

CITY OF HOLMES BEACH
ORDINANCE 15-12

AN ORDINANCE OF THE CITY OF HOLMES BEACH AMENDING THE CODE OF ORDINANCES, SPECIFICALLY AMENDING PART III, LAND DEVELOPMENT CODE, ARTICLE I, DEFINITIONS, BY ADDING A DEFINITION FOR BEDROOM; AMENDING ARTICLE IV, NONCONFORMITIES, SECTION 4.2 DEFINITION OF NONCONFORMITIES BY ADDING NEW SUBSECTION E RELATIVE TO SINGLE-FAMILY DWELLING UNITS WITH MORE THAN FOUR BEDROOMS AND DWELLING UNITS WITH MORE THAN TWO BEDROOMS LOCATED IN DUPLEX/TWO-FAMILY STRUCTURES IN THE R-2, R-3 AND R-4 ZONING DISTRICTS; AMENDING ARTICLE IV, NONCONFORMITIES, SECTION 4.2 DEFINITION OF NONCONFORMITIES BY ADDING NEW SUBSECTION F RELATIVE TO RESORT HOUSING DWELLING UNITS LOCATED IN THE R-2, R-3 AND R-4 ZONING DISTRICTS WHERE THERE ARE MORE THAN TWO OF THE REQUIRED PARKING SPACES WITH OTHER SPACES LOCATED BEHIND THEM, AND WHERE THE COMBINED WIDTH OF DRIVEWAYS IN EXCESS OF 40 FEET ON A PLATTED LOT OF RECORD; AMENDING ARTICLE VI, ZONING, SECTIONS 6.6.C.3, 6.6.D.3, AND 6.6.E.3 BY LIMITING TO FOUR THE NUMBER OF BEDROOMS IN A SINGLE-FAMILY DWELLING IN THE R-2, R-3 AND R-4 DISTRICTS, AND LIMITING TO TWO THE NUMBER OF BEDROOMS IN AN INDIVIDUAL DWELLING UNIT LOCATED IN A DUPLEX/TWO-FAMILY STRUCTURE IN THE R-2, R-3 AND R-4 DISTRICTS; AMENDING ARTICLE VI, ZONING, SECTION 6.7.V BY LIMITING THE NUMBER OF OVERNIGHT OCCUPANTS OF A RESORT HOUSING UNIT TO SIX, OR TWO PERSONS PER BEDROOM, WHICHEVER IS GREATER; CLARIFYING THAT THE MINIMUM PERIOD OF OCCUPANCY IN A RESORT HOUSING UNIT IN THE R-2, R-3 AND R-4 DISTRICTS IS SEVEN CONSECUTIVE DAYS AND IN THE R-1AA AND R-1 ZONING DISTRICTS IS THIRTY CONSECUTIVE DAYS; AMENDING SECTION 6.7.V.2.b(2) LIMITING TO TWO THE NUMBER OF REQUIRED PARKING SPACES FOR A RESORT HOUSING DWELLING UNIT THAT MAY BE LOCATED SUCH THAT ANOTHER PARKING SPACE IS LOCATED BEHIND EACH OF THEM; AMENDING SECTION 6.7.V.2.b(3) LIMITING TO 40 FEET THE COMBINED WIDTH OF DRIVEWAYS ON A PLATTED LOT OF RECORD ON WHICH A RESORT HOUSING UNIT IS LOCATED AND ENSURING THAT SUCH DRIVEWAYS ARE SUBJECT TO THE DRIVEWAY REQUIREMENTS OF SECTION 8.15; AMENDING SECTION 6.7.V.2.b(4) PROHIBITING THE OCCUPANTS OF RESORT HOUSING UNITS FROM PARKING VEHICLES ON THE STREET OR IN THE RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, based on evidence and testimony presented at public hearings before the City Commission, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, and research conducted by LaRue Planning and Management, Inc., Consulting Planner for the City, the City Commission finds:

(1) Resort Housing/Vacation Rentals, left unregulated, can and do create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, and extreme size and greater occupancy.

(2) Resort Housing/Vacation Rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.

(3) Resort Housing/Vacation Rentals located within established residential neighborhoods can and do create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.

(4) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of Resort Housing/Vacation Rentals.

(5) The pattern of residential construction in the R-2 Zoning District, the residential area where most of the resort housing/vacation rentals have been built in the City, has dramatically changed since 2008. Specifically, prior to 2009, only 0.6% of the units in two-family (duplex) structures in the R-2 District had more than three bedrooms, and just 19.4% had more than two bedrooms. Since 2009, 85.5% of the units in newly constructed two-family (duplex) structures have more than two bedrooms, 45.6% have more than three bedroom and 24% have six or more bedrooms.

(6) A similar change in the nature of new single-family construction has occurred since 2008. Whereas prior to 2009 just 0.4% of the single-family inventory consisted of homes with more than four bedrooms, between 2009 and 2014, 57.6% of all new single-family homes constructed in the R-2 District contain five or more bedrooms, with 21.2% being homes with six to eight bedrooms.

(7) Virtually all of the single-family and duplex units constructed between 2009 and the present are being rented as Resort Housing/Vacation Rental units, frequently housing as many as 10 to 16, and sometimes even more, transient occupants.

(8) According to the 2010 U.S. Census, the City of Holmes Beach has an average household size of 1.90 persons.

(9) According to the 2010 U.S. Census, the City of Holmes Beach has an average family size of 2.36 persons.

(10) The Land Development Code defines a family as "Any number of individuals related by blood, marriage or legal adoption, and not more than four persons not so related, living together as a single housekeeping unit. Foster children are considered part of a family."

(11) Section 6.7U.1.a states "Resort housing dwelling units may be occupied only by a family as that term is defined in this [Land Development] Code."

(12) Policy 1.2.3 of the Future Land Use Element of the Comprehensive Plan states "Existing residential areas shall be protected from the encroachment of incompatible activities..."

(13) Vacation Rentals, situated in single-family and two-family residential neighborhoods, particularly those with uncharacteristically large numbers of bedrooms, can and do create a great disparity in occupancy.

(14) Water and wastewater usage by Resort Housing/Vacation Rentals, will typically exceed the average usage by a single family, creating an additional demand on the water and wastewater systems and utility plants.

NOW THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, the following:

Section 1. Article I, Definitions, shall be amended by adding a definition for bedroom and overnight occupant to read as follows:

Bedroom. A room or space in which people sleep, which is a minimum of 70 square feet in floor area, and is physically separated from the main living area of a residence. Rooms used for sleeping purposes shall comply with the provisions of the Florida Building Code(s), including but not limited to emergency escape, smoke and carbon monoxide protection, as determined by the building official.

Section 2. Article IV, Nonconformities, Section 4.2 Definition of nonconformities shall be amended by adding a new subsections "E" and "F" to read as follows:

E. As applicable to single-family dwellings and dwelling units in duplex/two-family structures in the R-2, R-3 and R-4 zoning districts.

1. A single-family dwelling unit with more than four bedrooms in existence prior to January 15, 2015; or for which an application was received by the Building Department prior to 3 pm on January 15, 2015, that resulted in more than four bedrooms in said dwelling unit shall be considered a nonconforming structure with respect to the number of bedrooms and is hereby granted the same status as nonconforming structures under this article.

(2) A dwelling unit with more than two bedrooms located within a duplex/two-family structure in existence prior to [insert date of adoption of this ordinance]; or for which an application was received by the Building Department prior to 3 pm on January 15, 2015; or a dwelling unit with three bedrooms located within duplex/two-family structure for which an application was received by the Building Department prior to [insert date when two bedroom limit was first discussed or date of adoption of this ordinance?] shall be considered a nonconforming structure with respect to the number of bedrooms and is hereby granted the same status as nonconforming structures under this article.

F. As applicable to resort housing units in the R-2, R-3 and R-4 zoning districts.

1. A resort housing unit in existence prior to [insert date of adoption of this ordinance] and which has more than two of the required parking spaces located such that another parking space is located behind each of them, shall be considered a nonconforming structure with respect to the parking requirement and is hereby granted the same status as nonconforming structures under this article.

2. A resort housing unit in existence prior to [insert date of adoption of this ordinance], located on one platted lot of record and which is served by driveways the combined width of which exceeds 40 feet shall be considered a nonconforming structure with respect to the driveway width limitation and is hereby granted the same status as nonconforming structures under this article.

Section 3. Article VI, Zoning, Section 6.6.C.3, development standards in the R-2 Zoning District shall be amended by adding a new subsection “m” to read as follows:

m. Maximum number of bedrooms.

- (1) No single-family dwelling unit may contain more than four bedrooms.

A single-family dwelling unit with more than four bedrooms is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

- (2) No individual dwelling unit located in a duplex/two-family structure may contain more than two bedrooms.

A dwelling unit with more than two bedrooms and which is located in a duplex/two-family structure is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

Section 4. Article VI, Zoning, Section 6.6.D.3, development standards in the R-3 Zoning District shall be amended by adding a new subsection “m” to read as follows:

m. Maximum number of bedrooms.

- (1) No single-family dwelling unit may contain more than four bedrooms.

A single-family dwelling unit with more than four bedrooms is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

- (2) No individual dwelling unit located in a duplex/two-family structure may contain more than two bedrooms.

A dwelling unit with more than two bedrooms and which is located in a duplex/two-family structure is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

Section 5. Article VI, Zoning, Section 6.6.E.3, development standards in the R-4 Zoning District shall be amended by adding a new subsection “m” to read as follows:

m. Maximum number of bedrooms.

- (1) No single-family dwelling unit may contain more than four bedrooms.

A single-family dwelling unit with more than four bedrooms is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

- (2) No individual dwelling unit located in a duplex/two-family structure may contain more than two bedrooms.

A dwelling unit with more than two bedrooms and which is located in a duplex/two-family structure is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

Section 6. Articles VI, Zoning, Section 6.7, Supplementary use regulations, Subsection V, Resort housing shall be amended to read as follows:

1. *Limitations on resort housing.*

- a. A resort housing dwelling unit may be occupied only by a family as that term is defined in this Land Development Code. However, the number of overnight occupants of a resort housing unit shall not exceed six persons or two persons per bedroom, whichever is greater.
- b. A resort housing dwelling unit in the R-2, R-3 or R-4 Zoning District must be leased, subleased, occupied or rented not more than one time in any seven-day period, and that occupancy must be for a period of no less than seven consecutive days. A resort housing dwelling unit in the R-1AA or R-1 Zoning District must be leased, subleased, occupied or rented not more than one time in any thirty-day period, and that occupancy must be for a period of no less than thirty consecutive days. The property owner, and multiple property manager, if applicable, shall maintain written records verifying compliance with this limitation. All required records shall be available to the city for inspection if requested. Provided, however, that the seven and thirty-day use occupancy restrictions shall not apply to temporary nonpaying guests of a lawful occupant or property owner of any dwelling unit, or to nonconformities pursuant to sections 4.2.C. and 4.2.D. of this [Land Development] Code.
- c. *Business activities:* Business activities conducted by a multiple property manager in connection with a resort housing dwelling unit may not be conducted on the premises of such dwelling unit. If said business activities are conducted at a location within the city, such location must be properly zoned for said use. For purposes of this paragraph, business activities include, but are not limited to, execution of rental agreements, exchanging of keys, delivery of rental or other payments connected to such use, and promotional or other advertising other than a properly permitted sign located on the premises. This provision shall not apply to hotel(s) or motel(s) licensed by the Florida Hotel and Restaurant Commission or to dwelling units leased, subleased or rented in whole or in part for periods of less than seven days and operating under a valid license issued by the city.

2. *Requirements for resort housing.*

- a. *Rental licenses:* Property owners of resort housing dwelling units located within the city are required to apply for and obtain a rental occupational license from the city. Applications for said license shall be on such forms as the mayor may promulgate for such purpose. Such license shall be renewed on an annual basis. The city may charge a reasonable fee for the issuance of said license.

b. *Parking:*

(1) A minimum of two off-street parking spaces shall be required for each resort housing dwelling unit. ~~In addition,~~ One additional off-street parking space must be provided for each bedroom contained in such dwelling unit beyond the second. Provided, however, that these requirements shall not apply to nonconformities pursuant to sections 4.2.C and 4.2.D of this [Land Development] Code.

(2) No more than two of the parking spaces required for a resort housing dwelling unit may be located such that another parking space is located behind each of them.

A resort housing unit with more than two parking spaces so located is a nonconforming structure. Refer to Sections 4.2.E and 4.12 through 4.16.

(3) Driveways located on a platted lot of record on which is located a resort housing dwelling unit(s) shall not exceed a combined total of 40 feet in width and shall be subject to the driveway requirements of Section 8.15.B.

A resort housing unit(s), located on a platted lot of record, on which the combined width of all driveways exceeds 40 feet is a nonconforming structure(s) and subject to the provisions of Sections 4.2.E and 4.12 through 4.16

(4) Except as may otherwise be specifically permitted, occupants of resort housing units are prohibited from parking vehicles on the street or within the right-of-way. This provision applies to all resort housing units, including resort housing units constructed prior to [insert date of adoption of this ordinance]

Subsections c., d, and e of Section 6.7.V remain as modified by Ord. 15-10.

Section 7. Severability. If any section, clause, sentence or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holdings shall in no way affect the validity of the remaining portion of this ordinance.

Section 8. Effective date. This ordinance shall take effect on August 1, 2015 or upon appointment of a Special Magistrate whichever occurs first.

First Reading: _____

Publication Date: _____

Second Reading & Public Hearing Date: _____

PASSED AND ADOPTED this ____ day of _____, 2015, by the City Commission of the City of Holmes Beach, Florida, with a quorum present and voting.

Patrick Morton

Carol Soustek

Marvin Grossman

Judy Titsworth

Jean Peelen

APPROVED BY ME THIS _____ **DAY OF** _____, 2015.

Bob Johnson, Mayor

ATTEST: _____
Stacey Johnston, MMC, City Clerk