Contact person. All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence

located within 500 feet of the property that is engaged in short-term rental pursuant to subsection (d). Each agreement, license, or lease, or scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.

- (E) Entire unit. Apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.
 - (F) A property owner of an apartment building, townhome or condominium must provide written notification to those long-term tenants (prospective or current tenants with leases of six months and one day or longer), providing affirmative notice that short-term rentals are expressly permitted throughout the building or at the premises.
 - (G) Rules and procedures. The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.
 - (H) Signs. No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.
 - (I) Effect of violations on licensure. Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special master's determination of a violation, within the 12 months preceding the date of filing of the application.
 - (J) Resort taxes. Property owners are subject to resort taxes for rentals under this section, as required by city law.
 - (K) Association rules. Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (d) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.
 - (L) Variances. No variances will be granted from the requirements of this section.
- (e) *Enforcement.*
- (1) Violations of subsection 142-1111(a) shall be subject to the following fines. The special master shall not waive or reduce fines set forth herein.
 - A. If the violation is the first violation: \$20,000.00.
 - B. If the violation is the second violation within the preceding 18 months: \$40,000.00.
 - C. If the violation is the third violation within the preceding 18 months: \$60,000.00.
 - D. If the violation is the fourth violation within the preceding 18 months: \$80,000.00.
 - E. If the violation is the fifth or greater violation within the preceding 18 months: \$100,000.00, and the suspension or revocation of the certificate of use.

Fines for repeat violations by the same offender shall increase regardless of locations. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and the Miami-Dade Tax Collector, with a copy of the special master order adjudicating the violation, that notifies these

governmental agencies that the single-family residential property was used for the transient rental or occupancy at the premises.

- (2) In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
- (3) Any code compliance officer may issue notices for violations of this section, with enforcement of subsection 142-1111(a) and alternative enforcement of subsection 142-1111(b) as provided in chapter 30 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 (c)(3) above.
- (4) The advertising or advertisement for the transient rental, occupancy or short-term rental of the apartment or townhouse residential property for the purpose of allowing a rental for a period of less than six months and one day at the apartment or townhouse residential premises is direct evidence that there is a violation of subsection 142-1111(a), which is admissible in any proceeding to enforce subsection 142-1111(a). The advertising or advertisement evidence raises rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of section 142-1111(a).
- (5) Enhanced penalties. The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 142-1111(d), above, for violations of subsection 142-1111(a):
 - A. Enhanced penalties for violation of subsection 142-1111(a):
 1. The transient rental or occupancy must be immediately terminated, upon confirmation that a violation has occurred, by the Miami Beach Police Department and the Code Compliance Department.
 2. If the offense is a second offense within the preceding 18-month period of time, and the total square footage of all building(s), accessory building(s), dwelling(s), or structure(s) exceed 5,000 square feet, then the special master must impose an additional fine of \$25,000.00.
 3. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

(Ord. No. 2010-3685, § 1, 6-9-10; Ord. No. 2012-3758, § 1, 4-11-12; Ord. No. 2014-3854, § 3, 4-23-14; Ord. No. 2015-3925, § 1, 2-11-15; Ord. No. 2016-4001, § 2, 3-9-16; Ord. No. 2016-4043, § 1, 10-19-16; Ord. No. 2017-4077, § 1, 3-1-17)